

1 BUREAU OF REAL ESTATE
 2 P. O. Box 137007
 3 Sacramento, CA 95813-7007
 4 Telephone: (916) 263-8670

FILED

APR 16 2014

BUREAU OF REAL ESTATE

By *[Signature]*

8 BEFORE THE BUREAU OF REAL ESTATE
 9 STATE OF CALIFORNIA

11 In the Matter of the Accusation of
 12 FORECLOSURE SPECIALISTS, INC., and
 13 JON F. FAZIO,
 14 Respondents.

NO. H-4463 SD

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

16 It is hereby stipulated by and between Respondents FORECLOSURE
 17 SPECIALISTS, INC. ("FSI") and JON F. FAZIO ("FAZIO"), (collectively "Respondents"), and
 18 their attorney, David S. Bright, and the Complainant, acting by and through John W. Barton,
 19 Counsel for the Bureau of Real Estate ("the Bureau"), as follows for the purpose of settling and
 20 disposing of the Accusation filed on February 28, 2013, in this matter:

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

26 2. Respondents have received, read and understand the Statement to Respondent,
 27 the Discovery Provisions of the APA, and the Accusation filed by the Bureau in this proceeding.

1 3. A Notice of Defense was filed on March 15, 2013, by Respondents, pursuant
2 to Section 11505 of the Government Code for the purpose of requesting a hearing on the
3 allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notice
4 of Defense. Respondents acknowledge that they understand that by withdrawing said Notice of
5 Defense, they will thereby waive their right to require the Real Estate Commissioner
6 ("Commissioner") to prove the allegations in the Accusation at a contested hearing held in
7 accordance with the provisions of the APA and that they will waive other rights afforded to
8 them in connection with the hearing such as the right to present evidence in defense of the
9 allegations in the Accusation and the right to cross-examine witnesses.

10 4. This Stipulation and Agreement in Settlement and Order is based on the
11 factual allegations contained in the Accusation. In the interests of expedience and economy,
12 Respondents chose not to contest these allegations at hearing, but rather understand that, as a
13 result thereof, these allegations, without being admitted or denied, will serve as a prima facie
14 basis for the disciplinary action stipulated to herein. The Commissioner shall not be required
15 to provide further evidence to prove said factual allegations.

16 5. This Stipulation and Respondents' decision not to contest the Accusation are
17 made for the purpose of reaching an agreed disposition of this proceeding and are expressly
18 limited to this proceeding and any other proceeding or case in which the Bureau, the state or
19 federal government, an agency of this state, or an agency of another state is involved.

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

27 herein.

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

5 8. Respondents understand that by agreeing to this Stipulation and Agreement,
 6 Respondents agree to pay, pursuant to Section 10148 of the California Business and Professions
 7 Code ("the Code"), the cost of the audit which resulted in the determination that Respondents
 8 committed the violation(s) found in the Determination of Issues. The amount of such costs is
 9 \$8,132.00.

10 9. Respondents further understand that by agreeing to this Stipulation and
 11 Agreement, the findings set forth below in the Determination of Issues becomes final, and the
 12 Commissioner may charge Respondents for the costs of any audit conducted pursuant to Section
 13 10148 of the Code to determine if the violations have been corrected. The maximum cost of said
 14 audit shall not exceed \$8,132.00.

15 10. Respondents further understand that by agreeing to this Stipulation and
 16 Agreement, the findings set forth below in the Determination of Issues become final, and that the
 17 Commissioner may charge Respondents for the costs of the investigation herein. The amount of
 18 such costs is \$1,485.70.

19 **DETERMINATION OF ISSUES**

20 The acts and omissions of Respondents as described in the Accusation
 21 (excluding those allegations involving trust fund accounting and handling) are grounds for the
 22 suspension or revocation of the license and license rights of FSI under Sections 10177(d)
 23 (willful disregard/violation of Real Estate Law) and/or 10177(g) (negligence/incompetence),
 24 10232 (threshold notification), 10232.25 (disclosure statement requirements), 10232.5
 25 (disclosure statement content), 10233 (service promissory note authorization requirements) and
 26 10238 (multi-lender reporting requirements) of the Code; and are grounds for the suspension or
 27 revocation of the licenses and license rights of FAZIO under provisions of Sections 10177(d)

1 and/or 10177(g), 10177(h) (broker supervision), 10232, 10232.25, 10232.5, 10233 and 10238 of
2 the Code.

3 ORDER

4 1

5 All licenses and licensing rights of FSI under the Real Estate Law are suspended
6 for a period of thirty (30) days from the effective date of this Order; provided, however, that:

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

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

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

17 2

18 All licenses and licensing rights of FAZIO under the Real Estate Law are
19 suspended for a period of thirty (30) days from the effective date of this Order; provided,
20 however, that:

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

23 a. FAZIO shall obey all laws, rules and regulations governing the rights,
24 duties, and responsibilities of a real estate licensee in the State of California; and

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

1 discretion, vacate and set aside the stay order and re-impose 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. FAZIO shall, within six (6) months from the effective date of this
5 Order, take and pass the Professional Responsibility Examination administered by the Bureau,
6 including the payment of the appropriate examination fee. If FAZIO fails to satisfy this
7 condition, FAZIO's real estate license shall automatically be suspended until FAZIO passes the
8 examination.

