

FILED

JAN 18 2013

1 Department of Real Estate
2 320 West Fourth Street, #350
3 Los Angeles, California 90013

DEPARTMENT OF REAL ESTATE
BY: James B. Olson

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

) DRE No. H-37735 LA
) OAH No. 2012021130

12)
13 MARIAN ANTOUN,)

14 Respondent.)

) STIPULATION AND
) AGREEMENT
)

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16 It is hereby stipulated by and between MARIAN ANTOUN,
17 represented by Mary E. Work, and the Complainant, acting by and
18 through James A. Demus, Counsel for the Department of Real
19 Estate, as follows for the purpose of settling and disposing of
20 the First Amended Accusation in this matter, filed on June 27,
21 2012:

22 1. All issues which were to be contested and all
23 evidence which was to be presented by Complainant and Respondent
24 at a formal hearing on the Accusation, which hearing was to be
25 held in accordance with the provisions of the Administrative
26 Procedure Act (APA), shall instead and in place thereof be
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1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement (Stipulation).

3 2. Respondent has received, read and understands the
4 Statement to Respondent, the Discovery Provisions of the APA and
5 the Accusation filed by the Department of Real Estate in this
6 proceeding.

7 3. Respondent filed a Notice of Defense pursuant to
8 Section 11506 of the Government Code for the purpose of
9 requesting a hearing on the allegations in the Accusation.
10 Respondent hereby freely and voluntarily withdraws said Notice of
11 Defense. Respondent acknowledges that he understands that by
12 withdrawing said Notice of Defense, he thereby waives his right
13 to require the Commissioner to prove the allegations in the
14 Accusation at a contested hearing held in accordance with the
15 provisions of the APA and that he will waive other rights
16 afforded to him in connection with the hearing such as the right
17 to present evidence in his defense and the right to cross-examine
18 witnesses.

19 4. This Stipulation is based on the factual
20 allegations contained in the Accusation. In the interest of
21 expedience and economy, Respondent chooses not to contest these
22 allegations, but to remain silent and understands that, as a
23 result thereof, these factual allegations, without being admitted
24 or denied, will serve as a prima facie basis for the disciplinary
25 action stipulated to herein. The Real Estate Commissioner shall
26 not be required to provide further evidence to prove said factual
27 allegations.

1 5. This Stipulation is based on Respondent's decision
2 not to contest the allegations set forth in the Accusation as a
3 result of the agreement negotiated between the parties. This
4 Stipulation is expressly limited to this proceeding and any
5 further proceeding initiated by or brought before the Department
6 of Real Estate based upon the factual allegations in the
7 Accusation and is made for the sole purpose of reaching an agreed
8 disposition of this proceeding. The decision of Respondent not
9 to contest the allegations contained in the "Order" herein below,
10 is made solely for the purpose of effectuating this Stipulation.
11 It is the intent and understanding of the parties that this
12 Stipulation shall not be binding or admissible against
13 Respondents in any action against Respondent by third parties.

14 6. It is understood by the parties that the Real
15 Estate Commissioner may adopt the Stipulation as his Decision in
16 this matter thereby imposing the penalty and sanctions on
17 Respondent's real estate license 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 Respondent 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 admission or waiver made
23 herein.

24 7. The Order or any subsequent Order of the Real
25 Estate Commissioner made pursuant to this Stipulation shall not
26 constitute an estoppel, merger or bar to any further
27 administrative or civil proceedings by the Department of Real

1 Estate with respect to any matters which were not specifically
2 alleged to be causes for accusation in this proceeding.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations and solely for
5 the purpose of settlement of the Accusation without a hearing, it
6 is stipulated and agreed that the following determination of
7 issues shall be made:

8 The conduct of MARIAN ANTOUN, as described in Paragraph
9 4, above, is a basis for discipline of MARIAN ANTOUN's license
10 and license rights pursuant to Sections 10085, 10137 and 10177(d)
11 of the Business and Professions Code ("Code").

12 ORDER

13 WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT TO THE
14 WRITTEN STIPULATION OF THE PARTIES:

15 I.

16 All licenses and licensing rights of Respondent
17 MARIAN ANTOUN under the Real Estate Law are suspended for a
18 period of sixty (60) days from the effective date of this
19 Decision; provided, however, that thirty (30) days of said
20 suspension, shall be stayed for two (2) years upon the
21 following terms and conditions:

22 1. Respondent shall obey all laws, rules and
23 regulations governing the rights, duties and responsibilities of
24 a real estate licensee in the State of California; and

25 2. That no final subsequent determination be made,
26 after hearing or upon stipulation that cause for disciplinary
27 action occurred within two (2) years of the effective date of

1 this Decision. Should such a determination be made, the
2 Commissioner may, in his discretion, vacate and set aside the
3 stay order and reimpose all or a portion of the stayed
4 suspension. Should no such determination be made, the stay
5 imposed herein shall become permanent.

