

1 Bureau of Real Estate
2 320 West Fourth Street, #350
3 Los Angeles, California 90013

4 (213) 576-6982

FILED

JUN 19 2018

BUREAU OF REAL ESTATE

By *Eric R. Ginder*

8 **BEFORE THE BUREAU OF REAL ESTATE**

9 **STATE OF CALIFORNIA**

10 * * *

11 In the Matter of the Accusation of

No. H-04942 SD

12
13 TD HOLDINGS I INC. and
14 RICHARD C. JOY,
15 individually and as designated officer
16 of TD Holdings I Inc.,

STIPULATION AND AGREEMENT

17 Respondent.

18 It is hereby stipulated by and between Respondents T.D. HOLDINGS I INC.
19 ("TDHII") and RICHARD C. JOY ("JOY"), both represented by Eric R. Ginder, Esq./The
20 Ginder Law Group, and the Complainant, acting by and through Julie L. To, Counsel for the
21 Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation
22 ("Accusation") filed on October 3, 2017 in Case No. H-04942 SD, in this matter:

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

3 2. Respondents have received, read and understand the Statement to Respondent,
4 the Discovery Provisions of the APA and the Accusation filed by the Bureau of Real Estate in
5 this proceeding.

6 3. On October 16, 2017, Respondents filed their Notices of Defense pursuant to
7 Section 11506 of the Government Code for the purpose of requesting a hearing on the
8 allegations in the Accusation. Respondents hereby freely and voluntarily withdraw their Notices
9 of Defense. Respondents acknowledge that they understand that by withdrawing said Notices of
10 Defense they thereby waive their right to require the Commissioner to prove the allegations in
11 the Accusation at a contested hearing held in accordance with the provisions of the APA and
12 that they will waive other rights afforded to them in connection with the hearing such as the
13 right to present evidence in defense of the allegations in the Accusation and the right to cross-
14 examine witnesses.

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

21 5. This Stipulation is made for the purpose of reaching an agreed disposition of
22 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
23 which the Bureau of Real Estate (“Bureau”) or another licensing agency of this state, another
24 state or if the federal government is involved, and otherwise shall not be admissible in any other
25 criminal or civil proceeding.

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

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

12 8. Respondents understand that by agreeing to this Stipulation and Agreement,
13 Respondents agree to pay, pursuant to Section 10148 of the Code, the cost of the audit which
14 resulted in the determination that Respondents committed the violations found in the
15 Determination of Issues. The amount of said costs for the original audit (Audit No. SD160001)
16 is \$7,922.50. Respondents agree to pay, pursuant to Section 10148 of the Code, \$7,922.50 for
17 the cost of Audit No. SD160001.

18 9. Respondents have received, read, and understand the "Notice Concerning
19 Costs of Subsequent Audit." Respondents further understand that by agreeing to this Stipulation,
20 the findings set forth below in the Determination of Issues become final, and the Commissioner
21 may charge Respondents for the cost of any subsequent audits conducted pursuant to Business
22 and Professions Code Section 10148 to determine if the violations have been corrected. The
23 maximum cost of the follow-up audits will not exceed one hundred twenty percent (120%) of the
24 cost of the original audits. In the instant case, the total cost of the original audit SD160001 is
25 \$7,922.50, and the maximum cost of the follow-up audits will not exceed \$9,507.00. Therefore,
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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondents TD Holdings I Inc. and RICHARD C. JOY under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Decision and Order; provided, however, that:

1. Thirty (30) days of said suspension shall be stayed, upon the condition that Respondents petition pursuant to Section 10175.2 of the Code and pay a monetary penalty pursuant to Section 10175.2 of the Code at a rate of one hundred dollars (\$100.00) apiece for each day of the suspension for a total monetary penalty of \$6,000 (\$3,000 per Respondent X two (2) Respondents = \$6,000).

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

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

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

d) If Respondents pay the monetary penalty and any other moneys due under this Stipulation and Agreement and if no further cause for disciplinary action against the Real Estate license(s) of Respondents occurs within two (2) years

1 from the effective date of this Decision and Order, the entire stay hereby
2 granted pursuant to this Decision and Order, shall become permanent.

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

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

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

15 3. All licenses and licensing rights of Respondent JOY are indefinitely suspended
16 unless or until Respondent JOY provides proof satisfactory to the Commissioner of having
17 taken and successfully completed the continuing education course on trust fund accounting and
18 handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and
19 Professions Code. Proof of satisfaction of these requirements includes evidence that
20 Respondent JOY has successfully completed the trust fund accounting courses, no earlier than
21 one hundred and twenty (120) days prior to the effective date of the Decision and Order in this
22 matter. Proof of completion of the trust fund accounting and handling courses must be
23 delivered to the Bureau of Real Estate, Flag Section, at P.O. Box 137013, Sacramento, CA
24 95813-7013 or by fax at 916-263-8758, prior to the effective date of this Decision and Order.
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1 4. Respondent JOY shall, within nine (9) months from the effective date of this
2 Decision and Order, take and pass the Professional Responsibility Examination administered by
3 the Bureau including the payment of the appropriate examination fee. If Respondent JOY fails
4 to satisfy this condition, Respondent JOY's real estate license shall automatically be suspended
5 until Respondent JOY passes the examination.

