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Bureau of Real Estate
P.O. Box 187007
Sacramento, CA 95818-7007

MAY 24 2016

BUREAU OF REAL ESTATE

Telephone: (916) 227-0781

By H dew

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

CONWAY & CONWAY INC. and
IRENE J. CONWAY,

Respondents.

No. H-2953 FR

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between CONWAY & CONWAY INC., individually and doing business as "Classic Real Estate & Property Management" ("C&C"), and IRENE J. CONWAY ("CONWAY"), (collectively "Respondents"), represented by Brett L. Dickerson, and the Complainant, acting by and through Stephanie K. Sese, Counsel for the Bureau of Real Estate ("Bureau"), as follows for the purpose of settling and disposing of the Accusation filed on July 21, 2015, 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 instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement.
2. Respondents have received, read, and understand the Statement to Respondents and the Discovery Provisions of the APA filed by the Bureau in this proceeding.
3. Respondents filed a Notice of Defense pursuant to Section 11505 of the

1 California Government Code for the purpose of requesting a hearing on the allegations
2 in the Accusation. Respondents hereby freely and voluntarily withdraw said Notice of
3 Defense. Respondents acknowledge and understand that by withdrawing said Notice
4 of Defense Respondents will thereby waive Respondents rights to require the Real
5 Estate Commissioner ("Commissioner") to prove the allegations in the Accusation at a
6 contested hearing held in accordance with the provisions of the APA, and Respondents
7 will thereby waive other rights afforded to Respondents in connection with the
8 hearing, such as the right to present evidence in defense of the allegations in the
9 Accusation and the right to cross-examine witnesses.

4. This Stipulation and Agreement is based on the factual allegations contained in
the Accusation. In the interest of expediency and economy, Respondents choose not to
contest these factual allegations, but to remain silent and understand that, as a result
thereof, these factual statements will serve as a *prima facie* basis for the Determination
of Issues and Order set forth below. The Commissioner shall not be required to
provide further evidence to prove such allegations.

5. This Stipulation and Agreement and Respondents decision not to contest the
Accusation are made for the purpose of reaching an agreed disposition of this
proceeding and are expressly limited to this proceeding and any other proceeding or
case in which the Bureau, the state or federal government, an agency of this state, or an
agency of another state is involved.

6. Respondents further understand that by agreeing to this Stipulation and
Agreement, the findings set forth below in the Determination of Issues become final and
the Commissioner may charge Respondents the costs, jointly and severally, of any audit
conducted pursuant to Section 10148 of the Code to determine if the violations have
been corrected. The maximum costs of said audit shall not exceed \$5,242.01.

7. Respondents further understand that by agreeing to this Stipulation and
Agreement, Respondents agree to pay, jointly and severally, and pursuant to Section
10106(a) of the Code, the investigative and enforcement costs which led to this
disciplinary action. The amount of said costs is \$2,160.00.

8. It is understood by the parties that the Commissioner may adopt the Stipulation

1 and Agreement as his decision in this matter thereby imposing the penalty and sanctions
2 on the real estate licenses and license rights of Respondents as set forth in the below
3 Order. In the event that the Commissioner in his discretion does not adopt the
4 Stipulation and Agreement, it shall be void and of no effect, and Respondents shall
5 retain the right to a hearing and proceeding on the Accusation under all provisions of the
6 APA and shall not be bound by any admission or waiver made herein.

- 7 9. The Order or any subsequent Order of the Commissioner made pursuant to this
8 Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further
9 administrative or civil proceedings by the Bureau with respect to any matters which were
10 not specific allegations contained within the Accusation.

11 * * *

12 DETERMINATION OF ISSUES

13 By reason of the foregoing Stipulation and Agreement and solely for the purpose
14 of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the
15 following determination of issues shall be made:

16 The acts and/or omissions of Respondents as described in the Accusation are
17 grounds for the suspension or revocation of Respondents' licenses and license rights under the
18 following sections of the Code and the Regulations of the Real Estate Commissioner
19 ("Regulations"):

20 As to Paragraph 7(a), under Sections 10177(d), 10177(g), and 10145 of the Code
21 in conjunction with Section 2832.1 of the Regulations;

22 As to Paragraph 7(b), under Sections 10177(d), 10177(g), and 10145 of the Code
23 in conjunction with Section 2831 of the Regulations;

24 As to Paragraph 7(c), under Sections 10177(d), 10177(g), and 10145 of the Code
25 in conjunction with Section 2831.1 of the Regulations;

26 As to Paragraph 7(d), under Sections 10177(d), 10177(g), and 10145 of the Code
27 in conjunction with Section 2831.2 of the Regulations; and,

As to Paragraph 9, under Sections 10177(d), 10177(g), 10177(h), and 10159.2 of
the Code in conjunction with Section 2725 of the Regulations.

