

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 137007
3 Sacramento, CA 95813-7007

4 Telephone: (916) 576-8700
5 Fax: (916) 263-3767
6 Direct: (916) 576-7848

FILED

SEP 09 2021

DEPARTMENT OF REAL ESTATE
By B. N. Collins

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

10 * * *

11 In the Matter of the Accusation of) DRE No. H-3350 FR
12)
13 JALERA, INC., KATHIE LYNN TIPTON and,)
14 LARRY JOHN MCKEE) STIPULATION AND AGREEMENT
15 Respondents.) IN SETTLEMENT AND ORDER

16 It is hereby stipulated by and between JALERA, INC. (JALERA), KATHIE
17 LYNN TIPTON (TIPTON) and LARRY JOHN MCKEE (MCKEE), collectively Respondents,
18 their counsel Edward Lear, and the Complainant, acting by and through Richard K. Uno,
19 Counsel for the Department of Real Estate (Department); as follows for the purpose of settling
20 and disposing of the Accusation filed on December 17, 2020, in this matter:

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

26 2. Respondents have received, read, and understand the Statement to
27 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department of
Real Estate in this 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 they understand that by withdrawing said Notice of Defense they will thereby
5 waive their right to require the Real Estate Commissioner (Commissioner) to prove the
6 allegations in the Accusation at a contested hearing held in accordance with the provisions of the
7 APA and that he will waive other rights afforded to them in connection with the hearing such as
8 the right to present evidence in defense of the allegations in the Accusation and the right to cross-
9 examine witnesses.

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

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

23 6. The Order or any subsequent Order of the Commissioner made pursuant to
24 this Stipulation shall not constitute an estoppel, merger, or bar to any further administrative or
25 civil proceedings by the Department with respect to any matters which were not specifically
26 alleged to be causes for accusation in this proceeding.
27

1 7. Respondents understand that by agreeing to this Stipulation, Respondents
2 agree to pay; pursuant to Section 10148 of the Code, the cost of the initial audit which resulted in
3 the violation(s) found in the Determination of Issues. The amount of such costs is \$9,894.12.

4 8. Respondents further understand that by agreeing to this Stipulation, the
5 findings set forth below in the "Determination of Issues" become final, and that the
6 Commissioner may charge said Respondents for the costs of any audit conducted pursuant to
7 Section 10148 of the Code to determine if the violations have been corrected. The maximum
8 cost of said audit shall not exceed \$12,367.68.

9 9. Respondents understand that by agreeing to this Stipulation, Respondents
10 agree jointly and severally, to pay, pursuant to Section 10106 of the Business and Professions
11 Code (Code), the cost of the investigation which resulted in the determination that Respondents
12 committed the violations found in the Determination of Issues. The amount of said costs is
13 \$2,508.90.

14
15 DETERMINATION OF ISSUES

16 By reason of the foregoing stipulations, admissions and waivers, and solely for
17 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed
18 that the acts and/or omissions of Respondents, as described in the Accusation, constitute grounds
19 for the suspension or revocation of the licenses and license rights of:

20 JALERA and TIPTON under the provisions of Sections 2831.1, 2831.2, 2832, 2832.1 and 2834
21 of the Regulations and Sections 10145, 10177(d) and 10177(g) of the Code.

22 TIPTON only under the provisions of Section 2725 of the Regulations and sections 10159.2 and
23 10177(h) of the Code.

24 MCKEE under the provisions of Section 10176(a), 10176(e) and 10176(i) of the Code.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

ORDER

JALERA, INC.

All licenses and licensing rights of JALERA, under the Real Estate Law are revoked; provided, however, a restricted corporate real estate broker license shall be issued to JALERA, pursuant to Section 10156.5 of the Code, if JALERA makes application therefore and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Stipulation. The restricted license issued to JALERA shall be subject to all of the provisions of Section 10156.7 of the Code and to the following limitations, conditions, and restrictions imposed under authority of Section 10156.6 of the Code:

1. The restricted license issued to JALERA may be suspended prior to hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that JALERA has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Commissioner or conditions attaching to the restricted license.
2. JALERA shall not be eligible to apply for the issuance of any unrestricted real estate license nor the removal of any of the conditions, limitations, or restrictions of a restricted until two (2) years have elapsed from the effective date of this Stipulation. JALERA shall not be eligible to apply for any unrestricted licenses until all restrictions attaching to the license have been removed.

B. KATHIE LYNN TIPTON

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

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

5 2. The restricted license issued to TIPTON may be suspended prior to
6 hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that
7 TIPTON has violated provisions of the California Real Estate Law, the Subdivided Lands Law,
8 Regulations of the Commissioner or conditions attaching to the restricted license.

9 3. TIPTON shall not be eligible to apply for the issuance of any unrestricted
10 real estate license nor the removal of any of the conditions, limitations, or restrictions of a
11 restricted until two (2) years have elapsed from the effective date of this Decision and Order.
12 TIPTON shall not be eligible to apply for any unrestricted licenses until all restrictions attaching
13 to the license have been removed.

