Bureau of Real Estate 320 West 4th Street, Ste. 350 Los Angeles, California 90013-1105 Telephone: (213) 576-6982

FILED

DEC 0 8 2015

BUREAU OF REAL ESTATE

By Synf Manner

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

ጥ ጥ	ጥ	
In the Matter of the Accusation of)	BRE No. H-39728 LA OAH No. 2015040879
SITSEEFLY, INC.; <u>JEFFREY CARL AULT</u> , individually and as designated officer of SitSeeFly, Inc.; and MICHAEL LEONIS, JR.,))))	STIPULATION AND AGREEMENT
Respondents.)	

It is hereby stipulated by and between Respondent JEFFREY CARL AULT ("AULT"), represented by Steve Vondran, Esq., and the Complainant, acting by and through Diane Lee, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on February 3, 2015, in this matter:

- 1. All issues which were to be contested and all evidence which were to be presented by Complainant and Respondent AULT at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the California Administrative Procedure Act ("APA"), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement ("Stipulation").
 - 2. Respondent AULT has received and read, and understands the Statement to

 Respondent, the Discovery Provisions of the APA, and the Accusation filed by the Bureau of Real Estate in this proceeding.

- 3. Respondent AULT filed a Notice of Defense pursuant to California
 Government Code section 11506 for the purpose of requesting a hearing on the allegations in the
 Accusation. Respondent AULT hereby freely and voluntarily withdraws said Notice of Defense.
 Respondent AULT acknowledges that he understands that by withdrawing said Notice of
 Defense he thereby waives his right to require the Commissioner to prove the allegations in the
 Accusation at a contested hearing held in accordance with the provisions of the APA and that
 Respondent AULT will waive other rights afforded to him in connection with the hearing such as
 the right to present evidence in their defense 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, Respondent AULT chooses not to contest these allegations, but to remain silent and understands 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 Real Estate Commissioner shall not be required to provide further evidence to prove said factual allegations.
- 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 of Real Estate, the state or federal government, or any agency of this state, or another state or federal government is involved.
- 6. It is understood by the parties that the Real Estate Commissioner may adopt this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on the real estate licenses and license rights of Respondent AULT as set forth in the below "Order." In the event that the Commissioner in his discretion does not adopt this Stipulation, it shall be void and of no effect, and Respondent AULT shall retain the right to a hearing and proceeding on the Accusation under the provisions of the APA and shall not be bound by this Stipulation herein.

7. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation herein shall not constitute an estoppel, merger, or bar to any further administrative or civil proceedings by the Bureau of Real Estate with respect to any matters which were not specifically alleged to be causes for Accusation in this proceeding, but do constitute a bar, estoppel, and merger as to any allegations specifically and actually contained in the Accusation against Respondent AULT understands that he made is a second contained in the Accusation against Respondent AULT understands that he made is a second contained in the Accusation against Respondent AULT understands that he made is a second contained in the Accusation against Respondent AULT understands that he made is a second contained in the Accusation against Respondent AULT understands that he made is a second contained in the Accusation against Respondent AULT understands that he made is a second contained in the Accusation against Respondent AULT understands that he made is a second contained in the Accusation against Respondent AULT understands that he made is a second contained in the Accusation against Respondent AULT understands the second contained in the Accusation against Respondent AULT understands the second contained in the Accusation against Respondent AULT understands the second contained in the second contained in the Accusation against Respondent AULT understands the second contained in the second contained in

8. Respondent AULT understands that by agreeing to this Stipulation, Respondent AULT agrees to pay, pursuant to California Business and Professions Code section 10106, fifty (50) percent of the cost of the investigation and enforcement. The amount of total investigation and enforcement cost is \$1,610.00.

DETERMINATION OF ISSUES

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

The conduct, acts, or omissions of Respondent AULT, as described in the Accusation and Paragraph 4, above, are in violation of California Business and Professions Code sections 10145, 10176(e), 10177(g), and 10177(h) and Title 10, Chapter 6 of the California Code of Regulations, sections 2832(a) and 2834(b), and are a basis for discipline of AULT's license and license rights as violation of the Real Estate Law pursuant to California Business and Professions Code sections 10176(e), 10177(g), and 10177(h).

21 ///

15

16

17

18

20

22 ///

23 ///

24 ///

25 ///

111

(SUSPENSION)

I.

