

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

4 Telephone: (916) 576-8700
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FILED
APR 09 2024
DEPARTMENT OF REAL ESTATE
By J. Taqqart

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

12 BEETHOVEN HOLDINGS,
13 TROYER THEODORE GUY,
14 and HIALYS LEAL SOUSA,)

Respondents.)

No. H-3512 FR

STIPULATION AND
AGREEMENT

15 It is hereby stipulated by and between BEETHOVEN HOLDINGS (BH),
16 HIALYS LEAL SOUSA (SOUSA), represented by Joshua A. Rosenthal, and the Complainant,
17 acting by and through Richard K. Uno, Counsel for the Department of Real Estate (Department),
18 as follows for the purpose of settling and disposing the Accusation filed on August 9, 2023, in
19 this matter:

20 1. All issues which were to be contested and all evidence which was to be
21 presented by Complainant and Respondent 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.
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1 2. Respondents have received, read, and understand the Statement to
2 Respondent, and the Discovery Provisions of the APA filed by the Department in this
3 proceeding.

4 3. Respondents filed a Notice 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 Notice of Defense. Respondents
7 acknowledge that Respondents understand that by withdrawing said Notice of Defense
8 Respondents will thereby waive Respondents' rights to require the Real Estate Commissioner
9 (Commissioner) to prove the allegations in the Accusation at a contested hearing held in
10 accordance with the provisions of the APA, and that Respondents will waive other rights
11 afforded to Respondents in connection with the hearing such as the right to present evidence in
12 defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

19 5. This Stipulation and Agreement and Respondents' decision not to contest
20 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and
21 are expressly limited to this proceeding and any other proceeding or case in which the
22 Department is involved.

23 6. It is understood by the parties that the Commissioner may adopt the
24 Stipulation and Agreement as his Decision and Order in this matter thereby imposing the penalty
25 and sanctions on the real estate licenses and license rights of Respondents as set forth in the
26 below "Order". In the event that the Commissioner in her discretion does not adopt the
27 Stipulation and Agreement, it shall be void and of no effect, and Respondents shall retain the

1 right to a hearing and proceeding on the Accusation under all the provisions of the APA and
2 shall not be bound by any admission or waiver made herein.

3 7. The Order or any subsequent Order of the Commissioner made pursuant to
4 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further
5 administrative or civil proceedings by the Department with respect to any matters which were
6 not specifically alleged in Accusation H-3512 FR.

7 8. BH understands that by agreeing to this Stipulation, BH agrees jointly and
8 severally with GUY, to pay, pursuant to Section 10106 of the Business and Professions Code
9 (Code), the cost of the investigation (\$5,470.60) and the cost of enforcement (\$960.00) which led
10 to this disciplinary action. The amount of said costs is \$6,430.60.

11 * * *

12 DETERMINATION OF ISSUES

13 By reason of the foregoing stipulations and waivers and solely for the purpose of
14 settlement of the pending Accusation without a hearing, it is stipulated and agreed that the
15 following determination of issues shall be made:

16 The acts and omissions of BH and SOUSA as described in the Accusation are
17 grounds for the suspension or revocation of BH's and SOUSA's licenses and license rights
18 under the Section 10177(d) and (g) of the Code.

19 ORDER

20 BEETHOVEN HOLDINGS

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

23 1) Thirty (30) days of said suspension shall be stayed, upon the condition that BH
24 petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to
25 Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total monetary
26 penalty of \$1,500.00.

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

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

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

12 d) If BH pays the monetary penalty and any other moneys due under this Stipulation
13 and Agreement and if no further cause for disciplinary action against the real estate license of
14 said BH occurs within two (2) years from the effective date of this Order, the entire stay hereby
15 granted this Order, as to said BH only, shall become permanent.

16 2) Thirty (30) days of said suspension shall be stayed for two (2) years upon the
17 following terms and conditions:

18 a) BH shall obey all laws, rules and regulations governing the rights, duties and
19 responsibilities of a real estate licensee in the State of California; and,

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

25 3) All licenses and licensing rights of BH are indefinitely suspended unless
26 or until BH pays the sum of \$5,470.60 for the Commissioner's reasonable cost of the
27 investigation and \$960.00 for the cost of enforcement, which led to this disciplinary action.

1 Said payment shall be in the form of a cashier's check made payable to the Department of Real
2 Estate. The investigative and enforcement costs must be delivered to the Department of Real
3 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective
4 date of this Decision and Order.

5 HIALYS SOUSA.

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

9 4) Thirty (30) days of said suspension shall be stayed, upon the condition that
10 SOUSA petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant
11 to Section 10175.2 of the Code at a rate of \$100 for each day of the suspension for a total
12 monetary penalty of \$3,000.00.

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

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

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

24 d) If SOUSA pays the monetary penalty and any other moneys due under this
25 Stipulation and Agreement and if no further cause for disciplinary action against the real estate
26 license of said SOUSA occurs within two (2) years from the effective date of this Order, the
27 entire stay hereby granted this Order, as to said SOUSA only, shall become permanent.

1 5) Thirty (30) days of said suspension shall be stayed for two (2) years upon the
2 following terms and conditions:

3 a) SOUSA shall obey all laws, rules and regulations governing the rights, duties and
4 responsibilities of a real estate licensee in the State of California; and,

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

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13 DATED

3/13/27


14 RICHARD K. UNO
15 Counsel for Complainant

16 * * *

17 I have read the Stipulation and Agreement, discussed it with my counsel, and its
18 terms are understood by me and are agreeable and acceptable to me. I understand that I am
19 waiving rights given to me by the California Administrative Procedure Act, and I willingly,
20 intelligently and voluntarily waive those rights, including the right of requiring the
21 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
22 right to cross-examine witnesses against me and to present evidence in defense and mitigation of
23 the charges.

24 Respondent and Respondents' attorney further agree to send the original signed
25 Stipulation by mail to the following address no later than one (1) week from the date the
26 Stipulation is signed by Respondent and Respondent's attorney: *Department of Real Estate,*
27 *Legal Section, P.O. Box 137007, Sacramento, California 95813-7007.* Respondent and

1 Respondent's attorney understand and agree that if they fail to return the original signed
2 Stipulation by the due date, Complainant retains the right to set this matter for hearing.

3
4 BEETHOVEN HOLDINGS

5 3.11.2024


6 DATED


By: TROKER THEODORE GUY
Designated Officer

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8 ***

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10 3/11/24

11 DATED



HIALYS LEAL SOUSA
Respondent

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13 ***

14
15 *I have reviewed the Stipulation and Agreement as to form and content and have*
16 *advised my clients accordingly.*

17
18 3/11/24

19 DATED


JOSHUA A. ROSENTHAL
Attorney for Respondent

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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 APR 29 2024.

IT IS SO ORDERED 4/18/2024.

CHIKA SUNQUIST
REAL ESTATE COMMISSIONER



By: Marcus L. McCarther
Chief Deputy Real Estate Commissioner