6 II.

7 If Respondent MARIAN ANTOUN petitions, an additional 30
8 days shall be stayed upon condition that:

9 1. Respondent pays a monetary penalty pursuant to
10 Section 10175.2 of the Code at the rate of \$100 for each day of
11 the suspension for a total monetary penalty of \$3,000.

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

17 3. No further cause for disciplinary action against
18 the real estate license of Respondent occurs within two years
19 from the effective date of the Decision in this matter.

20 4. If Respondent fails to pay the monetary penalty in
21 accordance with the terms and conditions of the Decision, the
22 Commissioner may, without a hearing, order the immediate
23 execution of all or any part of the stayed suspension in which
24 event the Respondent shall not be entitled to any repayment nor
25 credit, prorated or otherwise, for money paid to the Department
26 under the terms of this Decision.

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1 to the Commissioner of his efforts to comply with the provisions
2 of this Paragraph.

3 (d) If the Commissioner determines that proof to be
4 unsatisfactory, he shall so advise Respondent, and indicate what
5 additional reasonable efforts should be made to make repayment to
6 Awad Saad.

7 (e) If Respondent fails to satisfy this condition, the
8 Commissioner may order suspension of Respondent's license until
9 Respondent effects compliance herein; and

10 (f) Restitution payments not made to Awad Saad shall escheat
11 to the State of California.

12 V.

13 Pursuant to California Business and Professions Code
14 Section 10106, Respondent MARIAN ANTOUN shall pay the
15 Commissioner's reasonable cost for investigation and enforcement
16 of the matter. The investigation and enforcement cost which led
17 to this disciplinary action is \$3,109.60. Said payment shall be
18 made within sixty (60) days after the effective date of this
19 Decision.

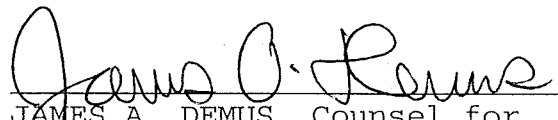
20 The Commissioner may suspend the license of Respondents
21 pending a hearing held in accordance with California Government
22 Code Section 11500, et seq., if payment is not timely made as
23 provided for herein, or as provided for in a subsequent agreement
24 between the Respondents and the Commissioner.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

1 providing otherwise is adopted following a hearing held pursuant
2 to this condition.

3 VI.

4 All proof of payment and completed coursework shall be
5 submitted to Department Counsel James A. Demus, Attention: Legal
6 Section, Department of Real Estate, 320 W. Fourth St., Suite 350,
7 Los Angeles, California 90013-1105, on or before the dates set
8 forth above.

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11 DATED: 12/4/12


12 JAMES A. DEMUS, Counsel for
the Department of Real Estate

13 EXECUTION OF THE STIPULATION


14 I have read the Stipulation and discussed it with my
15 counsel. Its terms are understood by me and are agreeable and
16 acceptable to me. I understand that I am waiving rights given to
17 me by the California Administrative Procedure Act (including but
18 not limited to Sections 11506, 11508, 11509 and 11513 of the
19 Government Code), and I willingly, intelligently and voluntarily
20 waive those rights, including the right of requiring the
21 Commissioner to prove the allegations in the Accusation at a
22 hearing at which I would have the right to cross-examine
23 witnesses against me and to present evidence in defense and
24 mitigation of the charges.

25 Respondent can signify acceptance and approval of the
26 terms and conditions of this Stipulation by faxing a copy of the
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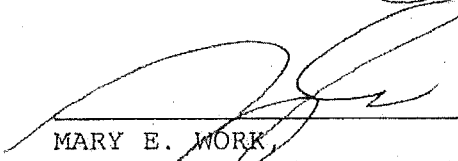
1 signature page, as actually signed by Respondents, to the
2 Department at the following telephone/fax number: James A. Demus
3 at (213) 576-6917. Respondent agrees, acknowledges and
4 understands that by electronically sending to the Department a
5 fax copy of Respondent's actual signature as it appears on the
6 Stipulation, that receipt of the faxed copy by the Department
7 shall be as binding on Respondent as if the Department had
8 received the original signed Stipulation.

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DATED: 12/3/2012


MARIAN ANTOUN


DATED: 12/3/2012


MARY E. WORK,
Attorney for Respondent

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondent MARIAN ANTOUN and shall
become effective at 12 o'clock noon on FEB - 7 2013,

IT IS SO ORDERED 1/15/13

Real Estate Commissioner


By: Awet P. Kidane
Chief Deputy Commissioner