

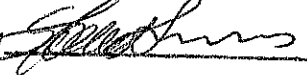
1 Bureau of Real Estate  
2 320 West 4th Street, Suite 350  
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

**FILED**

NOV 18 2015

BUREAU OF REAL ESTATE

By 

8  
9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation

13 JOSEPH RICHARD MORSE,  
14 doing business as San Diego Realty,

) No. H-04598 SD  
) OAH No. 2014041004  
)  
)

15  
16 Respondent.  
17 \_\_\_\_\_

) STIPULATION & AGREEMENT  
)  
)

18 It is hereby stipulated by and between Respondent JOSEPH RICHARD MORSE  
19 ("Respondent"), doing business as San Diego Realty, and Respondent's attorney, Samuel  
20 Spital, and the Complainant, acting by and through Cheryl Keily, Counsel for the Bureau of  
21 Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on  
22 March 6, 2014, in this matter.  
23

24 1. All issues which were to be contested and all evidence which was to be  
25 presented by Complainant and Respondent at a formal hearing on the Accusation, which  
26 hearing was to be held in accordance with the provisions of the Administrative Procedure Act  
27

1 (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of  
2 this Stipulation and Agreement.

3                 2. Respondent has received, read and understands the Statement to Respondent,  
4 the Discovery Provisions of the APA and the Accusation filed by the Bureau of Real Estate  
5 ("Bureau") in this proceeding.  
6

7                 3. On April 22, 2014, Respondent filed a Notice of Defense, pursuant to Section  
8 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the  
9 Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.  
10 Respondent acknowledges that he understands that by withdrawing said Notice of Defense he  
11 will thereby waive his right to require the Commissioner of Real Estate ("Commissioner") to  
12 prove the allegations in the Accusation at a contested hearing held in accordance with the  
13 provisions of the APA and that he will waive other rights afforded to him in connection with the  
14 hearing, such as the right to present evidence in defense of the allegations in the Accusation and  
15 the right to cross-examine witnesses.  
16

17                 4. This Stipulation is based on the factual allegations contained in the  
18 Accusation. In the interest of expedience and economy, Respondent chooses not to contest  
19 these allegations, but to remain silent and understand that, as a result thereof, these factual  
20 allegations, without being admitted or denied, will serve as a prima facie basis for the  
21 disciplinary action stipulated to herein. The Commissioner shall not be required to provide  
22 further evidence to prove said factual allegations.  
23

24                 5. This Stipulation is made for the purpose of reaching an agreed disposition of  
25 this proceeding and is expressly limited to this proceeding and any other proceeding or case in  
26 which the Bureau, the state or federal government, or any agency of this state, another state or  
27

1 federal government is involved, and otherwise shall not be admissible in any other criminal or  
2 civil proceedings.

3                 6. It is understood by the parties that the Commissioner may adopt the  
4 Stipulation and Agreement as his decision in this matter, thereby imposing the penalty and  
5 sanctions on Respondent's real estate licenses and license rights as set forth in the below  
6 "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation  
7 and Agreement, it shall be void and of no effect, and Respondent shall retain the right to a  
8 hearing and proceeding on the Accusation under all the provisions of the APA and shall not be  
9 bound by any admission or waiver made herein.  
10

11                 7. The Order or any subsequent Order of the Commissioner made pursuant to  
12 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any  
13 further administrative or civil proceedings by the Bureau with respect to any matters which  
14 were not specifically alleged to be causes for accusation in this proceeding.  
15

16                 8. Respondent understands that by agreeing to this Stipulation, Respondent  
17 agrees to pay, pursuant to Business and Professions Code ("Code") Section 10148, the cost of  
18 the original audit which led to this disciplinary action. The amount of said cost is \$5,240.20.  
19

20                 9. Respondent has received, read, and understands the "Notice Concerning Costs  
21 of Subsequent Audit." Respondent further understands that by agreeing to this Stipulation, the  
22 findings set forth below in the Determination of Issues become final, and the Commissioner  
23 may charge Respondent for the cost of any subsequent audit conducted pursuant to Code  
24 Section 10148 to determine if the violations have been corrected. The maximum cost of the  
25 subsequent audit shall not exceed \$5,240.20.  
26  
27

10. Respondent understands that by agreeing to this Stipulation, Respondent agrees to pay, pursuant to Code Section 10106, the cost of the investigation and enforcement of this matter. The amount of said cost is \$1,500.00.

#### DETERMINATION OF ISSUES

1. The conduct, acts or omissions of Respondent JOSEPH RICHARD MORSE, as set forth in the Accusation, is in violation of Code Section 10145 and Sections 2832.1, 2831, 2831.1, 2831.2 and 2834 of Title 10, Chapter 6, Code of Regulations ("Regulations") and constitutes cause to suspend or revoke the real estate license and license rights of Respondent JOSEPH RICHARD MORSE under the provisions of Code Sections 10177(d) and 10177(h).

#### ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I. ALL licenses and licensing rights of Respondent under the Real Estate Law are suspended for a period of thirty (30) days from the effective date of this Decision.

