1 DEPARTMENT OF REAL ESTATE FILED 320 West 4th Street, Suite 350 2 Los Angeles, California 90013-1105 Telephone: (213) 620-2072 JAN 27 2022 3 DEPT. OF REAL ESTATE

By EMMONY 4 5 6 7 8 BEFORE THE DEPARTMENT OF REAL ESTATE 9 STATE OF CALIFORNIA 10 11 In the Matter of the Accusation against: DRE No. H-05184 SD OAH No. 2021050574 12 WILLIAM BENJAMIN KNOWLES; BRENDA JOYCE DAVIS-BAILEY; STIPULATION AND AGREEMENT 13 BST REALTY, INC.; and IN SETTLEMENT AND ORDER AS ALVIN GENE TONEY, individually, and as TO RESPONDENTS BST REALTY, 14 designated officer for BST Realty, Inc., INC. AND ALVIN GENE TONEY, **ONLY** 15 Respondents. 16 It is hereby stipulated by and between BST REALTY, INC. and ALVIN GENE TONEY 17 (collectively "Respondents"), acting by and through Respondents' attorney, Frank M. Buda, 18 Esq., and Complainant, acting by and through Lissete Garcia, Counsel for the Department of 19 Real Estate ("Department"), as follows for the purpose of settling and disposing the First 20 Amended Accusation ("Accusation") filed on March 17, 2021, with Department Case No. 21 H-05184 SD in this matter: 22 /// 23

///

- 1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act ("APA"), shall instead and in place thereof be submitted on the basis of the provisions of this Stipulation and Agreement in Settlement and Order ("Stipulation").
- 2. Respondents have received, read, and understand the Statement to Respondent, the Discovery Provisions of the APA, and Accusation filed by the Department in this proceeding.
- 3. Respondents filed Notices of Defense pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notices of Defense. Respondents acknowledge and understand that by withdrawing said Notice of Defense, Respondents will thereby waive Respondents' rights to require the Real Estate Commissioner ("Commissioner") to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that Respondents will waive other rights afforded to Respondents in connection with the hearing such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.
- 4. This Stipulation is based on the factual allegations contained in the Accusation filed in this proceeding. In the interest of expedience and economy, Respondents choose not to contest these factual allegations, but to remain silent and understand that, as a result thereof, these factual statements, will serve as a prima facie basis for the disciplinary action stipulated to herein. The Real Estate Commissioner shall not be required to provide further evidence to prove such allegations.

- 5. This Stipulation and Respondents' decision not to contest the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and are expressly limited to this proceeding and any other proceeding or case in which the Department, or another licensing agency of this state, another state or if the federal government is involved and otherwise shall not be admissible in any other criminal or civil proceedings.
- 6. It is understood by the parties that the Real Estate Commissioner may adopt the Stipulation and Agreement as the Commissioner's Decision in this matter, thereby imposing the penalty and sanctions on Respondents' real estate licenses and license rights as set forth in the below "Order." In the event that the Commissioner in his discretion does not adopt the Stipulation and Agreement, it shall be void and of no effect, and Respondents shall retain the right to a hearing and proceeding on the Accusation under all the provisions of the APA and shall not be bound by any admission or waiver made herein.
- 7. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further administrative or civil proceedings by the Department of Real Estate with respect to any matters which were not specifically alleged to be causes for accusation in this proceeding.

///

18 ||

19 || / /

20 | / / /

21 //

22 | ///

23 ||///

DETERMINATION OF ISSUES

By reason of the foregoing stipulation and agreement and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the following determination of issues shall be made:

T.

The conduct, acts and/or omissions of Respondent BST REALTY, INC. as set forth herein above in Paragraph 4, constitute cause for the suspension or revocation of all real estate licenses and license rights of Respondent BST REALTY, INC. pursuant to the provisions of Code section 10177, subdivision (d), for violation of Regulation 2742(c) of the Regulations of the Real Estate Commissioner, Title 10, Chapter 6, California Code of Regulations ("Regulations").

II.

The conduct, acts and/or omissions of Respondent ALVIN GENE TONEY as set forth herein above in Paragraph 4, constitute cause for the suspension or revocation of all real estate licenses and license rights of Respondent ALVIN GENE TONEY pursuant to the provisions of Code section 10177, subdivisions (g) and (h), for violation of Business and Professions Code ("Code") sections 10159.2, 10159.5, and Regulation 2731.

