

1 Department of Real Estate
2 320 West 4th Street, Ste: 350
3 Los Angeles, California 90013-1105

4 Telephone: (213) 576-6982 (office)

FILED
MAY 21 2007
DEPARTMENT OF REAL ESTATE

R. Mederholt

5
6
7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

10 In the Matter of the Accusation of)	No. H-33121 LA
11)	
11 <u>NAD REALTY #1 INC.</u> ; and)	<u>STIPULATION</u>
12 <u>NASIM AHMED</u> , individually and)	<u>AND</u>
12 as designated officer of)	<u>AGREEMENT</u>
13 NAD Realty #1 Inc.,)	
14)	
14 Respondents,)	
15)	

16 It is hereby stipulated by and between Respondents
17 NAD REALTY #1 INC. a corporate real estate broker and NASIM
18 AHMED, individually and as designated officer of NAD Realty #1
19 Inc. (sometimes collectively referred to as "Respondents");
20 represented by Artin Betpera, Esq. of Doss Law, and the
21 Complainant, acting by and through Elliott Mac Lennan, Counsel
22 for the Department of Real Estate, as follows for the purpose of
23 settling and disposing of the Accusation ("Accusation") filed on
24 August 7, 2006, in this matter:

- 25
26 1. All issues which were to be contested and all
27 evidence which was to be presented by Complainant and Respondents

1 at a formal hearing on the Accusation, which hearing was to be
2 held in accordance with the provisions of the Administrative
3 Procedure Act ("APA"), shall instead and in place thereof be
4 submitted solely on the basis of the provisions of this
5 Stipulation and Agreement ("Stipulation").

6 2. Respondents have received, read and understand the
7 Statement to Respondent, the Discovery Provisions of the APA and
8 the Accusation filed by the Department of Real Estate in this
9 proceeding.

10 3. Respondents timely filed a Notice of Defense
11 pursuant to Section 11506 of the Government Code for the purpose
12 of requesting a hearing on the allegations in the Accusation.
13 Respondents hereby freely and voluntarily withdraw said Notice of
14 Defense. Respondents acknowledge that they understand that by
15 withdrawing said Notice of Defense they thereby waive their right
16 to require the Commissioner to prove the allegations in the
17 Accusation at a contested hearing held in accordance with the
18 provisions of the APA and that they will waive other rights
19 afforded to them in connection with the hearing such as the right
20 to present evidence in their defense the right to cross-examine
21 witnesses.
22

23 4. This Stipulation is based on the factual
24 allegations contained in the Accusation. In the interest of
25 expedience and economy, Respondents choose not to contest these
26 allegations, but to remain silent and understand that, as a
27

1 result thereof, these factual allegations, without being admitted
2 or denied, will serve as a prima facie basis for the disciplinary
3 action stipulated to herein. The Real Estate Commissioner shall
4 not be required to provide further evidence to prove said factual
5 allegations.

6 5. This Stipulation and Respondents' decision not to
7 contest the Accusation is made for the purpose of reaching an
8 agreed disposition of this proceeding and is expressly limited to
9 this proceeding and any other proceeding or case in which the
10 Department of Real Estate ("Department"), the state or federal
11 government, or any agency of this state, another state or federal
12 government is involved, and otherwise shall not be admissible in
13 any other criminal or civil proceedings.

14 6. It is understood by the parties that the Real
15 Estate Commissioner may adopt this Stipulation as his Decision in
16 this matter thereby imposing the penalty and sanctions on
17 Respondents' real estate licenses and license rights as set forth
18 in the "Order" herein below. In the event that the Commissioner
19 in his discretion does not adopt the Stipulation, it shall be
20 void and of no effect and Respondents shall retain the right to a
21 hearing and proceeding on the Accusation under the provisions of
22 the APA and shall not be bound by any stipulation or waiver made
23 herein.
24

25 7. The Order or any subsequent Order of the Real
26 Estate Commissioner made pursuant to this Stipulation shall not
27

1 constitute an estoppel, merger or bar to any further
2 administrative or civil proceedings by the Department of Real
3 Estate with respect to any matters which were not specifically
4 alleged to be causes for Accusation in this proceeding but do
5 constitute a bar, estoppel and merger as to any allegations
6 actually contained in the Accusations against Respondents herein.

