

1 Department of Real Estate
2 320 W. 4th Street, Suite 350
3 Los Angeles, CA 90013-1105
4 Telephone: (213) 576-6982

FILED

OCT 12 2018

DEPT. OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of

12 EXCEL FUNDING REAL ESTATE
13 SERVICES, INC, JEROLD ANTHONY
14 SAUNDERS, individually and as designated
15 officer of Excel Funding Real Estate Services, Inc,
16 and VICTOR MANUEL GUTIERREZ,

17 Respondents.

No. H-40950 LA
OAH No. 2018040078

STIPULATION AND AGREEMENT

As to Respondents Excel Funding Real Estate Services, Inc and Jerold Anthony Saunders only

18 It is hereby stipulated by and between Respondents EXCEL FUNDING REAL
19 ESTATE SERVICES INC, and JEROLD ANTHONY SAUNDERS, individually and as
20 designated officer of Excel Funding Real Estate Services Inc, (sometimes collectively referred to
21 as "Respondents"), acting by and through their attorney, Frank M. Buda, Esq., and the
22 Complainant, acting by and through Judith B. Vasan, Counsel for the Department of Real Estate,
23 as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on
24 February 26, 2018, in this matter:

25 1. All issues which were to be contested and all evidence which was to be
26 presented by Complainant and Respondents at a formal hearing on the Accusation, which
27 hearing was to be held in accordance with the provisions of the Administrative Procedure Act

STIPULATION AND AGREEMENT

1 ("APA"), shall instead and in place thereof be submitted solely on the basis of the provisions of
2 this Stipulation and Agreement ("Stipulation").

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

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

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

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

25 6. It is understood by the parties that the Real Estate Commissioner may adopt
26 this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on
27 Respondents' real estate licenses and license rights as set forth in the below "Order". In the

1 event that the Commissioner in his discretion does not adopt the Stipulation, the Stipulation shall
2 be void and of no effect and Respondents shall retain the right to a hearing and proceed on the
3 Accusation under the provisions of the APA and shall not be bound by any stipulation or waiver
4 made herein.

5 7. The Order or any subsequent Order of the Real Estate Commissioner made
6 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
7 administrative or civil proceedings by the Department with respect to any matters which were
8 not specifically alleged to be causes for accusation in this proceeding.

9 8. Respondents understand that by agreeing to this Stipulation, Respondents
10 agree to pay jointly and severally, pursuant to Business and Professions Code ("Code") Section
11 10148, the costs of the audit which led to this disciplinary action. The amount of said costs is
12 \$5,646.04.

13 DETERMINATION OF ISSUES

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

16 The conduct, acts or omissions of Respondent EXCEL FUNDING REAL
17 ESTATE SERVICES, INC, as set forth in the Accusation, are in violation of Code Sections
18 10140.6(b), 10145, 10159.5, and Section 2731 of Title 10, Chapter 6 of the California Code of
19 Regulations ("Regulations") and are a basis for discipline of Respondent EXCEL FUNDING
20 REALE STATE SERVICES, INC's licenses and license rights as violations of the Real Estate
21 Law, Part 1 of Division 4 of the Code, pursuant to Code Sections 10177(d) and 10177(g).

22 The conduct, acts or omissions of Respondent JEROLD ANTHONY
23 SAUNDERS as set forth in the Accusation, are in violation of Code Sections 10140.6(b), 10145,
24 10159.2, and 10159.5 and Regulations sections 2725 and 2731 and are a basis for discipline of
25 Respondent SAUNDERS' licenses and license rights as violations of the Real Estate Law, Part 1
26 of Division 4 of the Code, pursuant to Code Sections 10177(d), 10177(g), and 10177(h).

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1 ORDER

2 WHEREFORE, THE FOLLOWING ORDER is hereby made:

3 I.

4 All licenses and licensed rights of Respondents EXCEL FUNDING REAL
5 ESTATE SERVICES, INC and JEROLD ANTHONY SAUNDERS under the Real Estate Law
6 are suspended for a period of thirty (30) days from the effective date of this Decision; provided,
7 however, that thirty (30) days of said suspension shall be stayed for one (1) year upon the
8 following terms and conditions:

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

11 2. That no final subsequent determination be made, after hearing or upon
12 stipulation, that cause for disciplinary action occurred within one (1) year from the effective date
13 of this Decision and Order. Should such a determination be made, the Commissioner may, in his
14 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
15 suspension. Should no such determination be made, the stay imposed herein shall become
16 permanent.

17 II.

18 Pursuant to Code Section 10148, Respondents shall pay the Commissioner's
19 reasonable costs for the audit which led to this disciplinary action in the amount of \$5,646.04.
20 Respondents shall pay such costs within sixty (60) days of receiving an invoice therefore from
21 the Commissioner. Payment of the audit costs should not be made until Respondents receive the
22 invoice. Respondents are jointly and severally liable for the costs of the audit. If Respondents fail
23 to satisfy this condition in a timely manner as provided for herein, Respondents' real estate
24 licenses shall automatically be suspended until payment is made in full, or until a decision
25 providing otherwise is adopted following a hearing held pursuant to this condition.

