

*See 4*

**FILED**

**AUG 20 2015**

**BUREAU OF REAL ESTATE**

By *[Signature]*

Bureau of Real Estate  
320 W. 4<sup>th</sup> St., Room 350  
Los Angeles, California 90013  
Telephone: (213) 576-6982

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	No. H-4690 SD
	<i>2015040064</i>
SIMCAL PROPERTIES, INC.;	)
and JAMES WILSON ROWE	) <u>STIPULATION AND AGREEMENT</u>
individually and as	)
designated officer of	)
Simcal Properties, Inc.,	)
	)
	)
	)
Respondents.	)
	)

It is hereby stipulated by and between SIMCAL PROPERTIES, INC. and JAMES WILSON ROWE (sometimes referred to as Respondents), and their attorney, Robert W. Balfour, and the Complainant, acting by and through James R. Peel, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on February 4, 2015, in this matter.

1. All issues which were contested and all evidence which was presented by Complainant and Respondents at a formal

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

6           2. Respondents have received, read and understand the  
7 Statement to Respondent, the Discovery Provisions of the  
8 Administrative Procedure Act ("APA") and the Accusation filed by  
9 the Bureau of Real Estate in this proceeding.

10           3. On February 23, 2015, Respondents filed a Notice  
11 of Defense pursuant to Section 11506 of the Government Code for  
12 the purpose of requesting a hearing on the allegations in the  
13 Accusation. Respondents hereby freely and voluntarily withdraw  
14 said Notice of Defense. Respondents acknowledge that they  
15 understand that by withdrawing said Notice of Defense they will  
16 thereby waive their right to require the Commissioner to prove  
17 the allegations in the Accusation at a contested hearing held in  
18 accordance with the provisions of the APA and that they will  
19 waive other rights afforded to them in connection with the  
20 hearing such as the right to present evidence in defense of the  
21 allegations in the Accusation and the right to cross-examine  
22 witnesses.

23           4. This Stipulation is based on the factual  
24 allegations contained in the Accusation filed in this  
25 proceeding. In the interest of expedience and economy,  
26 Respondents choose not to contest these factual allegations, but  
27

1 to remain silent and understand that, as a result thereof, these  
2 factual statements, will serve as a prima facie basis for the  
3 disciplinary action stipulated to herein. The Real Estate  
4 Commissioner shall not be required to provide further evidence  
5 to prove such allegations.

6 5. This Stipulation is made for the purpose of  
7 reaching an agreed disposition of this proceeding and is  
8 expressly limited to this proceeding and any other proceeding or  
9 case in which the Bureau of Real Estate ("Bureau"), the state or  
10 federal government, or an agency of this state, another state or  
11 the federal government is involved.

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

22 7. The Order or any subsequent Order of the Real  
23 Estate Commissioner made pursuant to this Stipulation shall not  
24 constitute an estoppel, merger or bar to any further  
25 administrative or civil proceedings by the Bureau of Real Estate  
26 with respect to any conduct which was not specifically alleged  
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1 to be causes for accusation in this proceeding.

2 DETERMINATION OF ISSUES

3 By reason of the foregoing stipulations and waivers  
4 and solely for the purpose of settlement of the pending  
5 Accusation, it is stipulated and agreed that the following  
6 determination of issues shall be made:

7 I

8 The conduct, acts and/or omissions of Respondents  
9 SIMCAL PROPERTIES, INC. and JAMES WILSON ROWE, as set forth in  
10 the Accusation, constitute cause for the suspension or  
11 revocation of all of the real estate licenses and license rights  
12 of Respondents under the provisions of Sections 10177(d) and  
13 10177(g) of the Business and Professions Code ("Code") for  
14 violation of Code Section 10145.

15 ORDER

16  
17 All licenses and licensing rights of Respondents  
18 SIMCAL PROPERTIES, INC. and JAMES WILSON ROWE under the Real  
19 Estate Law are suspended for a period of thirty (30) days from  
20 the effective date of this Decision; provided, however, that  
21 thirty (30) days of said suspension shall be stayed for two (2)  
22 years upon the following terms and conditions:

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

26 2. That no final subsequent determination be made,  
27 after hearing or upon stipulation that cause for disciplinary

1 action occurred within two (2) years of the effective date of  
2 this Decision. Should such a determination be made, the  
3 Commissioner may, in his discretion, vacate and set aside the  
4 stay order and reimpose all or a portion of the stayed  
5 suspension. Should no such determination be made, the stay  
6 imposed herein shall become permanent.