7 8. Respondents understand that by agreeing to this
8 Stipulation, Respondents agree to pay, pursuant to Business and
9 Professions Code Section 10148, the cost of audit which led to
10 this disciplinary action. The amount of said cost for the audit
11 is \$7,010.38 (Audit Report LA 040305/LA040321).

12 9. Respondents have received, read, and understand the
13 "Notice Concerning Costs of Subsequent Audit". Respondents
14 further understand that by agreeing to this Stipulation, the
15 findings set forth below in the Determination of Issues become
16 final, and the Commissioner may charge Respondents for the cost
17 of any subsequent audit conducted pursuant to Business and
18 Professions Code Section 10148 to determine if the violations
19 have been corrected. The maximum cost of the subsequent audit
20 will not exceed \$7,010.38
21

22 ///

23 ///

24 ///

25 ///

26 ///

27

DETERMINATION OF ISSUES

1
2 By reason of the foregoing, it is stipulated and agreed
3 that the following determination of issues shall be made:

I.

4
5 The conduct, acts or omissions of NAD REALTY #1 INC.
6 and NASIM AHMED, as described in Paragraph 4, above, is in
7 violation of Section 10145 of the Business and Professions Code
8 ("Code") and Sections 2831.2 and 2832.1 of Title 10, Chapter 6 of
9 the California Code of Regulations ("Regulations") and is a basis
10 for the suspension or revocation of Respondent's license and
11 license rights as a violation of the Real Estate Law pursuant to
12 Code Section 10177(d).

II.

13
14 The conduct, acts or omissions of NASIM AHMED, as
15 described in Paragraph 4, constitutes a failure to keep NAD
16 REALTY #1 INC. in compliance with the Real Estate Law during the
17 time that he was the officer designated by a corporate broker
18 licensee in violation of Section 10159.2 of the Code. This
19 conduct is a basis for the suspension or revocation of
20 Respondent's license pursuant to Code Section 10177(h).

22 ///

23 ///

24 ///

25 ///

26 ///

27

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondents

NAD REALTY #1 INC. and NASIM AHMED under the Real Estate Law are

suspended for a period of ninety (90) days from the effective

date of this Decision; provided, however, that if Respondents

request, the initial thirty (30) days of said suspension (or a

portion thereof) shall be stayed upon condition that:

A. 1. Respondents each pay a monetary penalty pursuant
to Section 10175.2 of the Business and Professions Code of \$1,500
(at the rate of \$50 per day for each day of the suspension) for a
monetary penalty of \$3,000.

2. Said payment shall be in the form of a cashier's
check or certified check made payable to the Recovery Account of
the Real Estate Fund. Said check must be received by the
Department prior to the effective date of the Decision in this
matter.

3. No further cause for disciplinary action against
the real estate licenses of Respondents occurs within two (2)
years from the effective date of the Decision in this matter.

4. If Respondents fail to pay the monetary penalty in
accordance with the terms of the Decision, the Commissioner may,
without a hearing, order the immediate execution of all or any
part of the stayed suspension, in which event the Respondents

1 shall not be entitled to any repayment nor credit, prorated or
2 otherwise, for money paid to the Department under the terms of
3 this Decision.

4 5. If Respondents pay the monetary penalty and if no
5 further cause for disciplinary action against the real estate
6 license of Respondent occurs within two (2) years from the
7 effective date of the Decision, the stay hereby granted shall
8 become permanent

9 B. The remaining sixty (60) days of the ninety (90)
10 day suspension shall be stayed for two (2) years upon the
11 following terms and conditions:

12 (a) Respondents shall obey all laws, rules and
13 regulations governing the rights, duties and responsibilities of
14 a real estate licensee in the State of California; and

15 (b) That no final subsequent determination be made
16 after hearing or upon stipulation, that cause for disciplinary
17 action occurred within two (2) years from the effective date of
18 this Decision. Should such a determination be made, the
19 Commissioner may, in his discretion, vacate and set aside the
20 stay order and reimpose all or a portion of the stayed
21 suspension. Should no such determination be made, the stay
22 imposed herein shall become permanent.
23

24 ///

25 ///

26 ///

27

II.