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

16 3

17 1. Respondents, jointly and severally, shall pay the sum of \$8,132.00 for the
18 Commissioner's cost of the audit which led to this disciplinary action. Respondents shall pay
19 such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.
20 Respondents' real estate licenses shall automatically be suspended until payment is made in
21 full or until Respondents enter into an agreement satisfactory to the Commissioner to provide
22 for payment, or until a decision providing otherwise is adopted following a hearing held
23 pursuant to this condition.

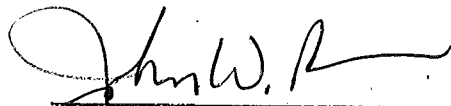
24 2. Respondents, jointly and severally, shall pay the Commissioner's costs,
25 not to exceed \$8,132.00, of any audit conducted pursuant to Section 10148 of the Code to
26 determine if Respondents have corrected the violations described in the Determination of
27 Issues, above, and any other violations found in the audit which led to this disciplinary action.

1 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use
 2 the estimated average hourly salary for all persons performing audits of real estate brokers, and
 3 shall include an allocation for travel time to and from the auditor's place of work. Respondents
 4 shall pay such cost within sixty (60) days of receiving an invoice therefore from the
 5 Commissioner. If Respondents fail to satisfy this condition in a timely manner as provided for
 6 herein, or as provided for in a subsequent agreement between Respondents and the
 7 Commissioner, Respondents' real estate licenses shall automatically be suspended until
 8 payment is made in full or until Respondents enter into an agreement satisfactory to the
 9 Commissioner to provide for payment. Upon full payment, the indefinite suspension provided
 10 for in this paragraph shall be stayed.

11 3. All licenses and licensing rights of Respondents are indefinitely suspended
 12 unless or until Respondents pay the sum of \$1,485.70 for the Commissioner's reasonable cost of
 13 the investigation and enforcement which led to this disciplinary action. Said payment shall be in
 14 the form of a cashier's check or certified check made payable to the Real Estate Fund and mailed
 15 to: Bureau of Real Estate, P. O. Box 137007, Sacramento, CA 95813-7007 or delivered to the
 16 Bureau of Real Estate at 1651 Exposition Boulevard, Sacramento, CA 95815. Said check must
 17 be received by the Bureau prior to the effective date of the Order in this matter.

18 1/3/14

19 DATED

20 
 21 JOHN W. BARRON, Counsel
 22 BUREAU OF REAL ESTATE

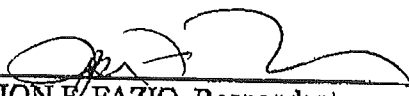
23 * * *

24 I have read the Stipulation and Agreement in Settlement and Order and its terms
 25 are understood by me and are agreeable and acceptable to me. I understand that I am waiving
 26 rights given to me by the California APA (including but not limited to Sections 11506, 11508,
 27 11509 and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive
 those rights, including the right of requiring the Commissioner to prove the allegations in the

1 Accusation at a hearing at which I would have the right to cross-examine witnesses against me
2 and to present evidence in defense and mitigation of the charges.
3

4 January 3, 2014

5 DATED

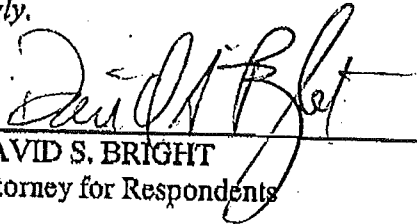

6 JON E. FAZIO, Respondent
7 Individually and on behalf of
8 FORECLOSURE SPECIALISTS, INC.,
9 Respondent

10 * * *

11 *I have reviewed this Stipulation and Agreement In Settlement and Order as to
12 form and content and have advised my client accordingly.*

13 1-3-14

14 DATED


15 DAVID S. BRIGHT
16 Attorney for Respondents

17 * * *

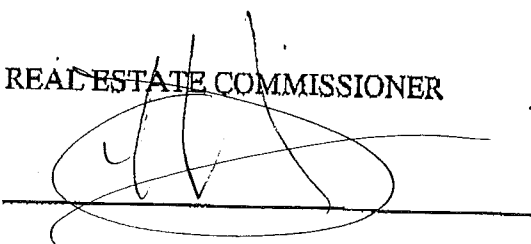
18 The foregoing Stipulation and Agreement in Settlement and Order is hereby
19 adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on

MAY 07 2014

20 IT IS SO ORDERED

APR 08 2014

21 REAL ESTATE COMMISSIONER


22
23
24
25 By: JEFFREY MASON
26 Chief Deputy Commissioner