.1.4

All licenses and licensing rights of Respondent AULT under the Real Estate Law are suspended for a period of ninety (90) days, from the effective date of this Decision and Order, provided, however, that:

- 1. Thirty (30) days of said suspension shall be stayed, upon the condition that AULT petitions pursuant to California Business and Professions Code section 10175.2 and pays a monetary penalty pursuant to California Business and Professions Code section 10175.2 at a rate of \$100.00 for each day of the suspension for a total monetary penalty of \$3,000.00.
- a. Said payment shall be in the form of a cashier's check made payable to the Bureau of Real Estate. Said check must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.
- b. No further cause for disciplinary action against the Real Estate licenses of Respondent AULT occurs within two (2) years from the effective date of the Decision and Order in this matter.
- c. If AULT fails to pay the monetary penalty in accordance with the terms and conditions of this Decision and Order, the suspension shall go into effect automatically.

 Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Bureau under the terms of this Decision and Order.
- d. If Respondent AULT pays the monetary penalty and any other moneys due under this Stipulation and Agreement and if no further cause for disciplinary action against the real estate license of said Respondent AULT occurs within two (2) years from the effective date

of this Decision and Order, the entire stay hereby granted pursuant to this Decision and Order, as to said Respondent AULT only, shall become permanent.

- 2. The remaining sixty (60) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:
- a. Respondent AULT shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and,
- b. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years from the effective date of this Decision and Order. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

(INVESTIGATION AND ENFORCEMENT COSTS)

II.

Pursuant to California Business and Professions Code section 10106,

Respondent AULT as well as Respondents SitSeeFly, Inc. ("SitSeeFly") and Michael Leonis, Jr.

("Leonis") shall pay the Commissioner's reasonable cost for investigation and enforcement of the matter. The investigation and enforcement cost which led to this disciplinary action is \$1,610.00.

Respondent AULT shall pay fifty (50) percent of \$1,610.00, which is \$805.00. Said payment shall be made within sixty (60) days after the effective date of this Decision. Said payment shall be in the form of a cashier's check made payable to the Bureau of Real Estate at: Bureau of Real Estate, Flag Section, P.O. Box 137013, Sacramento, CA 95813-7013.

The Commissioner shall suspend the license of Respondent AULT pending a hearing held in accordance with California Government Code section 11500, et seq., if payment is not timely made as provided for herein. The suspension shall remain in effect until payment is

made in full or until Respondent AULT enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

(AUDIT COSTS)

III.

Pursuant to California Business and Professions Code section 10148, Respondent AULT and Respondent SitSeeFly shall each pay \$2,325.07 for the Commissioner's cost of the audit which led to this disciplinary action. Respondent AULT shall pay this \$2,325.07 within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of audit costs should not be made until Respondent AULT receives the invoice. If Respondent AULT fails to satisfy this condition in a timely manner as provided for herein, the real estate license of Respondent AULT shall automatically be suspended until payment is made in full, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

Pursuant to California Business and Professions Code section 10148, Respondent AULT shall pay the Commissioner's reasonable cost, not to exceed \$4,650.14, for an audit of to determine if Respondent AULT has corrected the violations found in the Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate broker(s), and shall include an allocation for travel time to and from the auditor's place of work.

Respondent AULT shall pay such cost, jointly and severally, within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of the audit costs should not be made until Respondent AULT receives the invoice. If Respondent AULT fails to satisfy this condition in a timely manner as provided for herein, the real estate licenses of Respondent AULT shall automatically be suspended until payment is made in full, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

(CONTINUING EDUCATION)

IV.

Respondent AULT shall, within nine (9) months from the effective date of this

Decision and Order, present evidence satisfactory to the Commissioner that Respondent AULT
has, since the most recent issuance of an original or renewal real estate license, taken and
successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the
Real Estate Law for renewal of a real estate license. If Respondent AULT fails to satisfy this
condition, Respondent AULT's real estate license shall automatically be suspended until
Respondent AULT presents evidence satisfactory to the Commissioner of having taken and
successfully completed the continuing education requirements. Proof of completion of the
continuing education courses must be delivered to the Bureau of Real Estate, Flag Section at P.O.
Box 137013, Sacramento, CA 95813-7013.

(PROFESSIONAL RESPONSIBILITY EXAM)

V.

Respondent AULT shall, within six (6) months from the effective date of this

Decision and Order, take and pass the Professional Responsibility Examination administered by
the Bureau of Real Estate including the payment of the appropriate examination fee. If
Respondent AULT fails to satisfy this condition, Respondent AULT's real estate license shall
automatically be suspended until Respondent AULT passes the examination.

