

**FILED**

**JUN 21 2023**

**DEPT. OF REAL ESTATE**

By \_\_\_\_\_

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

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9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

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<p>12 In the Matter of the Accusation of</p> <p>13 515 INC. and BARBARA LYNN</p> <p>14 SIMMONS, individually and as</p> <p>15 designated officer for 515 Inc.,</p> <p>16 Respondents.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>DRE No. H-42377 LA</p> <p>OAH No. 2022100370</p> <p><u>STIPULATION AND AGREEMENT</u></p> <p><u>IN SETTLEMENT AND ORDER</u></p>
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17 It is hereby stipulated by and between Respondents 515, INC. and BARBARA  
18 LYNN SIMMONS, individually and as Designated Officer of 515, Inc., (sometimes collectively  
19 referred to as "Respondents"), acting by and through their attorney, Frank M. Buda, Esq., and the  
20 Complainant, acting by and through Kathy Yi, Counsel for the Department of Real Estate, as  
21 follows for the purpose of settling and disposing of Accusation filed on August 17, 2022  
22 ("Accusation"), in this matter:

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

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

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

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

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

23                   6. It is understood by the parties that the Real Estate Commissioner may adopt  
24 this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on  
25 Respondents’ real estate licenses and license rights as set forth in the below “Order.” In the  
26 event that the Commissioner in his discretion does not adopt the Stipulation, the Stipulation shall  
27 be void and of no effect and Respondents shall retain the right to a hearing and proceed on the

1 Accusation under the provisions of the APA and shall not be bound by any stipulation or waiver  
2 made herein.

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

7 **DETERMINATION OF ISSUES**

8 By reason of the foregoing, and solely for the purpose of settlement of the  
9 pending Accusation without a hearing, it is stipulated and agreed that the following  
10 Determination of Issues shall be made:

11 The conduct, acts or omissions of Respondent 515, INC., as set forth in the  
12 Accusation, are in violation of California Business and Professions Code ("Code") section 10145  
13 and Sections 2831, 2831.1, 2831.2, and 2832.1 of Title 10, Chapter 6 of the California Code of  
14 Regulations ("Regulation") and are a basis for discipline of Respondent 515, INC.'s licenses and  
15 licensing rights pursuant to Code sections 10177(d) and/or 10177(g).

16 The conduct, acts or omissions of Respondent BARBARA LYNN SIMMONS, as  
17 set forth in the Accusation, are in violation of Code section 10159.2 and Regulation section 2725  
18 and are a basis for discipline of Respondent BARBARA LYNN SIMMONS' licenses and  
19 licensing rights pursuant to Code sections 10177(d), 10177(g), and/or 10177(h).

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1 **ORDER**

2 **WHEREFORE, THE FOLLOWING ORDER is hereby made:**

3 (STAYED SUSPENSION)

4 I.

5 All licenses and licensing rights of Respondents 515, INC. and BARBARA  
6 LYNN SIMMONS under the Real Estate Law are suspended for a period of **sixty (60) days** from  
7 the effective date of this Decision; provided, however, that all sixty (60) days of said suspension  
8 shall be **stayed** upon the following terms and conditions:

9 1. Respondents 515, INC. and BARBARA LYNN SIMMONS shall obey  
10 all laws, rules and regulations governing the rights, duties and responsibilities of a real estate  
11 licensee in the State of California; and

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

18 (AUDIT COSTS)

19 II.

20 Pursuant to Code section 10148, Respondent 515, INC. shall, jointly and severally  
21 with Respondent BARBARA LYNN SIMMONS, pay the Commissioner's reasonable costs for  
22 the audit which led to this disciplinary action in the amount of **\$3,629.00**. Respondents shall pay  
23 such costs within sixty (60) days of receiving an invoice therefor from the Commissioner.  
24 Payment of the audit costs should not be made until Respondents receive the invoice. If  
25 Respondents fail to satisfy this condition in a timely manner as provided for herein,  
26 Respondents' real estate licenses shall automatically be suspended until payment is made in full,  
27 or until a decision providing otherwise is adopted following a hearing held pursuant to this

1 condition.

