

1 BUREAU OF REAL ESTATE
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FILED

DEC 10 2013

BUREAU OF REAL ESTATE

By H. Contreras

6
7 BEFORE THE BUREAU OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of) NO. H-5842 SAC
11)
12 TRACY TAMIKO JAMES,) STIPULATION AND AGREEMENT
13) IN SETTLEMENT AND ORDER
14 Respondent.)

15 It is hereby stipulated by and between Respondent TRACY TAMIKO JAMES
16 (herein "Respondent"), by and through Edward O. Lear, attorney of record herein for Respondent
17 and the Complainant, acting by and through Mary F. Clarke, Counsel for the Bureau of Real
18 Estate (herein "the Bureau"), as follows for the purpose of settling and disposing of the
19 Accusation filed on June 18, 2012, in this matter:

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

25 2. Respondent has received, read and understands the Statement to Respondent,
26 the Discovery Provisions of the APA, and the Accusation filed by the Bureau in this proceeding.
27

1 3. A Notice of Defense was filed on July 2, 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,
5 she will thereby waive her right to require the Real Estate Commissioner (herein "the
6 Commissioner") to prove the allegations in the Accusation at a contested hearing held in
7 accordance with the provisions of the APA and that she will waive other rights afforded to her in
8 connection with the hearing such as the right to present evidence in defense of the allegations in
9 the Accusation and the right to cross-examine witnesses.

10 4. Respondent hereby admits that the factual allegations pertaining to her in the
11 Accusation filed in this proceeding are true and correct and the Commissioner shall not be
12 required to provide further evidence of such allegations.

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

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

24 7. Respondent further understands that by agreeing to this Stipulation and
25 Agreement in Settlement and Order, Respondent agrees to pay, pursuant to Section 10106(a) of
26 the Code, investigative and enforcement costs which led to this disciplinary action. The amount
27 of said cost is \$5,000.

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1 4. Respondent shall submit with any application for license under an employing
2 broker, or any application for transfer to a new employing broker, a statement signed by the
3 prospective employing real estate broker on a form approved by the Bureau of Real Estate which
4 shall certify:

5 (a) That the employing broker has read the Decision of the
6 Commissioner which granted the right to a restricted license;
7 and,

8 (b) That the employing broker will exercise close supervision over
9 the performance by the restricted licensee relating to activities for
10 which a real estate license is required.

11 5. Respondent shall pay the sum of \$5,000 for the Commissioner's cost of the
12 investigation and enforcement which led to this disciplinary action pursuant to Section 10106(a)
13 of the Code. Said payment shall be in the form of a cashier's check or certified check made
14 payable to the Real Estate Fund. Said check must be received by the Department prior to the
15 effective date of the Order in this matter. If Respondent fails to satisfy this condition, the
16 Commissioner may suspend the restricted license issued to Respondent pending a hearing held in
17 accordance with Section 11500, et seq., of the Government Code, if payment is not timely made
18 as provided for herein. 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 to
21 this condition.

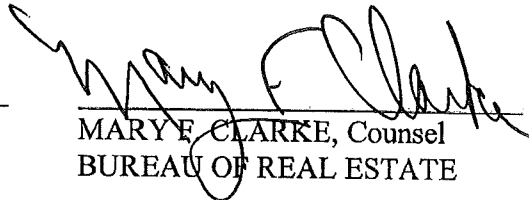
22 6. Respondent shall, within nine (9) months from the effective date of the
23 Order, present evidence satisfactory to the Commissioner that Respondent has taken and
24 successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the
25 Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this
26 condition, the Commissioner may order the suspension of the restricted license until
27 Respondent presents such evidence. The Commissioner shall afford Respondent the

1 opportunity for a hearing pursuant to the APA to present such evidence.

2 7. Respondent shall, within six (6) months from the issuance of the restricted
3 license, take and pass the Professional Responsibility Examination administered by the Bureau,
4 including the payment of the appropriate examination fee. If Respondent fails to satisfy this
5 condition, the Commissioner may order the suspension of the restricted license until
6 Respondent passes the examination.

8 11-4-13

9 DATED

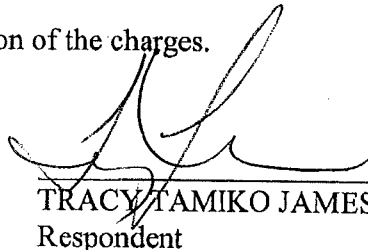
10 
MARY E. CLARKE, Counsel
BUREAU OF REAL ESTATE

11 * * *

12 I have read the Stipulation and Agreement in Settlement and Order and its terms
13 are understood by me and are agreeable and acceptable to me. I understand that I am waiving
14 rights given to me by the California APA (including but not limited to Sections 11506, 11508,
15 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive
16 those rights, including the right of requiring the Commissioner to prove the allegations in the
17 Accusation at a hearing at which I would have the right to cross-examine witnesses against me
18 and to present evidence in defense and mitigation of the charges.

19 10/22/13

20 DATED

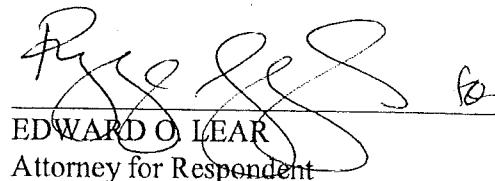
21 
TRACY TAMIKO JAMES
Respondent

22 * * *

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

25 10/25/13

26 DATED

27 
EDWARD O. LEAR
Attorney for Respondent

The foregoing Stipulation and Agreement in Settlement and Order as to
Respondent TRACY TAMIKO JAMES, is hereby adopted by me as my Decision in this matter
and shall become effective at 12 o'clock noon on DEC 31 2013

IT IS SO ORDERED NOV 27 2013

REAL ESTATE COMMISSIONER

A handwritten signature in black ink, appearing to be "J. Mason", is written over a horizontal line. The signature is enclosed within a large, hand-drawn oval.

By: JEFFREY MASON
Chief Deputy Commissioner