DATED: 10/30/2015

DIANE LEE, Counsel for Bureau of Real Estate

* * *

EXECUTION OF THE STIPULATION

I, JEFFREY CARL AULT, individually and the former designated officer of SitSeeFly, Inc., have read the Stipulation and discussed it with my attorney, Steve Vondran, Esq. 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 California APA (including, but not limited to, California Government Code sections 11506, 11508, 11509, and 11513), and I, individually and as designated officer of SitSeeFly, Inc., willingly, intelligently, and voluntarily waive those rights, including, but not limited to, the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I, individually and as the former designated officer of SitSeeFly, Inc., would have the right to cross-examine witnesses against me and SitSeeFly, Inc. and to present evidence in defense and mitigation of the charges.

MAILING AND FACSIMILE

Respondent AULT (1) shall <u>mail</u> the original signed signature page of this Stipulation herein to Bureau of Real Estate, Attention: Legal Section – Diane Lee, 320 West Fourth Street, Suite 350, Los Angeles, California 90013-1105. Respondent AULT shall also (2) <u>facsimile</u> a copy of signed signature page, to the Bureau of Real Estate at the following telephone/fax number: (213) 576-6917, Attention: Diane Lee.

19 | | ///

1

2

3

4

5

10

11

12

13

14

15

16

17

18

20 | | ///

21 | ///

22 ///

3 || ///

4 || ///

25 ///

26 1/

888-551-2252

A facsimile constitutes acceptance and approval of the terms and conditions of 1 this Stipulation. Respondent AULT agrees, acknowledges, and understands that by electronically 2 sending to the Bureau of Real Estate a facsimite copy of the actual signature of Respondent 3 AULT as it appear on the Stipulation that receipt of the facsimile copy by the Bureau of Real 4 Estate shall be as binding on Respondent AULT as if the Bureau of Real Estate had received the 5 original signed Stipulation. 6 7 DATED: 10-30-2015 8 JEFFREY CARL AULT, individually and as 9 former designated officer of SitSeeFly, Inc. 10 11 VONDRAN, ESO. 12 Attorney for Respondent JEFFREY CARL AULT 13 14 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to 15 Respondent JEFFREY CARL AULT, and shall become effective at 12 o'clock noon on 16 ,2015. 17 18 IT IS SO ORDERED . 2015. 19 **REAL ESTATE COMMISSIONER** 20 21 22 23 24 25 26 27

~9-

Stipulation and Agreement: Jeffrey Carl Ault

1	A facsimile constitutes acceptance and approval of the terms and conditions of
2	this Stipulation. Respondent AULT agrees, acknowledges, and understands that by electronically
3	sending to the Bureau of Real Estate a facsimile copy of the actual signature of Respondent
4	AULT as it appear on the Stipulation that receipt of the facsimile copy by the Bureau of Real
5	Estate shall be as binding on Respondent AULT as if the Bureau of Real Estate had received the
6	original signed Stipulation.
7	
8	DATED:
9	JEFFREY CARL AULT, individually and as former designated officer of SitSeeFly, Inc.
10	g and a second sty, mo.
11	DATED:
12	STEVE VONDRAN, ESQ. Attorney for Respondent JEFFREY CARL AULT
13	
	* * *
14	
14 15	The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
	The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent JEFFREY CARL AULT, and shall become effective at 12 o'clock noon on
15.	The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
15 _.	The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent JEFFREY CARL AULT, and shall become effective at 12 o'clock noon on
15 _. 16	The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent JEFFREY CARL AULT, and shall become effective at 12 o'clock noon on
15 _. 16 17	The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent JEFFREY CARL AULT, and shall become effective at 12 o'clock noon on
15. 16 17 18	The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent JEFFREY CARL AULT, and shall become effective at 12 o'clock noon on
15. 16 17 18 19	The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent JEFFREY CARL AULT, and shall become effective at 12 o'clock noon on
15. 16 17 18 19 20 21	The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent JEFFREY CARL AULT, and shall become effective at 12 o'clock noon on
15 16 17 18 19 20 21 22	The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent JEFFREY CARL AULT, and shall become effective at 12 o'clock noon on
15 16 17 18 19 20 21 22 23	The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent JEFFREY CARL AULT, and shall become effective at 12 o'clock noon on