

FILED

BUREAU OF REAL ESTATE
P. O. Box 137007
Sacramento, CA 95813-7007

MAY 16 2014

BUREAU OF REAL ESTATE

By K. Contreras

Telephone: (916) 263-8670
Fax: (916) 263-3767

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)

NO. H-5793 SAC

LOUISE ELLEN JOHNSON,)

STIPULATION AND AGREEMENT
IN SETTLEMENT
AND ORDER

Respondent.)

It is hereby stipulated by and between Respondent LOUISE ELLEN JOHNSON (herein "Respondent"), by and through Mark A. Habib, attorney of record herein for Respondent, and the Complainant, acting by and through Mary F. Clarke, Counsel for the Bureau of Real Estate (herein "the Bureau"), as follows for the purpose of settling and disposing of the Accusation filed on March 13, 2012, in this matter (herein "the Accusation"):

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent 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 solely on the basis of the provisions of this Stipulation and Agreement in Settlement and Order.

2. Respondent has received, read and understands the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Bureau in this proceeding.

1 3. A Notice of Defense was filed on March 23, 2012, by Respondent pursuant to
2 Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations
3 in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
4 Respondent acknowledges that she understands that by withdrawing said Notice of Defense, she
5 will thereby waive her rights to require the Real Estate Commissioner (herein "Commissioner")
6 to prove the allegations in the Accusation at a contested hearing held in accordance with the
7 provisions of the APA and that she will waive other rights afforded to her in connection with the
8 hearing such as the right to present evidence in defense of the allegations in the Accusation and
9 the right to cross-examine witnesses.

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

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

23 6. The Order or any subsequent Order of the Commissioner made pursuant to this
24 Stipulation and Agreement in Settlement and Order shall not constitute an estoppel, merger, or bar
25 to any further administrative or civil proceedings by the Bureau with respect to any matters
26 which were not specifically alleged to be causes for the Accusation in this proceeding.

1 7. Respondent understands that by agreeing to this Stipulation and Agreement in
2 Settlement and Order, Respondent agrees to pay, pursuant to Section 10148 of the California
3 Business and Professions Code (herein "Code"), the cost of the audit which resulted in the
4 determination that Respondent committed the violations found in the Determination of Issues.
5 The amount of said costs is \$3,413.40.

6 8. Respondent understands that by agreeing to this Stipulation and Agreement in
7 Settlement and Order, the findings set forth below in the Determination of Issues become final,
8 and that the Commissioner may charge said Respondent for the costs of any audit conducted
9 pursuant to Section 10148 of the Code to determine if the trust fund violations found in the
10 Determination of Issues, below, have been corrected. The maximum costs of said audit shall not
11 exceed \$3,413.40.

12 9. Respondent further understands that by agreeing to this Stipulation and
13 Agreement in Settlement and Order, Respondent agrees to pay, pursuant to Section 10106(a) of
14 the Code, investigative and enforcement costs of \$4,788.92 which led to this disciplinary action.

15 DETERMINATION OF ISSUES

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

20 (a) as to Paragraph 7(a) under Section 2832.1 of the Regulations, in conjunction
21 with Section 10177(d) of the Code

22 (b) as to Paragraph 7(b) under Section 2831.2 of the Regulations, in conjunction
23 with Section 10177(d) of the Code; and

24 (c) as to Paragraph 7(c) under Section 10140.6 of the Code.

25 ORDER

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

4 1. All licenses and licensing rights of Respondent under the Real Estate Law
5 are suspended until such time as Respondent provides proof satisfactory to the Commissioner
6 that Respondent has, within one hundred twenty (120) days prior to the effective date of the
7 Order herein completed the continuing education course on trust fund accounting and handling
8 specified in subdivision (a) of Section 10170.5 of the Code. Proof of completion of the trust fund
9 accounting and handling course must be delivered to the Bureau of Real Estate, Legal Section at
10 P.O. Box 137007, Sacramento, CA 95813-7007 or by fax at 916-263-3767, prior to the effective
11 date of this Order.

