

1 Department of Real Estate
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FILED

MAR 01 2013

DEPARTMENT OF REAL ESTATE

By L. Jones

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 STEVE MARVIN WRIGHT and)
13 ALL PROFESSIONAL REALTY INC.,)
14 Respondents.)

No. H-5846 SAC

STIPULATION AND
AGREEMENT

15 It is hereby stipulated by and between STEVE MARVIN WRIGHT and
16 ALL PROFESSIONAL REALTY INC. (Respondents), represented by J. Anne Rawlins, and
17 the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real
18 Estate (Department), as follows for the purpose of settling and disposing the First Amended
19 Accusation (Accusation) filed on January 7, 2013 in this matter:

20 1. All issues which were to be contested and all evidence which was to be
21 presented by Complainant and Respondents 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.

25 2. Respondents have received, read, and understand the Statement to
26 Respondent, and the Discovery Provisions of the APA filed by the Department in this
27 proceeding.

1 3. Respondents filed a Notice of Defense pursuant to Section 11505 of the
2 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
3 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents
4 acknowledge that they understand that by withdrawing said Notice of Defense they will thereby
5 waive their rights to require the Real Estate Commissioner (Commissioner) to prove the
6 allegations in the Accusation at a contested hearing held in accordance with the provisions of the
7 APA, and that they will waive other rights afforded to them in connection with the hearing such
8 as the right to present evidence in defense of the allegations in the Accusation and the right to
9 cross-examine witnesses.

10 4. This stipulation is based on the factual allegations contained in the
11 Accusation. In the interest of expediency and economy, Respondents choose not to contest these
12 factual allegations, but to remain silent and understands that, as a result thereof, these factual
13 statements will serve as a prima facie basis for the "Determination of Issues" and "Order" set
14 forth below. The Commissioner shall not be required to provide further evidence to prove such
15 allegations.

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

20 6. Respondents understand that by agreeing to this Stipulation and
21 Agreement, Respondents agrees to pay, pursuant to Section 10148 of the California Business
22 and Professions Code (Code), the cost of the audit, which resulted in the determination that
23 Respondents committed the trust fund violation(s) found in Paragraph I of the Determination of
24 Issues. The amount of said costs is \$10,314.06.

25 7. Respondents further understand that by agreeing to this Stipulation and
26 Agreement, the findings set forth below in the Determination of Issues become final, and that
27 the Commissioner may charge said Respondent for the costs of any audit conducted pursuant to

1 Section 10148 of the Code to determine if the violations have been corrected. The maximum
2 costs of said audit shall not exceed \$10,314.06.

3 8. Respondent understands that by agreeing to this Stipulation and
4 Agreement, Respondents agree to pay, pursuant to Section 10106 of the Code, the cost of the
5 investigation and enforcement which resulted in the determination that Respondents committed
6 the violation(s) found in the Determination of Issues. The amount of said costs is \$2,345.55.

7 9. It is understood by the parties that the Commissioner may adopt the
8 Stipulation and Agreement as her decision in this matter thereby imposing the penalty and
9 sanctions on the real estate licenses and license rights of Respondents as set forth in the below
10 "Order". In the event that the Commissioner in her discretion does not adopt the Stipulation and
11 Agreement, it shall be void and of no effect, and Respondents shall retain the right to a hearing
12 and proceeding on the Accusations under all the provisions of the APA and shall not be bound by
13 any admission or waiver made herein.

14 10. The Order or any subsequent Order of the Commissioner made pursuant to
15 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further
16 administrative or civil proceedings by the Department with respect to any matters which were not
17 specifically alleged to be causes for accusation in these proceedings.

18 * * *

19 DETERMINATION OF ISSUES

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

23 I

24 The acts and omissions of ALL PROFESSIONAL REALTY INC. (APRI) as
25 described in the First Cause of Action of the Accusation are grounds for the suspension or
26 revocation of APRI licenses and license rights under the following sections of the Code and
27 Title 10 of the California Code of Regulations (Regulations):

1 (1) As to Paragraph 10(a), under Section 10177(d) of the Code in conjunction
2 with Section 10145 of the Code and Section 2832.1 of the Regulations;

3 (2) As to Paragraph 10(b), under Section 10177(d) of the Code in
4 conjunction with Section 2831 of the Regulations;

5 (3) As to Paragraph 10(c), under Section 10177(d) of the Code in conjunction
6 with Section 2831.1 of the Regulations; and

7 (4) As to Paragraph 10(d), under Section 10177(d) of the Code in
8 conjunction with Section 2831.2 of the Regulations.

