

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

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FILED
JUL 26 2011

DEPARTMENT OF REAL ESTATE
By E. Mac

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H-5547 SAC
13 RICHARD HENRY TRAVASSOS,) STIPULATION AND AGREEMENT
14)
15 Respondent.)

16 It is hereby stipulated by and between Respondent RICHARD HENRY
17 TRAVASSOS (hereafter "Respondent"), acting by and through J. Anne Rawlins, Counsel for
18 Respondent, and the Complainant, acting by and through John W. Barron, Counsel for the
19 Department of Real Estate, as follows for the purpose of settling and disposing of the
20 Accusation filed on February 3, 2011, in this matter:

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

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H-5547 SAC

RICHARD HENRY TRAVASSOS

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

4 3. On February 14, 2011, Respondent filed a Notice of Defense pursuant to
5 Section 11505 of the Government Code for the purpose of requesting a hearing on the
6 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice
7 of Defense. Respondent acknowledges that Respondent understands that by withdrawing said
8 Notice of Defense, Respondent will thereby waive Respondent's right to require the
9 Commissioner to prove the allegations in the Accusation at a contested hearing held in
10 accordance with the provisions of the APA and that Respondent will waive other rights
11 afforded to Respondent in connection with the hearing such as the right to present evidence in
12 defense of the allegations in the Accusation and the right to cross-examine witnesses.

13 4. This Stipulation is based on the factual allegations contained in the
14 Accusation. 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 "Determination of Issues" and
17 "Order" set forth below. The Real Estate Commissioner shall not be required to provide further
18 evidence to prove such allegations.

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

24 6. It is understood by the parties that the Real Estate Commissioner may
25 adopt the Stipulation and Agreement as her decision in this matter, thereby imposing the penalty
26 and sanctions on Respondent's real estate license and license rights as set forth in the "Order"

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1 below. In the event that the Commissioner in her discretion does not adopt the Stipulation and
2 Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing
3 and proceeding on the Accusation under all the provisions of the APA and shall not be bound
4 by any admission or waiver made herein.

5 7. This Stipulation and Agreement shall not constitute an estoppel, merger or
6 bar to any further administrative or civil proceedings by the Department of Real Estate with
7 respect to any matters which were not specifically alleged to be causes for accusation in this
8 proceeding.

9 DETERMINATION OF ISSUES

10 By reason of the foregoing stipulations, admissions and waivers and solely for
11 the purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed
12 that the acts and omissions of Respondent described in the Accusation are grounds for the
13 suspension or revocation of the licenses and license rights of Respondent under the provisions
14 of Section 10148 of the Business and Professions Code (hereafter "the Code") in conjunction
15 with Section 10177(d) of the Code, and Sections 2725, 2831, 2831.1, 2831.2 and 2832.1 of Title
16 10 of the California Code of Regulations, and Sections 10177(g) and 10177(h) of the Code.

17 ORDER

18 All licenses and licensing rights of Respondent under the Real Estate Law are
19 suspended for a period of thirty (30) days from the effective date of the Decision herein, with
20 thirty (30) days stayed upon the condition that:

21 1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the
22 Business and Professions Code at a rate of \$100.00 for each day of the suspension for a total
23 monetary penalty of \$3,000.00.

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

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1 b. No further cause for disciplinary action against the Real Estate license of
2 Respondent occurs within two (2) years from the effective date of the decision in this matter.

3 c. If Respondent fails to pay the monetary penalty in accordance with the
4 terms and conditions of the Decision, the Commissioner may, without a hearing, order the
5 immediate execution of all or any part of the stayed suspension, in which event, Respondent
6 shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the
7 Department under the terms of this decision.

8 d. If Respondent pays the monetary penalty and if no further cause for
9 disciplinary action against the real estate license of Respondent occurs within two (2) years
10 from the effective date of the Decision herein, then the stay hereby granted shall become
11 permanent.

12 2. Respondent shall pay the sum of \$7,510.40 for the Commissioner's cost
13 of the audit which led to this disciplinary action. Respondent shall pay such cost within sixty
14 (60) days of receiving an invoice therefore from the Commissioner. The Commissioner may
15 indefinitely suspend all licenses and licensing right of Respondent pending a hearing held in
16 accordance with Section 11500, et seq., of the Government Code, if payment is not timely
17 made as provided for herein, or as provided for in a subsequent agreement between Respondent
18 and the Commissioner. The suspension shall remain in effect until payment is made in full or
19 until Respondent enters into an agreement satisfactory to the Commissioner to provide for
20 payment, or until a decision providing otherwise is adopted following a hearing held pursuant
21 to this condition.

