

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

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

12 3. On April 12, 2016, Respondents filed a Notice of
13 Defense pursuant to Section 11506 of the Government Code for the
14 purpose of requesting a hearing on the allegations in the
15 Accusation. Respondents hereby freely and voluntarily withdraw
16 said Notice of Defense. Respondents acknowledge that they
17 understand that by withdrawing said Notice of Defense they will
18 thereby waive their right to require the Commissioner to prove
19 the allegations in the Accusation at a contested hearing held in
20 accordance with the provisions of the APA and that they will
21 waive other rights afforded to them in connection with the
22 hearing such as the right to present evidence in defense of the
23 allegations in the Accusation and the right to cross-examine
24 witnesses.
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1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation filed in this
3 proceeding. In the interest of expedience and economy,
4 Respondents choose not to contest these factual allegations, but
5 to remain silent and understand that, as a result thereof, these
6 factual statements, will serve as a prima facie basis for the
7 disciplinary action stipulated to herein. The Real Estate
8 Commissioner shall not be required to provide further evidence
9 to prove such allegations.

10 5. This Stipulation is made for the purpose of
11 reaching an agreed disposition of this proceeding and is
12 expressly limited to this proceeding and any other proceeding or
13 case in which the Bureau of Real Estate ("Bureau"), the state or
14 federal government, or an agency of this state, another state or
15 the federal government is involved.

16 6. It is understood by the parties that the Real
17 Estate Commissioner may adopt the Stipulation as his decision
18 in this matter thereby imposing the penalty and sanctions on
19 Respondents' real estate licenses and license rights as set
20 forth in the below "Order". In the event that the Commissioner
21 in his discretion does not adopt the Stipulation, the
22 Stipulation shall be void and of no effect, and Respondents
23 shall retain the right to a hearing and proceeding on the
24 Accusation under all the provisions of the APA and shall not be
25 bound by any stipulation or waiver made herein.
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1 7. The Order or any subsequent Order of the Real
2 Estate Commissioner made pursuant to this Stipulation shall not
3 constitute an estoppel, merger or bar to any further
4 administrative or civil proceedings by the Bureau of Real Estate
5 with respect to any conduct which was not specifically alleged
6 to be causes for accusation in this proceeding.

7 DETERMINATION OF ISSUES

8 By reason of the foregoing stipulations and waivers
9 and solely for the purpose of settlement of the pending
10 Accusation, it is stipulated and agreed that the following
11 determination of issues shall be made:

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13 The conduct, acts and/or omissions of Respondents
14 WINDFALL SPRINGS, INC. and BARBARA BAKER, as set forth in the
15 Accusation, constitute cause for the suspension or revocation of
16 all of the real estate licenses and license rights of
17 Respondents under the provisions of Sections 10177(d) and
18 10177(h) of the Business and Professions Code ("Code") for
19 violation of Code Section 10145.

20 ORDER

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22 1) All licenses and licensing rights of Respondents
23 WINDFALL SPRINGS, INC. and BARBARA BAKER under the Real Estate
24 Law are suspended for a period of sixty (60) days from the
25 effective date of this Decision and Order; provided, however,
26 that said suspensions shall be stayed for two (2) years upon the
27 following terms and conditions:

1 a) Respondents shall obey all laws, rules and
2 regulations governing the rights, duties and responsibilities of
3 a real estate licensee in the State of California; and

4 b) That no final subsequent determination be made,
5 after hearing or upon stipulation, that cause for disciplinary
6 action occurred within two (2) years from the effective date of
7 this Decision and Order. Should such a determination be made,
8 the Commissioner may, in his discretion, vacate and set aside
9 the stay order and reimpose all or a portion of the stayed
10 suspension. Should no such determination be made, the stay
11 imposed herein shall become permanent.

12 2) Pursuant to Section 10148 of the Code, Respondents
13 shall pay the sum of \$8,278 for the Commissioner's cost of the
14 audit which led to this disciplinary action. Respondents shall
15 pay the audit costs no later than two months after the effective
16 date of the Decision. Payment of audit costs should not be made
17 until Respondents receive the invoice. If Respondents fail to
18 satisfy this condition in a timely manner as provided for
19 herein, Respondents' real estate licenses shall automatically be
20 suspended until payment is made in full or until a decision
21 providing otherwise is adopted following a hearing held pursuant
22 to this condition.

24 Pursuant to Section 10148 of the Code, Respondents
25 shall pay the Commissioner's reasonable cost, not to exceed
26 \$12,417 for an audit to determine if Respondents have corrected
27 the violations found in the Determination of Issues. In

1 calculating the amount of the Commissioner's reasonable cost,
2 the Commissioner may use the estimated average hourly salary for
3 all persons performing audits of real estate brokers, and shall
4 include an allocation for travel time to and from the auditor's
5 place of work. Respondents shall pay such cost within 60 days
6 of receiving an invoice from the Commissioner. Payment of the
7 audit costs should not be made until Respondents receive the
8 invoice. If Respondents fail to satisfy this condition in a
9 timely manner as provided for herein, Respondents' real estate
10 licenses shall automatically be suspended until payment is made
11 in full, or until a decision providing otherwise is adopted
12 following a hearing held pursuant to this condition.

13 3) All licenses and licensing rights of Respondents
14 are indefinitely suspended unless or until Respondents pay the
15 sum of \$1,872 for the Commissioner's reasonable cost of the
16 investigation and enforcement which led to this disciplinary
17 action. Said payment shall be in the form of a cashier's check
18 made payable to the Bureau of Real Estate. The investigative
19 and enforcement costs must be delivered to the Bureau of Real
20 Estate, Flag Section at P. O. Box 137013, Sacramento, CA 95813-
21 7013, prior to the effective date of this Decision and Order.

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25 DATED: 11-21-16

James R. Peel
26 JAMES R. PEEL, Counsel for the
27 Bureau of Real Estate

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3 We have read the Stipulation and Agreement, and its
4 terms are understood by us and are agreeable and acceptable to
5 us. We understand that we are waiving rights given to us by the
6 California Administrative Procedure Act (including but not
7 limited to Sections 11506, 11508, 11509 and 11513 of the
8 Government Code), and we willingly, intelligently and
9 voluntarily waive those rights, including the right of requiring
10 the Commissioner to prove the allegations in the Accusation at a
11 hearing at which we would have the right to cross-examine
12 witnesses against us and to present evidence in defense and
13 mitigation of the charges.
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16 Respondents can signify acceptance and approval of the
17 terms and conditions of this Stipulation and Agreement by e-
18 mailing a copy of the signature page, as actually signed by
19 Respondents.
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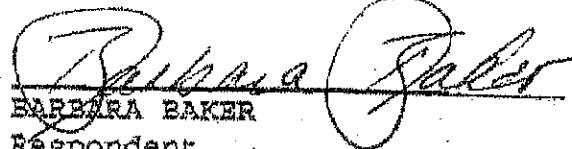
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DATED: _____

WINDFALL SPRINGS, INC.
Respondent

DATED: 11-17-2016


BARBARA BAKER
Respondent

DATED: 11/17/2016


MARY WORK
Counsel for Respondents

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision and Order in this matter, and shall
become effective at 12 o'clock noon on _____

IT IS SO ORDERED _____

WAYNE S. BELL
Real Estate Commissioner

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DATED: _____

WINDFALL SPRINGS, INC.
Respondent

DATED: _____

BARBARA BAKER
Respondent

DATED: _____

MARY WORK
Counsel for Respondents

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The foregoing Stipulation and Agreement is hereby
adopted as my Decision and Order in this matter, and shall
become effective at 12 o'clock noon on February 2, 2017.

IT IS SO ORDERED January 10, 2017.

WAYNE S. BELL
Real Estate Commissioner
