

1 Department of Real Estate
2 320 W. 4th Street, Suite 350
3 Los Angeles, CA 90013-1105
4 Telephone: (213) 576-6982

FILED

DEC 13 2019

DEPT. OF REAL ESTATE

By 

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8
9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of

13 OFIER ZIGNER,

14 Respondent.

) No. H-05054 SD
) OAH No. 2019060523
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STIPULATION AND AGREEMENT

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17 It is hereby stipulated by and between Respondent OFIER ZIGNER (sometimes
18 referred to as "Respondent"), acting by and through his attorney, Joshua A. Rosenthal, Esq. of
19 Medlin and Hargrave, PC, and the Complainant, acting by and through Judith B. Vasan, Counsel
20 for the Department of Real Estate, as follows for the purpose of settling and disposing of the
21 Accusation ("Accusation") filed on March 11, 2019, in this matter:

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

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

4 3. Respondent filed a Notice of Defense 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 that he understands that by withdrawing said Notice of Defense Respondent
8 thereby waives his right to require the Commissioner to prove the allegations in the Accusation
9 at a contested hearing held in accordance with the provisions of the APA and that Respondent
10 will waive other rights afforded to him in connection with the hearing such as the right to present
11 evidence in his defense, and the right to cross-examine witnesses.

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

18 5. This Stipulation is made for the purpose of reaching an agreed disposition of
19 this proceeding and is expressly limited to this proceeding and not any other proceeding or case
20 in which the Department, or another licensing agency of this state, another state, or the federal
21 government is involved, and otherwise shall not be admissible in any criminal or civil
22 proceeding.

23 6. It is understood by the parties that the Real Estate Commissioner may adopt
24 this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on
25 Respondent's real estate license and license rights as set forth in the below "Order". In the event
26 that the Commissioner in his discretion does not adopt the Stipulation, the Stipulation shall be
27 void and of no effect and Respondent shall retain the right to a hearing and proceed on the

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1 Accusation under the provisions of the APA and shall not be bound by any stipulation or waiver
2 made herein.

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

7 8. Respondent understands that by agreeing to this Stipulation, Respondent
8 agrees to pay, pursuant to Business and Professions Code ("Code") section 10148, the costs of
9 the audit which led to this disciplinary action. The amount of said costs is \$9,778.50.

10 DETERMINATION OF ISSUES

11 By reason of the foregoing, it is stipulated and agreed that the following
12 determination of issues shall be made:

13 The conduct, acts or omissions of Respondent OFIER ZIGNER, as set forth in the
14 Accusation, are in violation of Code sections 10140.6 (license identification disclosure), 10145
15 (trust fund handling) and 10159.5 (use of unauthorized fictitious business name) and Sections
16 2731 (use of unauthorized fictitious business names), 2773 (license identification disclosure),
17 2831, 2831.1, 2832, 2832.1, 2834, and 2835 (trust fund handling) of Title 10, Chapter 6 of the
18 California Code of Regulations and are a basis for discipline of Respondent OFIER ZIGNER's
19 licenses and license rights pursuant to Code sections 10176(e), 10177(d), and/or 10177(g).

20 ORDER

21 WHEREFORE, THE FOLLOWING ORDER is hereby made:

22 I.

23 All licenses and license rights of Respondent OFIER ZIGNER under the Real
24 Estate Law are suspended for a period of sixty (60) days from the effective date of this Decision;

25 A - Provided, however, that the initial thirty (30) days of said suspension shall be
26 stayed for two years upon the following terms and conditions:

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1 1. Respondent shall pay a monetary penalty pursuant to Code section
2 10175.2 at the rate of \$50.00 per day for each of the thirty (30) days of suspension for a total
3 monetary penalty of \$1,500.00.

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

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

10 4. If Respondent fails to pay the monetary penalty in accordance with the
11 terms and conditions of the Decision, the suspension shall go into effect automatically with
12 regard to said Respondent. Respondent shall not be entitled to any repayment nor credit, prorated
13 or otherwise, for money paid to the Department under the terms of this Decision and Order.

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

17 B. The remaining thirty (30) days of the sixty (60) day suspension shall be stayed
18 for two (2) years upon the following terms and conditions:

19 1. That Respondent shall obey all laws, rules and regulations governing the
20 rights, duties and responsibilities of a real estate licensee in the State of California; and

21 2. That no final subsequent determination be made after hearing or upon
22 stipulation, that cause for disciplinary action occurred within two (2) years from the effective
23 date of this Decision. Should such a determination be made, the Commissioner may, in his
24 discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed
25 suspension. Should no such determination be made under this section, the stay imposed herein
26 shall become permanent.

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1 II.

2 Pursuant to Code section 10148, Respondent shall pay the Commissioner's
3 reasonable costs for the audit, which led to this disciplinary action in the amount of \$9,778.50.
4 **Respondent shall pay such costs within sixty (60) days of receiving an invoice therefore**
5 **from the Commissioner.** Payment of the audit costs should not be made until Respondent
6 receives the invoice. If Respondent fails to satisfy this condition in a timely manner as provided
7 for herein, Respondent's real estate license shall automatically be suspended until payment is
8 made in full, or until a decision providing otherwise is adopted following a hearing held pursuant
9 to this condition.

