

1 Bureau of Real Estate
2 P.O. Box 137007
3 Sacramento, CA 95813-7007

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FILED

MAR 12 2018

BUREAU OF REAL ESTATE

By B. Nicholas

7
8 **BEFORE THE BUREAU OF REAL ESTATE**

9 **STATE OF CALIFORNIA**

10 * * *

11 In the Matter of the Accusation of)
12 EL DORADO REALTY COMPANY, and)
13 ZACHARY PHILIP GOLDMAN,)
14 Respondents.)

No. H-3120 FR

STIPULATION AND
AGREEMENT

15 It is hereby stipulated by and between EL DORADO REALTY COMPANY
16 (EDRC), and ZACHARY PHILIP GOLDMAN (GOLDMAN) (collectively referred to as
17 "Respondents"), represented by Mary Work, and the Complainant, acting by and through Richard
18 K. Uno, Counsel for the Bureau of Real Estate (Bureau), as follows for the purpose of settling
19 and disposing the Accusation filed on June 14, 2017, in this matter:

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

25 2. Respondents have received, read, and understand the Statement to
26 Respondent, and the Discovery Provisions of the APA filed by the Bureau in this proceeding.
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1 3. Respondents 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 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents
4 acknowledge that Respondents understand that by withdrawing said Notice of Defense
5 Respondents will thereby waive Respondents' 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 Respondents will waive other rights
8 afforded to Respondents in connection with the hearing such as the right to present evidence in
9 defense of 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, Respondents choose 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 Respondents' 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. Respondents understand that by agreeing to this Stipulation and
21 Agreement, Respondents agrees to pay, pursuant to Section 10148 of the California Business
22 and Professions Code (Code), the cost of the audit, which resulted in the determination that
23 Respondents committed the trust fund handling violation(s) found in the Determination of
24 Issues. The amount of said costs is \$6,995.60.

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1 7. Respondents further understand that by agreeing to this Stipulation and
2 Agreement, the findings set forth below in the Determination of Issues become final, and that
3 the Commissioner may charge said Respondents for the costs of any audit conducted pursuant to
4 Section 10148 of the Code to determine if the violations have been corrected. The maximum
5 costs of said audit shall not exceed \$8,744.50.

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

13 9. The Order or any subsequent Order of the Commissioner made pursuant to
14 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further
15 administrative or civil proceedings by the Bureau with respect to any matters which were not
16 specifically alleged in Accusation H-3120 FR.

17 * * *

18 DETERMINATION OF ISSUES

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

22 I

23 The acts and omissions of EDRC as described in the First Cause of Action in the
24 Accusation are grounds for the suspension or revocation of Respondents' licenses and license
25 rights under Sections 10145 and 10177(d) of the Code.

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II

The acts and omissions of GOLDMAN as described in the Second Cause of Action in the Accusation are grounds for the suspension or revocation of GOLDMAN's licenses and license rights under Section 10177(h) of the Code.

* * *

ORDER

I

All licenses and licensing rights of EDRC under the Real Estate Law are suspended for a period of forty (45) days from the effective date of this Order; provided, however, that:

1) Fifteen (15) days of said suspension shall be stayed, upon the condition that EDRC 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 \$100 for each day of the suspension for a total monetary penalty of \$1,500.00.

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 EDRC occurs within two (2) years from the effective date of the decision in this matter.

c) If EDRC 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 EDRC and the order of suspension shall be immediately executed, under this Order, in which event the said EDRC 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 EDRC 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

1 license of said EDRC occurs within two (2) years from the effective date of this Order, the entire
2 stay hereby granted this Order, as to said EDRC only, shall become permanent.

3 2) Thirty (30) days of said suspension shall be stayed for two (2) years upon the
4 following terms and conditions:

5 a) EDRC shall obey all laws, rules and regulations governing the rights, duties and
6 responsibilities of a real estate licensee in the State of California; and,

7 b) That no final subsequent determination be made, after hearing or upon stipulation,
8 that cause for disciplinary action occurred within two (2) years from the effective date of this
9 Order. Should such a determination be made, the Commissioner may, in his discretion, vacate
10 and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no
11 such determination be made, the stay imposed herein shall become permanent.

12 II

13 All licenses and licensing rights of GOLDMAN under the Real Estate Law are
14 suspended for a period of forty (45) days from the effective date of this Order; provided,
15 however, that:

16 1) Fifteen (15) days of said suspension shall be stayed, upon the condition that
17 GOLDMAN petition pursuant to Section 10175.2 of the Code and pays a monetary penalty
18 pursuant to Section 10175.2 of the Code at a rate of \$100 for each day of the suspension for a
19 total monetary penalty of \$1,500.00.

20 a) Said payment shall be in the form of a cashier's check made payable to the
21 Bureau of Real Estate. Said check must be delivered to the Bureau of Real Estate, Flag Section
22 at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Order.

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

25 c) If GOLDMAN fails to pay the monetary penalty as provided above prior to the
26 effective date of this Order, the stay of the suspension shall be vacated as to that GOLDMAN and
27 the order of suspension shall be immediately executed, under this Order, in which event the said

1 GOLDMAN shall not be entitled to any repayment nor credit, prorated or otherwise, for the
2 money paid to the Bureau under the terms of this Order.

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

7 2) Thirty (30) days of said suspension shall be stayed for two (2) years upon the
8 following terms and conditions:

9 a) GOLDMAN shall obey all laws, rules and regulations governing the rights, duties
10 and responsibilities of a real estate licensee in the State of California; and,

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

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

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III

1) Pursuant to Section 10148 of the Code, Respondents shall jointly and severally
pay the sum of \$6,995.60 for the Commissioner's cost of the audit which led to this disciplinary
action. Respondents shall pay such cost within sixty (60) days of receiving an invoice therefore
from the Commissioner. Payment of audit costs should not be made until Respondents receive
the invoice. If Respondents fail to satisfy this condition in a timely manner as provided for
herein, Respondents' real estate license shall automatically be suspended until payment is made
in full, or until a decision providing otherwise is adopted following a hearing held pursuant to
this condition.

2) Pursuant to Section 10148 of the Code, Respondents shall pay the Commissioner's
reasonable cost, not to exceed \$8,744.50, for an audit to determine if Respondents have corrected
the violation(s) found in the Determination of Issues. In calculating the amount of the
Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary
for all persons performing audits of real estate brokers, and shall include an allocation for travel
time to and from the auditor's place of work. Respondents shall pay such cost within sixty (60)
days of receiving an invoice therefore from the Commissioner. Payment of the audit costs should
not be made until Respondents receive the invoice. If Respondents fail to satisfy this condition
in a timely manner as provided for herein, Respondents' real estate license shall automatically be
suspended until payment is made in full, or until a decision providing otherwise is adopted
following a hearing held pursuant to this condition.

1/26/18
DATED



RICHARD K. UNO
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 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.

Respondent and Respondent's attorney further agree to send the original signed Stipulation by mail to the following address no later than one (1) week from the date the Stipulation is signed by Respondent and Respondent's attorney: *Bureau of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-7007*. Respondent and Respondent's attorney understand and agree that if they fail to return the original signed Stipulation by the due date, Complainant retains the right to set this matter for hearing.

1/26/18

DATED



Zachary Philip Goldman, on behalf of
EL DORADO REALTY COMPANY
Respondent

1/26/18

DATED

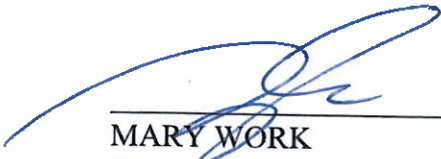


ZACHARY PHILIP GOLDMAN
Respondent

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

2/5/2018

DATED



MARY WORK
Attorney for Respondents

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The foregoing Stipulation and Agreement is hereby adopted as my Decision and
Order and shall become effective at 12 o'clock noon on APR 02 2018

IT IS SO ORDERED 3/7/18

WAYNE S. BELL
REAL ESTATE COMMISSIONER



By: DANIEL J. SANDRI
Chief Deputy Commissioner