

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

FILED

FEB 15 2017

BUREAU OF REAL ESTATE

By *[Signature]*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-40161 LA
)	
HERE THERE AND EVERYWHERE INC.; and)	
)	
WAYNE LEO BETTAREL, individually and as)	<u>STIPULATION</u>
designated officer of Here There And Everywhere Inc.,)	<u>AND</u>
)	<u>AGREEMENT</u>
Respondents.)	
)	

It is hereby stipulated by and between Respondents HERE THERE AND EVERYWHERE INC. ("HTAEI" or "Respondent HTAEI"), WAYNE LEO BETTAREL ("BETTAREL" or "Respondent BETTAREL"), both represented by Kelly A. Neavel, Esq./ The Giardinelli Law Group, and the Complainant, acting by and through Julie L. To, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on March 9, 2016.

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

CalBRE Stipulation & Agreement – H-40161 LA

1 Stipulation and Agreement ("Stipulation").

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

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

13 4. This stipulation is based on the factual allegations contained in the Accusation.
14 Respondents do not admit those allegations. However, in the interest of expedience and
15 economy, Respondents choose not to contest these allegations, and understand that, as a result,
16 the factual allegations, without being admitted or denied, will serve as a prima facie basis for the
17 disciplinary action stipulated to herein. The Real Estate Commissioner shall not be required to
18 provide further evidence to prove said factual allegations.

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

24 ///

25 ///

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

7. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation 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 actually contained in the Accusations against Respondents herein.

8. Respondents understand that by agreeing to this Stipulation, Respondents agree to pay, pursuant to Business and Professions Code Section 10148, the cost of the audit. The amount of said cost for the original audit, Audit Nos. SD130006 and SD 130008, is \$7,210.88.

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 audits conducted pursuant to Business and Professions Code Section 10148 to determine if the violations have been corrected. The maximum cost of the follow-up audits will not exceed one hundred twenty percent (120%) of the cost of the original audit; in the instant case, the cost of the original audit is \$7,210.88, therefore, the maximum cost of the follow-up audit will not exceed \$8,653.06.

///

1 10. Respondents understand that by agreeing to this Stipulation, Respondents
2 agree to pay, pursuant to Business and Professions Code Section 10106, the Commissioner's cost
3 of the investigation and enforcement. The amount of said costs is \$3,531.40.

4 DETERMINATION OF ISSUES

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

7 The factual allegations described in Paragraph 4, without being admitted or
8 denied, constitute a violation of Business and Professions Code ("Code") Section 10145 and
9 Regulations 2831, 2831.1, 2831.2, 2832, 2832.1, 2834, 2835, 2950(d), 2951; Code Sections
10 10176(e) and 10177(j) and Regulation 2950(g); Code Section 10159.5 and Regulation 2731;
11 Code Sections 10145, 10176(g) and Regulations 2830, 2950(d) and 2951; Financial Code
12 Section 17006(a)(4); Code Sections 10177(g), 10176(i), 10177(j) and 10177(d); and [as to
13 Respondent BETTAREL only] Code Sections 10159.2 and 10177(h) and Regulation 2725, and
14 are bases for the suspension or revocation of Respondents' licenses and license rights as a
15 violation of the Real Estate Law.

16 ORDER

17 WHEREFORE, THE FOLLOWING ORDER is hereby made:

18 I.

19 All licenses and licensing rights of Respondents HERE THERE AND
20 EVERYWHERE INC. and WAYNE LEO BETTAREL under the Real Estate Law are revoked;
21 provided, however: (1) a restricted real estate corporation license shall be issued to Respondent
22 HTAEI, and (2) a restricted real estate broker license shall be issued to Respondent BETTAREL,
23 both to be issued pursuant to Section 10156.5 of the Code if Respondents HTAEI and
24 BETTAREL make applications therefore and pay to the Bureau the appropriate fees for each of
25 their restricted licenses within 90 days from the effective date of this Decision and Order. The
26
27

1 restricted licenses issued to Respondents HTAEI and BETTAREL shall be subject to all of the
2 provisions of Section 10156.7 of the Code and to the following limitations, conditions and
3 restrictions imposed under authority of Section 10156.6 of the Code:

4 1. The restricted license issued to Respondent BETTAREL may be suspended
5 prior to hearing by Order of the Commissioner in the event of Respondent's conviction or plea of
6 *nolo contendere* to a crime which is substantially related to Respondent's fitness or capacity as a
7 real estate licensee.

