

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

**AUG 14 2018**

DEPARTMENT 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 RENTAL MANAGEMENT INC., and JERRY )  
13 DALE SHEWEY, )

14 Respondents.)

No. H-3172 FR

STIPULATION AND  
AGREEMENT

15 It is hereby stipulated by and between RENTAL MANAGEMENT INC.  
16 (RMI), and JERRY DALE SHEWEY (SHEWEY) (collectively "Respondents"), and the  
17 Complainant, acting by and through Truly Sughrue, Counsel for the Bureau of Real Estate  
18 (Bureau), as follows for the purpose of settling and disposing the Accusation filed on May 11,  
19 2018, 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.  
27

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 agree 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 Respondents committed the trust fund handling violation(s) found in the Determination of  
24 Issues. The amount of said costs is \$8,624.43.

25                   7.       Respondents further understand that by agreeing to this Stipulation and  
26 Agreement, the findings set forth below in the Determination of Issues become final, and that  
27 the Commissioner may charge said Respondents for the costs of any audit conducted pursuant to

1 Section 10148 of the Code to determine if the violations have been corrected. The maximum  
2 costs of said audit shall not exceed \$10,780.54.

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

10 10. The Order or any subsequent Order of the Commissioner made pursuant to  
11 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further  
12 administrative or civil proceedings by the Bureau with respect to any matters which were not  
13 specifically alleged to be causes for action in Accusation H-3172 FR.

14 \* \* \*

#### 15 DETERMINATION OF ISSUES

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

#### 19 I

20 The acts and omissions of Respondents as described in the First Cause of Action  
21 of the Accusation are grounds for the suspension or revocation of Respondents' licenses and  
22 license rights under the following sections of the Code and Title 10 of the California Code of:

23 As to Paragraph 11(a), under Section 10177(d) and/or 10177(g) of the Code in  
24 conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

25 As to Paragraph 11(b), under Section 10176(e).

26 As to Paragraph 11(c), under Sections 10177(d) and/or 10177(g) of the Code in  
27 conjunction with Section 10145 of the Code and Section 2831.1 of the Regulations; and

1 As to Paragraph 11(d), under Sections 10177(d) and/or 10177(g) of the Code in  
2 conjunction with Section 10145 of the Code and Section 2831 of the Regulations; and

3 As to Paragraph 11(e), under Sections 10177(d) and/or 10177(g) of the Code in  
4 conjunction with Section 10145 of the Code and Section 2831.2 of the Regulations;

5 As to Paragraph 11(f), under Section 10177(d) and/or 10177(g) of the Code in  
6 conjunction with Section 10145 of the Code and Section 2832 of the Regulations; and

7 As to Paragraph 11(g), under Section 10177(d) and/or 10177(g) of the Code in  
8 conjunction with Section 10145 of the Code and Section 2834 of the Regulations.

9 II

10 The acts and/or omissions of SHEWEY as described in the Second Cause of  
11 Action of the Accusation is cause for the suspension or revocation of SHEWEY's license and/or  
12 license rights under Section 10177(h) of the Code.

13 \* \* \*

14 ORDER

15 I

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

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

26 2. The restricted license issued to RMI may be suspended prior to hearing by  
27 Order of the Commissioner on evidence satisfactory to the Commissioner that RMI has violated

1 provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the  
2 Commissioner or conditions attaching to the restricted license.

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

## 8 II

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

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

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

24 3. SHEWEY shall not be eligible to apply for the issuance of an unrestricted  
25 real estate license nor for removal of any of the conditions, limitations, or restrictions of a  
26 restricted license until two (2) years have elapsed from the effective date of this Decision and  
27

1 Order. SHEWEY shall not be eligible to apply for any unrestricted licenses until all restrictions  
2 attaching to the license have been removed.

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

13 III

14 1. Pursuant to Section 10148 of the Code, Respondents shall pay the sum of  
15 \$8,624.33 for the Commissioner's cost of the audit which led to this disciplinary action.  
16 Respondents shall pay such cost within sixty (60) days of receiving an invoice therefore from the  
17 Commissioner. Payment of audit costs should not be made until Respondents receive the  
18 invoice. If Respondents fail to satisfy this condition in a timely manner as provided for herein,  
19 Respondents' real estate license shall automatically be suspended until payment is made in full,  
20 or until a decision providing otherwise is adopted following a hearing held pursuant to this  
21 condition.

22 2. Pursuant to Section 10148 of the Code, Respondents shall pay the  
23 Commissioner's reasonable cost, not to exceed \$10,780.54, for an audit to determine if  
24 Respondents have corrected the violation(s) found in the Determination of Issues. In calculating  
25 the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated  
26 average hourly salary for all persons performing audits of real estate brokers, and shall include an  
27 allocation for travel time to and from the auditor's place of work. Respondents shall pay such

1 costs within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment  
2 of the audit costs should not be made until Respondents receive the invoice. If Respondents fail  
3 to satisfy this condition in a timely manner as provided for herein, Respondents' real estate  
4 license shall automatically be suspended until payment is made in full, or until a decision  
5 providing otherwise is adopted following a hearing held pursuant to this condition.  
6

7 23-July-18  
8 DATED

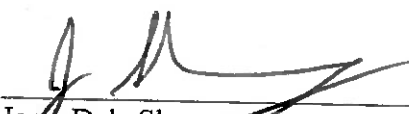
  
9 TRULY SUGHRUE  
Counsel for Complainant

10 \* \* \*

11 I have read the Stipulation and Agreement, and its terms are understood by me  
12 and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the  
13 California Administrative Procedure Act, and I willingly, intelligently and voluntarily waive  
14 those rights, including the right of requiring the Commissioner to prove the allegations in the  
15 Accusation at a hearing at which I would have the right to cross-examine witnesses against me  
16 and to present evidence in defense and mitigation of the charges.

17 Respondents further agree to send the original signed Stipulation and Agreement  
18 by mail to the following address no later than one (1) week from the date the Stipulation and  
19 Agreement is signed by Respondents: *Bureau of Real Estate, Legal Section, P.O. Box 137007,*  
20 *Sacramento, California 95813-7007.* Respondents understand and agree that if they fail to return  
21 the original signed Stipulation and Agreement by the due date, Complainant retains the right to  
22 set this matter for hearing.  
23

24 7/3/18  
25 DATED

  
26 Jerry Dale Shewey,  
Designated Officer  
27 RENTAL MANAGEMENT INC.,  
Respondent



1  
2 7/13/18  
3 DATED

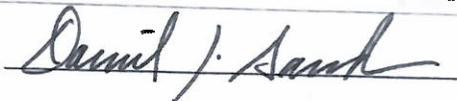
  
4 JERRY DALE SHEWEY  
5 Respondent

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7 The foregoing Stipulation and Agreement is hereby adopted as my Decision and  
8 Order and shall become effective at 12 o'clock noon on SEP 04 2018

9 IT IS SO ORDERED August 13, 2018

10 DANIEL J. SANDRI  
11 ACTING REAL ESTATE COMMISSIONER

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