

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

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FILED

JAN 31 2023

DEPARTMENT OF REAL ESTATE
By B. Nicholas

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:)	Case No. H-3429 FR
)	
12 MASTRO PROPERTY MANAGEMENT, INC.))	<u>STIPULATION AND AGREEMENT</u>
13 and MISTY ANN MASTRO,)	<u>IN SETTLEMENT AND ORDER</u>
)	
14 Respondents.)	
)	

16 It is hereby stipulated by and between Respondent MASTRO PROPERTY
17 MANAGEMENT, INC. ("MASTRO INC.") and MISTY ANN MASTRO ("Ms. MASTRO")
18 (collectively referred to as "Respondents"), acting by and through Tyler H. Lester, counsel for
19 Respondents, and the Complainant, acting by and through Jason D. Lazark, Counsel for the
20 Department of Real Estate, as follows for the purpose of settling and disposing of the
21 Accusation filed on July 22, 2022, in this matter:

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

27 ///

1 2. Respondents have received, read and understand the Statement to
2 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department
3 of Real Estate in this proceeding.

4 3. Respondents filed Notices of Defense pursuant to Section 11505 of the
5 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
6 Respondents hereby freely and voluntarily withdraw said Notices of Defense. Respondents
7 acknowledge that they understand that by withdrawing said Notices of Defense they will
8 thereby waive their rights to require the Real Estate Commissioner (“Commissioner”) to prove
9 the allegations in the Accusation at a contested hearing held in accordance with the provisions
10 of the APA, and that they will waive other rights afforded to them in connection with the
11 hearing, such as the right to present evidence in defense of the allegations in the Accusation
12 and the right to cross-examine witnesses.

13 4. Respondents, pursuant to the limitations set forth below, hereby admit that
14 the factual allegations or findings of fact as set forth in the Accusation filed in this proceeding
15 are true and correct and the Real Estate Commissioner shall not be required to provide further
16 evidence of such allegations.

17 5. This Stipulation and Agreement is made for the purpose of reaching an
18 agreed disposition of this proceeding and is expressly limited to this proceeding and any other
19 proceeding or case in which the Department, the state or federal government, any agency of
20 this state, or an agency of another state is involved.

21 6. It is understood by the parties that the Real Estate Commissioner may adopt
22 the Stipulation and Agreement as his Decision in this matter, thereby imposing the penalties
23 and sanctions on Respondents’ real estate licenses and license rights as set forth in the below
24 “Order.” In the event that the Commissioner in his discretion does not adopt the Stipulation
25 and Agreement, it shall be void and of no effect, and Respondents shall retain the right to a
26 hearing and proceeding on the Accusation under all the provisions of the APA and shall not be
27 bound by any admission or waiver made herein.

1 7. The Order or any subsequent Order of the Real Estate Commissioner made
2 pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to
3 any further administrative or civil proceedings by the Department of Real Estate with respect
4 to any matters which were not specifically alleged to be causes for accusation in this
5 proceeding.

6 8. Respondents understand that by agreeing to this Stipulation and Agreement,
7 Respondents agree to be responsible for jointly and severally paying, pursuant to Section 10148
8 of the California Business and Professions Code (“the Code”), the costs of the audit which
9 resulted in the determination that Respondents committed the trust fund violation(s) found in the
10 Determination of Issues. The amount of such costs is \$4,340.50.

11 9. Respondents further understand that by agreeing to this Stipulation and
12 Agreement, the findings set forth below in the Determination of Issues become final, and that the
13 Commissioner may charge said Respondents for the costs of any audit conducted pursuant to
14 Section 10148 of the Code to determine if the violations have been corrected and hold
15 Respondents jointly and severally responsible for paying the costs of the follow up audit. The
16 maximum costs of said audit shall not exceed \$5,425.50.

17 10. Respondents further understand that by agreeing to this Stipulation and
18 Agreement, Respondents agree to be responsible for jointly and severally paying, pursuant to
19 Section 10106 of the Code, the costs of the investigation and enforcement of this case which
20 resulted in the determination that Respondents committed the violation(s) found in the
21 Determination of Issues. The amount of such cost is \$1,771.95.

