

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

4 Telephone: (213) 576-6982

FILED

FEB 10 2014

BUREAU OF REAL ESTATE

By J. Lennan

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of

12 DAMIAN D. RUDOLPH,

14 Respondent,

No. H-38961 LA
L-2013080250

STIPULATION
AND
AGREEMENT

17 It is hereby stipulated by and between Respondent DAMIAN D. RUDOLPH,
18 (sometimes referred to as "Respondent"), and the Complainant, acting by and through Elliott
19 Mac Lennan, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and
20 disposing of the Accusation ("Accusation") filed on July 17, 2013, in this matter:

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

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

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

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

20 5. This Stipulation is made for the purpose of reaching an agreed disposition of
21 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
22 which the Bureau of Real Estate ("Bureau"), the state or federal government, or any agency of
23 this state, another state or federal government is involved, and otherwise shall not be admissible
24 in any other criminal or civil proceedings.
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1 and Professions Code ("Code") and are a basis for discipline of Respondent's license and license
2 rights as a violation of the Real Estate Law pursuant to said sections.

3 ORDER

4 WHEREFORE, THE FOLLOWING ORDER is hereby made:

5 I.

6 All licenses and licensing rights of Respondent DAMIAN D. RUDOLPH under
7 the Real Estate Law are suspended for a period of one hundred twenty (120) days from the
8 effective date of this Decision.

9
10 A. Provided, however, that if Respondent requests, all one hundred twenty (120)
11 days of said suspension (or a portion thereof) shall be stayed upon condition that:

12 1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the
13 Business and Professions Code at the rate of \$20.83 per day for each day of the suspension for a
14 total monetary penalty of \$2,500.

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

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

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

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

4 II.

5 Pursuant to Section 10106 of the Business and Professions Code, Respondent
6 shall pay the Commissioner's reasonable cost for the investigation and enforcement costs which
7 led to this disciplinary action. The cost of the investigation and enforcement which led to this
8 disciplinary action is \$5,927.00. In calculating the amount of the Commissioner's reasonable
9 cost, the Commissioner may use the estimated average hourly salary for all persons performing
10 investigation and enforcement of real estate brokers, and shall include an allocation for travel
11 time to and from the special investigator and/or attorney's place of work. Respondent shall pay
12 such cost within 60 days of receiving an invoice from the Commissioner detailing the activities
13 performed during the investigation and enforcement and the amount of time spent performing
14 those activities. If Respondent fails to satisfy this condition, the Commissioner may order the
15 suspension of Respondent's license until Respondent presents evidence of payment. The
16 Commissioner shall afford Respondent the opportunity for a hearing pursuant to the
17 Administrative Procedure Act to present such evidence.
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21 III.

22 Respondent shall within six (6) months from the effective date of the Decision
23 herein, take and pass the Professional Responsibility Examination administered by the Bureau
24 including the payment of the appropriate examination fee. If Respondent fails to satisfy this
25 condition, the Commissioner may order suspension of Respondent's license until Respondent
26 passes the examination.
27

1 IV.

2 Respondent DAMIAN D. RUDOPH shall, within nine (9) months from the
3 effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner
4 that Respondent has, since the most recent issuance of an original or renewal real estate license,
5 taken and successfully completed the continuing education requirements of Article 2.5 of
6 Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to
7 satisfy this condition, the Commissioner may order the suspension of the real estate license until
8 Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity
9 for a hearing pursuant to the Administrative Procedure Act to present such evidence.
10

11 V.

12
13 All proof required by this Order, shall be sent to the attention of Elliott Mac
14 Lennan, Counsel, Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350, Los
15 Angeles, California 90013-1105.
16

17 DATED: 12.18.13

18 
19 ELLIOTT MAC LENNAN, Counsel for
20 Bureau of Real Estate

21 EXECUTION OF THE STIPULATION

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

MAILING/FACSIMILE

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

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

DATED: 12-18-14



DAMIAN D. RUDOLPH, Respondent

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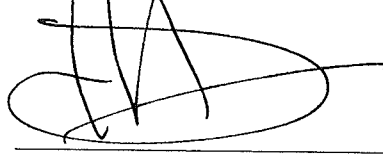
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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent DAMIAN D. RUDOLPH and shall become effective at 12 o'clock noon on MAR 03 2014, 2014.

IT IS SO ORDERED February 4, 2014.

Real Estate Commissioner



By. JEFFREY MASON
Chief Deputy Commissioner

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