

1 DEPARTMENT OF REAL ESTATE
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3 Sacramento, CA 95818-7007
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FILED

FEB 12 2013

DEPARTMENT OF REAL ESTATE
By [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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11
12 In the Matter of the Accusation of)

13 NOTEWORLD CALIFORNIA, INC.)
14 and ELEN ADEL ZIEBELL,)

15 Respondents.)
16)

NO. H-5763 SAC

STIPULATION AND AGREEMENT

17 It is hereby stipulated by and between Respondents NOTEWORLD
18 CALIFORNIA, INC. (also known as "Meracord California, Inc."), and ELEN ADEL ZIEBELL,
19 (collectively "Respondents"), acting by and through Raymond C. Marshall, Esq., Counsel for
20 Respondents, and the Complainant, acting by and through Annette E. Ferrante, Esq., Counsel for
21 the Department of Real Estate ("Department"), as follows for the purpose of settling and
22 disposing of the Accusation filed on January 10, 2012, in this matter:

23 1. 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
26 ("APA"), shall instead and in place thereof be submitted solely on the basis of the provisions
27 of this Stipulation and Agreement.

NOTEWORLD CALIFORNIA, INC.
and ELEN ADEL ZIEBELL

H-5763 SAC

1 2. Respondents have received, read and understand 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. Respondents filed a Notice of Defense pursuant to Section 11505 of the
5 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
6 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents
7 acknowledge that Respondents understand that by withdrawing said Notice of Defense,
8 Respondents will thereby waive Respondents' right to require the Real Estate Commissioner
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 Respondents will waive other rights
11 afforded to Respondents 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, Respondents choose not to contest these
15 factual allegations, but to remain silent and understand that, as a result thereof, these factual
16 statements will serve as a prima facie basis for the "Determination of Issues" and "Order" set
17 forth below. The Real Estate Commissioner shall not be required to provide further evidence to
18 prove such allegations.

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

23 6. It is understood by the parties that the Commissioner may adopt the
24 Stipulation and Agreement as his decision in this matter, thereby imposing the penalty and
25 sanctions on Respondents' real estate licenses and license rights as set forth in the "Order"
26 below. In the event that the Commissioner in his discretion does not adopt the Stipulation and
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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 of 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 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 with respect to any matters which were not specifically alleged to be causes for accusation in this proceeding.

8. Respondents understand that by agreeing to this Stipulation and Agreement, Respondents agree to pay, pursuant to Section 10148 of the California Business and Professions Code (“the Code”), the costs of the audits which resulted in the determination that Respondents committed the trust fund violation(s) found in the Determination of Issues. The amount of such costs is \$11,356.56.

9. Respondents further understand that by agreeing to this Stipulation and Agreement, the findings set forth below in the Determination of Issues become final, and that the Commissioner may charge said Respondents for the costs of any audit conducted pursuant to Section 10148 of the Code to determine if the violations have been corrected. The maximum costs of said audit shall not exceed \$5,963.06.

10. Respondents understand that by agreeing to this Stipulation and Agreement, Respondents agree to pay, pursuant to Section 10106 of the Code, the costs of the investigations and enforcement of this case which resulted in the determination that Respondents committed the violation(s) found in the Determination of Issues. The amount of such cost is \$859.62.

DETERMINATION OF ISSUES

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

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1 I.

2 The acts and omissions of Respondent NOTEWORLD CALIFORNIA, INC., as
3 described in the Accusation are grounds for the suspension or revocation of the licenses and
4 license rights of Respondent NOTEWORLD CALIFORNIA, INC. under the provisions of
5 Sections 10145, 10176(e), and 10177(g) of the Code, and Sections 2831, 2831.2, 2832.1, 2834,
6 and 2835 of Title 10 of the California Code of Regulations ("the Regulations").

7 II.

8 The acts and omissions of Respondent ELEN ADEL ZIEBELL as described in
9 the Accusation are grounds for the suspension or revocation of the licenses and license rights of
10 Respondent ELEN ADEL ZIEBELL under the provisions of Sections 10159.2 and 10177(h) of
11 the Code, and Section 2725 of Title 10 of the Regulations.

12 ORDER

13 I.

14 1. All licenses and licensing rights of Respondent NOTEWORLD
15 CALIFORNIA, INC., under the Real Estate Law are publicly reprovod pursuant to Section 495
16 of the Code.