22 3. Respondent shall pay the Commissioner's costs, not to exceed
23 \$7,510.40, of any audit conducted pursuant to Section 10148 of the Code to determine if
24 Respondent has corrected the violations described in the Determination of Issues, above, and
25 any other violations found in the audit which led to this disciplinary action. In calculating the
26 amount of the Commissioner's reasonable cost, the Commissioner may use the estimated
27 average hourly salary for all persons performing audits of real estate brokers, and shall include

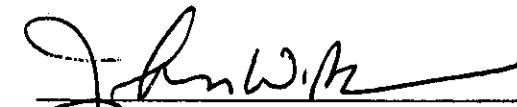
1 an allocation for travel time to and from the auditor's place of work. Respondent shall pay
2 such cost within sixty (60) days of receiving an invoice therefore from the Commissioner
3 detailing the activities performed during the audit and the amount of time spent performing
4 those activities. If Respondent fails to pay such cost within the sixty (60) days, the
5 Commissioner may indefinitely suspend all licenses and licensing rights of Respondent under
6 the Real Estate Law until payment is made in full or until Respondent enters into an agreement
7 satisfactory to the Commissioner to provide for payment. Upon full payment, the indefinite
8 suspension provided for in this paragraph shall be stayed.

9 4. Respondent shall, within six (6) months from the effective date of this
10 Order, take and pass the Professional Responsibility Examination administered by the
11 Department, including the payment of the appropriate examination fee. If Respondent fails to
12 satisfy this condition, the Commissioner may order the suspension of all licenses and licensing
13 rights until Respondent passes the examination.

14 5. Notwithstanding any other provision of this Order, all licenses and
15 licensing rights of Respondent are suspended unless and until he provides proof satisfactory to
16 the Commissioner that he has taken and successfully completed the continuing education
17 course on Trust Fund Accounting and Handling specified in Section 10170.5(a)(3) of the Code.
18 The course must have been completed no earlier than one hundred twenty (120) days prior to
19 the effective date of this Order, and proof must be submitted prior to the effective date of this
20 Order, to prevent suspension of Respondent's license pursuant to this condition.

21
22 6/14/11

23 DATED

24 
25 JOHN W. BARRON, Counsel
26 Department of Real Estate

27 * * *

I have read the Stipulation and Agreement and its terms are understood by me
and are agreeable and acceptable to me. I understand that I am waiving rights given to me by

1 the California Administrative Procedure Act (including but not limited to Sections 11506,
2 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and
3 voluntarily waive those rights, including the right of requiring the Commissioner to prove the
4 allegations in the Accusation at a hearing at which I would have the right to cross-examine
5 witnesses against me and to present evidence in defense and mitigation of the charges.

6
7 5/26/2011
8 DATED

Richard H Travassos
9 RICHARD HENRY TRAVASSOS
10 Respondent

11 ***

12 *I have reviewed this Stipulation and Agreement and Order as to form and*
13 *content and have advised my client accordingly.*

14
15 6/10/2011
16 DATED

J. Anne Rawlins
17 J. ANNE RAWLINS
18 Attorney for Respondent

19 ***

20 The foregoing Stipulation and Agreement is hereby adopted by me as my
21 Decision in this matter as to Respondent RICHARD HENRY TRAVASSOS and shall become
22 effective at 12 o'clock noon on AUG 16 2011

23 IT IS SO ORDERED 7/25/11

24 BARBARA J. BIGBY
25 Acting Real Estate Commissioner

26 Richard Henry Travassos
27

1 JOHN W. BARRON, Counsel (SBN 171246)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

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FEB - 8 2011

DEPARTMENT OF REAL ESTATE

By K. Mat

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 ***

11 In the Matter of the Accusation of)
12) No. H-5547 SAC
13 RICHARD HENRY TRAVASSOS,)
14) ACCUSATION
15 Respondent.)

16 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner
17 of the State of California, for cause of Accusation against RICHARD HENRY TRAVASSOS
18 (hereafter "Respondent"), individually and doing business as "Majestic Mortgage Service",
19 "Majestic Property Management" and "Majestic Realty Group", is informed and alleges as
20 follows:

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22 The Complainant makes this Accusation in her official capacity.

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24 Respondent is presently licensed and/or has license rights under the Real Estate
25 Law, Part 1 of Division 4 of the Business and Professions Code (hereafter "the Code") as a real
26 estate broker.

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At all times herein mentioned, Respondent engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker within the State of California within the meaning of Section 10131(b) of the Code (broker defined – property management/collection of rent), including the operation and conduct of a property management business with the public, wherein, on behalf of others, for compensation or in expectation of compensation, Respondent leased or rented and offered to lease or rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon; and Section 10131(a) (broker defined – sale/purchase of real estate), including selling or offering to sell, buying or offer to buy, soliciting prospective sellers or purchasers of, soliciting or obtaining lists of, or negotiating the purchase, sale or exchange of real property.

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

FIRST CAUSE OF ACTION

On or about beginning April 20, 2010, and continuing intermittently through April 26, 2010, an audit was conducted at Respondent’s main office located at 3520 Brookside Road, Suite 160, Stockton, California, where the auditor examined the records for the period of October 1, 2008, through March 31, 2010 (the audit period).