2 (SUBSEQUENT AUDIT COSTS)

3 III.

4 Pursuant to Code section 10148, Respondent 515, INC. shall pay the  
5 Commissioner's reasonable costs, not to exceed **\$4,536.25**, for a subsequent audit to determine if  
6 Respondent 515, INC. has corrected the violations found in the Determination of Issues. In  
7 calculating the amount of the Commissioner's reasonable costs, the Commissioner may use the  
8 estimated average hourly salary for all persons performing audits of real estate brokers, and shall  
9 include an allocation for travel time to and from the auditor's place of work. Respondent 515,  
10 INC. shall pay such costs within sixty (60) days of receiving an invoice therefor from the  
11 Commissioner. If Respondent 515, INC. fails to satisfy this condition in a timely manner as  
12 provided for herein, Respondent's real estate licenses shall automatically be suspended until  
13 payment is made in full, or until a decision providing otherwise is adopted following a hearing  
14 held pursuant to this condition.

15 (INVESTIGATION AND ENFORCEMENT COSTS)

16 IV.

17 All licenses and license rights of Respondents 515, INC. and BARBARA LYNN  
18 SIMMONS are indefinitely suspended, unless or until Respondents pay, jointly and severally,  
19 the sum of **\$1,000.75** for the Commissioner's reasonable costs of the investigation and  
20 enforcement that led to this disciplinary action. Said payment shall be in the form of a cashier's  
21 check made payable to the Department of Real Estate. The investigative and enforcement costs  
22 must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013,  
23 Sacramento, CA 95813-7013, **prior to the effective date of this Decision and Order.** Payment  
24 of investigation and enforcement costs should not be made until the Stipulation has been


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1 approved by the Commissioner.

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3 DATED: 05/09/2023

  
4 Kathy Yi, Counsel for  
5 Department of Real Estate

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7 **EXECUTION OF THE STIPULATION**

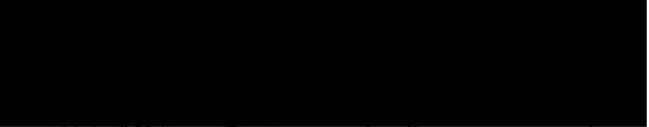
8 Respondents have read the Stipulation, have discussed it with their counsel, and  
9 its terms are understood by Respondents and are agreeable and acceptable to Respondents.

10 Respondents understand that Respondents are waiving rights given to them by the California  
11 Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and  
12 11513 of the Government Code), and Respondents willingly, intelligently and voluntarily waive  
13 those rights, including the right of requiring the Commissioner to prove the allegations in the  
14 Accusation at a hearing at which Respondents would have the right to cross-examine witnesses  
15 against them and to present evidence in defense and mitigation of the charges.

16 Respondents agree, acknowledge, and understand that Respondents cannot  
17 rescind or amend this Stipulation and Agreement. By signing this Stipulation, Respondents  
18 understand and agree that Respondents may not withdraw Respondents' agreement or seek to  
19 rescind the Stipulation prior to the time the Commissioner considers and acts upon it or prior to  
20 the effective date of the Stipulation and Order.

21 Respondents can signify acceptance and approval of the terms and conditions of  
22 this Stipulation and Agreement by electronically e-mailing a copy of the signature page, as  
23 actually signed by Respondents, to the Department. Respondents agree, acknowledge, and  
24 understand that by electronically sending to the Department an electronic copy of Respondents'  
25 actual signatures, as they appear on the Stipulation, that receipt of the emailed copy by the  
26 Department shall be as binding on Respondents as if the Department had received the original  
27 signed Stipulation. Alternatively, Respondents can signify acceptance and approval of the terms  
and conditions of this Stipulation and Agreement by mailing the original signed Stipulation and

1 Agreement to: Kathy Yi, Department of Real Estate, 320 West 4th Street, Suite 350, Los  
2 Angeles, California 90013-1105.

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4 Dated: 5-8-2023

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8 Dated: 5-8-2023

BARBARA LYNN SIMMONS  
Respondent

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11 Dated: 5-8-2023

Frank M. Buda, Esq.  
Counsel for Respondents  
Approved as to Form

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15 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to  
16 Respondents 515, INC. and BARBARA LYNN SIMMONS, individually and as Designated  
17 Officer of 515, Inc., and shall become effective at 12 o'clock noon on July 11, 2023.

18 IT IS SO ORDERED 6.8.23.

20 DOUGLAS R. McCAULEY  
21 REAL ESTATE COMMISSIONER

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