

FILED

DEC 24 2015

BUREAU OF REAL ESTATE

By 

1 Bureau of Real Estate
320 West 4th Street, Suite 350
2 Los Angeles, California 90013-1105
Telephone: (213) 576-6982
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8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

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11	In the Matter of the Accusation of)	CALBRE No. H-39818 LA
)	OAH No. 2015050785
12	WESTSIDE PROPERTY MANAGEMENT,)	
	INC. and JOSHUA LESSING BARRE,)	
13	individually and as designated officer for)	
	Westside Property Management, Inc.)	<u>STIPULATION AND AGREEMENT</u>
14	Respondents.)	
)	

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16 It is hereby stipulated by and between WESTSIDE PROPERTY MANAGEMENT, INC.
17 and JOSHUA LESSING BARRE (collectively "Respondents") and their attorney, Frank M.
18 Buda, and the Complainant, acting by and through Lissete Garcia, Counsel for the Bureau of
19 Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on
20 April 27, 2015, in this matter:

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

1 and Agreement.

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

5 3. Respondents filed a Notice of Defense pursuant to Section 11506 of the Government
6 Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents
7 hereby freely and voluntarily withdraw said Notice of Defense. Respondents acknowledge that
8 they understand that by withdrawing said Notice of Defense they will thereby waive their right to
9 require the Commissioner to prove the allegations in the Accusation at a contested hearing held
10 in accordance with the provisions of the APA and that they will waive other rights afforded to
11 them in connection with the hearing such as the right to present evidence in defense of the
12 allegations in the Accusation and the right to cross-examine witnesses.

13 4. This Stipulation is based on the factual allegations contained in the Accusation filed in
14 this proceeding. In the interest of expedience and economy, Respondents choose not to contest
15 these factual allegations, but to remain silent and understand that, as a result thereof, these
16 factual statements, 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 such allegations.

19 5. This Stipulation and Respondents’ decision not to contest the Accusation are made for
20 the purpose of reaching an agreed disposition of this proceeding and are expressly limited to this
21 proceeding and any other proceeding or case in which the Bureau or another licensing agency of
22 this state, another state or if the federal government is involved and otherwise shall not be
23 admissible in any other criminal or civil proceedings.

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

8 7. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to
9 this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or
10 civil proceedings by the Bureau with respect to any conduct which was not specifically alleged
11 to be causes for accusation in this proceeding.

12 8. Respondents understand that by agreeing to this Stipulation, they agree to pay pursuant
13 to Business and Professions Code Section 10148, the cost of audit which led to this disciplinary
14 action. The amount of said cost for the audit is \$5,019.28.

15 9. Respondents understand that by agreeing to this Stipulation, the findings set forth
16 below in the Determination of Issues become final, and the Commissioner may charge
17 Respondents for the cost of any subsequent audit conducted pursuant to Business and Professions
18 Code Section 10148 to determine if the violations have been corrected. The maximum cost of
19 the subsequent audit will not exceed \$5,019.28.

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1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulation and agreement and solely for the purpose of
3 settlement of the pending Accusation without a hearing, it is stipulated and agreed that the
4 following determination of issues shall be made:

5 I.

6 The conduct, acts and/or omissions of Respondent WESTSIDE PROPERTY
7 MANAGEMENT, INC. as set forth in Paragraph 11, Issues 1 through 6, of the Accusation,
8 constitutes cause for the suspension or revocation of all real estate licenses and license rights of
9 Respondent WESTSIDE PROPERTY MANAGEMENT, INC. under the provisions of Sections
10 10177(d) and 10177(g) of the Business and Professions Code (“Code”) for violations of Code
11 section 10145 and sections 2832.1, 2831, 2831.1, 2831.2, 2832, and 2731, Title 10, Chapter 6,
12 California Code of Regulations (“Regulations”) as set forth in Paragraph 11 of the Accusation.