7           3. Pursuant to Section 10148 of the Business and  
8 Professions Code, Respondents SIMCAL PROPERTIES, INC. and JAMES  
9 WILSON ROWE shall pay the Commissioner's reasonable cost for:  
10 a) the audit which led to this disciplinary action (\$7,715) and  
11 b) a subsequent audit to determine if Respondents have corrected  
12 the trust fund violations found in paragraph 1 of the  
13 Determination of Issues. In calculating the amount of the  
14 Commissioner's reasonable cost, the Commissioner may use the  
15 estimated average hourly salary for all persons performing  
16 audits of real estate brokers, and shall include an allocation  
17 for travel costs, including mileage, time to and from the  
18 auditor's place of work and per diem. Respondents shall pay  
19 such cost within 60 days of receiving an invoice from the  
20 Commissioner detailing the activities performed during the audit  
21 and the amount of time spent performing those activities. The  
22 Commissioner may, in his discretion, vacate and set aside the  
23 stay order if payment is not timely made as provided for herein,  
24 or as provided for in a subsequent agreement between the  
25 Respondents and the Commissioner. The vacation and the set  
26 aside of the stay shall remain in effect until payment is made  
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1 in full, or until Respondents enter into an agreement  
2 satisfactory to the Commissioner to provide for payment. Should  
3 no order vacating the stay be issued, either in accordance with  
4 this condition or condition "2" above, the stay imposed shall  
5 become permanent.

6 7. Respondents understand that by agreeing to this  
7 Stipulation and Agreement, Respondents agree to pay, pursuant to  
8 Section 10106 of the California Business and Professions Code  
9 (Code), the cost of the investigation and enforcement which  
10 resulted in the determination that Respondents committed the  
11 violations found in the Determination of Issues. The amount of  
12 said costs is \$2,347.

13 All licenses and licensing rights of Respondents are  
14 indefinitely suspended unless or until Respondents pay the sum  
15 of \$2,347 for the Commissioner's reasonable cost of the  
16 investigation and enforcement which led to this disciplinary  
17 action. Said payment shall be in the form of a cashier's check  
18 or certified check made payable to the Real Estate Fund.  
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20  
21 DATED: 7-21-15

James R. Peel  
JAMES R. PEEL, Counsel for the  
Bureau of Real Estate

22  
23 \* \* \*

24 We have read the Stipulation and Agreement, and its  
25 terms are understood by us and are agreeable and acceptable to  
26 us. We understand that we are waiving rights given to us by the  
27 California Administrative Procedure Act (including but not

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

8 Respondents can signify acceptance and approval of the  
9 terms and conditions of this Stipulation and Agreement by faxing  
10 a copy of the signature page, as actually signed by Respondents,  
11 to the Bureau at the following telephone/fax number:

12 (213) 576-6917. Respondents agree, acknowledge and understand  
13 that by electronically sending to the Bureau a fax copy of his  
14 or her actual signature as it appears on the Stipulation and  
15 Agreement, that receipt of the faxed copy by the Bureau shall be  
16 as binding on Respondents as if the Bureau had received the  
17 original signed Stipulation and Agreement.

18 Further, if the Respondent is represented, the  
19 Respondent's counsel can signify his or her agreement to the  
20 terms and conditions of the Stipulation and Agreement by  
21 submitting that signature via fax.

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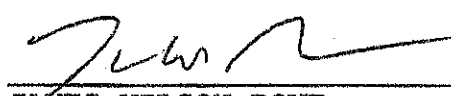
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14  
15 DATED: July 21, 2015

  
SIMCAL PROPERTIES, INC.  
Respondent

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18 DATED: July 21, 2015

  
JAMES WILSON ROWE  
Respondent

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

ROBERT W. BALFOUR  
Counsel for Respondents



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

SIMCAL PROPERTIES, INC.  
Respondent

5  
6 DATED: \_\_\_\_\_

JAMES WILSON ROWE  
Respondent

8  
9 DATED: 1/21/15

  
ROBERT W. BALFOUR  
Counsel for Respondents

11 \* \* \*

12 The foregoing Stipulation and Agreement is hereby  
13 adopted as my Decision and Order in this matter, and shall  
14 become effective at 12 o'clock noon on \_\_\_\_\_.

15 IT IS SO ORDERED \_\_\_\_\_

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18 Real Estate Commissioner  
19 \_\_\_\_\_  
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2 DATED: \_\_\_\_\_

SIMCAL PROPERTIES, INC.  
Respondent

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4  
5 DATED: \_\_\_\_\_

JAMES WILSON ROWE  
Respondent

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


ROBERT W. BALFOUR  
Counsel for Respondents

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10 \* \* \*

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

14 IT IS SO ORDERED August 13, 2015.

15  
16 Real Estate Commissioner

17   
18 By: JEFFREY MASON  
19 Chief Deputy Commissioner  
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