

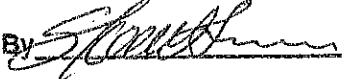
1 Bureau of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

FILED

MAR 30 2016

BUREAU OF REAL ESTATE

By 

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9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation

Case No. H-39582 LA
Case No. OAH 2014090601

13 EL BASHA INC., doing business as)
14 Real Property Management West)
15 San Fernando Valley, and Vista Property)
16 Management; and ADEL B. RAFAEL,)
17 individually, and as designated officer)
18 of El Basha Inc.,)
Respondents.)
_____)

STIPULATION & AGREEMENT

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20 It is hereby stipulated by and between Respondents EL BASHA INC., doing
21 business as Real Property Management West San Fernando Valley, and Vista Property
22 Management, and ADEL B. RAFAEL, individually, and as designated officer for EL BASHA
23 INC. (sometimes referred to as Respondents) , and Respondents' attorney, Frank Buda, Esq.,
24 and the Complainant, acting by and through Cheryl Keily, Counsel for the Bureau of Real
25 Estate, as follows for the purpose of settling and disposing of the Accusation filed on August
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21, 2014, in this matter.

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

2. Respondents have received, read and understand the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Bureau of Real Estate ("Bureau") in this proceeding.

3. On September 11, 2014, and September 12, 2014, Respondents each filed a Notice of Defense, pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents acknowledge that they understands that by withdrawing said Notice of Defense they will thereby waive their right to require the Commissioner of Real Estate ("Commissioner") to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that they will waive other rights afforded to them in connection with the hearing, such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

4. This Stipulation is based on the factual allegations contained in the Accusation. In the interest of expedience and economy, Respondents choose not to contest these allegations, but to remain silent and understand that, as a result thereof, these factual allegations, without being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to herein. The Commissioner shall not be required to provide further evidence to prove said factual allegations.

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5. This Stipulation is made for the purpose of reaching an agreed disposition of this proceeding and is expressly limited to this proceeding and any other proceeding or case in which the Bureau, the state or federal government, or any agency of this state, another state or federal government is involved, and otherwise shall not be admissible in any other criminal or civil proceedings.

6. It is understood by the parties that the Commissioner may adopt the Stipulation and Agreement as his decision in this matter, thereby imposing the penalty and sanctions on Respondents' real estate licenses and license rights as set forth in the below "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and Agreement, it shall be void and of no effect, and Respondents shall retain the right to a hearing and proceeding on the Accusation under all the provisions of the APA and shall not be bound by any admission or waiver made herein.

7. The Order or any subsequent Order of the Commissioner made pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further administrative or civil proceedings by the Bureau with respect to any matters which were not specifically alleged to be causes for accusation in this proceeding.

8. Respondents understand that by agreeing to this Stipulation, Respondents agree to pay, pursuant to Business and Professions Code ("Code") Section 10148, the cost of the original audit which led to this disciplinary action. The amount of said cost is \$11,641.89.

9. Respondents have received, read, and understand the "Notice Concerning Costs of Subsequent Audit." Respondents further understand that by agreeing to this Stipulation, the findings set forth below in the Determination of Issues become final, and the Commissioner may charge Respondents for the cost of any subsequent audit conducted pursuant to Code Section 10148 to determine if the violations have been corrected. The maximum cost of the subsequent audit shall not exceed \$11,641.89.

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2 10. Respondents understand that by agreeing to this Stipulation, Respondents
3 agree to pay, pursuant to Code Section 10106, the cost of the investigation and enforcement of
4 this matter. The amount of the investigation costs is \$505; the amount of the enforcement costs
5 is \$1,869.00.

6 DETERMINATION OF ISSUES

7 1. The conduct, acts or omissions of Respondents EL BASHA INC. and
8 ADEL B. RAFAEL, as set forth in the Accusation, is in violation of Code Section 10145 and
9 Sections 2831, 2831.1, 2831.2, 2832, and 2834, of Title 10, Chapter 6, Code of Regulations
10 (“Regulations”) and constitutes cause to suspend or revoke the real estate licenses and license
11 rights of Respondent EL BASHA INC. and ADEL B. RAFAEL under the provisions of Code
12 Sections 10177(d).

13 2. The conduct, acts or omissions of Respondent ADEL B. RAFAEL, as set
14 forth in the Accusation, constitutes cause to suspend or revoke the real estate licenses and
15 license rights of Respondent ADEL B. RAFAEL under the provisions of Code Sections
16 10177(d) for violation of Code Section 10177(h).

