

1 BUREAU OF REAL ESTATE
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FILED

JAN 30 2014

BUREAU OF REAL ESTATE

By *J. Ferrante*

8
9 BEFORE THE BUREAU OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)

13 ERICA L. TORREZ)

14 Respondent.)

NO. H-5891 SAC

STIPULATION AND AGREEMENT

15
16 It is hereby stipulated by and between Respondent ERICA L. TORREZ
17 ("Respondent"), and the Complainant, acting by and through Annette E. Ferrante, Esq., Counsel
18 for the Bureau of Real Estate¹ ("Bureau"), as follows for the purpose of settling and disposing of
19 the Accusation filed on October 18, 2012, in this matter:

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

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27 ¹ Effective July 1, 2013, the Department of Real Estate has become the Bureau of Real Estate under the Department of Consumer Affairs.

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 Bureau in this
3 proceeding.

4 3. Respondent 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 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
7 acknowledges that Respondent understands that by withdrawing said Notice of Defense,
8 Respondent will thereby waive Respondent's 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 Respondent will waive other rights afforded
11 to Respondent in connection with the hearing, such as the right to present evidence in defense of
12 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 these
15 factual allegations, but to remain silent and understands 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 Commissioner shall not be required to provide further evidence to prove such
18 allegations.

19 5. This Stipulation and Respondent's decision not to contest the
20 Accusation are made for the purpose of reaching an agreed disposition in this proceeding and are
21 expressly limited to this proceeding and any other proceeding or case in which the Department,
22 the state or 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 Respondent's real estate license 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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1 Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing
2 and proceeding on the Accusation under all of the provisions of the APA and shall not be bound
3 by any admission or waiver made herein.

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

8 8. Respondent understands that by agreeing to this Stipulation and
9 Agreement, Respondent agrees to pay, pursuant to Section 10148 of the California Business and
10 Professions Code ("the Code"), the costs of the audit which resulted in the determination that
11 Respondent committed the trust fund violation(s) found in the Determination of Issues. The
12 amount of such costs is \$3,245.70.

13 9. Respondent further understand that by agreeing to this Stipulation and
14 Agreement, the findings set forth below in the Determination of Issues become final, and that the
15 Commissioner may charge said Respondent for the costs of any audit conducted pursuant to
16 Section 10148 of the Code to determine if the violations have been corrected. The maximum
17 costs of said audit shall not exceed \$3,245.70.

18 DETERMINATION OF ISSUES

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

22 I.

23 The acts and omissions of Respondent ERICA L. TORREZ as described in the
24 Accusation are grounds for the suspension or revocation of the licenses and license rights of
25 Respondent under the provisions of Sections 10177(d) and 10177(g) of the Code, in conjunction
26 with Sections 10145 and 10159.5 of the Code and Sections 2832.1, 2832, 2831.2, and 2731 of
27 Title 10 of the California Code of the Regulations.

1 ORDER

2 1. All licenses and licensing rights of Respondent ERICA L. TORREZ
3 ("Respondent") under the Real Estate Law are suspended for a period of thirty (30) days from
4 the effective date of this Order; provided, however, that:

5 a. Thirty (30) days of said suspension shall be stayed for two (2)
6 years upon the following terms and conditions:

7 i. Respondent shall obey all laws, rules and regulations
8 governing the rights, duties and responsibilities of a real estate licensee in the State of
9 California; and,

10 ii. That no final subsequent determination be made, after
11 hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years
12 from the effective date of this Order. Should such a determination be made, the Commissioner
13 may, in his discretion, vacate and set aside the stay order and re-impose all or a portion of the
14 stayed suspension. Should no such determination be made, the stay imposed herein shall
15 become permanent.

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

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

1 4. Notwithstanding any other provision of this Order, all licenses and
2 licensing rights of Respondent are suspended unless and until she provides proof satisfactory to
3 the Commissioner that she has taken and successfully completed the continuing education course
4 on Risk Management specified in Section 10170.5(a)(5) of the Code. The course must have been
5 completed no earlier than one hundred twenty (120) days prior to the effective date of this Order,
6 and proof must be submitted prior to the effective date of this Order, to prevent suspension of
7 Respondent's license pursuant to this condition.

8 5. Respondent shall pay the sum of \$3,245.70 for the Commissioner's cost
9 of the audit which led to this disciplinary action. Respondent shall pay such cost within six (6)
10 months of the effective date of this Order. The Commissioner may indefinitely suspend all
11 licenses and licensing rights of Respondent pending a hearing held in accordance with Section
12 11500, et seq., of the Government Code, if payment is not timely made as provided for herein,
13 or as provided for in a subsequent agreement between Respondent and the Commissioner. The
14 suspension shall remain in effect until payment is made in full or until Respondent enters into
15 an agreement satisfactory to the Commissioner to provide for payment, or until a decision
16 providing otherwise is adopted following a hearing held pursuant to this condition.

17 6. Respondent shall pay the Commissioner's costs, not to exceed
18 \$3,245.70, of any audit conducted pursuant to Section 10148 of the Code to determine if
19 Respondent has corrected the violations described in the Determination of Issues, above, and
20 any other violations found in the audit which led to this disciplinary action. In calculating the
21 amount of the Commissioner's reasonable cost, the Commissioner may use the estimated
22 average hourly salary for all persons performing audits of real estate brokers, and shall include
23 an allocation for travel time to and from the auditor's place of work. Respondent shall pay
24 such cost within sixty (60) days of receiving an invoice therefore from the Commissioner
25 detailing the activities performed during the audit and the amount of time spent performing

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1 those activities. If Respondent fails to pay such cost within the sixty (60) days, the
2 Commissioner may indefinitely suspend all licenses and licensing rights of Respondent under
3 the Real Estate Law until payment is made in full or until Respondent enters into an agreement
4 satisfactory to the Commissioner to provide for payment. Upon full payment, the indefinite
5 suspension provided for in this paragraph shall be stayed.

7 7-8-13

8 DATED

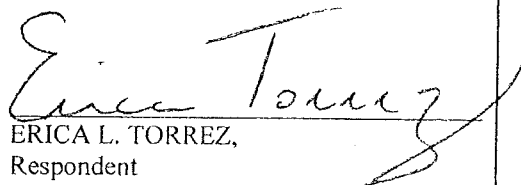


8 Annette E. Ferrante, Esq.,
9 Counsel for Bureau of Real Estate

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 the California Administrative Procedure Act (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. Respondent(s) can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by Respondent(s), to the Bureau at fax number (916) 263-8705. Respondent(s) agree, acknowledge and understand that by electronically sending to the Bureau a fax copy of Respondent(s)' actual signature(s) as they appear on the Stipulation and Agreement, that receipt of the faxed copy by the Bureau shall be as binding on Respondent(s) as if the Bureau had received the original signed Stipulation and Agreement.

7/8/13

DATED


ERICA L. TORREZ,
Respondent

The foregoing Stipulation and Agreement is hereby adopted by me as my Decision in
this matter as to Respondent ERICA L. TORREZ, and shall become effective at 12 o'clock noon

on **FEB 20 2014**

IT IS SO ORDERED SEPTEMBER 19, 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