13 II.

14 The conduct, acts and/or omissions of Respondent JOSHUA LESSING BARRE, as set
15 forth in Paragraph 11, Issue 7, of the Accusation, constitutes cause for the suspension or
16 revocation of all real estate licenses and license rights of Respondent JOSHUA LESSING
17 BARRE under the provisions of Code section 10177(h) for violations of Code section 10159.2
18 and Regulation 2725.

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1 ORDER

2 WHEREFORE, THE FOLLOWING ORDER is hereby made:

3 I.

4 All licenses and licensing rights of Respondent WESTSIDE PROPERTY

5 MANAGEMENT, INC. under the Real Estate Law are suspended for a period of 60 days from
6 the effective date of this Decision and Order; provided, however, that:

7 1) The initial thirty (30) days of said 60-day suspension shall be stayed, upon the
8 condition that Respondent petition pursuant to Section 10175.2 of the Code
9 and pays a monetary penalty pursuant to Section 10175.2 of the Code at a rate
10 of \$100 for each day of the suspension for a total monetary penalty of \$3,000.

11 a) Said payment shall be in the form of a cashier's check made payable to the
12 Bureau of Real Estate. Said check must be delivered to the Bureau of Real
13 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior
14 to the effective date of this Decision and Order.

15 b) No further cause for disciplinary action against the Real Estate licenses of
16 Respondent occurs within two (2) years from the effective date of the
17 Decision and Order in this matter.

18 c) If Respondent fails to pay the monetary penalty in accordance with the terms
19 and conditions of this Decision and Order, the suspension shall go into effect
20 automatically. Respondent shall not be entitled to any repayment nor credit,
21 prorated or otherwise, for money paid to the Bureau under the terms of this
22 Decision and Order.

1 d) If Respondent pays the monetary penalty and any other moneys due under this

2 Stipulation and Agreement and if no further cause for disciplinary action
3 against the real estate license of said Respondent occurs within two (2) years
4 from the effective date of this Decision and Order, the entire stay hereby
5 granted pursuant to this Decision and Order, as to said Respondent only, shall
6 become permanent.

7 2) The remaining thirty (30) days of said 60-day suspension shall be stayed for

8 two (2) years upon the following terms and conditions:

9 a) Respondent shall obey all laws, rules and regulations governing the rights,

10 duties and responsibilities of a real estate licensee in the State of California;
11 and,

12 b) That no final subsequent determination be made, after hearing or upon

13 stipulation, that cause for disciplinary action occurred within two (2) years
14 from the effective date of this Decision and Order. Should such a
15 determination be made, the Commissioner may, in his discretion, vacate and
16 set aside the stay order and reimpose all or a portion of the stayed suspension.
17 Should no such determination be made, the stay imposed herein shall become
18 permanent.

19 3a. Pursuant to Section 10148 of the Code, Respondent WESTSIDE PROPERTY

20 MANAGEMENT, INC. shall pay the sum of \$5,019.28 for the
21 Commissioner's cost of the audit which led to this disciplinary action.
22 Respondent WESTSIDE PROPERTY MANAGEMENT, INC. shall pay such
23 cost within sixty (60) days of receiving an invoice therefore from the
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1 Commissioner. Payment of audit costs should not be made until Respondent
2 WESTSIDE PROPERTY MANAGEMENT, INC. receives the invoice. If
3 Respondent WESTSIDE PROPERTY MANAGEMENT, INC. fails to satisfy
4 this condition in a timely manner as provided for herein, Respondent
5 WESTSIDE PROPERTY MANAGEMENT, INC.'s real estate license(s) shall
6 automatically be suspended until payment is made in full, or until a decision
7 providing otherwise is adopted following a hearing held pursuant to this
8 condition.

