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DEC 10 2010

DEPARTMENT OF REAL ESTATE

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	No. H-5154 SAC
)	
ROBERT THOMAS JOSEPH PACK,)	
)	
Respondent.)	
)	

ORDER SUSPENDING REAL ESTATE LICENSE

(Professional Responsibility Examination)

TO: ROBERT THOMAS JOSEPH PACK ("Respondent"):

On February 2, 2010, a Decision was rendered herein suspending Respondent's real estate broker license, but staying the imposition of such suspension subject to terms and restrictions set forth in the Real Estate Commissioner's Decision effective March 1, 2010, in Case No. H-5154 SAC. Among those terms and conditions, the Decision required Respondent to take and pass the Professional Responsibility Examination (hereinafter "the condition") within six months after March 1, 2010, the effective date of the Decision, and provided that if Respondent failed to satisfy this condition, the Commissioner may order suspension of the restricted license until Respondent passes the examination.

1 As of September 1, 2010, Respondent has failed to submit proof satisfactory to
2 the Commissioner of successfully passing the above-ordered examination. The Commissioner
3 has determined that Respondent has failed to satisfy this condition, and as such, that
4 Respondent's license may be suspended until Respondent satisfies this condition.

5 NOW, THEREFORE, IT IS ORDERED pursuant to the Decision of February 2,
6 2010, that Respondent's real estate broker license and the exercise of any privileges thereunder be
7 and hereby is suspended until such time as Respondent provides proof satisfactory to the
8 Commissioner of compliance with the condition referred to above, or pending final
9 determination made after hearing (see "Hearing Rights" set forth below).

10 IT IS FURTHER ORDERED that all license certificates and identification cards
11 issued by the Department of Real Estate which are in the possession of Respondent be
12 immediately surrendered by personal delivery or by mailing in the enclosed self-addressed,
13 stamped envelope:

14 DEPARTMENT OF REAL ESTATE
15 ATTN: Flag Section
16 P. O. Box 187000
Sacramento, CA 95818-7000

17 HEARING RIGHTS: You have the right to a hearing to contest the
18 Commissioner's determination that you are in compliance with this condition. If you desire a
19 hearing, you must submit a written request. The request may be in any form, as long as it is in
20 writing and indicates that you want a hearing. Unless a written request for a hearing, signed by
21 or on behalf of you, is delivered or mailed to the Department, Legal Section, at 2201 Broadway,
22 P. O. Box 187007, Sacramento, California 95818-7007, within twenty (20) days after the date
23 that this Order was mailed to or served on you, the Department will not be obligated or required
24 to provide you with a hearing.

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This Order shall be effective immediately.

DATED: 12/7/2010

JEFF DAVI
Real Estate Commissioner



1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

FILED

FEB - 9 2010

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13)
14 AMADOR EQUITY, INC.,)
15 a Corporation, and)
16 ROBERT THOMAS JOSEPH PACK,)
17 Respondents.)

NO. H-5154 SAC
STIPULATION AND AGREEMENT
IN SETTLEMENT
AND ORDER

18 It is hereby stipulated by and between Respondents AMADOR EQUITY, INC.
19 (herein "AEI"), and ROBERT THOMAS JOSEPH PACK (herein "PACK") (herein jointly
20 "Respondents"), individually and jointly, by and through Frank M. Buda, attorney of record
21 herein for Respondents, and the Complainant, acting by and through Mary F. Clarke, Counsel for
22 the Department of Real Estate (herein "the Department"), as follows for the purpose of settling
23 and disposing of the Accusation filed on February 10, 2009 in this matter (herein "the
24 Accusation"):

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

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

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 Department of Real Estate
5 in this proceeding.

6 3. Notices of Defense were filed on February 25, 2009 by Respondents, pursuant
7 to Section 11505 of the Government Code for the purpose of requesting a hearing on the
8 allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notices
9 of Defense. Respondents acknowledge that they understand that by withdrawing said Notices of
10 Defense they will thereby waive their right to require the Commissioner to prove the allegations
11 in 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 right
13 to present evidence in defense of the allegations in the Accusation and the right to cross-examine
14 witnesses.

15 4. Respondents, pursuant to the limitations set forth below, hereby admit that the
16 factual allegations pertaining to them in the Accusation filed in this proceeding are true and
17 correct and the Real Estate Commissioner shall not be required to provide further evidence of
18 such allegations.

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

26 6. The Order or any subsequent Order of the Real Estate Commissioner made
27 pursuant to this Stipulation and Agreement in Settlement shall not constitute an estoppel, merger

1 or bar to any further administrative or civil proceedings by the Department of Real Estate with
2 respect to any matters which were not specifically alleged to be causes for accusation in this
3 proceeding.

4 7. Respondents understand that by agreeing to this Stipulation and Agreement,
5 Respondents jointly and severally agree to pay, pursuant to Section 10148 of the California
6 Business and Professions Code (herein "Code"), the cost of the audit which resulted in the
7 determination that Respondents committed the trust fund violation(s) found in Paragraph I,
8 below, of the Determination of Issues. The amount of said cost is \$2,673.32.

9 8. Respondents further understand that by agreeing to this Stipulation and
10 Agreement in Settlement, the findings set forth below in the Determination of Issues become
11 final, and that the Commissioner may charge said Respondents, jointly and severally, for the
12 costs of any audit conducted pursuant to Section 10148 of the Code to determine if the trust fund
13 violation(s) found in Paragraph I, below, of the Determination of Issues have been corrected. The
14 maximum costs of said audit shall not exceed \$2,673.32.

15 DETERMINATION OF ISSUES

16 I

17 The acts and omissions of Respondents as described in the Accusation are
18 grounds for the suspension or revocation of the licenses and license rights of Respondents under
19 the following provisions of the Code and/or Chapter 6, Title 10, California Code of Regulations
20 (herein "the Regulations"):

21 (a) as to Paragraph IX (a) and Respondent AEI under Section 2832.1 of the
22 Regulations in conjunction with Section 10177(d) of the Code;

23 (b) as to Paragraph IX(b) and Respondent AEI under Section 10232.2(a) of
24 the Code and Section 2846.5 of the Regulations in conjunction with Section 10177(d) of the
25 Code;

26 (c) as to Paragraph IX(c) and Respondent AEI under Section 10232.2(c) of the
27 Code and Section 2846.5 of the Regulations in conjunction with Section 10177(d) of the Code;

1 (d) as to Paragraph IX(d) and Respondent AEI under Section 10232.25 of the
2 Code in conjunction with Section 10177(d) of the Code; and

3 (e) as to Paragraph X and Respondent PACK under Section 10159.2, in
4 conjunction with Section 10177(d) of the Code, and Sections 10177(g) and (h) of the Code.

5
6 ORDER

7 I

8 All licenses and licensing rights of Respondent AEI under the Real Estate Law are
9 suspended for a period of ninety (90) days from the effective date of this Order; provided,
10 however, that:

11 1. Sixty (60) days of said suspension shall be stayed for two (2) years upon the
12 following terms and conditions:

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

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

21 2. The remaining thirty (30) days of said 90-day suspension shall be stayed upon
22 the condition that Respondent AEI petition pursuant to Section 10175.2 of the Code and pays a
23 monetary penalty pursuant to Section 10175.2 of the Code at a rate of \$50 for each day of the
24 suspension for a total monetary penalty of \$1,500:

25 (a) Said payment shall be in the form of a cashier's check or certified check
26 made payable to the Recovery Account of the Real Estate Fund. Said check must be delivered
27 to the Department prior to the effective date of the Order in this matter.

1 (b) No further cause for disciplinary action against the real estate licenses of
2 said Respondent occurs within two (2) years from the effective date of the decision in this matter.