22 DETERMINATION OF ISSUES

23 By reason of the foregoing stipulations, admissions, and waivers, and solely for
24 the purpose of settlement of the pending Accusation without further proceedings, it is stipulated
25 and agreed that the following Determination of Issues shall be made:

26 The acts and/or omissions of MASTRO INC. as described in the Accusation are
27 grounds for the suspension or revocation of the licenses and license rights of MASTRO INC.

1 under the provisions of Sections 10145, and 10177(d) of the Code, and Sections 2832.1 and 2834
2 of Title 10 of the California Code of the Regulations (“the Regulations”).

3 The acts and/or omissions of Ms. MASTRO as described in the Accusation are
4 grounds for the suspension or revocation of the licenses and license rights of Ms. MASTRO
5 under the provisions of Sections 10145, 10159.2, 10177(d), 10177(g), and 10177(h) of the Code,
6 and Sections 2725, 2832.1 and 2834 of the Regulations.

7 ORDER

8 I.

9 AS TO MASTRO INC.

10 All licenses and licensing rights of MASTRO INC. under the Real Estate Law are
11 suspended for a period of ninety (90) days from the effective date of this Order; provided,
12 however, that:

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

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

21 b. No further cause for disciplinary action against the real estate license
22 of MASTRO INC. occurs within two (2) years from the effective date of the Order in this matter.

23 c. If MASTRO INC. fails to pay the monetary penalty in accordance with
24 the terms and conditions of the Decision, the Commissioner may, without a hearing, order the
25 immediate execution of all or any part of the stayed suspension, in which event, MASTRO INC.
26 shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the
27 Department under the terms of this decision.

1 d. If MASTRO INC. pays the monetary penalty, and if no further cause
2 for disciplinary action against the real estate license of MASTRO INC. occurs within two (2)
3 years from the effective date of the Decision herein, then the stay hereby granted shall become
4 permanent.

5 2. The remaining sixty (60) days of said suspension shall be stayed for two (2)
6 years upon the following terms and conditions:

7 a. MASTRO INC. shall obey all laws, rules and regulations governing
8 the rights, duties and responsibilities of a real estate licensee in the State of California, and

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

15 II.

16 AS TO Ms. MASTRO

17 All licenses and licensing rights of Ms. MASTRO under the Real Estate Law are
18 suspended for a period of ninety (90) days from the effective date of this Order; provided,
19 however, that:

20 1. Thirty (30) days of said suspension shall be stayed upon the condition that Ms.
21 MASTRO petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty
22 pursuant to Section 10175.2 of the Code, at a rate of \$50 for each day of the suspension, for a
23 total monetary penalty of \$1,500.

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

1 b. No further cause for disciplinary action against the real estate license
2 of Ms. MASTRO occurs within two (2) years from the effective date of the Order in this matter.

3 c. If Ms. MASTRO fails to pay the monetary penalty in accordance with
4 the terms and conditions of the Decision, the Commissioner may, without a hearing, order the
5 immediate execution of all or any part of the stayed suspension, in which event, Ms. MASTRO
6 shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the
7 Department under the terms of this decision.

8 d. If Ms. MASTRO pays the monetary penalty, and if no further cause
9 for disciplinary action against the real estate license of Ms. MASTRO occurs within two (2)
10 years from the effective date of the Decision herein, then the stay hereby granted shall become
11 permanent.

12 2. The remaining sixty (60) days of said suspension shall be stayed for two (2)
13 years upon the following terms and conditions:

14 a. Ms. MASTRO shall obey all laws, rules and regulations governing
15 the rights, duties and responsibilities of a real estate licensee in the State of California, and

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

22 3. Ms. MASTRO shall, within nine (9) months from the effective date of this
23 Order, take and pass the Professional Responsibility Examination administered by the
24 Department, including the payment of the appropriate examination fee. If Ms. MASTRO fails to
25 satisfy this condition, Ms. MASTRO's real estate license shall automatically be suspended until
26 Ms. MASTRO passes the examination.
27

1 4. All licenses and licensing rights of Ms. MASTRO are indefinitely suspended
2 unless or until Ms. MASTRO provides proof satisfactory to the Commissioner, of having taken
3 and successfully completed the continuing education course on trust fund accounting and
4 handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of
5 satisfaction of these requirements includes evidence that Ms. MASTRO has successfully
6 completed the trust fund accounting and handling continuing education course, no earlier than
7 one hundred twenty (120) days prior to the effective date of the Order in this matter. Proof of
8 completion of the trust fund accounting and handling course must be delivered to the Department
9 of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the
10 effective date of this Order.