9 3b. Pursuant to Section 10148 of the Code, Respondent WESTSIDE
10 PROPERTY MANAGEMENT, INC. shall pay the Commissioner's
11 reasonable cost, not to exceed \$5,019.28, for an audit to determine if
12 Respondent WESTSIDE PROPERTY MANAGEMENT, INC. has corrected
13 the violations found in the Determination of Issues. In calculating the amount
14 of the Commissioner's reasonable cost, the Commissioner may use the
15 estimated average hourly salary for all persons performing audits of real estate
16 brokers, and shall include an allocation for travel time to and from the
17 auditor's place of work. Respondent WESTSIDE PROPERTY
18 MANAGEMENT, INC. shall pay such cost within sixty (60) days of
19 receiving an invoice therefore from the Commissioner. Payment of the audit
20 costs should not be made until Respondent WESTSIDE PROPERTY
21 MANAGEMENT, INC. receives the invoice. If Respondent WESTSIDE
22 PROPERTY MANAGEMENT, INC. fails to satisfy this condition in a timely
23 manner as provided for herein, Respondent WESTSIDE PROPERTY
24

1 MANAGEMENT, INC.'s real estate license(s) shall automatically be
2 suspended until payment is made in full, or until a decision providing
3 otherwise is adopted following a hearing held pursuant to this condition.

4 II.

5 All licenses and licensing rights of Respondent JOSHUA LESSING BARRE
6 under the Real Estate Law are suspended for a period of 60 days from the effective date of this
7 Decision and Order; provided, however, that:

8 1) The initial thirty (30) days of said 60-day suspension shall be stayed, upon the
9 condition that Respondent petition pursuant to Section 10175.2 of the Code
10 and pays a monetary penalty pursuant to Section 10175.2 of the Code at a rate
11 of \$100 for each day of the suspension for a total monetary penalty of \$3,000.

12 a) Said payment shall be in the form of a cashier's check made payable to the
13 Bureau of Real Estate. Said check must be delivered to the Bureau of Real
14 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior
15 to the effective date of this Decision and Order.

16 b) No further cause for disciplinary action against the Real Estate licenses of
17 Respondent occurs within two (2) years from the effective date of the
18 Decision and Order in this matter.

19 c) If Respondent fails to pay the monetary penalty in accordance with the terms
20 and conditions of this Decision and Order, the suspension shall go into effect
21 automatically. Respondent shall not be entitled to any repayment nor credit,
22 prorated or otherwise, for money paid to the Bureau under the terms of this
23 Decision and Order.

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d) If Respondent 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 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 only, shall become permanent.

2) The remaining thirty (30) days of said 60-day suspension shall be stayed for two (2) years upon the following terms and conditions:

a) Respondent 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.

3. All licenses and licensing rights of Respondent JOSHUA LESSING BARRE are indefinitely suspended unless or until Respondent JOSHUA LESSING BARRE provides proof satisfactory to the Commissioner, of having taken and successfully completed the continuing education course on trust fund accounting and handling specified in paragraph (3) of subdivision

1 (a) of Section 10170.5 of the Business and Professions Code. Proof of
2 satisfaction of these requirements includes evidence that Respondent has
3 successfully completed the trust fund account and handling continuing
4 education courses, no earlier than 120 days prior to the effective date of the
5 Decision and Order in this matter. Proof of completion of the trust fund
6 accounting and handling course must be delivered to the Bureau of Real
7 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by
8 fax at 916-263-8758, prior to the effective date of this Decision and Order.

9 4. Respondent JOSHUA LESSING BARRE shall, within six (6) months from
10 the effective date of this Decision and Order, take and pass the Professional
11 Responsibility Examination administered by the Bureau including the
12 payment of the appropriate examination fee. If Respondent fails to satisfy
13 this condition, Respondent's real estate license shall automatically be
14 suspended until Respondent passes the examination.

15 6. Respondent JOSHUA LESSING BARRE shall, within nine (9) months
16 from the effective date of this Decision and Order, present evidence
17 satisfactory to the Commissioner that Respondent has, since the most recent
18 issuance of an original or renewal real estate license, taken and successfully
19 completed the continuing education requirements of Article 2.5 of Chapter 3
20 of the Real Estate Law for renewal of a real estate license. If Respondent fails
21 to satisfy this condition, Respondent's real estate license shall automatically
22 be suspended until Respondent presents evidence satisfactory to the
23 Commissioner of having taken and successfully completed the continuing
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1 education requirements. Proof of completion of the continuing education
2 courses must be delivered to the Bureau of Real Estate, Flag Section at P.O.
3 Box 137013, Sacramento, CA 95813-7013.