8 2. The restricted licenses issued to Respondents HTAEI and BETTAREL may be
9 suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to
10 the Commissioner that the respective Respondent has violated provisions of the California Real
11 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or
12 conditions attaching to the restricted licenses.

13 3. Respondents shall not be eligible to apply for the issuance of unrestricted real
14 estate licenses nor for removal of any of the conditions, limitations or restrictions
15 of their restricted license until two (2) years have elapsed from the effective date of this
16 Decision and Order.

17 4. Respondent BETTAREL shall, within nine months from the effective date of
18 this Decision and Order, present evidence satisfactory to the Real Estate Commissioner that
19 Respondent has, since the most recent issuance of an original or renewal real estate license,
20 taken and successfully completed the continuing education requirements of Article 2.5 of
21 Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent
22 BETTAREL fails to satisfy this condition, Respondent BETTAREL's real estate license shall
23 automatically be suspended until Respondent BETTAREL presents evidence satisfactory to the
24 Commissioner of having taken and successfully completed the continuing education
25
26
27

1 requirements. Proof of completion of the continuing education courses must be delivered to the
2 Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.

3 5. All licenses and licensing rights of Respondent BETTAREL are indefinitely
4 suspended unless or until Respondent BETTAREL provides proof satisfactory to the
5 Commissioner, of having taken and successfully completed the continuing education course on
6 trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section
7 10170.5 of the Business and Professions Code. Proof of satisfaction of these requirements
8 includes evidence that Respondent BETTAREL has successfully completed the trust fund
9 account and handling continuing education courses, no earlier than one hundred twenty (120)
10 days prior to the effective date of the Decision and Order in this matter. Proof of completion of
11 the trust fund accounting and handling course must be delivered to the Bureau of Real Estate,
12 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax to 916-263-8757, prior
13 to the effective date of this Decision and Order.


14 6. Respondent BETTAREL shall, within six (6) months from the effective date of
15 this Decision and Order, take and pass the Professional Responsibility Examination administered
16 by the Bureau including the payment of the appropriate examination fee. If Respondent
17 BETTAREL fails to satisfy this condition, Respondent BETTAREL's real estate license shall
18 automatically be suspended until Respondent BETTAREL passes the examination.

19 7. All licenses and licensing rights of Respondents HTAEI and BETTAREL are
20 indefinitely suspended unless or until Respondents pay the sum of \$3,531.40 for the
21 Commissioner's reasonable cost of the investigation and enforcement which led to this
22 disciplinary action. Said payment shall be in the form of a cashier's check made payable to the
23 Bureau of Real Estate. The investigative and enforcement costs must be delivered to the Bureau
24 of Real Estate, Flag Section, P.O. Box 137013, Sacramento, CA 95813-7013, within sixty (60)
25 days from the effective date of this Decision and Order.

1 8. Pursuant to Section 10148 of the Code, Respondents shall pay the sum of
2 \$7,210.88 for the Commissioner's reasonable cost of the audit which led to this disciplinary
3 action. Respondents shall pay such cost within sixty (60) days of receiving an invoice therefore
4 from the Commissioner. Payment of audit costs should not be made until Respondents receive
5 the invoice. If Respondents fail to satisfy this condition in a timely manner as provided for
6 herein, Respondents' real estate licenses shall automatically be suspended until payment is made
7 in full, or until a decision providing otherwise is adopted following a hearing held pursuant to
8 this condition.

9 9. Pursuant to Section 10148 of the Code, Respondents shall pay the
10 Commissioner's reasonable cost, not to exceed \$8,653.06 [or, 120% of the original audit cost],
11 for an audit to determine if Respondents have corrected the violations found in the Determination
12 of Issues. In calculating the amount of the Commissioner's reasonable cost, the Commissioner
13 may use the estimated average hourly salary for all persons performing audits of real estate
14 brokers, and shall include an allocation for travel time to and from the auditor's place of work.
15 Respondents shall pay such cost within sixty (60) days of receiving an invoice therefore from the
16 Commissioner. Payment of the audit costs should not be made until Respondents receive the
17 invoice. If Respondents fail to satisfy this condition in a timely manner as provided for herein,
18 Respondents' real estate licenses shall automatically be suspended until payment is made in full,
19 or until a decision providing otherwise is adopted following a hearing held pursuant to this
20 condition.