17 ORDER

18 WHEREFORE, THE FOLLOWING ORDER is hereby made:

19 I. ALL licenses and licensing rights of Respondents EL BASHA INC. and
20 ADEL B. RAFAEL under the Real Estate Law are suspended for a period of sixty (60) days
21 from the effective date of this Decision; provided however, that the entire period of said
22 suspension shall be stayed for one (1) year upon the following terms and conditions:

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

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

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

14 III. Pursuant to Section 10148 of the Business and Professions Code,
15 Respondents EL BASHA INC. and ADEL B. RAFAEL shall pay the sum of \$11,641.89 for the
16 Commissioner's cost of the audit which led to this disciplinary action. Respondents shall pay
17 such cost within sixty (60) days of receiving an invoice therefor from the Commissioner.
18 Payment of audit costs should not be made until Respondents receive the invoice. If
19 Respondents fail to satisfy this condition in a timely manner as provided for herein,
20 Respondents' real estate licenses shall automatically be suspended until payment is made in
21 full, or until a decision providing otherwise is adopted following a hearing held pursuant to this
22 condition. Respondents may pay the audit costs by credit card using the Bureau's Credit Card
23 Payment form (RE 909).

24 Pursuant to Section 10148 of the Code, Respondents shall pay the
25 Commissioner's reasonable cost, not to exceed \$11,641.89, for an audit to determine if
26 Respondents have corrected the violation(s) found in the Determination of Issues. In
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1 calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the
2 estimated average hourly salary for all persons performing audits of real estate brokers, and
3 shall include an allocation for travel time to and from the auditor's place of work. Respondents
4 shall pay such cost within sixty (60) days of receiving an invoice therefor from the
5 Commissioner. Payment of the audit costs shall not be made until Respondents receive the
6 invoice. If Respondents fail to satisfy this condition in a timely manner as provided for herein,
7 Respondents' real estate licenses shall automatically be suspended until payment is made in
8 full, or until a decision providing otherwise is adopted following a hearing held pursuant to this
9 condition.
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11 IV. Respondents shall pay the Commissioner's reasonable costs for
12 investigation and enforcement of the matter. The investigation and enforcement costs which led
13 to this disciplinary action total \$2,374. The investigation and enforcement costs must be
14 delivered to the Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento,
15 California 95813-7013, prior to the effective date of this Decision and Order. Respondents may
16 pay the investigation and enforcement costs by credit card using the Bureau's Credit Card
17 Payment form (RE 909).

18 A. The Commissioner shall suspend the license of Respondents pending a
19 hearing held in accordance with California Government Code Section 11500, et seq., if
20 payment is not timely made as provided for herein. The suspension shall remain in effect until
21 payment is made in full, or until a decision providing otherwise is adopted following a hearing
22 held pursuant to this condition.

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24 DATED: Jan 22, 2016

Cheryl D. Keily
Cheryl D. Keily, Counsel
BUREAU OF REAL ESTATE

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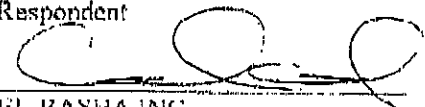
I have read the Stipulation and Agreement, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the APA (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a 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.

Respondents can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondents, to the Bureau at the following telephone/fax number (213) 576-6917. Respondents agree, acknowledge; and understand that by electronically sending to the Bureau a fax copy of their actual signatures as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Bureau shall be as binding on Respondents as if the Bureau had received the original signed Stipulation and Agreement.

DATED: 1-19-16

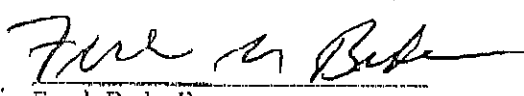

ADEL B. RAFAEL
Respondent

DATED: 1-19-16


EL. BASHA INC.
By: Adel B. Rafael
Respondent

I have reviewed the Stipulation and Agreement as to form and content and have advised my clients accordingly.

DATED: 1-20-16


Frank Buda, Esq.
Attorney for Respondents

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The foregoing Stipulation and Agreement is hereby adopted as my Decision in
this matter and shall become effective at 12 o'clock noon on APR 20 2016.

IT IS SO ORDERED MARCH 23, 2016.

REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner