

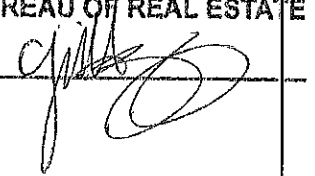
FILED

BUREAU OF REAL ESTATE
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105
Telephone: (213) 576-6982

APR 20 2016

BUREAU OF REAL ESTATE

By



BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

| | | |
|---|---|----------------------------------|
| In the Matter of the Accusation of |) | CalBRE No. H-04743 SD |
| |) | OAH No. 2015100510 |
| ALAN CRAIG TOWNSEND, |) | |
| doing business as Rancho Mesa Properties, |) | <u>STIPULATION AND AGREEMENT</u> |
| |) | <u>IN SETTLEMENT AND ORDER</u> |
| |) | |
| Respondent. |) | |
| |) | |

It is hereby stipulated by and between Respondent ALAN CRAIG TOWNSEND (herein "Respondent") and his attorney, Mary E. Work, and Complainant, acting by and through Lissete Garcia, Counsel for the Bureau of Real Estate (herein "Bureau"), as follows for the purpose of settling and disposing the Accusation filed on September 14, 2015, with Bureau Case No. H-04743 SD (herein "Accusation") in this matter:

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

Stipulation and Agreement
H-04743 SD

1 and Agreement in Settlement and Order (herein "Stipulation").

2 2. Respondent has received, read and understands the Statement to Respondent, the
3 Discovery Provisions of the APA, and Accusation filed by the Bureau in this proceeding.

4 3. A Notice of Defense was filed by Respondent pursuant to Section 11506 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 and understands that by withdrawing said Notice of Defense he will thereby waive
8 his rights to require the Real Estate Commissioner (herein "Commissioner") to prove the
9 allegations in the Accusation at a contested hearing held in accordance with the provisions of the
10 APA and that he will waive other rights afforded to him in connection with the hearing such as
11 the right to present evidence in defense of the allegations in the Accusation and the right to
12 cross-examine witnesses.

13 4. This Stipulation is based on the factual allegations contained in the Accusation filed in
14 this proceeding. In the interest of expedience and economy, Respondent chooses not to contest
15 these factual allegations, but to remain silent and understands that, as a result thereof, these
16 factual statements, will serve as a prima facie basis for the disciplinary action stipulated to
17 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove
18 such allegations.

19 5. This Stipulation and Respondent's decision not to contest the Accusation are made for
20 the purpose of reaching an agreed disposition of this proceeding and are expressly limited to this
21 proceeding and any other proceeding or case in which the Bureau of Real Estate, or another
22 licensing agency of this state, another state or if the federal government is involved and
23 otherwise shall not be admissible in any other criminal or civil proceedings.

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

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

11 8. Respondent understands that by agreeing to this Stipulation, Respondent agrees to
12 pay, pursuant to Section 10148 of the California Business and Professions Code (herein "Code"),
13 the cost of the audit which resulted in the determination that Respondent committed the
14 violations found in the "Determination of Issues" below. The amount of said cost is \$8,056.52.

15 9. Respondent understands that by agreeing to this Stipulation, the findings set forth
16 below in the "Determination of Issues" become final, and that the Commissioner may charge
17 Respondent for the cost of any audit conducted pursuant to Section 10148 of the Code to
18 determine if the trust fund violations found in the "Determination of Issues," below, have been
19 corrected. The maximum cost of said audit shall not exceed \$10,070.65.

20 10. Respondent further understands that by agreeing to this Stipulation, Respondent
21 agrees to pay, pursuant to Section 10106(a) of the Code, investigative and enforcement costs of
22 \$2,079.60 which led to this disciplinary action.