1
2 Pursuant to Section 10148 of the Business and
3 Professions Code, Respondents NAD REALTY #1 INC. and NASIM AHMED
4 shall pay the Commissioner's reasonable cost for (a) the audit
5 which led to this disciplinary action (b) a subsequent audit to
6 determine if Respondents are now in compliance with the Real
7 Estate Law. The cost of the audit which led to this disciplinary
8 action is \$7,010.38. In calculating the amount of the
9 Commissioner's reasonable cost, the Commissioner may use the
10 estimated average hourly salary for all persons performing audits
11 of real estate brokers, and shall include an allocation for
12 travel time to and from the auditor's place of work. Said amount
13 for the prior and subsequent audits shall not exceed \$14,020.76.

14
15 Respondents shall pay such cost within 60 days of
16 receiving an invoice from the Commissioner detailing the
17 activities performed during the audit and the amount of time
18 spent performing those activities.

19 The Commissioner may suspend the license of Respondents
20 pending a hearing held in accordance with Section 11500, et seq.,
21 of the Government Code, if payment is not timely made as provided
22 for herein, or as provided for in a subsequent agreement between
23 the Respondent and the Commissioner. The suspension shall remain
24 in effect until payment is made in full or until Respondents
25 enter into an agreement satisfactory to the Commissioner to
26 provide for payment, or until a decision providing otherwise is
27

1 adopted following a hearing held pursuant to this condition.

2 III.

3 All licenses and licensing rights of Respondent NASIM
4 AHMED are indefinitely suspended unless or until Respondent
5 provides proof satisfactory to the Commissioner, of having taken
6 and successfully completed the continuing education course on
7 trust fund accounting and handling specified in paragraph (3) of
8 subdivision (a) of Section 10170.5 of the Business and
9 Professions Code. Proof of satisfaction of this requirement
10 includes evidence that respondent has successfully completed the
11 trust fund account and handling continuing education course
12 within 120 days prior to the effective date of the Decision in
13 this matter.

14
15 DATED:

4-17-07

E L L

16 ELLIOTT MAC LENNAN, Counsel for
17 the Department of Real Estate

18 * * *

19 EXECUTION OF THE STIPULATION

20 We have read the Stipulation and discussed with our
21 counsel. Its terms are understood by us and are agreeable and
22 acceptable to us. We understand that we are waiving rights given
23 to us by the California Administrative Procedure Act (including
24 but not limited to Sections 11506, 11508, 11509 and 11513 of the
25 Government Code), and we willingly, intelligently and voluntarily
26 waive those rights, including the right of requiring the
27

1 Commissioner to prove the allegations in the Accusation at a
2 hearing at which we would have the right to cross-examine
3 witnesses against us and to present evidence in defense and
4 mitigation of the charges.

5 MAILING AND FACSIMILE

6 Respondent (1) shall mail the original signed signature
7 page of the stipulation herein to Elliott Mac Lennan: Attention:
8 Legal Section, Department of Real Estate, 320 W. Fourth St.,
9 Suite 350, Los Angeles, California 90013-1105. Additionally,
10 Respondent shall also (2) facsimile a copy of signed signature
11 page, to the Department at the following telephone/fax number:
12 (213) 576-6917, Attention: Elliott Mac Lennan.

13 A facsimile constitutes acceptance and approval of the
14 terms and conditions of this stipulation. Respondent agrees,
15 acknowledges and understands that by electronically sending to
16 the Department a facsimile copy of Respondent's actual signature
17 as it appears on the stipulation, that receipt of the facsimile
18 copy by the Department shall be as binding on Respondent as if
19 the Department had received the original signed stipulation.
20

21 ///

22 ///

23 ///

24 ///

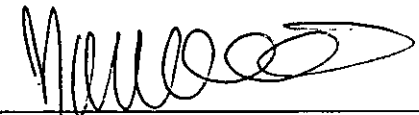
25 ///

26 ///

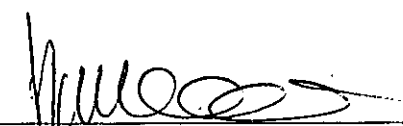
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

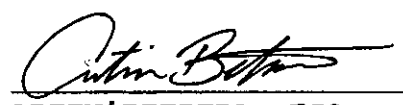
DATED: 3/30/07


NAD REALTY #1 INC., a corporate
real estate broker,
BY: Nasim Ahmed, D.O., Respondent

DATED: 3/30/07


NASIM AHMED individually and as
designated officer of NAD Realty #1
Inc., Respondent

DATED: 4/4/07


ARTIN BETPERA, ESQ. of DOSS LAW
Attorney for Respondents, Approved
as to form

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents NAD REALTY #1 INC. and
NASIM AHMED, individually and as designated officer of NAD Realty
#1 Inc. and shall become effective at 12 o'clock noon on
_____, 2007.

