

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

4 Telephone: (916) 576-8700

FILED

AUG 20 2021

DEPARTMENT OF REAL ESTATE
By B. Nicholas

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7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 DS REALTY INC., and DARCY RENEE) No. H-3335 FR
13 STABERG,) STIPULATION AND
14 Respondents.) AGREEMENT

15 It is hereby stipulated by and between DS REALTY INC., and DARCY
16 RENEE STABERG (collectively "Respondents"), represented by Frank Buda, acting by and
17 through Truly Sughrue, Counsel for the Department of Real Estate (Department), as follows
18 for the purpose of settling and disposing the Accusation filed on September 2, 2020, in this
19 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 Department in this
27 proceeding.

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
19 Department, the state or federal government, an agency of this state, or an agency of another
20 state is involved.

21 6. DARCY RENEE STABERG (STABERG) understands that by agreeing
22 to this Stipulation and Agreement, STABERG agrees to pay, pursuant to Section 10148 of the
23 California Business and Professions Code (Code), the cost of the audit, which resulted in the
24 *determination that STABERG committed the trust fund handling violation(s) found in the*
25 *Determination of Issues.* The amount of said costs is \$4,313.32.

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1 7. STABERG further understands 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 STABERG 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 \$5,391.65.

6 8. It is understood by the parties that the Commissioner may adopt the
7 Stipulation and Agreement as his decision in this matter thereby imposing the penalty and
8 sanctions on the real estate licenses and license rights of Respondents as set forth in the below
9 "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and
10 Agreement, it shall be void and of no effect, and Respondents shall retain the right to a hearing
11 and proceeding on the Accusation under all the provisions of the APA and shall not be bound by
12 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 Department with respect to any matters which were
16 not specifically alleged to be causes for action in Accusation H-3335 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 DS REALTY, INC. (DS) as described in the
24 Accusation are grounds for the suspension or revocation of DS' licenses and license rights
25 under Section 10177(d) of the Code in conjunction with Section 2742(c) of the Regulations.
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1 II

2 The acts and/or omissions of STABERG as described in the Accusation is cause
3 for the suspension or revocation of STABERG'S license and/or license rights under Sections
4 10145, 10177(g), and 10177(h) of the Code.

5 * * *

6 ORDER

7 I

8 All licenses and licensing rights of DS under the Real Estate Law are suspended
9 for a period of sixty (60) days from the effective date of this Order; provided, however, that:

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

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

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

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

25 d) If DS pays the monetary penalty and any other moneys due under this Stipulation
26 and Agreement and if no further cause for disciplinary action against the real estate license of
27

1 said DS occurs within two (2) years from the effective date of this Order, the entire stay hereby
2 granted this Order, as to said DS 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) DS 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 STABERG under the Real Estate Law are
14 revoked; provided, however, a restricted real estate broker license shall be issued to STABERG
15 pursuant to Section 10156.5 of the Code if STABERG makes application therefor and pays to
16 the Department the appropriate fee for the restricted license within 90 days from the effective
17 date of this Decision and Order. The restricted license issued to STABERG shall be subject to
18 all of the provisions of Section 10156.7 of the Code and to the following limitations, conditions
19 and restrictions imposed under authority of Section 10156.6 of that Code:

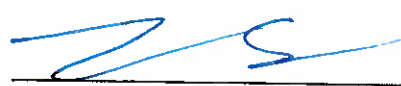
20 1. The restricted license issued to STABERG may be suspended prior to
21 hearing by Order of the Commissioner in the event of STABERG's conviction or plea of nolo
22 contendere to a crime which is substantially related to STABERG's fitness or capacity as a real
23 estate licensee.

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

1 1. Pursuant to Section 10148 of the Code, STABERG shall pay the sum of
2 \$4,313.32 for the Commissioner's cost of the audit which led to this disciplinary action.
3 STABERG shall pay such cost within sixty (60) days of receiving an invoice therefore from the
4 Commissioner. Payment of audit costs should not be made until STABERG receives the
5 invoice. If STABERG fails to satisfy this condition in a timely manner as provided for herein,
6 STABERG's real estate license shall automatically be suspended until payment is made in full,
7 or until a decision providing otherwise is adopted following a hearing held pursuant to this
8 condition.

9 2. Pursuant to Section 10148 of the Code, STABERG shall pay the
10 Commissioner's reasonable cost, not to exceed \$5,391.65, for an audit to determine if STABERG
11 has corrected the violation(s). In calculating the amount of the Commissioner's reasonable cost,
12 the Commissioner may use the estimated average hourly salary for all persons performing audits
13 of real estate brokers, and shall include an allocation for travel time to and from the auditor's
14 place of work. STABERG shall pay such cost within sixty (60) days of receiving an invoice
15 therefore from the Commissioner. Payment of the audit costs should not be made until
16 STABERG receives the invoice. If STABERG fails to satisfy this condition in a timely manner
17 as provided for herein, STABERG's real estate license shall automatically be suspended until
18 payment is made in full, or until a decision providing otherwise is adopted following a hearing
19 held pursuant to this condition.

20
21 3-June - 2021
22 DATED


23 _____
24 TRULY SUGHRUE
25 Counsel for Complainant

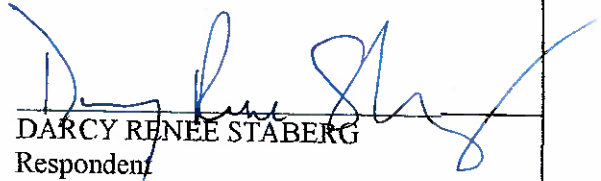
26 * * *

27 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,

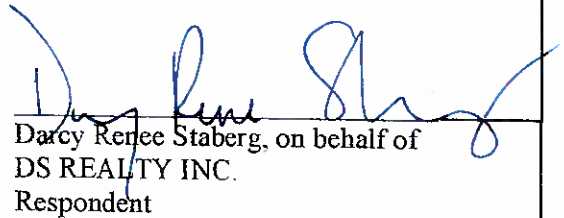
1 intelligently and voluntarily waive those rights, including the right of requiring the
2 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
3 right to cross-examine witnesses against me and to present evidence in defense and mitigation of
4 the charges.

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

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13 5/19/21
DATED


DARCY RENEE STABERG
Respondent

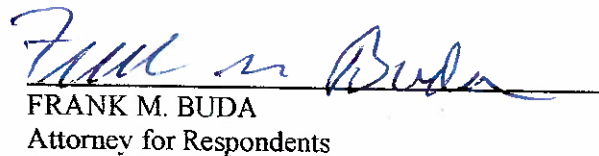
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16
17 5/19/21
DATED


Darcy Renee Staberg, on behalf of
DS REALTY INC.
Respondent

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20 ***

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

23 5-24-21
DATED


FRANK M. BUDA
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 SEP 10 2021

IT IS SO ORDERED 8.17.21

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