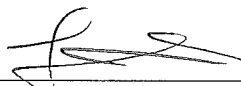
4 III.

5 All licenses and licensing rights of Respondents WESTSIDE PROPERTY

6 MANAGEMENT, INC. and JOSHUA LESSING BARRE are indefinitely suspended unless or
7 until Respondents, jointly or severally, pay the sum of \$2,054.15 for the Commissioner's
8 reasonable cost of the investigation and enforcement which led to this disciplinary action. Said
9 payment shall be in the form of a cashier's check made payable to the Bureau of Real Estate.
10 The investigative and enforcement costs must be delivered to the Bureau of Real Estate, Flag
11 Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
12 Decision and Order.

13 The Commissioner shall suspend Respondents' licenses pending a hearing held in
14 accordance with California Government Code Section 11500, et seq., if payment is not timely
15 made as provided for herein. The suspensions shall remain in effect until payment is made in
16 full or until a decision providing otherwise is adopted following a hearing held pursuant to this
17 condition.

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19 DATED: 12/1/2015



LISSETE GARCIA Counsel for Complainant

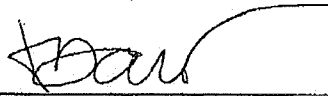
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21 * * *

22 We have read the Stipulation and Agreement, have discussed it with our counsel, and its
23 terms are understood by us and are agreeable and acceptable to us. We understand that we are
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1 waiving rights given to us by the California Administrative Procedure Act (including but not
 2 limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we willingly,
 3 intelligently and voluntarily waive those rights, including the right of requiring the
 4 Commissioner to prove the allegations in the Accusation at a hearing at which we would have
 5 the right to cross-examine witnesses against us and to present evidence in defense and mitigation
 6 of the charges.

7 Respondents can signify acceptance and approval of the terms and conditions of this
 8 Stipulation and Agreement by faxing a copy of the signature page, as actually signed by
 9 Respondents, to the Bureau at fax number (213) 576-6917. Respondents agree, acknowledge,
 10 and understand that by electronically sending to the Bureau a fax copy of their actual signatures
 11 as they appear on the Stipulation and Agreement, that receipt of the faxed copy by the Bureau
 12 shall be as binding on Respondents as if the Bureau had received the original signed Stipulation
 13 and Agreement.

14 DATED: 11/24/15



 On behalf of WESTSIDE PROPERTY
 MANAGEMENT, INC., Respondent
 Printed Name JOSHUA LESSING BARRE

17 DATED: 11/24/15


 JOSHUA LESSING BARRE, Respondent

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

21 DATED: 11-24-15


 FRANK M. BUDA, ESQ.
 Attorney for Respondents

1 waiving rights given to us by the California Administrative Procedure Act (including but not
2 limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we willingly,
3 intelligently and voluntarily waive those rights, including the right of requiring the
4 Commissioner to prove the allegations in the Accusation at a hearing at which we would have
5 the right to cross-examine witnesses against us and to present evidence in defense and mitigation
6 of the charges.

7 Respondents can signify acceptance and approval of the terms and conditions of this
8 Stipulation and Agreement by faxing a copy of the signature page, as actually signed by
9 Respondents, to the Bureau at fax number (213) 576-6917. Respondents agree, acknowledge,
10 and understand that by electronically sending to the Bureau a fax copy of their actual signatures
11 as they appear on the Stipulation and Agreement, that receipt of the faxed copy by the Bureau
12 shall be as binding on Respondents as if the Bureau had received the original signed Stipulation
13 and Agreement.

14 DATED: _____
15 On behalf of WESTSIDE PROPERTY
16 MANAGEMENT, INC., Respondent
17 Printed Name _____

18 DATED: _____
19 JOSHUA LESSING BARRE, Respondent

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

22 DATED: _____
23 FRANK M. BUDA, ESQ.
24 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 ~~JAN 13 2016~~ ~~JAN 13 2016~~

IT IS SO ORDERED DECEMBER 16, 2015

WAYNE S. BELL
REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner