

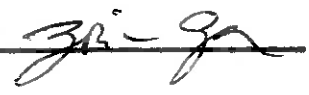
1 Bureau of Real Estate
2 320 W. 4TH Street, Suite 350
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

FILED

OCT - 9 2017

BUREAU OF REAL ESTATE

By 

8 **BEFORE THE BUREAU OF REAL ESTATE**

9 **STATE OF CALIFORNIA**

10 * * *

11 In the Matter of the Accusation of)	No. H-40395 LA
)	<u>STIPULATION</u>
12 THOMAS DAO,)	<u>AND</u>
)	<u>AGREEMENT</u>
13 Respondents.)	
)	

15 It is hereby stipulated by and between Respondent THOMAS DAO
16 (“Respondent”), acting by and through his attorney, Frank M. Buda, and the Complainant, acting
17 by and through Amelia V. Vetrone, Counsel for the Bureau of Real Estate, as follows for the
18 purpose of settling and disposing of the Accusation (“Accusation”) filed on September 26, 2016,
19 in this matter:

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

25 2. Respondent has received, read and understands the Statement to Respondent,
26 the Discovery Provisions of the APA and the Accusation filed by the Bureau of Real Estate in
27 this proceeding.

1 3. Respondent filed a Notice of Defense pursuant to Section 11506 of the
2 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
3 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
4 acknowledges that he understands that by withdrawing said Notice of Defense he thereby waives
5 his right to require the Commissioner to prove the allegations in the Accusation at a contested
6 hearing held in accordance with the provisions of the APA and that he will waive other rights
7 afforded to him in connection with the hearing such as the right to present evidence in his
8 defense, and the right to cross-examine witnesses.

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

15 5. This Stipulation is made for the purpose of reaching an agreed disposition of
16 this proceeding and is expressly limited to this proceeding and not any other proceeding or case
17 in which the Bureau of Real Estate ("Bureau"), or another licensing agency of this state, another
18 state, or the federal government is involved, and otherwise shall not be admissible in any
19 criminal or civil proceeding.

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

27 7. The Order or any subsequent Order of the Real Estate Commissioner made

1 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
2 administrative or civil proceedings by the Bureau of Real Estate with respect to any matters
3 which were not specifically alleged to be causes for accusation in this proceeding.

4 8. Respondent understands that by agreeing to this Stipulation, Respondent
5 agrees to pay, pursuant to Business and Professions Code Section 10148, the cost of the audit
6 which led to this disciplinary action. The amount of said cost is \$13,953.80.

7 9. Respondent understands that by agreeing to this Stipulation, Respondent
8 agrees to pay, pursuant to Business and Professions Code Section 10106, the cost of the
9 investigation of this matter. The amount of said cost is \$1,887.70.

10 **DETERMINATION OF ISSUES**

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

13 The conduct, acts or omissions of THOMAS DAO, as described in Paragraph 4,
14 above, are in violation of Sections 10145, 10177(d), 10177(g) and 10177(h), of the Business and
15 Professions Code ("Code") and Section 2725 of Title 10, Chapter 6 of the California Code of
16 Regulations ("Regulations") and are a basis for discipline of Respondents' license and license
17 rights as a violation of the Real Estate Law, to Part 1 of Division 4 of the Code, pursuant to Code
18 Sections 10177(d), 10177(g), and 10177(h).

19 **ORDER**

20 WHEREFORE, THE FOLLOWING ORDER is hereby made:

21 All licenses and licensed rights of Respondent THOMAS DAO under the Real
22 Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued
23 to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent
24 makes application therefor and pays to the Bureau of Real Estate the appropriate fee for the
25 restricted license within 90 days from the effective date of this Decision. The restricted license
26 issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business
27

1 and Professions Code and to the following limitations, conditions and restrictions imposed under
2 authority of Section 10156.6 of that Code:

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

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

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

17 4. Respondent shall within 120 days from the effective date of the Decision and
18 Order herein submit proof satisfactory to the Commissioner of having taken and successfully
19 completed the continuing education course on trust fund accounting and handling specified in
20 paragraph (3) of subdivision (a) of Section 10170.5 of the Code. If Respondent fails to satisfy
21 this condition, Respondent's real estate license shall be automatically suspended until he presents
22 evidence satisfactory to the Commissioner of having taken and successfully completed the trust
23 fund accounting and handling course. **Proof of completion of the continuing education course**
24 **must be delivered to the Bureau of Real Estate, Flag Section, P.O. Box 137013, Sacramento,**
25 **CA 95813-7013.**

26 5. Pursuant to Section 10148 of the Business and Professions Code, Respondent
27 shall pay the Commissioner's reasonable cost for the audit which led to this disciplinary action in

1 the amount of \$13,953.80. Respondent shall pay such cost within sixty (60) days of receiving an
2 invoice therefore from the Commissioner. Payment of the audit costs should not be made until
3 Respondent receives the invoice. If Respondent fails to satisfy this condition in a timely manner
4 as provided for herein, Respondent's real estate licenses shall automatically be suspended until
5 payment is made in full, or until a decision providing otherwise is adopted following a hearing
6 held pursuant to this condition.

7 Pursuant to Section 10148 of the Code, Respondent shall pay the Commissioner's
8 reasonable cost, not to exceed \$13,953.80, for a subsequent audit to determine if Respondent has
9 corrected the violations found in the Determination of Issues. In calculating the amount of the
10 Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary
11 for all persons performing audits of real estate brokers, and shall include an allocation for travel
12 time to and from the auditor's place of work. Respondent shall pay such cost within sixty (60)
13 days of receiving an invoice therefor from the Commissioner. Payment of the audit costs should
14 not be made until Respondent receives the invoice. If Respondent fails to satisfy this condition
15 in a timely manner as provided for herein, Respondent's real estate licenses shall automatically
16 be suspended until payment is made in full, or until a decision providing otherwise is adopted
17 following a hearing held pursuant to this condition.

18 7. Prior to the effective date of this Decision, and pursuant to Section 10106 of
19 the Business and Professions Code, Respondent shall pay the Commissioner's reasonable cost
20 for the investigation which led to this disciplinary action in the amount of \$1,887.70. Said
21 payment shall be in the form of a cashier's check made payable to the Bureau of Real Estate.
22 **Said check must be delivered to the Bureau of Real Estate, Flag Section, P.O. Box 137013,**
23 **Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.**

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1 If Respondent fails to satisfy this condition in a timely manner as provided for
2 herein, Respondent's real estate licenses shall automatically be suspended until payment is made
3 in full, or until a decision providing otherwise is adopted following a hearing held pursuant to
4 this condition.

5
6
7 DATED: 9-25-17



Amelia V. Vetrone, Counsel for
Bureau of Real Estate

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10 * * *

11 **EXECUTION OF THE STIPULATION**

12 I have read the Stipulation. Its terms are understood by me and are agreeable and
13 acceptable to me. I understand that I am waiving rights given to me by the California
14 Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and
15 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights,
16 including the right of requiring the Commissioner to prove the allegations in the Accusation at a
17 hearing at which I would have the right to cross-examine witnesses against me and to present
18 evidence in defense and mitigation of the charges.

19 **MAILING**

20 Respondent shall mail the original signed signature page of the stipulation herein
21 to Amelia V. Vetrone: Attention: Legal Section, Bureau of Real Estate, 320 W. Fourth St.,
22 Suite 350, Los Angeles, California 90013-1105.

23 Respondent's signature below constitutes acceptance and approval of the terms
24 and conditions of this Stipulation. Respondent agrees, acknowledges and understands that by
25 signing this Stipulation Respondent is bound by its terms as of the date of such signature and that
26 this agreement is not subject to rescission or amendment at a later date except by a separate
27 Decision and Order of the Real Estate Commissioner.

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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent THOMAS DAO and shall become effective at 12 o'clock noon on

~~OCT 30 2017~~

IT IS SO ORDERED 10/3/17

WAYNE S. BELL
Real Estate Commissioner



By: DANIEL J. SANDRI
Chief Deputy Commissioner