21 DATED: 11-7-16



Julie L. To, Counsel for
Bureau of Real Estate

23 * * *

24 EXECUTION OF THE STIPULATION

25 We have read the Stipulation and Agreement and discussed it with our attorney.
26

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

8 MAILING AND FACSIMILE

9 Respondents can signify acceptance and approval of the terms and conditions of
10 this Stipulation and Agreement by sending a hard copy of the original signed signature page(s) of
11 the Stipulation herein to Julie L. To, Legal Section, Bureau of Real Estate, 320 W. Fourth St.,
12 Suite 350, Los Angeles, California 90013-1105. In the event of time constraints before an
13 administrative hearing, Respondents can signify acceptance and approval of the terms and
14 conditions of this Stipulation and Agreement by emailing a scanned copy of the signature page,
15 as actually signed by Respondents, to the Bureau counsel assigned to this case. Respondents
16 agree, acknowledge, and understand that by electronically sending to the Bureau a scan of
17 Respondents' actual signatures as they appear on the Stipulation and Agreement, that receipt of
18 the scan by the Bureau shall be binding on Respondents as if the Bureau had received the original
19 signed Stipulation and Agreement.

20 DATED: 11/7/2016


21 WAYNE LEO BETTAREL, Respondent,
22 individually and as designated officer of
23 HERE THERE AND EVERYWHERE INC.

24 DATED: _____

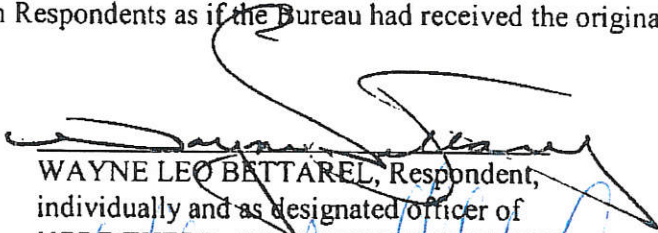
25 Kelly A. Neavel, Esq./ The Giardinelli Law Group
26 Attorney for Respondents
27 (Approved as to form.)

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

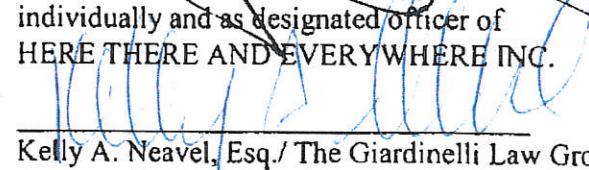
8 MAILING AND FACSIMILE

9 Respondents can signify acceptance and approval of the terms and conditions of
10 this Stipulation and Agreement by sending a hard copy of the original signed signature page(s) of
11 the Stipulation herein to Julie L. To, Legal Section, Bureau of Real Estate, 320 W. Fourth St.,
12 Suite 350, Los Angeles, California 90013-1105. In the event of time constraints before an
13 administrative hearing, Respondents can signify acceptance and approval of the terms and
14 conditions of this Stipulation and Agreement by emailing a scanned copy of the signature page,
15 as actually signed by Respondents, to the Bureau counsel assigned to this case. Respondents
16 agree, acknowledge, and understand that by electronically sending to the Bureau a scan of
17 Respondents' actual signatures as they appear on the Stipulation and Agreement, that receipt of
18 the scan by the Bureau shall be binding on Respondents as if the Bureau had received the original
19 signed Stipulation and Agreement.

20 DATED: 11/7/2016


21 WAYNE LEO BETTAREL, Respondent,
22 individually and as designated officer of
23 HERE THERE AND EVERYWHERE INC.

23 DATED: 11/7/2016


24 Kelly A. Neavel, Esq./ The Giardinelli Law Group
25 Attorney for Respondents
26 (Approved as to form.)
27

1 * * *

2 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
3 Respondents HERE THERE AND EVERYWHERE INC. and WAYNE LEO BETTAREL,
4 individually and as designated officer of HERE THERE AND EVERYWHERE INC., and shall
5 become effective at 12 o'clock noon on MAR 07 2017, 2016.

6 IT IS SO ORDERED 2/12/2017, 2016. WLB

7
8 REAL ESTATE COMMISSIONER

9
10
11 
12 WAYNE S. BELL
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27