IT IS SO ORDERED _____, 2007.

JEFF DAVI
Real Estate Commissioner

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

DATED: _____

NAD REALTY #1 INC., a corporate
real estate broker,
BY: Nasim Ahmed, D.O., Respondent

DATED: _____

NASIM AHMED individually and as
designated officer of NAD Realty #1
Inc., Respondent

DATED: _____

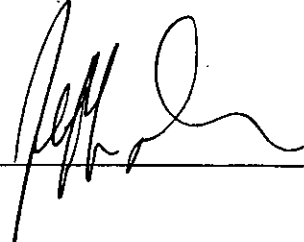
ARTIN BETPERA, ESQ. of DOSS LAW
Attorney for Respondents, Approved
as to form

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents NAD REALTY #1 INC. and
NASIM AHMED, individually and as designated officer of NAD Realty
#1 Inc. and shall become effective at 12 o'clock noon on
JUN 20, 2007.

IT IS SO ORDERED 5/14, 2007.

JEFF DAVI
Real Estate Commissioner



Handwritten initials

FILED
AUG - 7 2006
DEPARTMENT OF REAL ESTATE

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105
5
6
7
8 Telephone: (213) 576-6911 (direct)
9 -or- (213) 576-6982 (office)

Handwritten signature: R. H. ...

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11	In the Matter of the Accusation of)	No. H-33121 LA
12	N A D REALTY INC. doing business)	<u>A C C U S A T I O N</u>
13	as Century 21 Town & Country; and,)	
14	NASIM AHMED, individually)	
15	and as designated officer of)	
16	N A D Realty Inc. Inc.)	
	Respondents.)	
)	
)	

17 The Complainant, Janice Wadell, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against N A D REALTY INC., doing business as Century 21 Town &
20 Country; and, NASIM AHMED, individually and as designated officer
21 of N A D Realty Inc. as follows:

1.

24 The Complainant, Janice Wadell, acting in her official
25 capacity as a Deputy Real Estate Commissioner of the State of
26 California makes this Accusation against N A D REALTY INC.,
27 ("NADRI") and NASIM AHMED ("AHMED").

1 2.

2 All references to the "Code" are to the California
3 Business and Professions Code and all references to "Regulations"
4 are to Title 10, Chapter 6, California Code of Regulations.

5 3.

6 NADRI and AHMED (hereinafter referred to as
7 Respondents) are presently licensed and/or have license rights
8 under the Real Estate Law (Part 1 of Division 4 of the Business
9 and Professions Code).

10 LICENSE HISTORY

11 4.

12 At all mentioned times, AHMED was licensed by the
13 Department as designated officer of NADRI to qualify NADRI and to
14 act for NADRI as a real estate broker and, as provided by Section
15 10159.2 of the Code, was responsible for the supervision and
16 control of the activities conducted on NADRI's behalf by NADRI's
17 officers, managers and employees as necessary to secure full
18 compliance with the provisions of the Real Estate Law including
19 the supervision of the salespersons licensed to the corporation
20 in the performance of acts for which a real estate license is
21 required. AHMED was originally licensed as a real estate
22 salesperson on March 2, 1987 and subsequently licensed as a real
23 estate broker on June 13, 1994. NADRI was originally licensed as
24 a corporate real estate broker on April 18, 2001.

25
26 ///

5.

1
2 Whenever reference is made in an allegation in the
3 Accusation to an act or omission of NADRI such allegation shall
4 be deemed to mean that the officers, directors, managers,
5 employees, agents and real estate licensees employed by or
6 associated with NADRI including AHMED committed such act or
7 omission while engaged in the furtherance of NADRI's business or
8 operation and while acting within the course and scope of NADRI's
9 corporate authority, agency and employment.

10 6.

11 At all times mentioned, in the City of Ontario, County of
12 Los Angeles, NADRI acted as a real estate broker as follows:

13 A. Code Section 10131(a) of the Code. NADRI operated
14 a residential resale brokerage using the fictitious business name
15 of Century 21 Town & Country; and,
16

17 B. Conducted broker-controlled escrows through its
18 escrow operation under the exemption set forth in California
19 Financial Code Section 17006(a)(4) for real estate brokers
20 performing escrows incidental to a real estate transaction where
21 the broker is a party and where the broker is performing acts for
22 which a real estate license is required.

