

1 Department of Real Estate
2 P.O. Box 137007
3 Sacramento, CA 95813-7007
4 Telephone: (916) 576-8700

FILED

SEP 23 2022

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 ROSA LINDA APPODACCA,) No. H-3409 FR
13 Respondent.) STIPULATION AND
AGREEMENT

14 It is hereby stipulated by and between ROSA LINDA APPODACCA
15 (Respondent), and the Complainant, acting by and through Truly Sughrue, Counsel for the
16 Department of Real Estate (Department), as follows for the purpose of settling and disposing
17 of the Accusation filed on December 29, 2021, in this matter:

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

23 2. Respondent has received, read, and understands the Statement to
24 Respondent, and the Discovery Provisions of the APA filed by the Department in this
25 proceeding.
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1 3. Respondent 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 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
4 acknowledges that Respondent understands that by withdrawing said Notice of Defense
5 Respondent will thereby waive Respondent's 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 Respondent will waive other rights afforded
8 to Respondent in connection with the hearing such as the right to present evidence in defense of
9 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, Respondent chooses not
12 to contest these factual allegations, but to remain silent and understands 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 Respondent's 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. Respondent understands that by agreeing to this Stipulation and
22 Agreement, Respondent agrees to pay, pursuant to Section 10148 of the Code, the cost of the
23 audit, which resulted in the determination that Respondent committed the trust fund handling
24 violation(s) found in the Determination of Issues. The amount of said costs is \$5,703.50.

25 7. Respondent further understands 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 Respondent 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 \$7,129.38.

3 8. 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 Respondent 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 Respondent 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 9. 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 Department with respect to any matters which were
13 not specifically alleged to be causes for action in Accusation H-3409 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 Respondent as described in the Accusation are
21 grounds for the suspension or revocation of Respondent's licenses and license rights under the
22 following sections of the Code and Title 10 of the California Code of:

23 As to Paragraph 10, under Section 10177(d) of the Code in conjunction with
24 Section 10145 of the Code and Section 2832.1 of the Regulations;

25 As to Paragraph 11, under Section 10177(d) of the Code in conjunction with
26 Section 10145 of the Code and Section 2832 of the Regulations;

1 As to Paragraph 12, under Section 10177(d) of the Code in conjunction with
2 Section 10145 of the Code and Section 2831.1 of the Regulations;

3 As to Paragraph 13, under Section 10177(d) of the Code in conjunction with
4 Section 2831.2 of the Regulations;

5 As to Paragraph 14, under Section 10177(d) of the Code in conjunction with
6 Section 10145 of the Code and Section 2834 of the Regulations; and

7 As to Paragraph 15, under Section 10176(e) of the Code.

8 * * *

9 ORDER

10 I

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

14 1) Thirty (30) days of said suspension shall be stayed, upon the condition that
15 Respondent petition pursuant to Section 10175.2 of the Code and pays a monetary penalty
16 pursuant to Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total
17 monetary penalty of \$1,500.

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

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

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

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

3 d) If Respondent 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 Respondent occurs within two (2) years from the effective date of this Order, the
6 entire stay hereby granted this Order, as to said Respondent 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) Respondent 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 Respondent are indefinitely suspended unless
17 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 Code. Proof of
20 satisfaction of these requirements includes evidence that Respondent 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 Department of Real Estate, Flag
24 Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to
25 the effective date of this Decision and Order.

26 4) Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
27 \$5,703.50 for the Commissioner's cost of the audit which led to this disciplinary action.

1 Respondent shall pay such cost within 120 days of receiving an invoice therefore from the
2 Commissioner. Payment of audit costs should not be made until Respondent receives the
3 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
4 Respondent's real estate license shall automatically be suspended until payment is made in full,
5 or until a decision providing otherwise is adopted following a hearing held pursuant to this
6 condition.

7 5) Pursuant to Section 10148 of the Code, Respondent shall pay the Commissioner's
8 reasonable cost, not to exceed \$7,129.38, for an audit to determine if Respondent has corrected
9 the violation(s) found in the Determination of Issues. In calculating the amount of the
10 Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary
11 for all persons performing audits of real estate brokers, and shall include an allocation for travel
12 time to and from the auditor's place of work. Respondent shall pay such costs within 120 days of
13 receiving an invoice therefore from the Commissioner. Payment of the audit costs should not be
14 made until Respondent receives the invoice. If Respondent fails to satisfy this condition in a
15 timely manner as provided for herein, Respondent's real estate license shall automatically be
16 suspended until payment is made in full, or until a decision providing otherwise is adopted
17 following a hearing held pursuant to this condition.

18 1 August 2022

19 DATED



20 TRULY SUGHRUE
21 Counsel for Complainant

22 * * *

23 I have read the Stipulation and Agreement, discussed it with my counsel, and its
24 terms are understood by me and are agreeable and acceptable to me. I understand that I am
25 waiving rights given to me by the California Administrative Procedure Act, and I willingly,
26 intelligently and voluntarily waive those rights, including the right of requiring the
27 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the

1 right to cross-examine witnesses against me and to present evidence in defense and mitigation of
2 the charges.

3 Respondent and Respondent's attorney further agree to send the original signed
4 Stipulation and Agreement by mail to the following address no later than one (1) week from the
5 date the Stipulation and Agreement is signed by Respondent and Respondent's attorney:

6 *Department of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-*
7 *7007.* Respondent and Respondent's attorney understand and agree that if they fail to return the
8 original signed Stipulation and Agreement by the due date, Complainant retains the right to set
9 this matter for hearing.

10
11 _____
12 DATED


13 _____
14 ROSA LINDA APPODACA
15 Respondent

16 ***

17
18 *I have reviewed the Stipulation and Agreement as to form and content and have*
19 *advised my clients accordingly.*

20
21 _____
22 DATED

23 _____
24 IUSTINA G. MIGNEA
25 Attorney for Respondent

26 ***

27 The foregoing Stipulation and Agreement is hereby adopted as my Decision and
Order and shall become effective at 12 o'clock noon on _____.

IT IS SO ORDERED _____.

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

1 right to cross-examine witnesses against me and to present evidence in defense and mitigation of
2 the charges.

3 Respondent and Respondent's attorney further agree to send the original signed
4 Stipulation and Agreement by mail to the following address no later than one (1) week from the
5 date the Stipulation and Agreement is signed by Respondent and Respondent's attorney:

6 *Department of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-*
7 *7007.* Respondent and Respondent's attorney understand and agree that if they fail to return the
8 original signed Stipulation and Agreement by the due date, Complainant retains the right to set
9 this matter for hearing.

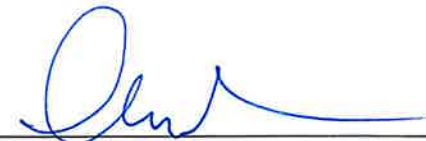
10
11 7/29/2022
12 DATED _____

13
14 
15 ROSA LINDA APPODACA
16 Respondent

17 ***

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

20
21 7/29/2022
22 DATED _____

23 
24 IUSTINA G. MIGNEA
25 Attorney for Respondent

26 ***

27 The foregoing Stipulation and Agreement is hereby adopted as my Decision and
Order and shall become effective at 12 o'clock noon on OCT 14 2022.

IT IS SO ORDERED 9. 18. 22.

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