10 Pursuant to Code section 10148 of the Code, Respondent shall pay the
11 Commissioner's reasonable costs, not to exceed \$12,223.12, for a subsequent audit to determine
12 if Respondent has corrected the violations found in the Determination of Issues. In calculating
13 the amount of the Commissioner's reasonable costs, the Commissioner may use the estimated
14 average hourly salary for all persons performing audits of real estate brokers, and shall include
15 an allocation for travel time to and from the auditor's place of work. **Respondent shall pay such**
16 **costs within sixty (60) days of receiving an invoice therefor from the Commissioner.**
17 Payment of the audit costs should not be made until Respondent receives the invoice. If
18 Respondent fails to satisfy this condition in a timely manner as provided for herein,
19 Respondent's real estate license shall automatically be suspended until payment is made in full,
20 or until a decision, providing otherwise, is adopted following a hearing held pursuant to this
21 condition.

22 III.

23 All licenses and licensing rights of Respondent are indefinitely suspended unless
24 or until Respondent pays the sum of \$2,923.55 for the Commissioner's reasonable costs of the
25 investigation and enforcement, which led to this disciplinary action. Said payment shall be in
26 the form of a cashier's check made payable to the Department of Real Estate. **The payment for**
27 **the investigative and enforcement costs must be delivered to the Department of Real**

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1 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective
2 date of this Decision and Order.

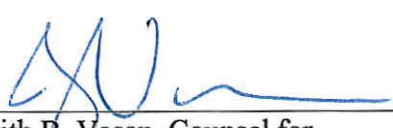
3 IV.

4 All licenses and licensing rights of Respondent are indefinitely suspended unless
5 or until Respondent provides proof satisfactory to the Commissioner, of having taken and
6 successfully completed the continuing education course on trust fund accounting and handling
7 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions
8 Code. Proof of satisfaction of this requirement includes evidence that Respondent has
9 successfully completed the trust fund account and handling continuing education courses, no
10 earlier than 120 days prior to the effective date of the Decision and Order in this matter. **Proof**
11 **of completion of the trust fund accounting and handling course must be delivered to the**
12 **Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013**
13 **prior to the effective date of this Decision and Order.**

14 V.

15 Respondent shall, within six (6) months from the effective date of this Decision
16 **and Order**, take and pass the Professional Responsibility Examination administered by the
17 Department including the payment of the appropriate examination fee. If Respondent fails to
18 satisfy this condition, Respondent's real estate license shall automatically be suspended until
19 Respondent passes the examination.

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21 DATED: 11-6-2019


Judith B. Vasan, Counsel for
Department of Real Estate

23 * * *

24 EXECUTION OF THE STIPULATION

25 I have read the Stipulation, have discussed it with my counsel, and its terms are
26 understood by me and are agreeable and acceptable to me. I understand that I am waiving rights
27 given to me by the California Administrative Procedure Act (including but not limited to

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

5 Respondent shall mail the original signed signature page of the stipulation herein
6 to Judith B. Vasan, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St.,
7 Suite 350, Los Angeles, California 90013-1105.

8 In the event of time constraints before an administrative hearing, Respondent can
9 signify acceptance and approval of the terms and conditions of this Stipulation and Agreement
10 by emailing a scanned copy of the signature page, as actually signed by Respondent, to the
11 Department counsel assigned to this case. Respondent agrees, acknowledges and understands
12 that by electronically sending the Department a scan of Respondent's actual signature as it
13 appears on the Stipulation and Agreement that receipt of the scan by the Department shall be
14 binding on Respondent as if the Department had received the original signed Stipulation.
15 Respondent shall also mail the original signed signature page of this Stipulation to the
16 Department counsel.

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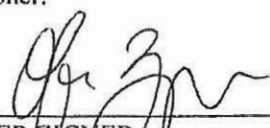
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STIPULATION AND AGREEMENT

1 Respondent's signature below constitutes acceptance and approval of the terms
2 and conditions of this Stipulation. Respondent agrees, acknowledges and understands that by
3 signing this Stipulation, Respondent is bound by its terms as of the date of such signatures and
4 that this agreement is not subject to rescission or amendment at a later date except by a separate
5 Decision and Order of the Real Estate Commissioner.

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7 DATED: Nov. 6, 2019


8 OFIER ZIGNER
9 Respondent

10 DATED: 11/6/19


11 Joshua A. Rosenthal, Esq.
12 Counsel for Respondent
13 Approved as to Form

14 * * *

15 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
16 Respondent OFIER ZIGNER and shall become effective at 12 o'clock noon on

17 JAN - 2 2020

18 IT IS SO ORDERED November 27, 2019.

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20 DANIEL J. SANDRI
21 ACTING REAL ESTATE COMMISSIONER

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STIPULATION AND AGREEMENT