ORDER

I.

All licenses and licensing rights of Respondent BST REALTY, INC. 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. Said 60-day suspension shall be stayed for two (2) years upon the following terms

and conditions:

- 2. Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and,
- 3. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years from the effective date of this Decision and Order. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

II.

All licenses and licensing rights of Respondent ALVIN GENE TONEY 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. Said 60-day suspension shall be stayed for two (2) years upon the following terms and conditions:
- 2. Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and,
- 3. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years from the effective date of this Decision and Order. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

1	4. Respondent ALVIN GENE TONEY shall, within nine (9) months from the
2	effective date of this Decision and Order, present evidence satisfactory to the Commissioner
3	that Respondent has, since the most recent issuance of an original or renewal real estate license,
4	taken and successfully completed the continuing education requirements of Article 2.5 of
5	Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to
6	satisfy this condition, Respondent's real estate license shall automatically be suspended until
7	Respondent presents evidence satisfactory to the Commissioner of having taken and successfully
8	completed the continuing education requirements. Proof of completion of the continuing
9	education courses must be delivered to the Department of Real Estate, Flag Section at P.O.
10	Box 137013, Sacramento, CA 95813-7013.
11	ш.
12	All licenses and licensing rights of Respondents BST REALTY, INC. and ALVIN GENE
13	TONEY are indefinitely suspended unless or until Respondents pay, jointly or separately, the
14	total sum of \$2,577.60 (as Respondents' proportionate share (three-fifths of the total costs) for
15	the Commissioner's reasonable costs of the investigation and enforcement) which led to this
16	disciplinary action. Said payment shall be in the form of a cashier's check made payable to the
17	Department of Real Estate. The total payment of \$2,577.60 for the investigative and
18	enforcement costs must be delivered to the Department of Real Estate, Flag Section at P.O.
19	Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision.
20	DATED: 11/30/2021
21	Lissete Garcia, Counsel Department of Real Estate
22	
23	* * *
24	

EXECUTION OF THE STIPULATION

We have read this Stipulation and its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California APA (including, but not limited to, sections 11506, 11508, 11509, and 11513 of the Government Code), and we willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which we would have the right to cross-examine witnesses against us and to present evidence in defense and mitigation of the charges.

Respondents can signify acceptance and approval of the terms and conditions of this

Stipulation and Agreement by electronically e-mailing a copy of the signature pages, as actually signed by Respondents, to the Department. Respondents agree, acknowledge, and understand that by electronically sending to the Department an electronic copy of Respondents' actual signatures, as they appear on the Stipulation, that receipt of the emailed copy by the Department shall be as binding on Respondents as if the Department had received the original signed Stipulation. By signing this Stipulation, Respondents understand and agree that Respondents may not withdraw their agreement or seek to rescind the Stipulation prior to the time the Commissioner considers and acts upon it or prior to the effective date of the Stipulation and Order.

MAILING

Respondents and their counsel shall, within five (5) business days from signing the Stipulation, mail the original signed signature page(s) of the Stipulation herein to Lissete Garcia, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Room 350, Los Angeles, California 90013-1105.

1	Respondents' signatures below constitute acceptance and approval of the terms and
2	conditions of this Stipulation. Respondents agree, acknowledge, and understand that by signing
3	this Stipulation Respondents are bound by its terms as of the date of such signature and that this
4	agreement is not subject to rescission or amendment at a later date except by a separate Decision
5	and Order of the Real Estate Commissioner.
6	Ω
7	DATED: 1/24/202/ Respondent BST REALTY, INC.
8	By (Printed Name): ALVIN TONEY
9	Title: LEO
10	Title:
11	DATED: 11/24/2021 Alvery Joney
12	Respondent ALVIN GENE TONEY
13	DATED: 11-29-21 July Bule For Court Bule
	Frank M. Buda, Esq., Counsel for Respondents Approved as to Form
15	* * *
16	The foregoing Stipulation and Agreement in Settlement and Order is hereby
17	adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on
18	3/3/2022, 2021.
19	3 3 2022, 2021. IT IS SO ORDERED 1. 14, 22 ,2021.
20	
21	REAL ESTATE COMMISSIONER
22	
23	Douglas R. McCauley