

FILED

NOV 19 2013

BUREAU OF REAL ESTATE

By *L. Jones*

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

4 Telephone: (916) 263-8679
5 Fax: (916) 263-3767
6
7

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11
12 In the Matter of the Accusation of) DRE No. H-4408 SD
13)
14 KRC PROPERTY MANAGEMENT I, INC.)
15 JERALD FRIEDMAN, JOHN A. VISCONSI,) STIPULATION AND AGREEMENT
16 CONOR FLYNN and KIM DESIREE COOPER) IN SETTLEMENT AND ORDER
17 Respondents.)
18)

19 It is hereby stipulated by and between KRC PROPERTY MANAGEMENT I,
20 INC. (Respondent), and Respondent's counsel Harvey L. Rochman, and the Complainant, acting
21 by and through Richard K. Uno, Counsel for the Bureau of Real Estate, as follows for the
22 purpose of settling and disposing of the Accusation filed on September 4, 2012, in this matter:

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

27 2. Respondent has received, read and understands the Statement to
Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department of

1 Real Estate in this proceeding.

2 3. On October 15, 2012, Respondent filed a Notice of Defense pursuant to
3 Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations
4 in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
5 Respondent acknowledges that Respondent understands that by withdrawing said Notice of
6 Defense Respondent will thereby waive Respondent's right to require the Commissioner to prove
7 the allegations in the Accusation at a contested hearing held in accordance with the provisions of
8 the APA and that Respondent will waive other rights afforded to it Respondent connection with
9 the hearing such as the right to present evidence in defense of the allegations in the Accusation
10 and the right to cross-examine witnesses.

11 4. This stipulation is based on the factual allegations regarding Respondent
12 contained in Paragraphs 1 through 7, 9, 10, 12, 13, 15 and 17 in the Accusation. In the interest of
13 expediency and economy, Respondent chooses not to contest these factual allegations, but to
14 remain silent and understands that, as a result thereof, these factual statements will serve as a
15 prima facie basis for the "Determination of Issues" and "Order" set forth below. The Real Estate
16 Commissioner shall not be required to provide further evidence to prove such allegations.

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

25 6. The Order or any subsequent Order of the Real Estate Commissioner made
26 pursuant to this Stipulation and Agreement In Settlement and Order shall not constitute an
27 estoppel, merger or bar to any further administrative or civil proceedings by the Bureau of

1 Real Estate with respect to any matters which were not specifically alleged to be causes for
2 accusation in this proceeding.

3
4 DETERMINATION OF ISSUES

5 By reason of the foregoing stipulations, admissions and waivers, and solely for
6 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and
7 agreed that the acts and/or omissions of Respondent, as described in Paragraphs 1 through 7, 9,
8 10, 12, 13, 15 and 17 of the Accusation, if proven, would constitute grounds for the suspension
9 of the license and license rights of KRC under the provisions of Section 10177(g) of the Code.
10 It is further stipulated and agreed that there are no grounds for the suspension or revocation of the
11 licenses and license rights of JERALD FRIEDMAN, JOHN A. VISCONSI, CONOR FLYNN or
12 KIM DESIREE COOPER.

13 ORDER

14 KRC

15 The corporate real estate broker license and license rights of Respondent, under
16 the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this
17 Order; provided, however, that:

18 1. Sixty (60) days of said suspension shall be stayed, upon the condition
19 that Respondent petition pursuant to Section 10175.2 of the Code and pays a monetary penalty
20 pursuant to Section 10175.2 of the code at a rate of \$100.00 for each day of the suspension for
21 a total monetary penalty of \$6,000.00.

22 a. Said payment shall be in the form of a cashier's check or certified
23 check made payable to the Recovery Account of the Real Estate Fund. Said check must be
24 received by the Bureau prior to the effective date of the Decision in this matter.

25 b. No final subsequent determination be made, after hearing or
26 upon stipulation that cause for disciplinary action occurred within two (2) years from the
27 effective date of this Order. Should such a determination be made, the Commissioner may, in

1 his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
2 suspension. Should no such determination be made, the stay imposed herein shall become
3 permanent.

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

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

12 2. All licenses and licensing rights of Respondent are indefinitely suspended
13 unless or until Respondent pays the sum of \$3,611.20 for the Commissioner's reasonable cost of
14 the investigation and enforcement which led to this disciplinary action before the effective date
15 of the Decision. Said payment shall be in the form of a cashier's check or certified check made
16 payable to the Real Estate Fund.

17 INDIVIDUAL RESPONDENTS

18 JERALD FRIEDMAN, JOHN A. VISCONSI, CONOR FLYNN and
19 KIM DESIREE COOPER are each dismissed as a party to the Accusation herein filed on
20 September 4, 2012.

21 9/25/13

22 DATED

21 Richard K. Uno


22 RICHARD K. UNO, Counsel III
23 BUREAU OF REAL ESTATE

24 * * *

25 I have read the Stipulation and Agreement in Settlement and Order and its terms
26 are understood by me and are agreeable and acceptable to me. I understand that I am waiving
27 rights given to me by the California Administrative Procedure Act (including but not limited


1 to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly,
2 intelligently, and voluntarily waive those rights, including the right of requiring the
3 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
4 right to cross-examine witnesses against me and to present evidence in defense and mitigation
5 of the charges.

6
7 9/23/13
8 DATED


KRC PROPERTY MANAGEMENT I, INC.
Respondent
By the Designated Officer, CONOR
FLYNN

11 *I have reviewed this Stipulation and Agreement as to form and content and have*
12 *advised my clients accordingly.*


13
14 9/23/13
15 DATED


HARVEY L. ROCHMAN

17 * * *

18 The foregoing Stipulation and Agreement In Settlement and Order is hereby
19 adopted by the Real Estate Commissioner as his Decision and Order and shall become effective
20 at 12 o'clock noon on DEC 09 2013

21 IT IS SO ORDERED NOV 08 2013

22 REAL ESTATE COMMISSIONER
23 
24

25
26 By: JEFFREY MASON
27 Chief Deputy Commissioner