11 III.

12 AS TO MASTRO INC. AND Ms. MASTRO JOINTLY AND SEVERALLY

13 1. Pursuant to Section 10148 of the Code, Respondents, jointly and severally,
14 shall pay the sum of \$4,340.50 for the Commissioner's cost of the audit which led to this
15 disciplinary action. Respondents shall pay such cost within sixty (60) days of receiving an
16 invoice therefore from the Commissioner. The Commissioner shall indefinitely suspend all
17 licenses and licensing rights of Respondents pending a hearing held in accordance with Section
18 11500, et seq., of the Government Code, if payment is not timely made as provided for herein,
19 or as provided for in a subsequent agreement between Respondents and the Commissioner.
20 The suspension shall remain in effect until payment is made in full or until Respondents enter
21 into an agreement satisfactory to the Commissioner to provide for payment, or until a decision
22 providing otherwise is adopted following a hearing held pursuant to this condition.

23 2. Respondents, jointly and severally, shall pay the Commissioner's costs, not
24 to exceed \$5,425.50, of any audit conducted pursuant to Section 10148 of the Code to
25 determine if Respondents have corrected the violations described in the Determination of
26 Issues, above, and any other violations found in the audit which led to this disciplinary action.
27 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use

1 the estimated average hourly salary for all persons performing audits of real estate brokers, and
2 shall include an allocation for travel time to and from the auditor's place of work. Respondents
3 shall pay such cost within sixty (60) days of receiving an invoice therefore from the
4 Commissioner detailing the activities performed during the audit and the amount of time spent
5 performing those activities. If Respondents fail to pay such cost within the sixty (60) days, the
6 Commissioner shall indefinitely suspend all licenses and licensing rights of Respondents under
7 the Real Estate Law until payment is made in full or until Respondents enter into an agreement
8 satisfactory to the Commissioner to provide for payment. Upon full payment, the indefinite
9 suspension provided for in this paragraph shall be stayed.

10 3. All licenses and licensing rights of Respondents, are indefinitely suspended
11 unless or until Respondents, jointly and severally, pay the sum of \$1,771.95 for the
12 Commissioner's reasonable cost of the investigation and enforcement which led to this
13 disciplinary action. Said payment shall be in the form of a cashier's check or certified check
14 made payable to the Real Estate Fund. The investigative and enforcement costs must be
15 delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA
16 95813-7013, prior to the effective date of this Order.

17 11/28/2022

DATED

18 
JASON D. LAZARK, Counsel
Department of Real Estate

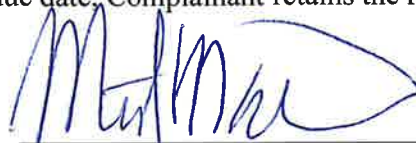
19 * *

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

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

7 11-22-22

8 DATED



MISTY ANN MASTRO,
Designated Officer for Respondent,
MASTRO PROPERTY
MANAGEMENT, INC.

10 11-22-22

11 DATED



MISTY ANN MASTRO,
Respondent

13 *I have reviewed the Stipulation and Agreement as to form and content and*
14 *have advised my client accordingly.*

15 11-22-22

16 DATED



Tyler H. Lester,
Attorney for Respondents,
MASTRO PROPERTY
MANAGEMENT, INC., and
MISTY ANN MASTRO

19 * * *

20
21 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
22 this matter and shall become effective at 12 o'clock noon on FEB 21 2023.

23 IT IS SO ORDERED 1.19.23, 2022.

24 REAL ESTATE COMMISSIONER

25
26 
27 DOUGLAS R. McCAULEY