3 (c) If Respondent AEI fails to pay the monetary penalty as provided above
4 prior to the effective date of this Order, the stay of the suspension shall be vacated as to
5 Respondent AEI and the order of suspension shall be immediately executed, under this
6 Paragraph I of this Order, in which event Respondent AEI shall not be entitled to any repayment
7 nor credit, prorated or otherwise, for the money paid to the Department under the terms of this
8 Order.

9 (d) If Respondent AEI pays the monetary penalty and any other moneys due
10 under this Stipulation and Agreement and if no further cause for disciplinary action against the
11 real estate license of Respondent AEI occurs within two (2) years from the effective date of this
12 Order, the entire stay hereby granted under Paragraphs I and II of this Order, as to Respondent
13 AEI only, shall become permanent.

14 7. Respondents understand that by agreeing to this Stipulation and Agreement,
15 Respondents AEI and PACK jointly and severally agree to pay, pursuant to Section 10148 of the
16 Code, the cost of the audit which resulted in the determination that Respondents committed the
17 trust fund violation(s) found in Paragraph I, below, of the Determination of Issues. The amount
18 of said costs is \$2,673.32.

19 8. Respondents AEI and PACK, jointly and severally, shall pay the
20 Commissioner's costs, not to exceed \$2,673.32, of any audit conducted pursuant to Section
21 10148 of the Code to determine if Respondents have corrected the violations described in
22 Paragraph I of the Determination of Issues, above. In calculating the amount of the
23 Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary
24 for all persons performing audits of real estate brokers, and shall include an allocation for travel
25 time to and from the auditor's place of work. Respondents shall pay such cost within 60 days of
26 receiving an invoice therefore from the Commissioner detailing the activities performed during
27 the audit and the amount of time spent performing those activities. If Respondents fail to pay

1 such cost within the 60 days, the Commissioner may in his discretion indefinitely suspend all
2 license and licensing rights of Respondent AEI under the Real Estate Law until payment is made
3 in full or until Respondent AEI enters into an agreement satisfactory to the Commissioner to
4 provide for payment. Upon payment in full, the indefinite suspension provided in this paragraph
5 shall be stayed.

6 II

7 A. All licenses and licensing rights of Respondent PACK under the Real Estate
8 Law are suspended until such time as Respondent PACK provides proof satisfactory to the
9 Commissioner that Respondent PACK has, within one hundred twenty (120) days prior to the
10 effective date of the Decision herein completed the continuing education course on trust fund
11 accounting and handling specified in subdivision (a) of Section 10170.5 of the Code.

12 B. All licenses and licensing rights of Respondent PACK under the Real Estate
13 Law are suspended for a period of ninety (90) days from the effective date of this Order;
14 provided, however, that:

15 1. Sixty (60) days of said suspension shall be stayed for two (2) years
16 upon the following terms and conditions:

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

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

26 2. The remaining thirty (30) days of said 90-day suspension shall be
27 stayed upon the condition that Respondent PACK petition pursuant to Section 10175.2 of the

1 Code and pays a monetary penalty pursuant to Section 10175.2 of the Code at a rate of \$50 for
2 each day of the suspension for a total monetary penalty of \$1,500:

3 a. Said payment shall be in the form of a cashier's check or
4 certified check made payable to the Recovery Account of the Real Estate Fund. Said
5 check must be delivered to the Department prior to the effective date of the Order in this
6 matter.

7 b. No further cause for disciplinary action against the Real
8 Estate licenses of said Respondent PACK occurs within two (2) years from the effective
9 date of the Decision in this matter.

10 c. If Respondent PACK fails to pay the monetary penalty as
11 provided above prior to the effective date of this Order, the stay of the suspension shall be
12 vacated as to Respondent PACK and the order of suspension shall be immediately executed,
13 under this Paragraph II of this Order, in which event Respondent PACK shall not be entitled to
14 any repayment nor credit, prorated or otherwise, for the money paid to the Department under the
15 terms of this Order.

16 d. If Respondent PACK pays the monetary penalty and any other
17 moneys due under this Stipulation and Agreement and if no further cause for disciplinary action
18 against the real estate license of Respondent PACK occurs within two (2) years from the
19 effective date of this Order, the entire stay hereby granted under Paragraphs I and II of this
20 Order, as to Respondent PACK only, shall become permanent.

21 3. Respondents PACK and AEI understand that by agreeing to this
22 Stipulation and Agreement, Respondents jointly and severally agree to pay, pursuant to Section
23 10148 of the Code, the cost of the audit which resulted in the determination that Respondents
24 committed the trust fund violation(s) found in Paragraph I, below, of the Determination of Issues.
25 The amount of said costs is \$2,673.32.

26 4. Respondents AEI and PACK, jointly and severally, shall pay the
27 Commissioner's costs, not to exceed \$2,673.32, of any audit conducted pursuant to Section

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

3
4 December 11, 2009
5 DATED

AMADOR EQUITY INC.
Respondent

6 By [Signature]
7 ROBERT THOMAS JOSEPH PACK
8 Designated Officer - Broker

9 December 14, 2009
10 DATED

11 [Signature]
12 ROBERT THOMAS JOSEPH PACK
13 Respondent

14 ***

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

17 12-11-09
18 DATED

19 [Signature]
20 FRANK M. BUDA
21 Attorney for Respondent

22 ***

23 The foregoing Stipulation and Agreement is hereby adopted by me as my Decision
24 in this matter and shall become effective at 12 o'clock noon on March 1, 2010

25 IT IS SO ORDERED 2/2/2010

26 JEFF DAVI
27 Real Estate Commissioner
[Signature]

R-5154 SAC

1 MARY F. CLARKE, Counsel (SBN 186744)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789
6 -or- (916) 227-0780 (Direct)

FILED

FEB 10 2009

DEPARTMENT OF REAL ESTATE

By K. Contreras

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 AMADOR EQUITY, INC., a Corporation, and) NO. H-5154 SAC
14 ROBERT THOMAS JOSEPH PACK,)
15) ACCUSATION
16 Respondents.)

17 The Complainant, JOE M. CARRILLO, a Deputy Real Estate Commissioner of
18 the State of California, for cause of Accusation against Respondents AMADOR EQUITY, INC.,
19 and ROBERT THOMAS JOSEPH PACK (herein "AEI", "PACK", or the "Respondents"), is
20 informed and alleges as follows:

21 I

22 The Complainant makes this Accusation in his official capacity.

23 II

24 At all times herein mentioned, Respondents were and now are licensed and/or
25 have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and
26 Professions Code) (herein "the Code").

27 III

At all times herein mentioned, AEI was and now is licensed by the State of
California Department of Real Estate (herein "the Department") as a corporate real estate broker

1 by and through PACK as designated officer-broker of AEI to qualify said corporation and to act
2 for said corporation as a real estate broker.

3 IV

4 At all times herein mentioned, PACK was and now is licensed by the Department
5 as a real estate broker, individually and as designated officer-broker of AEI. As said designated
6 officer-broker, PACK was at all times mentioned herein responsible pursuant to Section 10159.2
7 of the Code for the supervision of the activities of the officers, agents, real estate licensees, and
8 employees of AEI for which a license is required.

9 V

10 Whenever reference is made in an allegation in this Accusation to an act or
11 omission of AEI, such allegation shall be deemed to mean that the officers, directors, employees,
12 agents and/or real estate licensees employed by or associated with AEI committed such act or
13 omission while engaged in the furtherance of the business or operations of such corporate
14 respondent and while acting within the course and scope of their authority and employment.

15 VI

16 At all times herein mentioned, Respondents engaged in the business of, acted in
17 the capacity of, advertised, or assumed to act as real estate brokers within the State of California
18 within the meaning of Section 10131(d) of the Code, including the operation and conduct of a
19 mortgage loan brokerage with the public wherein, on behalf of others, for compensation or in
20 expectation of compensation, Respondents solicited lenders and borrowers for loans secured
21 directly or collaterally by liens on real property, and wherein Respondents arranged, negotiated,
22 processed, and consummated such loans.

