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FILED

OCT 21 2020

DEPARTMENT OF REAL ESTATE
By B. Nicholas

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:

JOHN GUIDO DAVI,

Respondent.

No. H-3285 FR

STIPULATION AND
AGREEMENT IN
SETTLEMENT AND ORDER

It is hereby stipulated by and between JOHN GUIDO DAVI ("DAVI"), represented by Frank M. Buda, and Complainant, acting by and through Kyle T. Jones, Counsel for the Department of Real Estate ("Department"), as follows for the purpose of settling and disposing of the Accusation filed on April 1, 2020, 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.

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

1 3. Respondent filed a Notice of Defense pursuant to Section 11506 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 will waive Respondent's right to require the Real Estate
5 Commissioner ("Commissioner") to prove the allegations in the Accusation at a contested
6 hearing held in accordance with the provisions of the APA and that Respondent will waive other
7 rights afforded to Respondent in connection with the hearing, such as the right to present
8 evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

9 4. This Stipulation and Agreement and Respondent's decision not to contest
10 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and
11 are expressly limited to this proceeding and any other proceeding or case in which the
12 Department, the state or federal government, an agency of this state, or an agency of another state
13 is involved.

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

21 6. This Decision and Order or any subsequent Order of the Commissioner
22 made pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar
23 to any further administrative or civil proceedings by the Department with respect to any matters,
24 which were not specifically alleged in Accusation H-3285 FR.

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1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions, and waivers and solely for the
3 purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed that
4 the following Determination of Issues shall be made:

5 I

6 The acts and/or omissions of Respondent, as described in the Accusation, are
7 grounds for the suspension or revocation of the licenses and license rights of Respondent under
8 Business and Professions Code ("Code") Sections 10145, 10177(d), 10177(g), and 10177(h) in
9 conjunction with the California Code of Regulations ("Regulations"), Title 10, Sections 2725,
10 2731, and 2832.

11 ORDER

12 1. All licenses and licensing rights of Respondent, under the Real Estate Law
13 are suspended for a period of thirty (30) days from the effective date of this Order; provided,
14 however, that thirty (30) days of said suspension shall be stayed for two (2) year upon the
15 following terms and conditions:

16 a. Respondent shall obey all laws, rules and regulations governing the
17 rights, duties and responsibilities of a real estate licensee in the State of California; and,

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

24 2. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
25 \$4,168.84 for the Commissioner's cost of the audit which led to this disciplinary action.
26 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the
27 Commissioner. Payment of audit costs should not be made until Respondent receives the

1 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
2 Respondent's real estate license shall automatically be suspended until payment is made in full,
3 or until a decision providing otherwise is adopted following a hearing held pursuant to this
4 condition.

5 3. Pursuant to Section 10148 of the Code, Respondent shall pay the
6 Commissioner's reasonable cost, not to exceed \$5,211.05, for an audit to determine if
7 Respondent has corrected the violations found in the Determination of Issues. In calculating the
8 amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average
9 hourly salary for all persons performing audits of real estate brokers, and shall include an
10 allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost
11 within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of the
12 audit costs should not be made until Respondent receives the invoice. If Respondent fails to
13 satisfy this condition in a timely manner as provided for herein, Respondent's real estate license
14 shall automatically be suspended until payment is made in full, or until a decision providing
15 otherwise is adopted following a hearing held pursuant to this condition.

16 4. All licenses and licensing rights of Respondent are indefinitely suspended
17 unless or until Respondent 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 Business and Professions
20 Code. Proof of satisfaction of this requirement includes evidence that respondent has successfully
21 completed the trust fund account and handling continuing education course within 120 days prior
22 to the effective date of the Decision in this matter.

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25 DATED


KYLE T. JONES, Counsel
Department of Real Estate


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I have read the Stipulation and Agreement, have 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 APA (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.

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by Respondent, to the Department at fax number (916) 263-3767 or by e-mail to kyle.iones@DRE.ca.gov. Respondent agrees, acknowledges, and understands that by electronically sending to the Department a copy of Respondent's actual signature as it appears on the Stipulation and Agreement, that receipt of the copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

9-15-2020

DATED




JOHN GUIDO DAVI
Respondent

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

9-15-20

DATED



FRANK M. 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 NOV 11 2020.

IT IS SO ORDERED 10.19.20

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