17 2. Respondent NOTEWORLD CALIFORNIA, INC. shall pay the sum of
18 \$11,356.56 for the Commissioner's cost of the audits which led to this disciplinary action.
19 Respondent NOTEWORLD CALIFORNIA, INC. shall pay such cost within sixty (60) days of
20 receiving an invoice therefore from the Commissioner. The Commissioner may indefinitely
21 suspend all licenses and licensing right of Respondent NOTEWORLD CALIFORNIA, INC.
22 pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if
23 payment is not timely made as provided for herein, or as provided for in a subsequent
24 agreement between Respondent NOTEWORLD CALIFORNIA, INC. and the Commissioner.
25 The suspension shall remain in effect until payment is made in full or until Respondent
26 NOTEWORLD CALIFORNIA, INC. enters into an agreement satisfactory to the

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1 Commissioner to provide for payment, or until a decision providing otherwise is adopted
2 following a hearing held pursuant to this condition.

3 3. Respondent NOTEWORLD CALIFORNIA, INC. shall pay the
4 Commissioner's costs, not to exceed \$5,963.06, of any audit conducted pursuant to Section
5 10148 of the Code to determine if Respondent NOTEWORLD CALIFORNIA, INC. has
6 corrected the violations described in the Determination of Issues, above, and any other
7 violations found in the audit which led to this disciplinary action. In calculating the amount of
8 the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly
9 salary for all persons performing audits of real estate brokers, and shall include an allocation
10 for travel time to and from the auditor's place of work. Respondent NOTEWORLD
11 CALIFORNIA, INC. shall pay such cost within sixty (60) days of receiving an invoice
12 therefore from the Commissioner detailing the activities performed during the audit and the
13 amount of time spent performing those activities. If Respondent NOTEWORLD
14 CALIFORNIA, INC. fails to pay such cost within the sixty (60) days, the Commissioner may
15 indefinitely suspend all licenses and licensing rights of Respondent NOTEWORLD
16 CALIFORNIA, INC. under the Real Estate Law until payment is made in full or until
17 Respondent NOTEWORLD CALIFORNIA, INC. enters into an agreement satisfactory to the
18 Commissioner to provide for payment. Upon full payment, the indefinite suspension provided
19 for in this paragraph shall be stayed.

20 4. All licenses and licensing rights of Respondent NOTEWORLD
21 CALIFORNIA, INC. are indefinitely suspended unless or until Respondent NOTEWORLD
22 CALIFORNIA, INC. pays the sum of \$859.62 for the Commissioner's reasonable cost of the
23 investigation and enforcement which led to this disciplinary action. Said payment shall be in
24 the form of a cashier's check or certified check made payable to the Real Estate Fund.

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II.

1. All licenses and licensing rights of Respondent ELEN ADEL ZIEBELL,
under the Real Estate Law are publicly reprovod pursuant to Section 495 of the Code.

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

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

10-5-12

DATED



ANNETTE E. FERRANTE, Counsel
Department of Real Estate

1 * * *

2 I have read the Stipulation and Agreement and its terms are understood by me
3 and are agreeable and acceptable to me. I understand that I am waiving rights given to me by
4 the California Administrative Procedure Act (including but not limited to Sections 11506,
5 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and
6 voluntarily waive those rights, including the right of requiring the Commissioner to prove the
7 allegations in the Accusation at a hearing at which I would have the right to cross-examine
8 witnesses against me and to present evidence in defense and mitigation of the charges.
9 Respondents can signify acceptance and approval of the terms and conditions of this
10 Stipulation and Agreement by faxing a copy of the signature page, as actually signed by
11 Respondents, to the Department at fax number (916) 227-9458. Respondents agree,
12 acknowledge and understand that by electronically sending to the Department a fax copy of
13 Respondents' actual signatures as they appear on the Stipulation and Agreement, that receipt of
14 the faxed copy by the Department shall be as binding on Respondents as if the Department had
15 received the original signed Stipulation and Agreement.

16 9/28/2012

17 DATED

Elen Adel Ziebell
ELEN ADEL ZIEBELL, Respondent

18 9/28/2012

19 DATED

Elen Adel Ziebell
ELEN ADEL ZIEBELL,
As Designated Officer of Respondent
NOTEWORLD CALIFORNIA INC.

21 * * *

22 I have reviewed this Stipulation and Agreement and Order as to form and
23 content and have advised my clients accordingly.

24 09/28/2012

25 DATED

26 Raymond C. Marshall, Esq.
Danielle M. Foreman, Esq.,
Attorneys for Respondents
NOTEWORLD CALIFORNIA INC. and
27 ELEN ADEL ZIEBELL

