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

FILED

JUN 23 2021

DEPT. OF REAL ESTATE
By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation against

EL BASHA INC. and ADEL B. RAFAEL
individually, and as designated officer for
EL BASHA INC.,

Respondents.

DRE No. H-41728 LA

**STIPULATION AND
AGREEMENT IN SETTLEMENT
AND ORDER**

It is hereby stipulated by and between Respondents EL BASHA INC. and ADEL B. RAFAEL (collectively "Respondents"), represented by attorney Frank M. Buda, Esq., and the Complainant, acting by and through Lissete Garcia, Counsel for the Department of Real Estate ("Department"), as follows for the purpose of settling and disposing the First Amended Accusation ("Accusation") filed on August 3, 2020, with Department Case No. H-41728 LA in this matter:

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

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 ADEL B. RAFAEL ("RAFAEL") 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 RAFAEL pursuant to Code section 10177(h).

ORDER

I.

All licenses and licensing rights of Respondent EBI under the Real Estate Law are suspended for a period of forty-five (45) days from the effective date of this Decision and Order; provided, however, that:

- 1. Said 45-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 EBI shall pay, separately or jointly with Respondent RAFAEL, the total sum of \$8,251.50 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**

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

9 5. Pursuant to Section 10148 of the Code, Respondent EBI shall pay, separately or
10 jointly with Respondent RAFAEL, the total sum of \$7,426.14 for the
11 Commissioner's cost of the audit which led to this disciplinary action.
12 Respondents shall pay such cost within sixty (60) days of receiving an invoice
13 therefore from the Commissioner. Payment of audit costs should not be
14 made until Respondent receives the invoice. If Respondents fail to satisfy this
15 condition in a timely manner as provided for herein, Respondents' real estate
16 licenses shall automatically be suspended until payment is made in full, or until a
17 decision providing otherwise is adopted following a hearing held pursuant to this
18 condition.

19 6. Pursuant to Section 10148 of the Code, Respondent EBI shall pay, separately or
20 jointly with Respondent RAFAEL, the Commissioner's reasonable costs for any
21 subsequent audit (said costs may not to exceed a maximum of \$9,282.68) to
22 determine if Respondents have corrected the violations found in the
23 Determination of Issues. In calculating the amount of the Commissioner's
24 reasonable cost, the Commissioner may use the estimated average hourly salary

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

10 II.

11 All licenses and licensing rights of Respondent RAFAEL under the Real Estate Law are
12 suspended for a period of forty-five (45) days from the effective date of this Decision and Order;
13 provided, however, that:

- 14 1. Said 45-day suspension shall be stayed for two (2) years upon the following terms
15 and conditions:
- 16 2. Respondent shall obey all laws, rules and regulations governing the rights, duties
17 and responsibilities of a real estate licensee in the State of California; and,
- 18 3. That no final subsequent determination be made, after hearing or upon stipulation,
19 that cause for disciplinary action occurred within two (2) years from the effective
20 date of this Decision and Order. Should such a determination be made, the
21 Commissioner may, in his discretion, vacate and set aside the stay order and
22 reimpose all or a portion of the stayed suspension. Should no such determination
23 be made, the stay imposed herein shall become permanent.

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- 1 4. All licenses and licensing rights of Respondent RAFAEL are indefinitely
2 suspended unless or until Respondent RAFAEL provides proof satisfactory to the
3 Commissioner, of having taken and successfully completed the continuing
4 education course on trust fund accounting and handling specified in paragraph (3)
5 of subdivision (a) of Section 10170.5 of the Business and Professions Code.
6 Proof of satisfaction of this requirement includes evidence that Respondent has
7 successfully completed the trust fund account and handling continuing education
8 course, no earlier than 120 days prior to the effective date of the Decision and
9 Order in this matter. **Proof of completion of the trust fund accounting and
10 handling course must be delivered to the Department of Real Estate, Flag
11 Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-
12 263-8758, prior to the effective date of this Decision and Order.**
- 13 5. Respondent RAFAEL shall pay, separately or jointly with Respondent EBI, the
14 total sum of \$8,251.50 for the Commissioner's reasonable cost of the
15 investigation and enforcement which led to this disciplinary action. Said payment
16 shall be in the form of a cashier's check made payable to the Department of Real
17 Estate. **The investigative and enforcement costs must be delivered to the
18 Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento,
19 CA 95813-7013, within 180 days of the effective date. Payment of
20 investigation and enforcement costs should not be made until the Stipulation
21 has been approved by the Commissioner. If Respondents fail to satisfy this
22 condition in a timely manner as provided for herein, Respondents' real estate
23 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.

6. Pursuant to Section 10148 of the Code, Respondent RAFAEL shall pay, separately or jointly with Respondent EBI, the total sum of \$7,426.14 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, Respondent RAFAEL shall pay, separately or jointly with Respondent EBI, the Commissioner's reasonable costs for any subsequent audit (said costs may not to exceed a maximum of \$9,282.68) 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

1 automatically be suspended until payment is made in full, or until a decision
2 providing otherwise is adopted following a hearing held pursuant to this
3 condition.

4 DATED: 5/6/2021


Lissete Garcia, Counsel
Department of Real Estate

6 * * *

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

14 Respondents can signify acceptance and approval of the terms and conditions of this
15 Stipulation and Agreement by electronically e-mailing a copy of the signature page, as actually
16 signed by Respondents, to the Department. Respondents agree, acknowledge, and understand
17 that by electronically sending to the Department an electronic copy of Respondents' actual
18 signatures, as they appear on the Stipulation, that receipt of the emailed copy by the Department
19 shall be as binding on Respondents as if the Department had received the original signed
20 Stipulation. By signing this Stipulation, Respondents understand and agree that Respondents
21 may not withdraw Respondents' agreement or seek to rescind the Stipulation prior to the time the
22 Commissioner considers and acts upon it or prior to the effective date of the Stipulation and
23 Order.

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1 DATED: 05/06/2021


Respondent EL BASHA INC.

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By (Printed Name): Adel Rafael

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Title: President

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5 DATED: 05/06/2021


Respondent ADEL B. RAFAEL

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7 DATED: 5-6-2021


Frank M. Buda, Esq., Counsel 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 _____.

IT IS SO ORDERED _____

REAL ESTATE COMMISSIONER

DOUGLAS R. MCCAULEY

1 DATED: _____

Respondent EL BASHA INC.

2

By (Printed Name): _____

3

Title: _____

4

5 DATED: _____

Respondent ADEL B. RAFAEL

6

7 DATED: _____

Frank M. Buda, Esq., Counsel for Respondents

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Approved as to Form

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The foregoing Stipulation and Agreement in Settlement and Order is hereby adopted by

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me as my Decision in this matter and shall become effective at 12 o'clock noon

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on 7/23/2021

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IT IS SO ORDERED 6.16.21

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REAL ESTATE COMMISSIONER

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DOUGLAS R. McCAULEY
DOUGLAS R. McCAULEY

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