

7/19/20

FILED

MAR 05 2021

1 DEPARTMENT OF REAL ESTATE
2 320 West 4th Street, Suite 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 620-2072

DEPT. OF REAL ESTATE
By *[Signature]*

8 **BEFORE THE DEPARTMENT OF REAL ESTATE**

9 **STATE OF CALIFORNIA**

10 * * * *

11 **In the Matter of the Accusation against**

12 **JARRARD & ASSOCIATES, INC. and**
13 **KIMBERLY ANN JARRARD, individually and as**
14 **designated officer for Jarrard & Associates, Inc.,**

15 **Respondents.**

DRE No. H-41653 LA
OAH No. 2020080114

STIPULATION AND
AGREEMENT IN SETTLEMENT
AND ORDER

16 It is hereby stipulated by and between Respondents JARRARD & ASSOCIATES, INC.
17 and KIMBERLY ANN JARRARD (collectively "Respondents"), represented by attorney
18 Edgardo Gonzalez, and the Complainant, acting by and through Lissete Garcia, Counsel for the
19 Department of Real Estate ("Department"), as follows for the purpose of settling and disposing
20 the Accusation filed on April 28, 2020, with Department Case No. H-41653 LA ("Accusation")
21 in this matter:

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

Stipulation and Agreement
H-41653 LA

1 instead and in place thereof be submitted on the basis of the provisions of this Stipulation and
2 Agreement in Settlement and Order ("Stipulation").

3 2. Respondents have received, read, and understand the Statement to Respondent, the
4 Discovery Provisions of the APA, and Accusation filed by the Department 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 and
8 understand that by withdrawing said Notice of Defense, Respondents will thereby waive
9 Respondents' rights to require the Real Estate Commissioner ("Commissioner") to prove the
10 allegations in the Accusation at a contested hearing held in accordance with the provisions of the
11 APA and that Respondents will waive other rights afforded to Respondents in connection with
12 the hearing such as the right to present evidence in defense of the allegations in the Accusation
13 and the right to cross-examine witnesses.

14 4. This Stipulation is based on the factual allegations contained in the Accusation filed in
15 this proceeding. In the interest of expedience and economy, Respondents choose not to contest
16 these factual allegations, but to remain silent and understand that, as a result thereof, these
17 factual statements, will serve as a prima facie basis for the disciplinary action stipulated to
18 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove
19 such allegations.

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

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II.

The conduct, acts and/or omissions of Respondent KIMBERLY ANN JARRARD as set forth herein above in Paragraph 4, constitute cause for the suspension or revocation of all real estate licenses and license rights of Respondent KIMBERLY ANN JARRARD pursuant to the provisions of Code section 10177, subdivision (h), for violation of Code section 10159.2 and Regulation 2725.

ORDER

I.

All licenses and licensing rights of Respondent JARRARD & ASSOCIATES, INC. ("JAI") under the Real Estate Law are suspended for a period of fifteen (15) days from the effective date of this Decision and Order; provided, however, that:

1. Said 15-day suspension shall be stayed for two (2) years upon the following terms and conditions:
2. 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,
3. 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.
4. Respondent JAI shall pay, severally or jointly with Respondent KIMBERLY ANN JARRARD, the sum of \$1,624.35 for the Commissioner's reasonable cost of the investigation and enforcement which led to this disciplinary action. Said

1 payment shall be in the form of a cashier's check made payable to the Department
2 of Real Estate. The investigative and enforcement costs must be delivered to
3 the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento,
4 CA 95813-7013, within 180 days of the effective date. Payment of
5 investigation and enforcement costs should not be made until the Stipulation
6 has been approved by the Commissioner. If Respondents fail to satisfy this
7 condition in a timely manner as provided for herein, Respondents' real estate
8 licenses shall automatically be suspended until payment is made in full, or until a
9 decision providing otherwise is adopted following a hearing held pursuant to this
10 condition.

11 5. Pursuant to Section 10148 of the Code, Respondent JAI shall pay, severally or
12 jointly with Respondent KIMBERLY ANN JARRARD, the sum of \$6,216.50 for
13 the Commissioner's cost of the audit which led to this disciplinary action.
14 Respondents shall pay such cost within sixty (60) days of receiving an invoice
15 therefore from the Commissioner. Payment of audit costs should not be
16 made until Respondents receive the invoice. If Respondents fail to satisfy this
17 condition in a timely manner as provided for herein, Respondents' real estate
18 licenses shall automatically be suspended until payment is made in full, or until a
19 decision providing otherwise is adopted following a hearing held pursuant to this
20 condition.

