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2 Department of Real Estate
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FILED

SEP 21 2012

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DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 STANLEY MICHAEL COMBS,)
14 Respondent.)

NO. H-2638 FR

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

15 It is hereby stipulated by and between Respondent STANLEY MICHAEL
16 COMBS (herein "Respondent"), by and through Phillip M. Adleson, attorney of record herein
17 for Respondent, and the Complainant, acting by and through Mary F. Clarke, Counsel for the
18 Department of Real Estate (herein "the Department"), as follows for the purpose of settling and
19 disposing of the Accusation filed on June 3, 2011, 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 (herein
23 "APA"), shall instead and in place thereof be submitted solely on the basis of the provisions of
24 this Stipulation and Agreement in Settlement and Order.

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 Department in this
27 proceeding.

1 3. A Notice of Defense was filed on June 15, 2011 by Respondent, pursuant to
2 Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations
3 in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
4 Respondent acknowledges he understands that by withdrawing said Notice of Defense he will
5 thereby waive his right to require the Commissioner to prove the allegations in the Accusation at
6 a contested hearing held in accordance with the provisions of the APA and that he will waive
7 other rights afforded to him in connection with the hearing such as the right to present evidence
8 in defense of the allegations in the Accusation and the right to cross-examine witnesses.

9 4. Respondent, pursuant to the limitations set forth below, hereby admits that the
10 factual allegations pertaining to him in the Accusation filed in this proceeding are true and
11 correct, and the Real Estate Commissioner shall not be required to provide further evidence of
12 such allegations.

13 5. It is understood by the parties that the Real Estate Commissioner may adopt
14 the Stipulation and Agreement in Settlement and Order as his decision in this matter thereby
15 imposing the penalty and sanctions on Respondent's real estate license and license rights as set
16 forth in the below "Order." In the event that the Commissioner in his discretion does not adopt
17 the Stipulation and Agreement in Settlement and Order, it shall be void and of no effect, and
18 Respondent shall retain the right to a hearing and proceeding on the Accusation under all the
19 provisions of the APA and shall not be bound by any admission or waiver made herein.

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

25 7. Respondent understands that by agreeing to this Stipulation and Agreement in
26 Settlement and Order, Respondent agrees to pay, pursuant to Section 10148 of the California
27 Business and Professions Code (herein the "Code"), the cost of the audit which resulted in the



1 determination that Respondent committed the trust fund violations found below in the
2 Determination of Issues. The amount of said cost is \$6,630.

3 8. Respondent further understands that by agreeing to this Stipulation and
4 Agreement in Settlement and Order, the findings set forth below in the Determination of Issues
5 become final, and that the Commissioner may charge said Respondent for the costs of any audit
6 conducted pursuant to Section 10148 of the Code to determine if the trust fund violations found
7 below in the Determination of Issues have been corrected. The maximum costs of said audit
8 shall not exceed \$6,630.

9 DETERMINATION OF ISSUES

10 The acts and omissions of Respondent as described in the Accusation are grounds
11 for the suspension or revocation of the licenses and license rights of Respondent under the
12 following provisions of the Code, and/or Chapter 6, Title 10, of the California Code of
13 Regulations (herein "the Regulations"):

- 14 (a) as to Paragraph 8, under Sections 10176(a) and 10177(g) of the
15 Code;
- 16 (b) as to Paragraph 9, under Sections 10176(a) and 10177(g);
- 17 (c) as to Paragraph 10, under Sections 10176(a) and 10177(g) of the
18 Code;
- 19 (d) as to Paragraph 11, under Sections 10176(a) and 10177(g) of the
20 Code;
- 21 (e) as to Paragraph 12, under Sections 10176(a) and 10177(g) of the
22 Code;
- 23 (f) as to Paragraph 13, under Sections 10176(a) and 10177(g) of the
24 Code;
- 25 (g) as to Paragraph 14, under Sections 10176(a) and 10177(g) of the
26 Code;
- 27 (h) as to Paragraph 15(a), under Section 10145 of the Code and Section

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1 2832 of the Regulations, in conjunction with Section 10177(d) of the
2 Code; and

3 (i) as to Paragraph 15(b), under Section 10159.5 of the code and Section
4 2731 of the Regulations, in conjunction with Section 10177(d) of the
5 Code.

6 ORDER

7 A. All licenses and licensing rights of Respondent under the Real Estate Law are suspended
8 until such time as Respondent provides proof satisfactory to the Commissioner that Respondent
9 has, within one hundred twenty (120) days prior to the effective date of the Decision herein
10 completed the continuing education course on trust fund accounting and handling specified in
11 subdivision (a) of Section 10170.5 of the Code.

12 B. All licenses and licensing rights of Respondent under the Real Estate Law are suspended
13 for a period of ninety (90) days from the effective date of this Order; provided, however, that:

14 1. Sixty (60) days of said suspension shall be stayed for two (2) years upon the following
15 terms and conditions:

16 (a) 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 (b) That no final subsequent determination be made, after hearing or upon
19 stipulation, that cause for disciplinary action occurred within two (2) years from
20 the effective date of this 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.

24 2. The remaining thirty (30) days of said 90-day suspension shall be stayed upon the
25 condition that Respondent petition pursuant to Section 10175.2 of the Code and pay a
26 monetary penalty pursuant to Section 10175.2 of the Code at a rate of \$100 for each day
27 of the suspension for a total monetary penalty of \$3,000:



1 (a) Said payment shall be in the form of a cashier's check or certified check made
2 payable to the Recovery Account of the Real Estate Fund. Said check must be
3 received by the Department prior to the effective date of the Order in this matter.