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ORDER

I.

As To Respondent CONWAY & CONWAY INC.

All licenses and licensing rights of Respondent C&C under the Real Estate Law are revoked; provided, however, a restricted real estate corporate broker license shall be issued to Respondent C&C pursuant to Section 10156.5 of the Code if Respondent C&C makes application therefor and pays to the Bureau the appropriate fee for the restricted license within 90 days from the effective date of this Decision and Order.

The restricted license issued to Respondent C&C shall be subject to all 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 C&C may be suspended prior to hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that Respondent C&C has violated provisions of the California Real Estate Law, the Subdivided Lands Law, the Regulations of the Real Estate Commissioner, or conditions attaching to the restricted license.
2. Respondent C&C shall not be eligible to apply for the issuance of an unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions of a restricted license until four (4) years have elapsed from the effective date of this Decision and Order.

II.

As To Respondent IRENE J. CONWAY

All licenses and licensing rights of Respondent CONWAY under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent CONWAY pursuant to Section 10156.6 of the Code if Respondent CONWAY makes application therefor and pays to the Bureau the appropriate fee for the restricted license within 90 days from the effective date of this Decision and Order.

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

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

3. Respondent CONWAY shall not be eligible to apply for the issuance of an
unrestricted real estate license nor for removal of any of the conditions, limitations or
restrictions of a restricted license until four (4) years have elapsed from the effective date
of this Decision and Order.

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

5. All licenses and licensing rights of Respondent CONWAY are indefinitely
suspended unless or until Respondent CONWAY provides proof satisfactory to the
Commissioner of having taken and successfully completed the continuing education
course on trust fund accounting and handling as specified in Paragraph (3) of subdivision
(a) of Section 10170.5 of the Code. Proof of satisfaction of these requirements includes
evidence that Respondent CONWAY has successfully completed the trust fund account

1 and handling continuing education courses no earlier than 120 days prior to the effective
2 date of the Decision and Order in this matter. Proof of completion of the trust fund
3 accounting and handling course must be delivered to the Bureau of Real Estate Flag
4 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 6. Respondent CONWAY shall within six (6) months from the effective date of this
6 Decision and Order take and pass the Professional Responsibility Examination
7 administered by the Bureau including the payment of the appropriate examination fee. If
8 Respondent CONWAY fails to satisfy this condition Respondent CONWAY's real estate
9 license shall automatically be suspended until Respondent CONWAY passes the
10 examination.

11 III.

12 As To CONWAY & CONWAY INC and IRENE J. CONWAY, Jointly and Severally

- 13 1. Pursuant to Section 10148 of the Code, Respondents shall pay, jointly and
14 severally, the Commissioner's reasonable costs, not to exceed \$5,242.01, for an audit to
15 determine if Respondents have corrected the violation(s) found in the Determination of
16 Issues. In calculating the amount of the Commissioner's reasonable costs the
17 Commissioner may use the estimated average hourly salary for all persons performing
18 audits of real estate brokers and shall include an allocation for travel time to and from the
19 auditor's place of work. Respondents shall pay such costs, jointly and severally, within
20 sixty (60) days of receiving an invoice from the Commissioner. Payment of the audit
21 costs should not be made until Respondents receive the invoice. If Respondents, jointly
22 and severally, fail to satisfy this condition in a timely manner as provided herein,
23 Respondent C&C's real estate corporate broker license and/or Respondent CONWAY's
24 real estate broker license shall automatically be suspended until payment is made in full
25 or until a decision providing otherwise is adopted following a hearing held pursuant to
26 this condition.
- 27 2. All licenses and licensing rights of Respondents are indefinitely suspended unless
or until Respondents pay, jointly and severally, the sum of \$2,160.00 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 Bureau of Real Estate. The investigative and enforcement costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.

4 8/11/16
DATED

SKS
STEPHANIE K. SESE
Counsel for Complainant

I have read the Stipulation and Agreement, discussed it with my counsel, 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, and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusations 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.

3-29-16
DATED

Irene Conway
IRENE CONWAY
CONWAY & CONWAY INC.
Respondents

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

3-29-16
DATED

Brett L. Dickerson
BRETT L. DICKERSON
Attorney for Respondents

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The foregoing Stipulation and Agreement is hereby adopted as my Decision and
shall become effective at 12 o'clock noon on JUN 14 2016.

IT IS SO ORDERED MAY 27, 2016.

Wayne S. Bell
Real Estate Commissioner

By: 
JEFFREY MASON
Chief Deputy Commissioner