

FILED

1 DEPARTMENT OF REAL ESTATE
 2 P. O. Box 187007
 3 Sacramento, CA 95818-7007
 4 Telephone: (916) 227-2380

JUL 23 2013

BUREAU OF REAL ESTATE

By *L. Jones*

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

* * *

11 In the Matter of the Accusation of)

DRE No. H-4301 SD

12 EAGLE ESTATES, INC.,)

13 STIPULATION AND AGREEMENT
 14 IN SETTLEMENT AND ORDER

15 Respondent.)

16 It is hereby stipulated by and between EAGLE ESTATES, INC. (Respondent),
 17 and their counsel FRANK M. BUDA, and the Complainant, acting by and through Richard K.
 18 Uno, Counsel for the Department of Real Estate; as follows for the purpose of settling and
 19 disposing of the Accusation filed on February 15, 2012, in 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 In Settlement and Order.

25 2. Respondent has received, read and understand the Statement to Respondent,
 26 the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate
 27 in this proceeding.

1 3. On or about March 7, 2012, Respondent filed a Notice of Defense pursuant to
2 Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations
3 in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
4 Respondent acknowledges that it understands that by withdrawing said Notice of Defense it will
5 thereby waive it's right to require the Commissioner to prove the allegations in the Accusation at
6 a contested hearing held in accordance with the provisions of the APA and that they will waive
7 other rights afforded to it in connection with the hearing such as the right to present evidence in
8 defense of the allegations in the Accusation and the right to cross-examine witnesses.

9 4. Respondent, pursuant to the limitations set forth below, hereby admits that the
10 factual allegations or findings of fact as set forth in the Accusation filed in this proceeding are
11 true and correct and the Real Estate Commissioner shall not be required to provide further
12 evidence of such allegations.

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

20 6. The Order or any subsequent Order of the Real Estate Commissioner made
21 pursuant to this Stipulation and Agreement In Settlement and Order shall not constitute an
22 estoppel, merger or bar to any further administrative or civil proceedings by the Department of
23 Real Estate with respect to any matters which were not specifically alleged to be causes for
24 accusation in this proceeding.

25 7. Respondent understands that by agreeing to this Stipulation and Agreement
26 In Settlement and Order, Respondent agrees to pay, pursuant to Section 10148 of the Business
27 and Professions Code (Code), the cost of the audit which led to this disciplinary action. The

1 amount of said cost is \$4,862.00.

2 8. Respondent has received, read and understands the "Notice Concerning
3 Costs of Subsequent Audits". Respondent understands that by agreeing to this Stipulation and
4 Agreement in Settlement and Order, the findings set forth below in the DETERMINATION OF
5 ISSUES become final, and that the Commissioner may charge Respondent for the cost of any
6 audit conducted pursuant to Section 10148 of the Code to determine if the violations have been
7 corrected. The maximum costs of said audit will not exceed \$4,862.00.

8
9 DETERMINATION OF ISSUES

10 By reason of the foregoing stipulations, admissions and waivers, and solely for
11 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and
12 agreed that the acts and/or omissions of Respondent, as described in the Accusation, constitute
13 grounds for the suspension or revocation of the licenses and license rights of EAGLE ESTATES,
14 INC. under the provisions of Sections 2831.1, 2831.2 and 2832 of Title 10 of the California
15 Code of Regulations (Regulations) and Sections 10145, 10177(d) and 10177(g) of the Code.

16 ORDER

17 A. EAGLE ESTATES, INC.

18 1. The corporate real estate broker license and license rights of Respondent,
19 under the Real Estate Law are suspended for a period of sixty (60) days from the effective date
20 of this Order; provided, however, that if Respondent petitions, thirty (30) days of said
21 suspension shall be stayed upon condition that:

22 a. Respondent pays a monetary penalty pursuant to Section 10175.2 of the Code
23 at the rate of \$100.00 per day for thirty (30) days of the suspension for a total monetary penalty
24 of \$3,000.00.

25 b. Said payment shall be in the form of a cashier's check or certified check made
26 payable to the Consumer Recovery Account of the Real Estate Fund. Said check must be
27 received by the Department prior to the effective date of the Decision in this matter.

1 b. Said payment shall be in the form of a cashier's check or certified check made
2 payable to the Consumer Recovery Account of the Real Estate Fund. Said check must be
3 received by the Department prior to the effective date of the Decision in this matter.

4 c. No further cause for disciplinary action against the real estate license of
5 Respondent occurs within one year from the effective date of the Decision in this matter.

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

11 e. If Respondent pays the monetary penalty, and if no further cause for
12 disciplinary action against the real estate license of Respondent occurs within one (1) year from
13 the effective date of the Decision, the stay hereby granted shall become permanent.

14 2. The remaining thirty (30) days of said suspension shall be stayed for one (1)
15 year upon the following terms and conditions:

16 a. Respondent shall obey all laws, rules and regulations governing the rights,
17 duties and responsibilities of a real estate licensee in the State of California; and;

18 b. That no final subsequent determination be made, after hearing or upon
19 stipulation, that cause for disciplinary action occurred within one (1) year from the effective
20 date of this Order. Should such a determination be made, the Commissioner may, in his
21 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
22 suspension.

23 3. Pursuant to Section 10148 of the Code, Respondent, shall pay for the cost of
24 audit in the amount of \$4,862.00 for the Commissioner's reasonable cost for: a) the audit which
25 led to this disciplinary action and, b) a subsequent audit, which shall be equal to or less than
26 \$4,862.00 to determine if Respondent has corrected the trust fund violations found in the
27 Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the

1 Commissioner may use the estimated average hourly salary for all persons performing audits of
2 real estate brokers, and shall include an allocation for travel costs, including mileage, time to
3 and from the auditor's place of work and per diem. Respondent shall pay such cost within sixty
4 (60) days of receiving an invoice from the Commissioner detailing the activities performed
5 during the audit and the amount of time spent performing those activities. The Commissioner
6 may, in his discretion, vacate and set aside the stay order, if payment is not timely made as
7 provided for herein, or as provided for in a subsequent agreement between the Respondents and
8 the Commissioner. The vacation and the set aside of the stay shall remain in effect until
9 payment is made in full, or until Respondent enters into an agreement satisfactory to the
10 Commissioner to provide for payment. Should no order vacating the stay be issued, either in
11 accordance with this condition, the stay imposed herein shall become permanent.

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13 4/16/13
14 DATED

13 Richard K. Uno
14 RICHARD K. UNO, Counsel
15 DEPARTMENT OF REAL ESTATE

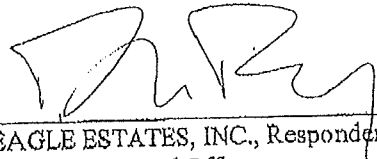
16 * * *

17 I have read the Stipulation and Agreement in Settlement and Order and its terms
18 are understood by me and are agreeable and acceptable to me. I understand that I am waiving
19 rights given to me by the California Administrative Procedure Act (including but not limited
20 to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly,
21 intelligently, and voluntarily waive those rights, including the right of requiring the
22 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
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12/27/2012 THU 13:35 FAX FRANK BUDA

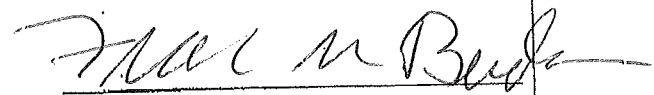
1 right to cross-examine witnesses against me and to present evidence in defense and mitigation
2 of the charges.

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6 4/11/13
7 DATED

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11 EAGLE ESTATES, INC., Respondent
12 By the Designated Officer,
13 _____

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

19
20 4-11-13
21 DATED

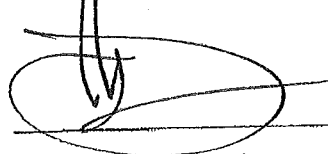
22 
23 FRANK M. BUDA

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27 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 AUG 13 2013

IT IS SO ORDERED

July 19, 2013

Real Estate Commissioner



By: **JEFFREY MASON**
Chief Deputy Commissioner