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

16 6. All licenses and licensing rights of Respondents are indefinitely suspended
17 unless or until Respondents pay the sum of \$3,694.45 for the Commissioner's reasonable cost of
18 the investigation and enforcement which led to this disciplinary action. Said payment shall be in
19 the form of a cashier's check or certified check made payable to the Bureau of Real Estate. The
20 investigation and enforcement costs must be delivered to the Bureau of Real Estate, Flag Section
21 at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and
22 Order.

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1 7. Pursuant to Section 10148 of the Code, Respondents shall pay the sum of
2 \$7,922.50 for the Commissioner's cost of the audit which led to this disciplinary action.
3 Respondents shall pay such cost within sixty (60) days of receiving an invoice therefore from the
4 Commissioner. Payment of audit costs should not be made until Respondents receive the
5 invoice. If Respondents fail to satisfy this condition in a timely manner as provided for herein,
6 Respondents' real estate license shall automatically be suspended until payment is made in full,
7 or until a decision providing otherwise is adopted following a hearing held pursuant to this
8 condition.

9 DATED: 5/22/18



10 Julie L. To, Counsel for Complainant

11 * * *

12 We have read the Stipulation and Agreement, have discussed it with our counsel,
13 and its terms are understood by us and are agreeable and acceptable to us. We understand that
14 we are waiving rights given to me by the California Administrative Procedure Act (including,
15 but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we
16 willingly, intelligently and voluntarily waive those rights, including the right of requiring the
17 Commissioner to prove the allegations in the Accusation at a hearing at which we would have
18 the right to cross-examine witnesses against us and to present evidence in defense and
19 mitigation of the charges.

20 Respondents shall send a hard copy of the original signed Stipulation and
21 Agreement to: Julie To, Bureau of Real Estate, 320 West Fourth Street, Suite 350, Los Angeles,
22 CA 90013. In the event of time constraints before an administrative hearing, Respondents can
23 signify acceptance and approval of the terms and conditions of this Stipulation and Agreement
24 by emailing a scanned copy of the signature page, as actually signed by Respondents, to the
25 Bureau counsel assigned to this case. Respondents agree, acknowledge and understand that by
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1 electronically sending the Bureau a scan of Respondents' actual signatures as they appear on the
2 Stipulation and Agreement, that receipt of the scan by the Bureau shall be binding on
3 Respondents as if the Bureau had received the original signed Stipulation and Agreement.

4 DATED: _____
5 _____
6 RICHARD C. JOY, Respondent

7 DATED: _____
8 _____
9 TD HOLDINGS I INC., Respondent
10 by: Kevin T. Hugli, Designated Officer

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

13 DATED: _____
14 _____
15 Eric R. Ginder, Attorney for Respondents
16 RICHARD C. JOY and TD HOLDINGS I INC.

17 * * *

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

20 IT IS SO ORDERED _____

21 REAL ESTATE COMMISSIONER


22 _____
23 WAYNE S. BELL

1 electronically sending the Bureau a scan of Respondents' actual signatures as they appear on the
2 Stipulation and Agreement, that receipt of the scan by the Bureau shall be binding on
3 Respondents as if the Bureau had received the original signed Stipulation and Agreement.

4 DATED: _____


5 RICHARD C. JOY, Respondent

6 DATED: 4-13-18


7 TD HOLDINGS I INC., Respondent
8 by: Kevin T. Hugli, Designated Officer

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

11 DATED: 4-15-18


12 Eric R. Ginder, Attorney for Respondents
13 RICHARD C. JOY and TD HOLDINGS I INC.

14 * * *

15 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
16 this matter and shall become effective at 12 o'clock noon on _____.

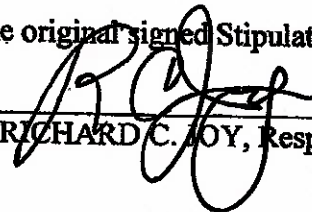
17 IT IS SO ORDERED _____.

18 REAL ESTATE COMMISSIONER

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20 _____
21 WAYNE S. BELL

1 electronically sending the Bureau a scan of Respondents' actual signatures as they appear on the
2 Stipulation and Agreement, that receipt of the scan by the Bureau shall be binding on
3 Respondents as if the Bureau had received the original signed Stipulation and Agreement.

4 DATED: 3/30/18


RICHARD C. JOY, Respondent

6 DATED: _____

TD HOLDINGS I INC., Respondent
by: Kevin T. Hugli, Designated Officer


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

11 DATED: _____

Eric R. Ginder, Attorney for Respondents
RICHARD C. JOY and TD HOLDINGS I INC.

14 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
15 this matter and shall become effective at 12 o'clock noon on JUL 09 2018.

16 IT IS SO ORDERED June 8, 2018.

18 WAYNE S. BELL
REAL ESTATE COMMISSIONER
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21 By: DANIEL J. SANDRI
Chief Deputy Commissioner