DETERMINATION OF ISSUES

The conduct, acts and/or omissions of Respondent, as set forth in the Accusation, constitute cause for the suspension or revocation of all real estate licenses and license rights of Respondent under the following provisions of the Code and Regulations of the Real Estate Commissioner, Title 10, Chapter 6, California Code of Regulations (herein "Regulations"):

- (a) as to Paragraph 10(a) of the Accusation pursuant to Code Section 10177(d) for violation of Code Section 10145 and Regulation 2832.1;
- (b) as to Paragraph 10(b) of the Accusation pursuant to Code Section 10177(d) for violation of Code Section 10145 and Regulation 2832.1;
- (c) as to Paragraph 10(c) of the Accusation pursuant to Code Section 10177(d) for violation of Code Section 10145 and Regulation 2832;
- (d) as to Paragraph 10(d) of the Accusation pursuant to Code Section 10177(d) for violation of Code Section 10145 and Regulation 2831;
- (e) as to Paragraph 10(e) of the Accusation pursuant to Code Section 10177(d) for violation of Code Section 10145 and Regulation 2831.1;
- (f) as to Paragraph 10(f) of the Accusation pursuant to Code Section 10177(d) for violation of Code Section 10145 and Regulation 2831.2;
- (g) as to Paragraph 10(g) of the Accusation pursuant to Code Section 10177(d) for violation of Code Section 10145 and Regulation 2834;
- (h) as to Paragraph 10(h) of the Accusation pursuant to Code Sections 10177(d) and 10177(e) for violation of Code Section 10145 and Regulation 2832; and

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1 (i) as to Paragraph 10(i) of the Accusation pursuant to Code Sections
2 10177(d) and 10176(i) for violation of Code Section 10145;

3 ORDER

4 All licenses and licensed rights of Respondent ALAN CRAIG TOWNSEND are
5 suspended for a period of 60 days from the effective date of this Decision and Order; provided,
6 however, that:

7 1) 30 days of said suspension shall be stayed, upon the condition that Respondent
8 petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to
9 Section 10175.2 of the Code at a rate of \$100.00 per day for a total monetary penalty of
10 \$3,000.00.

11 a) Said payment shall be in the form of a cashier's check made payable to the
12 Bureau of Real Estate. Said check must be delivered to the Bureau of Real Estate, Flag
13 Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
14 Decision and Order.

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

18 c) If Respondent fails to pay the monetary penalty in accordance with the terms and
19 conditions of this Decision and Order, the suspension shall go into effect automatically.
20 Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money
21 paid to the Bureau under the terms of this Decision and Order.

22 d) If Respondent pays the monetary penalty and any other moneys due under this
23 Stipulation and if no further cause for disciplinary action against the real estate license of
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1 Respondent occurs within two (2) years from the effective date of this Decision and Order, the
2 entire stay hereby granted pursuant to this Decision and Order shall become permanent.

3 2) 30 days of said suspension shall be stayed for two (2) years upon the following terms
4 and conditions:

5 a) Respondent shall obey all laws, rules and regulations governing the rights,
6 duties and responsibilities of a real estate licensee in the State of California; and,

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

13 3) All licenses and licensing rights of Respondent are indefinitely suspended unless or
14 until Respondent provides proof satisfactory to the Commissioner, of having taken and
15 successfully completed the continuing education course on trust fund accounting and handling
16 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of
17 satisfaction of these requirements includes evidence that Respondent has successfully completed
18 the trust fund account and handling continuing education courses, no earlier than 120 days prior
19 to the effective date of the Decision and Order in this matter. **Proof of completion of the trust**
20 **fund accounting and handling course must be delivered to the Bureau of Real Estate, Flag**
21 **Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior**
22 **to the effective date of this Decision and Order.**

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1 4) All licenses and licensing rights of Respondent are indefinitely suspended unless or
2 until Respondent pays the sum of \$2,079.60 for the Commissioner's reasonable cost of the
3 investigation and enforcement which led to this disciplinary action. Said payment shall be in the
4 form of a cashier's check made payable to the Bureau of Real Estate. **The investigative and**
5 **enforcement costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box**
6 **137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.**

7 5) Respondent shall, within six (6) months from the effective date of this Decision
8 **and Order**, take and pass the Professional Responsibility Examination administered by the
9 Bureau including the payment of the appropriate examination fee. If Respondent fails to satisfy
10 this condition, Respondent's real estate license shall automatically be suspended until
11 Respondent passes the examination.