23 ///

24 ///

25 ///

26 ///

27

FIRST CAUSE OF ACTION

(Audit violations)

7.

On July 29, 2005, the Department completed an audit examination of the books and records of NADRI pertaining to the mortgage loan and broker-escrow activities described in Paragraph 6 that require a real estate license. The audit examination covered a period of time beginning on May 1, 2004 to April 30, 2005. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 040305/040321 and the exhibits and workpapers attached to said audit report.

8.

At all times mentioned, in connection with the activities described in Paragraph 6, above, NADRI accepted or received funds in trust (trust funds) from or on behalf of various buyers and sellers, lenders and escrow-holders and thereafter made disposition of such funds. NADRI maintained two (2) trust accounts during the audit period and into which were deposited trust funds at the Commercia Bank, 9920 S. La Cienega Blvd., 11th Floor, Inglewood, California, :

"N A D Realty Inc. Escrow Division Trust Account (T/A #1)
Account No. 1891991000"

"N A D Realty Inc. TNC Escrow, Escrow Trust Account (T/A #2)
Account No. 1891987735"

In the course of activities described in Paragraphs 6 and 8 and above, and during the examination period described in Paragraph 7, it is alleged that NADRI and AHMED:

(a) Permitted, allowed or caused the disbursement of trust funds from T/A #2 where the disbursement of funds reduced the total of aggregate funds in the trust account, to an amount which, on April 30, 2005, was \$66, 147.70 less than the existing aggregate trust fund liability of NADRI to every principal who was an owner of said funds, without first obtaining the prior written consent of the owners of said funds, as required by Code Section 10145 and Regulations 2832.1, 2950(d), 2950(g) and 2951. This shortage was cured June 16, 2005.

(b) Failed to perform a monthly reconciliation of the balance of all separate beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all trust funds received and disbursed by T/A #2, as required by Code Section 10145 and Regulations 2831.2, 2950(d) and 2951.

(c) Failed to disclose an earnings credit relationship with Commercia Bank for T/A #1, based on a credit calculated on the balance maintained in T/A #1, used to offset bank service charges, undisclosed to the account holders of T/A #1, in violation of Code Section 10176(g).

///

///

10.

The conduct of Respondent NADRI, described in Paragraph 9 violated the Code and the Regulations as set forth below:

PARAGRAPH

PROVISIONS VIOLATED

9(a)

Code Section 10145 and Regulation 2832.1, 2950(d), 2950(g) and 2951

9(b)

Code Section 10145 and Regulation 2831.2, 2950(d) and 2951

9(c)

Code Section 10176(g)

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of NADRI and AHMED under the provisions of Code Section 10177(d) and/or 10177(g).

SECOND CAUSE OF ACTION

(Failure to supervise)

11.


The overall conduct of AHMED constitutes a failure on his part, as officer designated by a corporate broker licensee, responsible for the supervision and control over the activities conducted on behalf of NADRI by its officers, managers and

1 employees as necessary to secure full compliance with the
2 provisions of the Real Estate Law including the supervision of
3 the salespersons licensed to the corporation in the performance
4 of acts for which a real estate license is required, in violation
5 of Code Section 10159.2 and Regulation 2725. This conduct is
6 cause for the suspension or revocation of the real estate license
7 and license rights of AHMED pursuant to the provisions of Code
8 Sections 10177(h), 10177(d) and/or 10177(g).

9 WHEREFORE, Complainant prays that a hearing be
10 conducted on the allegations of this Accusation and that upon
11 proof thereof, a decision be rendered imposing disciplinary
12 action against the license and license rights of Respondents
13 N A D REALTY INC., and NASIM AHMED, individually and as
14 designated officer of N A D Realty Inc., under the Real Estate
15 Law (Part 1 of Division 4 of the Business and Professions Code)
16 and for such other and further relief as may be proper under
17 other applicable provisions of law.
18

19 Dated at Los Angeles, California

20 this *9 November 2005*

21
22 
Deputy Real Estate Commissioner

23 cc: N A D Realty Inc.
24 c/o Nasim Ahmed
25 Sacto
26 Janice Wadell
27 Audits: Kitlin Chan/Rolly Acuna