

*Sack's file*

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

**FILED**

SEP 20 2013

BUREAU OF REAL ESTATE

By *[Signature]*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

11 In the Matter of the Accusation of )  
12 )  
13 UNITED FIDELITY GROUP INC, TERENCE )  
14 MICHAEL FLANNIGAN, and DONG S. )  
15 QUACH, individually, and as former )  
Fidelity Group Inc. )  
Respondents.

DRE No: H-37889 LA  
OAH No: 2012010913

STIPULATION AND  
AGREEMENT

17 It is hereby stipulated by and between TERENCE MICHAEL  
18 FLANNIGAN, represented in this matter by Mary E. Work, Esq., and  
19 the Complainant, acting by and through James A. Demus, Counsel  
20 for the Bureau of Real Estate (Bureau), as follows for the  
21 purpose of settling and disposing of the Accusation in this  
22 matter, filed on February 17, 2012:

23 1. All issues which were to be contested and all  
24 evidence which was to be presented by Complainant and Respondent  
25 at a formal hearing on the Accusation, which hearing was to be  
26 held in accordance with the provisions of the Administrative  
27

1 Procedure Act (APA), shall instead and in place thereof be  
2 submitted solely on the basis of the provisions of this  
3 Stipulation and Agreement (Stipulation).

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

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

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

1 not be required to provide further evidence to prove said factual  
2 allegations.

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

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

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

1 constitute an estoppel, merger or bar to any further  
2 administrative or civil proceedings by the Bureau of Real Estate  
3 with respect to any matters which were not specifically alleged  
4 to be causes for accusation in this proceeding.

5 DETERMINATION OF ISSUES

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

10 I

11 The conduct of TERENCE MICHAEL FLANNIGAN, as described  
12 in Paragraph 4, above, provides a basis for discipline of TERENCE  
13 MICHAEL FLANNIGAN's license and license rights pursuant to  
14 Sections 10085 and 10137 of the Code.

15 ORDER

16 WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT TO THE  
17 WRITTEN STIPULATION OF THE PARTIES:

18 I.

19 All licenses and licensing rights of Respondent  
20 TERENCE MICHAEL FLANNIGAN under the Real Estate Law are  
21 suspended for a period of ninety (90) days from the effective  
22 date of this Decision; provided, however, that ninety (90) days  
23 of said suspension, shall be stayed for two (2) years upon the  
24 following terms and conditions:

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

1                   2. That no final subsequent determination be made,  
2 after hearing or upon stipulation that cause for disciplinary  
3 action occurred within two (2) years of the effective date of  
4 this Decision. Should such a determination be made, the  
5 Commissioner may, in his discretion, vacate and set aside the  
6 stay order and reimpose all or a portion of the stayed  
7 suspension. Should no such determination be made, the stay  
8 imposed herein shall become permanent.

9                                   II.

10                   Respondent TERENCE MICHAEL FLANNIGAN shall within six  
11 (6) months from the effective date of the Decision herein, take  
12 and pass the Professional Responsibility Examination administered  
13 by the Bureau including the payment of the appropriate  
14 examination fee. If Respondent fails to satisfy this condition,  
15 the Commissioner may order suspension of Respondent TERENCE  
16 MICHAEL FLANNIGAN's license until Respondent passes the  
17 examination.

18                                   III.

19                   Pursuant to California Business and Professions Code  
20 Section 10106, Respondent TERENCE MICHAEL FLANNIGAN shall pay the  
21 Commissioner's reasonable cost for investigation and enforcement  
22 of the matter. The investigation and enforcement cost which led  
23 to this disciplinary action is \$4,461.31. Said payment shall be  
24 made within sixty (60) days after the effective date of this  
25 Decision.

26                   The Commissioner may suspend the license of Respondents  
27 pending a hearing held in accordance with California Government

1 Code Section 11500, et seq., if payment is not timely made as  
2 provided for herein, or as provided for in a subsequent agreement  
3 between the Respondents and the Commissioner. The suspension  
4 shall remain in effect until payment is made in full or until a  
5 Respondent enters into an agreement satisfactory to the  
6 Commissioner to provide for payment, or until a decision  
7 providing otherwise is adopted following a hearing held pursuant  
8 to this condition.

9 IV

10 Respondent TERENCE MICHAEL FLANNIGAN shall, by the  
11 effective of the Decision herein, provide proof of paying  
12 restitution of as follows: \$1,275 to Cherlynn Shuman and \$2,400  
13 to Steve Brinca (hereinafter "borrowers").

14 (a) Respondent shall deliver or mail the restitution  
15 payments, by certified mail, return receipt requested, to each  
16 borrower's last address on file with, or known to Respondent.

17 (b) If a payment is returned by the Post Office marked  
18 "unable to deliver," Respondent shall employ a locator service  
19 (that may include or be limited to the Internet or other database  
20 retrieval search) to try and locate the borrower. Repayment  
21 shall then be made to the addresses recommended by the locator  
22 service.

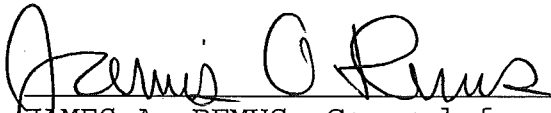
23 (c) If unable to effect repayment after using a locator  
24 service, Respondent shall provide reasonable proof satisfactory  
25 to the Commissioner of his efforts to comply with the provisions  
26 of this Paragraph.

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

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

7        (f) Restitution payments not made to any borrower shall  
8        escheat to the State of California.

10        DATED: 8/21/13

9  
11          
12        JAMES A. DEMUS, Counsel for  
13        the Bureau of Real Estate

14                                EXECUTION OF THE STIPULATION

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


26                                Respondent can signify acceptance and approval of the  
27                                terms and conditions of this Stipulation by faxing a copy of the

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11 DATED: 8/21/13

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

13 EXECUTION OF THE STIPULATION

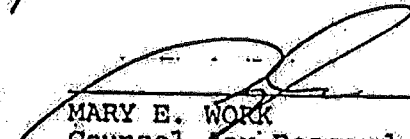
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21 Commissioner to prove the allegations in the Accusation at a  
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23 witnesses against me and to present evidence in defense and  
24 mitigation of the charges.

25 Respondent can signify acceptance and approval of the  
26 terms and conditions of this Stipulation by faxing a copy of the  
27



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

9  
10 DATED: 8/13/13   
11 TERENCE MICHAEL FLANNIGAN,  
12 Respondent

13 DATED: 8/19/13   
14 MARY E. WORK  
15 Counsel for Respondent

16 \*\*\*

17 The foregoing Stipulation and Agreement is hereby  
18 adopted as my Decision as to Respondent TERENCE MICHAEL FLANNIGAN  
19 and shall become effective at 12 o'clock noon on  
20 October 10, 2013.

21 IT IS SO ORDERED SEPTEMBER 11, 2013

22 Real Estate Commissioner

23 

24 By: JEFFREY MASON  
25 Chief Deputy Commissioner  
26

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