21 6. Pursuant to Section 10148 of the Code, Respondents shall pay the
22 Commissioner's reasonable costs for any subsequent audit (said costs may not to
23 exceed a maximum of \$7,770.63) to determine if Respondents have corrected the
24 violations found in the Determination of Issues. In calculating the amount of the

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

11 II.

12 All licenses and licensing rights of Respondent KIMBERLY ANN JARRARD
13 ("JARRARD") under the Real Estate Law are suspended for a period of fifteen (15) days from
14 the effective date of this Decision and Order; provided, however, that:

- 15 1. Said 15-day suspension shall be stayed for two (2) years upon the following terms
16 and conditions:
- 17 2. Respondent shall obey all laws, rules and regulations governing the rights, duties
18 and responsibilities of a real estate licensee in the State of California; and,
- 19 3. That no final subsequent determination be made, after hearing or upon stipulation,
20 that cause for disciplinary action occurred within two (2) years from the effective
21 date of this Decision and Order. Should such a determination be made, the
22 Commissioner may, in his discretion, vacate and set aside the stay order and
23 reimpose all or a portion of the stayed suspension. Should no such determination
24 be made, the stay imposed herein shall become permanent.

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4. All licenses and licensing rights of Respondent JARRARD are indefinitely suspended unless or until Respondent JARRARD 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 (a) of Section 10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement includes evidence that Respondent has successfully completed the trust fund account and handling continuing education course, no earlier than 120 days prior to the effective date of the Decision and Order in this matter. **Proof of completion of the trust fund accounting and handling course must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the effective date of this Decision and Order.**

5. Respondent JARRARD shall pay, severally or jointly with Respondent JAI, the sum of \$1,624.35 for the Commissioner's reasonable cost of the investigation and enforcement which led to this disciplinary action. 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, within 180 days of the effective date. Payment of investigation and enforcement costs should not be made until the Stipulation has been approved by the Commissioner.** If Respondents fail to satisfy this condition in a timely manner as provided for herein, Respondents' real estate licenses and shall automatically be suspended until payment is made in full, or until a decision

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providing otherwise is adopted following a hearing held pursuant to this condition.

6. Pursuant to Section 10148 of the Code, Respondent JARRARD shall pay, severally or jointly with Respondent JAI, the sum of \$6,216.50 for the Commissioner's cost of the audit which led to this disciplinary action. Respondents shall pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of audit costs should not be made until Respondents receive the invoice. 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.

7. Pursuant to Section 10148 of the Code, Respondents shall pay the Commissioner's reasonable costs for any subsequent audit (said costs may not to exceed a maximum of \$7,770.63) to determine if Respondents have corrected the violations found in the Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, 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 cost within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of the audit costs should not be made until Respondents receive the invoice. 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

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decision providing otherwise is adopted following a hearing held pursuant to this condition.

DATED: 12/17/2020


Lissete Garcia, Counsel
Department of Real Estate

EXECUTION OF THE STIPULATION

We have read this Stipulation and its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California APA (including, but not limited to, sections 11506, 11508, 11509, and 11513 of the Government Code), and we willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which we would have the right to cross-examine witnesses against us and to present evidence in defense and mitigation of the charges.

Respondents can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by electronically e-mailing a copy of the signature pages, as actually signed by Respondents, to the Department. Respondents agree, acknowledge, and understand that by electronically sending to the Department an electronic copy of Respondents' actual signatures, as they appear on the Stipulation, that receipt of the emailed copy by the Department shall be as binding on Respondents as if the Department had received the original signed Stipulation. By signing this Stipulation, Respondents understand and agree that Respondents may not withdraw their agreement or seek to rescind the Stipulation prior to the time the

1 Commissioner considers and acts upon it or prior to the effective date of the Stipulation and
2 Order.

3 MAILING

4 Respondents and their counsel shall, within five (5) business days from signing the
5 Stipulation, mail the original signed signature page(s) of the Stipulation herein to Lissete Garcia,
6 Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Room 350, Los
7 Angeles, California 90013-1105.

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

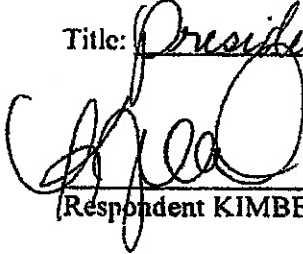
13
14 DATED: 12/16/20


Respondent JARRARD & ASSOCIATES, INC.

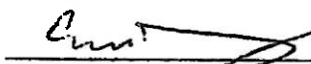
By (Printed Name): Kimberly Jarrard

Title: President

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18 DATED: 12/16/20


Respondent KIMBERLY ANN JARRARD

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21 DATED: 12/17/2020


Edgardo Gonzalez, Esq., Attorney for Respondents
Approved as to Form

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The foregoing Stipulation and Agreement in Settlement and Order is hereby adopted by
me as my Decision in this matter and shall become effective at 12 o'clock noon
on 3/25/2021

IT IS SO ORDERED 2-12-21

REAL ESTATE COMMISSIONER

Douglas R. McCauley
DOUGLAS R. McCAULEY