4 (b) No further cause for disciplinary action against the real estate licenses of
5 Respondent occurs within two (2) years from the effective date of the Decision in
6 this matter.

7 (c) If Respondent fails to pay the monetary penalty as provided above prior to the
8 effective date of this Order, the stay of the suspension shall be vacated as to
9 Respondent and the order of suspension shall be immediately executed, under
10 this Order, in which event Respondent shall not be entitled to any repayment nor
11 credit, prorated or otherwise, for the money paid to the Department under the
12 terms of this Order.

13 (d) If Respondent pays the monetary penalty and any other moneys due under this
14 Stipulation and Agreement in Settlement and Order and if no further cause for
15 disciplinary action against the real estate license of Respondent occurs within
16 two (2) years from the effective date of this Order, the entire stay hereby granted
17 under this Order shall become permanent.

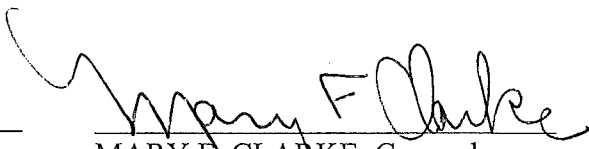

18 3. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of \$6,630 for the
19 Commissioner's cost of the audit which led to this disciplinary action. Respondent shall pay
20 such cost within sixty (60) days of receiving an invoice therefor from the Commissioner.
21 The Commissioner may indefinitely suspend all licenses and licensing rights pending a
22 hearing held in accordance with Section 11500, et seq., of the Government Code, if
23 payment is not timely made as provided for herein, or as provided for in a subsequent
24 agreement between Respondent and the Commissioner. The suspension shall remain in
25 effect until payment is made in full or until Respondent enters into an agreement
26 satisfactory to the Commissioner to provide for payment, or until a decision providing
27 otherwise is adopted following a hearing held pursuant to this condition.

1 4. Respondent shall pay the Commissioner's costs, not to exceed \$6,630, of any audit
2 conducted pursuant to Section 10148 of the Code to determine if Respondent has
3 corrected the violations described in the Determination of Issues, above. In calculating
4 the amount of the Commissioner's reasonable cost, the Commissioner may use the
5 estimated average hourly salary for all persons performing audits of real estate brokers,
6 and shall include an allocation for travel time to and from the auditor's place of work.
7 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore
8 from the Commissioner detailing the activities performed during the audit and the
9 amount of time spent performing those activities. If Respondent fails to pay such cost
10 within the sixty (60) days, the Commissioner may indefinitely suspend all licenses and
11 licensing rights of Respondent under the Real Estate Law until payment is made in full
12 or until Respondent enters into an agreement satisfactory to the Commissioner to
13 provide for payment. Upon payment in full, the indefinite suspension provided in this
14 paragraph shall be stayed.

15 5. Respondent shall within six (6) months from effective date of this decision take and
16 pass the Professional Responsibility Examination administered by the Department,
17 including the payment of the appropriate examination fee. If Respondent fails to satisfy
18 this condition the Commissioner shall order the suspension of the license until
19 Respondent passes the examination.

21 8-23-12

22 DATED

21 
22 MARY F. CLARKE, Counsel
23 DEPARTMENT OF REAL ESTATE
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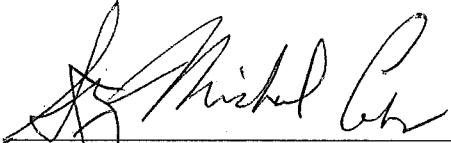
24 * * *

25 I have read the Stipulation and Agreement in Settlement and Order and its terms
26 are understood by me and are agreeable and acceptable to me. I understand that I am waiving
27 rights given to me by the California APA (including but not limited to Sections 11506, 11508,

1 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive
2 those rights, including the right of requiring the Commissioner to prove the allegations in the
3 Accusation at a hearing at which I would have the right to cross-examine witnesses against me
4 and to present evidence in defense and mitigation of the charges.

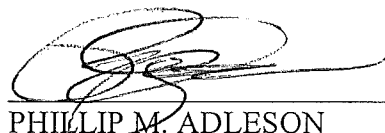
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8-14-12
DATED


STANLEY MICHAEL COMBS
Respondent

I have reviewed the Stipulation and Agreement as to form and content and have
advised my client accordingly.

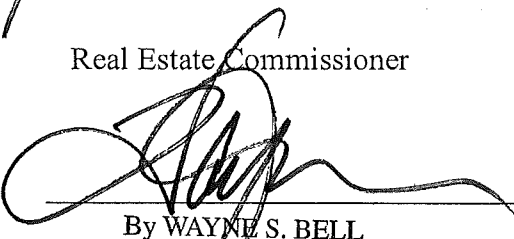
7-31-12
DATED


PHILLIP M. ADLESON
Attorney for Respondent

The foregoing Stipulation and Agreement is hereby adopted by me as my Decision
in this matter and shall become effective at 12 o'clock noon on October 11, 2012

IT IS SO ORDERED 9/12/2012

Real Estate Commissioner


By WAYNE S. BELL
Chief Counsel