12 2. Sixty (60) days of said ninety (90) day said suspension shall be stayed for two
13 (2) years upon the following terms and conditions:

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

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

24 3. The remaining thirty (30) days of said ninety (90) day suspension shall be
25 stayed upon the condition that Respondent petitions, pursuant to Section 10175.2 of the Code,
26

1 and pays a monetary penalty, pursuant to Section 10175.2, of the Code at a rate of \$100.00 for
2 each day of said remaining thirty (30) days for a total monetary penalty of \$3,000.00:

3 (a) Said payment shall be in the form of a cashier's check made payable to
4 the Bureau of Real Estate. Said check must be delivered to the Bureau
5 of Real Estate, Legal Section at P.O. Box 137007, Sacramento,
6 CA 95813-7007, prior to the effective date of this Order.

7 (b) No further cause for disciplinary action against the Real Estate license
8 of Respondent occurs within two (2) years from the effective date of
9 this Order.

10 (c) If Respondent fails to pay the monetary penalty as provided above prior
11 to the effective date of this Order, the suspension shall go into effect
12 automatically and remain in effect until Respondent pays the monetary
13 penalty in full, in which event Respondent shall not be entitled to any
14 repayment nor credit, prorated or otherwise, for the money paid to the
15 Bureau under the terms of this Order.

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

22 4. Respondent understands that by agreeing to this Stipulation and Agreement in
23 Settlement and Order, Respondent agrees to pay, pursuant to Section 10148 of the Code, the cost
24 of the audit which resulted in the determination that Respondent committed the trust fund
25 violations found in the Determination of Issues, above. The amount of said cost is \$3,413.40.
26 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the
27

1 Commissioner. If Respondent fails to pay such cost within the sixty (60) days, Respondent's real
2 estate license shall automatically be suspended until Respondent's payment is made in full.

3 Upon payment in full, the indefinite suspension provided for in this paragraph shall be stayed.

4 5. Respondent shall pay the Commissioner's costs, not to exceed \$3,413.40, of
5 any audit conducted pursuant to Section 10148 of the Code to determine if Respondent has
6 corrected the violations described in the Determination of Issues, above. In calculating the
7 amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average
8 hourly salary for all persons performing audits of real estate brokers, and shall include an
9 allocation for travel time to and from the auditor's place of work. Respondent shall pay such
10 cost within sixty (60) days of receiving an invoice therefore from the Commissioner detailing
11 the activities performed during the audit and the amount of time spent performing those
12 activities. If Respondent fails to pay such cost within the sixty (60) days, Respondent's real estate
13 license shall automatically be suspended until Respondent's payment is made in full. Upon
14 payment in full, the indefinite suspension provided for in this paragraph shall be stayed.

15 6. All licenses and licensing rights of Respondent are indefinitely suspended
16 unless or until Respondent pays the sum of \$4,788.92 for the Commissioner's reasonable cost of
17 the investigation and enforcement which led to this disciplinary action. Said payment shall be in
18 the form of a cashier's check made payable to the Bureau of Real Estate. The investigative and
19 enforcement costs must be delivered to the Bureau of Real Estate, Legal Section at P.O. Box
20 137007, Sacramento, CA 95813-7007, prior to the effective date of this Order.

21 7. Respondent shall, within six (6) months from the effective date of this Order,
22 take and pass the Professional Responsibility Examination administered by the Bureau,
23 including the payment of the appropriate examination fee. If Respondent fails to satisfy this
24 condition Respondent's real estate license shall automatically be suspended until Respondent
25 passes the examination.

4-7-14

DATED

MARY F. CLARKE, Counsel
BUREAU OF REAL ESTATE

I have read the Stipulation and Agreement in Settlement and Order 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 the California APA (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I 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 I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

4/3/14

DATED

LOUISE ELLEN JOHNSON
Respondent

I have reviewed the Stipulation and Agreement as to form and content and have advised my clients accordingly.

4/3/14

DATED

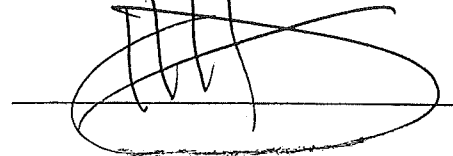
MARK A. HABIB
Attorney for Respondent

The foregoing Stipulation and Agreement in Settlement and Order is hereby adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on

1 JUN 16 2014

2
3 IT IS SO ORDERED May 13, 2014.

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5 REAL ESTATE COMMISSIONER

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7 

8 By: JEFFREY MASON
9 Chief Deputy Commissioner