23 VII

24 In so acting as real estate brokers, Respondents accepted or received funds in trust
25 (herein "trust funds") from or on behalf of lenders, investors, borrowers, and others in connection
26 with the mortgage loan brokerage activities described in Paragraph VI, above, and thereafter
27 from time to time made disbursements of said trust funds.

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VIII

The aforesaid trust funds accepted or received by Respondents were deposited or caused to be deposited by Respondents in a bank account (herein "trust fund account") maintained by Respondents for the handling of trust funds, including but not necessarily limited to "Amador Equity Inc. dba Placer Title Service Company Collections Trust Account," account number #1500001225 (herein "Trust #1"), maintained by Respondents at the Sutter Creek, California branch of Umpqua Bank.

IX

Between about September 30, 2006 and about November 30, 2007, in connection with the mortgage loan brokerage and trust fund handling activities described above, Respondent AEI:

- (a) suffered or permitted the balance of funds in Trust #1 to be reduced to an amount, which as of November 30, 2007, was approximately \$6,727.98 less than the aggregate liability of Respondents to all owners of such funds, without the prior written consent of the owners of such funds, in violation of Section 2832.1 of Chapter 6, Title 10, California Code of Regulations (herein "the Regulations");
- (b) failed to file with the Department, within 90 days after the end of the broker's fiscal year, the December 2006 Annual Trust Account Report, in violation of Section 10232.2(a) of the Code and Section 2846.5 of the Regulations;
- (c) failed to file with the Department, within 90 days after the end of the broker's fiscal year, the 2006 and 2007 Mortgage Loan/Trust Deed Reports, in violation of Section 10232.2(c) of the Code and Section 2846.5 of the Regulations; and,

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1 (d) failed to file with the Department, within 30 days after the end of the
2 2nd quarter of 2007, a trust funds status report, in violation Section
3 10232.25 of the Code.

4 X

5 At all times mentioned herein, Respondent PACK failed to exercise reasonable
6 supervision over the acts of Respondent AEI and its agents and employees in such a manner as to
7 allow the acts and omissions on the part of AEI, described above, to occur in violation of
8 Sections 10159.2 and 10177(g) and (h) of the Code.

9 XI

10 PRIOR DISCIPLINE

11 Effective April 30, 1996, in Case No. H-3136 SAC, the Real Estate
12 Commissioner revoked the real estate licenses of Respondents with the right to restricted
13 licenses. On January 12, 2000, the Real Estate Commissioner granted the reinstatement of
14 Respondents' licenses. Respondents' licenses were released and reinstated on April 30, 2000.

15 XII

16 The facts alleged above are grounds for the suspension or revocation of the
17 licenses and license rights of Respondents under the following provisions of the Code and/or the
18 Regulations:

- 19 (a) as to Paragraph IX (a) and Respondent AEI under Section 2832.1 of
20 the Regulations in conjunction with Section 10177(d) of the Code;
21 (b) as to Paragraph IX(b) and Respondent AEI under Section 10232.2(a)
22 of the Code and Section 2846.5 of the Regulations in conjunction
23 with Section 10177(d) of the Code;
24 (c) as to Paragraph IX(c) and Respondent AEI under Section 10232.2(c)
25 of the Code and Section 2846.5 of the Regulations in conjunction
26 with Section 10177(d) of the Code;

27 ///

- 1 (d) as to Paragraph IX(d) and Respondent AEI under Section 10232.25
2 of the Code in conjunction with Section 10177(d) of the Code; and,
3 (e) as to Paragraph X and Respondent PACK under Section 10159.2, in
4 conjunction with Section 10177(d) of the Code, and Sections
5 10177(g) and (h) of the Code.

6 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
7 of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary
8 action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of
9 Division 4 of the Business and Professions Code) and for such other and further relief as may
10 be proper under other applicable provisions of law.

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14 
15 JOE M. CARRILLO
16 Deputy Real Estate Commissioner
17

18 Dated at Sacramento, California
19 this 30 day of January, 2009.
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