9 II

10 The acts and/or omissions of STEVE MARVIN WRIGHT (WRIGHT) as
11 described in the Second Cause of Action of the Accusation is cause for the suspension or
12 revocation of WRIGHT's license and/or license rights under Section 10177(h) of the Code.

13 * * *

14 ORDER

15 I

16 All licenses and licensing rights of Respondent APRI under the Real Estate Law
17 are suspended for a period of one hundred and twenty (120) days from the effective date of this
18 Order; provided, however, that:

19 1) Sixty (60) days of said suspension shall be stayed, upon the condition that APRI petition
20 pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to Section
21 10175.2 of the Code at a rate of \$100 for each day of the suspension for a total monetary penalty
22 of \$6,000.

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

26 b) No further cause for disciplinary action against the Real Estate licenses of APRI occurs
27 within two (2) years from the effective date of the decision in this matter.

1 c) If APRI fails to pay the monetary penalty as provided above prior to the effective date of
2 this Order, the stay of the suspension shall be vacated as to that Respondent and the order
3 of suspension shall be immediately executed, under this Order, in which event the said
4 Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for
5 the money paid to the Department under the terms of this Order.

6 d) If APRI pays the monetary penalty and any other moneys due under this Stipulation and
7 Agreement and if no further cause for disciplinary action against the real estate license of
8 said Respondent occurs within two (2) years from the effective date of this Order, the
9 entire stay hereby granted this Order, as to said Respondent only, shall become
10 permanent.

11 2) Sixty (60) days of said suspension shall be stayed for two (2) years upon the following terms
12 and conditions:

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

15 b) That no final subsequent determination be made, after hearing or upon stipulation, that
16 cause for disciplinary action occurred within one (1) year from the effective date of this
17 Order. Should such a determination be made, the Commissioner may, in his discretion,
18 vacate and set aside the stay order and reimpose all or a portion of the stayed suspension.
19 Should no such determination be made, the stay imposed herein shall become permanent.

20 II

21 All licenses and licensing rights of Respondent WRIGHT under the Real Estate Law are
22 suspended for a period of one hundred and twenty (120) days from the effective date of this
23 Order; provided, however, that:

24 1) Sixty (60) days of said suspension shall be stayed, upon the condition that WRIGHT petition
25 pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to Section
26 10175.2 of the Code at a rate of \$100 for each day of the suspension for a total monetary penalty
27 of \$6,000.

1 a) Said payment shall be in the form of a cashier's check or certified check made payable to
2 the Consumer Recovery Account of the Real Estate Fund. Said check must be delivered
3 to the Department prior to the effective date of the Order in this matter.

4 b) No further cause for disciplinary action against the Real Estate licenses of WRIGHT
5 occurs within two (2) years from the effective date of the decision in this matter.

6 c) If WRIGHT fails to pay the monetary penalty as provided above prior to the effective date
7 of this Order, the stay of the suspension shall be vacated as to that Respondent and the
8 order of suspension shall be immediately executed, under this Order, in which event the
9 said Respondent shall not be entitled to any repayment nor credit, prorated or otherwise,
10 for the money paid to the Department under the terms of this Order.

11 d) If WRIGHT pays the monetary penalty and any other moneys due under this Stipulation
12 and Agreement and if no further cause for disciplinary action against the real estate
13 license of said Respondent occurs within two (2) years from the effective date of this
14 Order, the entire stay hereby granted this Order, as to said Respondent only, shall become
15 permanent.

16 2) Sixty (60) days of said suspension shall be stayed for two (2) years upon the following terms
17 and conditions:

18 a) WRIGHT shall obey all laws, rules and regulations governing the rights, duties and
19 responsibilities of a real estate licensee in the State of California; and,

20 b) That no final subsequent determination be made, after hearing or upon stipulation, that
21 cause for disciplinary action occurred within one (1) year from the effective date of this
22 Order. Should such a determination be made, the Commissioner may, in his discretion,
23 vacate and set aside the stay order and reimpose all or a portion of the stayed suspension.
24 Should no such determination be made, the stay imposed herein shall become permanent.

25 3) All licenses and licensing rights of WRIGHT are indefinitely suspended unless or until
26 Respondent provides proof satisfactory to the Commissioner, of having taken and successfully
27 completed the continuing education course on trust fund accounting and handling specified in

1 paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of satisfaction of this
2 requirement includes evidence that respondent has successfully completed the trust fund account
3 and handling continuing education course within 120 days prior to the effective date of the
4 Decision in this matter.

5 4) WRIGHT shall, within six (6) months from the effective date of this Decision, take and pass
6 the Professional Responsibility Examination administered by the Department including the
7 payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the
8 Commissioner may order suspension of the license until Respondent passes the examination.

9 III

10 1) Pursuant to Section 10148 of the Code, Respondents shall jointly and severally pay the sum of
11 \$10,314.06 for the Commissioner's cost of the audit which led to this disciplinary action.
12 Respondents shall pay such cost within sixty (60) days of receiving an invoice from the
13 Commissioner. The Commissioner may suspend the Respondents license pending a hearing held
14 in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made
15 as provided for herein, or as provided for in a subsequent agreement between the Respondents
16 and the Commissioner. The suspension shall remain in effect until payment is made in full or
17 until Respondents enter into an agreement satisfactory to the Commissioner to provide for
18 payment, or until a decision providing otherwise is adopted following a hearing held pursuant to
19 this condition.


20 2) Pursuant to Section 10148 of the Code, Respondents shall jointly and severally pay the
21 Commissioner's reasonable cost, not to exceed \$10,314.06, for an audit to determine if
22 Respondents have corrected the trust fund violation(s) found in the Determination of Issues. In
23 calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the
24 estimated average hourly salary for all persons performing audits of real estate brokers, and shall
25 include an allocation for travel time to and from the auditor's place of work. Respondents shall
26 pay such cost within sixty (60) days of receiving an invoice from the Commissioner detailing the
27 activities performed during the audit and the amount of time spent performing those activities.

1 The Commissioner may suspend Respondents' license pending a hearing held in accordance with
 2 Section 11500, et seq., of the Government Code, if payment is not timely made as provided for
 3 herein, or as provided for in a subsequent agreement between Respondents and the
 4 Commissioner. The suspension shall remain in effect until payment is made in full or until
 5 Respondents enter into an agreement satisfactory to the Commissioner to provide for payment, or
 6 until a decision providing otherwise is adopted following a hearing held pursuant to this
 7 condition.

8 3) All licenses and licensing rights of Respondents are indefinitely suspended unless or until
 9 Respondents pays the sum of \$2,345.55 for the Commissioner's reasonable cost of the
 10 investigation and enforcement which led to this disciplinary action. Said payment shall be in the
 11 form of a cashier's check or certified check made payable to the Real Estate Fund.

12 5-Feb-13

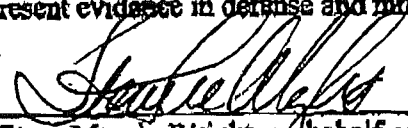
13 DATED


 14 TRULY SUGHRUE
 15 Counsel for Complainant

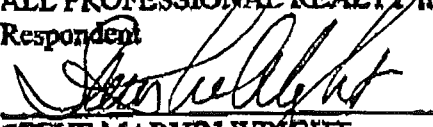
16 ***

17 I have read the Stipulation and Agreement, discussed it with my counsel, and its
 18 terms are understood by me and are agreeable and acceptable to me. I understand that I am
 19 waiving rights given to me by the California Administrative Procedure Act, and I willingly,
 20 intelligently and voluntarily waive those rights, including the right of requiring the
 21 Commissioner to prove the allegations in the Accusations at a hearing at which I would have the
 22 right to cross-examine witnesses against me and to present evidence in defense and mitigation of
 23 the charges.

24 2/4/13
 25 DATED


 26 Steve Marvin Wright, on behalf of
 27 ALL PROFESSIONAL REALTY INC.
 Respondent

28 2/4/13
 29 DATED


 30 STEVE MARVIN WRIGHT
 Respondent

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

02-04-2013
DATED

J. Anne Rawlins
J. ANNE RAWLINS
Attorney for Respondents

The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on MAR 21 2013

IT IS SO ORDERED 2/27/2013

Real Estate Commissioner

[Signature]