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STIPULATION AND AGREEMENT

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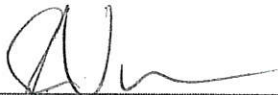
III.

Pursuant to Code Section 10148 of the Code, Respondents shall pay the
Commissioner's reasonable costs, not to exceed \$7,057.55, for a subsequent audit to determine if
Respondents have corrected the violations found in the Determination of Issues. In calculating
the amount of the Commissioner's reasonable costs, the Commissioner may use the estimated
average hourly salary for all persons performing audits of real estate brokers, and shall include
an allocation for travel time to and from the auditor's place of work. Respondents shall pay such
costs within sixty (60) days of receiving an invoice therefor from the Commissioner. Payment of
the audit costs should not be made until Respondents receive the invoice. Respondents are jointly
and severally liable for the costs of the subsequent audit. If Respondents fail to satisfy this
condition in a timely manner as provided for herein, Respondents' real estate licenses 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.

IV.

All licenses and licensing rights of Respondents are indefinitely suspended
unless or until Respondents pay the sum of \$3,780.70 for the Commissioner's reasonable costs
of the investigation and enforcement, which led to this disciplinary action. Respondents are
jointly and severally liable for the costs of the investigation and enforcement. Said payment
shall be in the form of a cashier's check made payable to the Department of Real Estate. The
investigative and enforcement costs must be delivered to the Department of Real Estate, Flag
Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
Decision and Order.

DATED: 9/14/2018



Judith B. Vasan, Counsel for
Department of Real Estate

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2 EXECUTION OF THE STIPULATION

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

11 Respondents shall mail the original signed signature page of the stipulation herein
12 to Judith B. Vasan, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St.,
13 Suite 350, Los Angeles, California 90013-1105.

14 In the event of time constraints before an administrative hearing, Respondents can
15 signify acceptance and approval of the terms and conditions of this Stipulation and Agreement
16 by emailing a scanned copy of the signature page, as actually signed by Respondents, to the
17 Department counsel assigned to this case. Respondents agree, acknowledge and understand that
18 by electronically sending the Department a scan of Respondents' actual signature as it appears on
19 the Stipulation and Agreement that receipt of the scan by the Department shall be binding on
20 Respondent as if the Department had received the original signed Stipulation. Respondents shall
21 also mail the original signed signature page of this Stipulation to the Department counsel.

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1 Respondents' signatures below constitute acceptance and approval of the terms
2 and conditions of this Stipulation. Respondents agree, acknowledge and understand that by
3 signing this Stipulation, Respondents are bound by its terms as of the date of such signatures and
4 that this agreement is not subject to rescission or amendment at a later date except by a separate
5 Decision and Order of the Real Estate Commissioner.

6
7 DATED: 9/12/2018 *Fred A. Saunders*
8 EXCEL FUNDING REAL ESTATE SERVICES, INC
9 Respondent
10 By: *Jerold A. Saunders*

11 DATED: 9/12/2018 *Fred Anthony Saunders*
12 JEROLD ANTHONY SAUNDERS
13 Respondent

14 DATED: 9-19-2018 *Frank M. Buda*
15 Frank M. Buda
16 Counsel for Respondents
17 Approved as to Form

18 * * *

19 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
20 Respondents EXCEL FUNDING REAL ESTATE SERVICES, INC, and JEROLD ANTHONY
21 SAUNDERS, individually and as designated officer of Excel Funding Real Estate Services, Inc,
22 and shall become effective at 12 o'clock noon on _____.

23 IT IS SO ORDERED _____.

24 DANIEL J. SANDRI
25 ACTING REAL ESTATE COMMISSIONER

26 _____
27

1 Respondents' signatures below constitute acceptance and approval of the terms
2 and conditions of this Stipulation. Respondents agree, acknowledge and understand that by
3 signing this Stipulation, Respondents are bound by its terms as of the date of such signatures and
4 that this agreement is not subject to rescission or amendment at a later date except by a separate
5 Decision and Order of the Real Estate Commissioner.

6
7 DATED: _____

8 _____
EXCEL FUNDING REAL ESTATE SERVICES, INC
Respondent
9 By: _____

10 DATED: _____

11 _____
JEROLD ANTHONY SAUNDERS
Respondent

12
13 DATED: _____

14 _____
Frank M. Buda
Counsel for Respondents
15 Approved as to Form

16
17 * * *

18 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
19 Respondents EXCEL FUNDING REAL ESTATE SERVICES, INC, and JEROLD ANTHONY
20 SAUNDERS, individually and as designated officer of Excel Funding Real Estate Services, Inc,
21 and shall become effective at 12 o'clock noon on **NOV - 1 2018**

22 IT IS SO ORDERED October 5, 2018

23
24 DANIEL J. SANDRI
ACTING REAL ESTATE COMMISSIONER

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STIPULATION AND AGREEMENT