14 4. TIPTON shall, within nine (9) months from the effective date of this
15 Stipulation, present evidence satisfactory to the Commissioner that TIPTON has, since the most
16 recent issuance of an original or renewal real estate license, taken and successfully completed the
17 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal
18 of a real estate license. If TIPTON fails to satisfy this condition, TIPTON's real estate license
19 shall automatically be suspended until TIPTON presents evidence satisfactory to the
20 Commissioner of having taken and successfully completed the continuing education
21 requirements. Proof of completion of the continuing education courses must be delivered to the
22 Department of Real Estate, Flag Section, at P.O. Box 137013, Sacramento, CA 95813-7013.

23 LARRY JOHN MCKEE

24 All licenses and licensing rights of MCKEE, under the Real Estate Law are
25 revoked; provided, however, a restricted real estate salesperson license shall be issued to
26 MCKEE, pursuant to Section 10156.5 of the Code, if MCKEE makes application therefore and
27 pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days

1 from the effective date of this Stipulation. The restricted license issued to MCKEE shall be
2 subject to all of the provisions of Section 10156.7 of the Code and to the following limitations,
3 conditions, and restrictions imposed under authority of Section 10156.6 of the Code:

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

8 2. The restricted license issued to MCKEE may be suspended prior to
9 hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that
10 MCKEE has violated provisions of the California Real Estate Law, the Subdivided Lands Law,
11 Regulations of the Commissioner or conditions attaching to the restricted license.

12 3. MCKEE shall not be eligible to apply for the issuance of any unrestricted
13 real estate license nor the removal of any of the conditions, limitations, or restrictions of a
14 restricted until four (4) years have elapsed from the effective date of this Stipulation. MCKEE
15 shall not be eligible to apply for any unrestricted licenses until all restrictions attaching to the
16 license have been removed.

17 4. MCKEE shall submit with any application for license under an employing
18 broker, or any application for transfer to a new employing broker, a statement signed by the
19 prospective employing real estate broker on a form approved by the Department which shall
20 certify:

21 (1) That the employing broker has read the Decision which is the basis
22 for the issuance of a restricted license; and

23 (2) That the employing broker will carefully review all transaction
24 documents prepared by the restricted licensee and otherwise exercise close supervision over the
25 licensee's performance of acts for which a license is required.

1 JALERA, INC., KATHIE LYNN TIPTON and LARRY JOHN MCKEE

2 1. Pursuant to Section 10148 of the Code, Respondents shall, jointly and
3 severally, pay the sum of \$9,894.12 for the Commissioner's cost of the initial audit which led to
4 this disciplinary action. Respondents shall pay such cost within sixty (60) days of receiving an
5 invoice therefore from the Commissioner. Payment of audit costs should not be made until
6 Respondents receive the invoice. If Respondents fail to satisfy this condition in a timely manner
7 as provided for herein, Respondents' real estate licenses shall automatically be suspended until
8 payment is made in full, or until a decision providing otherwise is adopted following a hearing
9 held pursuant to this condition.

10 2. Pursuant to Section 10148 of the Code, Respondents shall, jointly and
11 severally, pay the Commissioner's reasonable cost, not to exceed \$12,367.68, for an audit to
12 determine if Respondents have corrected the violation(s) found in the "Determination of Issues".
13 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the
14 estimated average hourly salary for all persons performing audits of real estate brokers, and shall
15 include an allocation for travel time to and from the auditor's place of work. Respondents shall
16 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.
17 Payment of the audit costs should not be made until Respondents receive the invoice. If
18 Respondents fails to satisfy this condition in a timely manner as provided for herein,
19 Respondents' real estate licenses 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 3. All licenses and licensing rights of Respondents are indefinitely
23 suspended unless or until Respondents pay the sum of \$2,508.90 for the Commissioner's
24 reasonable cost of the investigation and enforcement which led to this disciplinary action. Said
25 payment shall be in the form of a cashier's check made payable to the Department of Real
26 Estate. The investigative and enforcement costs must be delivered to the Department of Real
27

1 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective
2 date of this Stipulation.

3
4 7/9/21

5 DATED

Richard K. Uno

6 RICHARD K. UNO, Counsel III
7 DEPARTMENT OF REAL ESTATE

8 * * *

9 I have read the Stipulation and Agreement in Settlement and Order and its terms
10 are understood by me and are agreeable and acceptable to me. I understand that I am waiving
11 rights given to me by the California Administrative Procedure Act (including but not limited
12 to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly,
13 intelligently, and voluntarily waive those rights, including the right of requiring the
14 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
15 right to cross-examine witnesses against me and to present evidence in defense and mitigation
16 of the charges.

17 7-6-21

18 DATED

Kathie Lynn Tipton

19 JALERA, INC.
20 BY: KATHIE LYNN TIPTON

21 * * *

22 7-6-21

23 DATED

Kathie Lynn Tipton
24 KATHIE LYNN TIPTON

25 * * *

26 7-6-2021

27 DATED

Larry John McKee
LARRY JOHN MCKEE

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

7/9/2021

DATED



EDWARD LEAR
Attorney for Respondents

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 SEP 30 2021

IT IS SO ORDERED 9.1.21

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

