

1 Bureau of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0781

FILED

MAR 28 2017

BUREAU OF REAL ESTATE
By B. Nicholas

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of

12 ALV PROPERTY MANAGEMENT INC., and
13 ADRIAN SUZAN HARRELL,

14 Respondents..)

No. H-3006 FR

STIPULATION AND
AGREEMENT

15 It is hereby stipulated by and between ADRIAN SUZAN HARRELL
16 (Respondent), represented by Frank M. Buda, and the Complainant, acting by and through
17 Truly Sughrue, Counsel for the Bureau of Real Estate (Bureau), as follows for the purpose of
18 settling and disposing the Accusation filed on March 24, 2016, in this matter:

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

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

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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 Respondent understands that by withdrawing said Notice of Defense
5 Respondent will thereby waive Respondent's rights to require the Real Estate Commissioner
6 (Commissioner) to prove the allegations in the Accusation at a contested hearing held in
7 accordance with the provisions of the APA, and that Respondent will waive other rights afforded
8 to Respondent in connection with the hearing such as the right to present evidence in defense of
9 the allegations in the Accusation and the right to cross-examine witnesses.

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

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

20 6. Respondent understands that by agreeing to this Stipulation and
21 Agreement, Respondent agrees to pay, pursuant to Section 10148 of the California Business and
22 Professions Code (Code), the cost of the audit, which resulted in the determination that
23 Respondent committed the trust fund handling violation(s) found in the Determination of Issues.
24 The amount of said costs is \$3,723.30.

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

8 8. The Order or any subsequent Order of the Commissioner made pursuant to
9 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further
10 administrative or civil proceedings by the Bureau with respect to any matters which were not
11 specifically alleged to be causes for action in Accusation H-3006 FR.

12 * * *

13 DETERMINATION OF ISSUES

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

17 The acts and omissions of Respondent as described in the Accusation are
18 grounds for the suspension or revocation of Respondent's licenses and license rights under
19 Sections 10177(g) and 10177(h) of the Code.

20 * * *

21 ORDER

22 I

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

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1) Thirty (30) days of said suspension shall be stayed, upon the condition that Respondent petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total monetary penalty of \$1,500.

a) Said payment shall be in the form of a cashier's check made payable to the Bureau of Real Estate. Said check 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 Order.

b) No further cause for disciplinary action against the Real Estate licenses of Respondent occurs within two (2) years from the effective date of the decision in this matter.

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

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

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

a) 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,


b) 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 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.

1 3) All licenses and licensing rights of Respondent are indefinitely suspended unless
2 or until Respondent provides proof satisfactory to the Commissioner, of having taken and
3 successfully completed the continuing education course on trust fund accounting and handling
4 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of
5 satisfaction of these requirements includes evidence that Respondent has successfully completed
6 the trust fund account and handling continuing education courses, no earlier than 120 days prior
7 to the effective date of the Decision and Order in this matter. Proof of completion of the trust
8 fund accounting and handling course must be delivered to the Bureau of Real Estate, Flag
9 Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the
10 effective date of this Decision and Order.

11 4) Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
12 \$3,723.30 for the Commissioner's cost of the audit which led to this disciplinary action.
13 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the
14 Commissioner. Payment of audit costs should not be made until Respondent receives the
15 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
16 Respondent's real estate license shall automatically be suspended until payment is made in full,
17 or until a decision providing otherwise is adopted following a hearing held pursuant to this
18 condition.

20 2-Feb-17

21 DATED

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22 TRULY SUGHRUE
23 Counsel for Complainant

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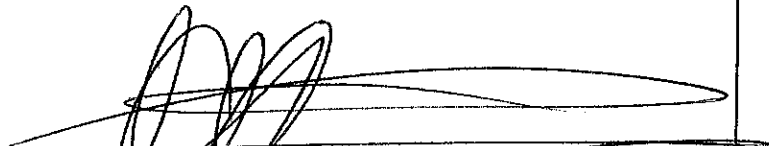
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2 I have read the Stipulation and Agreement, discussed it with my counsel, and its
3 terms are understood by me and are agreeable and acceptable to me. I understand that I am
4 waiving rights given to me by the California Administrative Procedure Act, and I willingly,
5 intelligently and voluntarily waive those rights, including the right of requiring the
6 Commissioner to prove the allegations in the Accusations at a hearing at which I would have the
7 right to cross-examine witnesses against me and to present evidence in defense and mitigation of
8 the charges.

9 Respondent and Respondent's attorney further agree to send the original signed
10 Stipulation and Agreement by mail to the following address no later than one (1) week from the
11 date the Stipulation and Agreement is signed by Respondent and Respondent's attorney: *Bureau*
12 *of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-7007.*

13 Respondent and Respondent's attorney understand and agree that if they fail to return the original
14 signed Stipulation and Agreement by the due date, Complainant retains the right to set this matter
15 for hearing.

16
17 1/24/2017

18 DATED

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18 ADRIAN SUZAN HARRELL
19 Respondent.

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21 *I have reviewed the Stipulation and Agreement as to form and content and have*
22 *advised my clients accordingly.*

23
24 1-26-17

25 DATED

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25 FRANK M. BUDA
26 Attorney for Respondent

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1 The foregoing Stipulation and Agreement is hereby adopted as my Decision and
2 Order and shall become effective at 12 o'clock noon on APR 18 2017.

3 IT IS SO ORDERED 3/27/2017.

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5 WAYNE S. BELL
6 REAL ESTATE COMMISSIONER

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