A. Provided, however, that if Respondent requests, the entire period of said suspension (or a portion thereof) shall be stayed for two (2) years upon condition that:

1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$50.00 per day for each day of the suspension for a total monetary penalty of \$1,500.

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

3. No further cause for disciplinary action against the real estate license of Respondent occurs within two (2) years from the effective date of the Decision in this matter.

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

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

11                   II. Pursuant to Section 10148 of the Business and Professions Code, Respondent  
12 shall pay the sum of \$5,240.20 for the Commissioner's cost of the audit which led to this  
13 disciplinary action. Respondent shall pay such cost within sixty (60) days of receiving an  
14 invoice therefor from the Commissioner. Payment of audit costs should not be made until  
15 Respondent receives the invoice. If Respondent fails to satisfy this condition in a timely  
16 manner as provided for herein, Respondent's real estate license shall automatically be  
17 suspended until payment is made in full, or until a decision providing otherwise is adopted  
18 following a hearing held pursuant to this condition.  
19

20                   Pursuant to Section 10148 of the Code, Respondent shall pay the  
21 Commissioner's reasonable cost, not to exceed \$5,240.20, for an audit to determine if  
22 Respondent has corrected the violation(s) found in the Determination of Issues. In calculating  
23 the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated  
24 average hourly salary for all persons performing audits of real estate brokers, and shall include  
25 an allocation for travel time to and from the auditor's place of work. Respondent shall pay such  
26 cost within sixty (60) days of receiving an invoice therefor from the Commissioner. Payment of  
27

1 the audit costs shall not be made until Respondent receives the invoice. If Respondent fails to  
2 satisfy this condition in a timely manner as provided for herein, Respondent's real estate  
3 license shall automatically be suspended until payment is made in full, or until a decision  
4 providing otherwise is adopted following a hearing held pursuant to this condition.  
5

6 III. Respondent shall pay the Commissioner's reasonable costs for investigation  
7 and enforcement of the matter. The investigation and enforcement costs which led to this  
8 disciplinary action total \$1,500. Said payment shall be made within ninety (90) days from the  
9 effective date of this Decision.

10 A. The Commissioner shall suspend the license of Respondent pending a  
11 hearing held in accordance with California Government Code Section 11500, et seq., if  
12 payment is not timely made as provided for herein. The suspension shall remain in effect until  
13 payment is made in full, or until a decision providing otherwise is adopted following a hearing  
14 held pursuant to this condition.  
15

16 IV. All licenses and licensing rights of Respondent are indefinitely suspended  
17 unless or until Respondent provides proof satisfactory to the Commissioner, of having taken  
18 and successfully completed the continuing education course on trust fund accounting and  
19 handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and  
20 Professions Code. Proof of satisfaction of this requirement includes evidence that respondent  
21 has successfully completed the trust fund account and handling continuing education course  
22 within 120 days prior to the effective date of the Decision in this matter.  
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24 V. Respondent has provided proof of restoration of the \$15,485.87 shortage.  
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DATED: Oct 28, 2015

  
Cheryl D. Kelly, Counsel  
BUREAU OF REAL ESTATE

\* \* \*

I have read the Stipulation and Agreement, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the APA (including but not limited to Sections 11506, 11508, 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 Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondent, to the Bureau at the following telephone/fax number (213) 576-6917. Respondent agrees, acknowledges, and understands that by electronically sending to the Bureau a fax copy of his actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Bureau shall be as binding on Respondent as if the Bureau had received the original signed Stipulation and Agreement.

DATED: \_\_\_\_\_

\_\_\_\_\_  
JOSEPH RICHARD MORSE

*I have reviewed the Stipulation and Agreement as to form and content and have advised my client accordingly.*

DATED: \_\_\_\_\_

\_\_\_\_\_  
Samuel Spital  
Attorney for Respondent  
JOSEPH RICHARD MORSE

BUREAU OF PROBATE AND ESTATE

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I have read the Stipulation and Agreement, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the APA (including but not limited to Sections 11506, 11508, 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 Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondent, to the Bureau at the following telephone/fax number (213) 576-6917. Respondent agrees, acknowledges, and understands that by electronically sending to the Bureau a fax copy of his actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Bureau shall be as binding on Respondent as if the Bureau had received the original signed Stipulation and Agreement.

DATED: 10/27/15

  
JOSEPH RICHARD MORSE

*I have reviewed the Stipulation and Agreement as to form and content and have advised my client accordingly.*

DATED: 10/27/15

  
Samuel Spital  
Attorney for Respondent  
JOSEPH RICHARD MORSE

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The foregoing Stipulation and Agreement is hereby adopted as my Decision in  
this matter and shall become effective at 12 o'clock noon on December 9, 2015.

IT IS SO ORDERED Nov. 16, 2015.

**WAYNE S. BELL**  
REAL ESTATE COMMISSIONER



By: JEFFREY MASON  
Chief Deputy Commissioner