While acting as a real estate broker as described in Paragraph 3, above, and within the audit period, Respondent accepted or received funds in trust (trust funds) from or on behalf

1 of lenders, investors, borrowers and others in connection with mortgage activities, and deposited
2 or caused to be deposited those funds into a bank account maintained by Respondent, including:

3 Trust Account #1

4 Bank of Stockton
5 P. O. Box 1110
6 Stockton, California 95201

7 Account No. 1285002141

8 Account Name: Majestic Property Management Trust
9 Richard H Travassos Trustee

10 Signatories: Richard H Travassos, REB
11 Diana D Travassos, RES

12 (Account closed on April 30, 2009)

13 Trust Account #2

14 Farmers & Merchants Bank of Central California
15 P. O. Box 3000
16 Lodi, California 95241-1902

17 Account No. 65-007697-01

18 Account Name: Majestic Property Management Trust Account

19 Signatories: Richard H Travassos, REB
20 Diana D Travassos, RES

21 Thereafter, Respondent from time-to-time made disbursement of said trust funds.

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23 In the course of the activities described in Paragraph 6, above, in connection with
24 the collection and disbursement of trust funds:

25 (a) The Department was unable to rely on the control and separate beneficiary
26 records in its efforts to reconcile Trust Account #1 and Trust Account #2 as
27 of 12/31/08 and 03/31/10, respectively, due to deficiencies of the separate
records for those accounts. Such acts and/or omissions violate Section 2832.1

1 (trust fund handling for multiple beneficiaries) of Title 10 of the California
2 Code of Regulations (hereafter "the Regulations").

3 (b) Respondent failed to maintain accurate and complete control records for Trust
4 Account #1 and Trust Account #2, including using one control record to
5 record all transactions for Trust Account #1 and Trust Account #2, failing to
6 record all receipts and disbursements of funds and not maintaining control
7 records in chronological order. Such acts and/or omissions violate Section
8 2831 (maintenance of trust fund records) of the Regulations.

9 (c) Respondent failed to maintain accurate and complete separate beneficiary
10 records for Trust Account #1 and Trust Account #2. Such acts and/or
11 omissions violate Section 2831.1 (requirement of separate records for each
12 beneficiary or transaction) of the Regulations.

13 (d) Respondent failed to reconcile the balance of all separate beneficiary records
14 with the balance of all trust funds received and disbursed from Trust Account
15 #1 and Trust Account #2 on a monthly basis. Such acts and/or omissions
16 violate of Section 2831.2 (trust fund reconciliation requirement) of the
17 Regulations.

18 (e) Respondent failed to retain both sides of cancelled checks from Trust Account
19 #1 and Trust Account #2. Such acts and/or omissions violate Section
20 10148(a) (record retention requirements) of the Code.

21 8

22 The acts and/or omissions of Respondent as alleged in Paragraph 7, above, violate
23 Sections 2831, 2831.1, 2831.2 and 2832.1 of the Regulations, and Section 10148 of the Code,
24 and are grounds for discipline under Sections 10177(d) (willful disregard/violation of real estate
25 law) and 10177(g) (negligence or incompetence in performing acts for which license is required)
26 of the Code.

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1 SECOND CAUSE OF ACTION

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3 Complainant refers to Paragraphs 1 through 8, above, and incorporates them
4 herein by reference.

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6 At all times herein mentioned, Respondent was responsible for the supervision
7 and control of the activities conducted on behalf of his salespersons. Respondent failed to
8 exercise reasonable supervision and control over the property-management and property
9 sell/purchase activities of his salespersons. In particular, Respondent permitted, ratified and/or
10 caused the conduct described in the First Cause of Action, above, to occur, and failed to take
11 reasonable steps, including, but not limited to, the handling of trust funds, supervision of his
12 salespersons and the implementation of policies, rules, procedures and systems to ensure the
13 compliance of his salespersons with the Real Estate Law and the Regulations.

14 11

15 The acts and/or omissions of Respondent set forth in Paragraph 10, above, violate
16 Section 2725 (reasonable supervision by broker) of the Regulations (broker supervision), and
17 constitute grounds for disciplinary action under Sections 10177(d), 10177(g) and 10177(h)
18 (further grounds for discipline – reasonable supervision responsibility of broker) of the Code.

19 PRIOR ADMINISTRATIVE PROCEEDING

20 Effective July 3, 2000, in Case No. H-7809 SF, Respondent's real estate
21 salesperson license was revoked and he was granted the right to a restricted salesperson license,
22 including a 15 day actual suspension, by the Real Estate Commissioner pursuant to Sections
23 10176(a) (making substantial misrepresentation) and 10177(g) of the Code. Effective May 17,
24 2004, in Case No. H-7809 SF, an Order was issued by the Real Estate Commissioner granting
25 Respondent reinstatement of his unrestricted salesperson license.

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation, and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all licenses and license rights of Respondent under the Code, and for such other
4 and further relief as may be proper under applicable provisions of law.

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7 TRICIA D. SOMMERS
8 Deputy Real Estate Commissioner

9 Dated at Sacramento, California,
10 this 2nd day of February, 2011.

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