12 6) Respondent shall, within nine (9) months from the effective date of this Decision
13 **and Order**, present evidence satisfactory to the Commissioner that Respondent has, since the
14 most recent issuance of an original or renewal real estate license, taken and successfully
15 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
16 Law for renewal of a real estate license. If Respondent fails to satisfy this condition,
17 Respondent's real estate license shall automatically be suspended until Respondent presents
18 evidence satisfactory to the Commissioner of having taken and successfully completed the
19 continuing education requirements. **Proof of completion of the continuing education courses**
20 **must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box 137013,**
21 **Sacramento, CA 95813-7013.**

22 7) Pursuant to Section 10148 of the Code, Respondent shall pay the sum of \$8,056.52 for
23 the Commissioner's cost of the audit which led to this disciplinary action. **Respondent shall pay**
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1 such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.

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

6 8) Pursuant to Section 10148 of the Code, Respondent shall pay the Commissioner's
7 reasonable cost, not to exceed \$10,070.65, for an audit to determine if Respondent has corrected
8 the violations found in the "Determination of Issues." In calculating the amount of the
9 Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary
10 for all persons performing audits of real estate brokers, and shall include an allocation for travel
11 time to and from the auditor's place of work. **Respondent shall pay such cost within sixty (60)**
12 **days of receiving an invoice therefore from the Commissioner.** Payment of the audit costs
13 should not be made until Respondent receives the invoice. If Respondent fails to satisfy this
14 condition in a timely manner as provided for herein, Respondent's real estate license shall
15 automatically be suspended until payment is made in full, or until a decision providing otherwise
16 is adopted following a hearing held pursuant to this condition.

17
18 4/7/2016

DATED

Lissette Garcia

Lissette Garcia, Counsel
Bureau of Real Estate

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20 * * *

21 I have read this Stipulation and its terms are understood by me and are agreeable and
22 acceptable to me. I understand that I am waiving rights given to me by the California APA
23 (including, but not limited to, Sections 11506, 11508, 11509, and 11513 of the Government
24 Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of

Stipulation and Agreement
H-04743 SD

04/06/2016 WRD 15:36 FAX -- Mary Work

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

4 Respondent can signify acceptance and approval of the terms and conditions of this
 5 Stipulation and Agreement by faxing or electronically e-mailing a copy of the signature page, as
 6 actually signed by Respondent, to the Bureau at fax number (916) 263-3767. Respondent agrees,
 7 acknowledges and understands that by electronically sending to the Bureau a fax or other
 8 electronic copy of Respondent's actual signature, as it appears on the Stipulation, that receipt of
 9 the faxed or e-mailed copy by the Bureau shall be as binding on Respondent as if the Bureau had
 10 received the original signed Stipulation. By signing this Stipulation, Respondent understands
 11 and agrees that Respondent may not withdraw his agreement or seek to rescind the Stipulation
 12 prior to the time the Commissioner considers and acts upon it or prior to the effective date of the
 13 Stipulation and Order.

15 April 7, 2016
 16 DATED

Alan Craig Townsend
 16 ALAN CRAIG TOWNSEND
 17 Respondent (AT)

18 *I have reviewed the Stipulation and Agreement in Settlement and Order as to form and*
 19 *content and have advised my client accordingly.*

20 DATED: 4/7/16

21 MARY E. WORK
 22 Attorney for Respondent

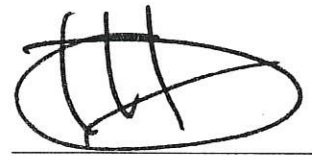
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The foregoing Stipulation and Agreement in Settlement and Order is hereby
adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on
MAY 10 2016

IT IS SO ORDERED April 15, 2016

WAYNE S. BELL
REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner