

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

DEC 10 2013

BUREAU OF REAL ESTATE

By K. Contreras

8 BEFORE THE
9 BUREAU OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12	In the Matter of the Accusation of)	NO. H-4365 SD
13)	
14	PROPERTY BROKERAGE AND)	<u>STIPULATION AND AGREEMENT</u>
15	LOANS and JEFFREY CHARO,)	
16	Respondents.)	
17)	

18 It is hereby stipulated by and between Respondent JEFFREY CHARO
19 ("Respondent") and his attorney JOHN W. TOWER, and the Complainant, acting by and through
20 JOHN W. BARRON, Counsel for the Department of Real Estate, as follows for the purpose of
21 settling and disposing of the Accusation filed on June 11, 2012, in this matter:

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

1 2. Respondent has received, read and understands the Statement to Respondent,
2 the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate
3 (the "Department") in this proceeding.

4 3. Respondent 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 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
7 acknowledges that he will thereby waive his right to require the Real Estate Commissioner (the
8 "Commissioner") to prove the allegations in the Accusation at a contested hearing held in
9 accordance with the provisions of the APA and that he will waive other rights afforded to him in
10 connection with the hearing such as the right to present evidence in defense of the allegations in
11 the Accusation and the right to cross-examine witnesses.

12 4. Respondent, pursuant to the limitations set forth below, hereby admits that the
13 factual allegations in the Accusation filed in this proceeding are true and correct and the
14 Commissioner shall not be required to provide further evidence to prove such allegations.

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

22 6. The Order or any subsequent Order of the Commissioner made pursuant to
23 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further
24 administrative or civil proceedings by the Department with respect to any matters which were
25 not specifically alleged to be causes for accusation in this proceeding as admitted or withdrawn.
26 All issues which were to be contested and all evidence which was to be presented by
27 Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be

1 held in accordance with the provisions of the Administrative Procedure Act ("APA"), shall
2 instead and in place thereof be submitted solely on the basis of the provisions of this
3 Stipulation and Agreement.

4 7. This Stipulation and Agreement shall not constitute an estoppel, merger or
5 bar to any further administrative or civil proceedings by the Department of Real Estate with
6 respect to any matters which were not specifically alleged to be causes for accusation in this
7 proceeding.

8 8. Respondent understands that by agreeing to this Stipulation and
9 Agreement, Respondent agrees to pay, pursuant to Section 10148 of the California Business and
10 Professions Code ("the Code"), the cost of the audit which resulted in the determination that
11 Respondent committed the violation(s) found in the Determination of Issues. The amount of
12 such costs is \$2,878.50.

13 9. Respondent further understands that by agreeing to this Stipulation and
14 Agreement, the findings set forth below in the Determination of Issues becomes final, and the
15 Commissioner may charge said Respondent for the costs of any audit conducted pursuant to
16 Section 10148 of the Code to determine if the violations have been corrected. The maximum
17 cost of said audit shall not exceed \$2,878.50.

18 10. Respondent further understands that by agreeing to this Stipulation and
19 Agreement, the findings set forth below in the Determination of Issues become final, and that the
20 Commission may charge said Respondent for the costs of the investigation herein. The amount
21 of such costs is \$1,995.60.

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 hearing, it is stipulated and agreed
25 that the following Determination of Issues shall be made:

26 The acts and/or omissions of Respondent as described in the Accusation violate
27 Sections 10085.5 (collection of advance fees), 10085.6 (collection of advance fees), 10145 (trust

1 fund handling), 10159.2 (broker supervision), 10176(e) (commingling), 10177(d) (willful
2 disregard of real estate law) and/or 10177(g) (negligence), 10177(h) (broker supervision),
3 10177(j) (fraud or dishonest dealing), and 10177(q) (violation of Civil Code related to
4 mortgages) of the Code; Sections 2725 (broker supervision), 2742(c) (good standing
5 requirement), 2831 (trust fund records), 2831.1 (maintenance of separate records for each
6 beneficiary), 2831.2 (trust account reconciliation), 2832 (trust fund handling), 2835
7 (commingling), 2970 (submission of advance fee materials) and 2972 (content requirement for
8 verified accounting) of Title 10, California Code of Regulations; and Sections 2944.7 (loan
9 modification/advance fees) and/or 2945.4 (prohibited practices-advance fees) of the California
10 Civil Code.

11 ORDER

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

15 1. Thirty (30) days of said suspension shall be stayed upon the condition that
16 Respondent petition pursuant to Section 10175.2 of the Code and pays a monetary penalty
17 pursuant to Section 10175.2 of the Code at a rate of \$50.00 for each day of the suspension for a
18 total monetary penalty of \$1,500.00.

19 a. Said payment shall be in the form of a cashier's check or certified check
20 made payable to the Recovery Account of the Real Estate Fund. Said check must be delivered
21 to the Department prior to the effective date of the Order in this matter.

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

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

1 Department under the terms of this decision.

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

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

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

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

15 3. Respondent shall pay the sum of \$2,878.50 for the Commissioner's costs
16 of the audit which led to this disciplinary action. Respondent shall pay such cost within sixty
17 (60) days of receiving an invoice therefore from the Commissioner. The Commissioner may
18 indefinitely suspend all licenses and licensing rights of Respondent pending a hearing held in
19 accordance with Section 11500, et seq., of the Government Code, if payment is not timely
20 made as provided for herein, or as provided for in a subsequent agreement between Respondent
21 and the Commissioner. The suspension shall remain in effect until payment is made in full or
22 until Respondent enters into an agreement satisfactory to the Commissioner to provide for
23 payment, or until a decision providing otherwise is adopted following a hearing held pursuant
24 to this condition.

25 4. Respondent shall pay the Commissioner's costs, not to exceed \$2,878.50, of
26 any audit conducted pursuant to Section 10148 of the Code to determine of Respondent has
27 corrected the violations described in the Determination of Issues, above, and any other

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

12 5. Respondent shall, within six (6) months from the effective date of this
13 Order, take and pass the Professional Responsibility Examination administered by the
14 Department, including the payment of the appropriate examination fee. If Respondent fails to
15 satisfy this condition, the Commissioner may order the suspension of all licenses and licensing
16 rights of Respondent until Respondent passes the examination.

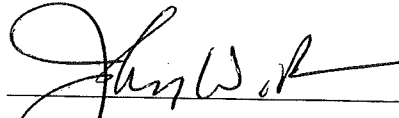
17 6. Notwithstanding any other provision of this Order, all licenses and
18 licensing rights of Respondent are indefinitely suspended unless and until he provides proof
19 satisfactory to the Commissioner that he has taken and successfully completed the continuing
20 education course on Trust Fund Accounting and Handling specified in Section 10170.5(a)(3) of
21 the Code. The course must have been completed no earlier than one hundred twenty (120)
22 days prior to the effective date of this Order, and proof must be submitted prior to the effective
23 date of this Order, to prevent suspension of Respondent's license pursuant to this condition.

24 7. All licenses and licensing rights of Respondent are indefinitely
25 suspended unless or until Respondent pays the sum of \$1,995.60 for the Commissioner's
26 reasonable cost of the investigation and enforcement which led to this disciplinary action. Said
27 payment shall be in the form of a cashier's check or certified check made payable to the Real

1 Estate Fund. Said check must be received by the Department prior to the effective date of the
2 Order in this matter.

3
4 10/22/13

5 DATED

6 

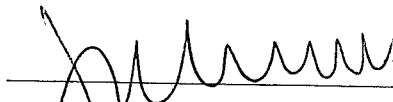
7 JOHN W. BARRON, Counsel
8 Bureau of Real Estate

9 ***

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

17 Oct 4 2013

18 DATED

19 

20 JEFFREY CHARO, Respondent

21 ***

22 I have reviewed this Stipulation and Agreement and Order as to form and content
23 and have advised my client accordingly.

24 October 8, 2013

25 DATED

26 

27 JOHN W. TOWER, Attorney for

28 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
29 this matter and shall become effective at 12 o'clock noon on DEC 31 2013

IT IS SO ORDERED NOVEMBER 27, 2013.

Real Estate Commissioner



A handwritten signature in black ink, appearing to be 'JM', is written over a horizontal line. The signature is enclosed within a large, hand-drawn oval.

By: JEFFREY MASON
Chief Deputy Commissioner

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