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BUREAU OF REAL ESTATE

By *Michael*

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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	BRE No. H-2932 FR
	)	
BARBARA JANE AVILA,	)	
	)	<u>STIPULATION AND AGREEMENT</u>
Respondent.	)	<u>IN SETTLEMENT AND ORDER</u>
	)	

It is hereby stipulated by and between BARBARA JANE AVILA (Respondent), her attorney, Frank Buda, and the Complainant, acting by and through Richard K. Uno, Counsel for the Bureau of Real Estate (Bureau); as follows for the purpose of settling and disposing of the Accusation filed on January 22, 2015, in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent 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 instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement In Settlement and Order (Stipulation).

2. Respondent has received, read, and understands the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Bureau of Real Estate in this proceeding.

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

10 4. This Stipulation is based on the factual allegations contained in the
11 Accusation. In the interest of expediency and economy, Respondent choses not to contest these
12 factual allegations, but to remain silent and understands that, as a result thereof, these factual
13 statements will serves as a prima facie basis for the "Determination of Issues" and "Order" set
14 forth below. The Commissioner shall not be required to provide further evidence to prove such
15 allegations.

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

23 6. The Order or any subsequent Order of the Commissioner made pursuant to
24 this Stipulation shall not constitute an estoppel, merger, or bar to any further administrative or
25 civil proceedings by the Bureau of Real Estate with respect to any matters which were not
26 specifically alleged to be causes for accusation in this proceeding.
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7. Respondent understands that by agreeing to this Stipulation, Respondent agrees to pay, pursuant to Section 10106 of the Business and Professions Code (Code), the cost of the investigation and enforcement which resulted in the determination that Respondent committed the violations found in the Determination of Issues. The amount of said costs is \$5,695.25.

DETERMINATION OF ISSUES

By reason of the foregoing stipulations, admissions and waivers, and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the acts and/or omissions of Respondent, as described in the Accusation, constitute grounds for the suspension or revocation of the licenses and license rights of Respondent under the provisions of Sections 10177(g) of the Code.

ORDER

All licenses and licensing rights of Respondent, under the Real Estate Law are
revoked; provided, however, a restricted real estate broker license shall be issued to Respondent,
pursuant to Section 10156.5 of the Code, if Respondent makes application therefore and pays to
the Bureau of Real Estate the appropriate fee for the restricted license within 90 days from the
effective date of this Stipulation. The restricted license issued to Respondent shall be subject to
all of the provisions of Section 10156.7 of the Code and to the following limitations, conditions,
and restrictions imposed under authority of Section 10156.6 of the Code:

1. The restricted license issued to Respondent may be suspended prior to
hearing by Order of the Commissioner in the event of Respondent's conviction or plea of nolo
contendere to a crime which is substantially related to Respondent's fitness or capacity as a real
estate licensee.

2. The restricted license issued to Respondent may be suspended prior to
hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that
Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
Law, Regulations of the Commissioner or conditions attaching to the restricted license.

1 3. Respondent shall not be eligible to apply for the issuance of any
2 unrestricted real estate license nor the removal of any of the conditions, limitations, or
3 restrictions of a restricted until two (2) years have elapsed from the effective date of this
4 Stipulation. Respondent shall not be eligible to apply for any unrestricted licenses until all
5 restrictions attaching to the license have been removed.

6 4. Respondent shall, within nine (9) months from the effective date of this
7 Stipulation, present evidence satisfactory to the Commissioner that Respondent has, since the
8 most recent issuance of an original or renewal real estate license, taken and successfully
9 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
10 Law for renewal of a real estate license. If Respondent fails to satisfy this condition,
11 Respondent's real estate license shall automatically be suspended until Respondent presents
12 evidence satisfactory to the Commissioner of having taken and successfully completed the
13 continuing education requirements. Proof of completion of the continuing education courses
14 must be delivered to the Bureau of Real Estate, Flag Section, at P.O. Box 137013, Sacramento,
15 CA 95813-7013.

16 5. All licenses and licensing rights of Respondent are indefinitely suspended
17 unless or until Respondent pays the sum of \$5,695.25 for the Commissioner's reasonable cost
18 of the investigation and enforcement which led to this disciplinary action. Said payment shall
19 be in the form of a cashier's check made payable to the Bureau of Real Estate. The investigative
20 and enforcement costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box
21 137013, Sacramento, CA 95813-7013, prior to the effective date of this Stipulation.

22 6. Respondent shall, within six (6) months from the effective date of this
23 Decision, take and pass the Professional Responsibility Examination administered by the Bureau
24 including the payment of the appropriate examination fee. If Respondent fails to satisfy this
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1 condition, Respondent's real estate license shall automatically be suspended until Respondent
2 passes the examination.

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5 12/12/16

6 DATED

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RICHARD K. UNO, Counsel III
BUREAU OF REAL ESTATE

I have read the Stipulation and Agreement in Settlement and Order and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I 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 I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

12-8-16

DATED

Barbara Jane Avila
BARBARA JANE AVILA

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

DATED

FRANK BUDA
Attorney For Respondent

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The foregoing Stipulation and Agreement In Settlement and Order is hereby
adopted by the Real Estate Commissioner as his Decision and Order and shall become effective
at 12 o'clock noon on **MAR 22 2017** .

IT IS SO ORDERED 2/21/17 .

WAYNE S. BELL
REAL ESTATE COMMISSIONER



By: DANIEL J. SANDRI
Chief Deputy Commissioner