

FILED

AUG 20 2014

BUREAU OF REAL ESTATE

By S. Black

BUREAU OF REAL ESTATE
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BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	NO. H-5993 SAC
EMINENT REALTY SERVICES, INC.,)	
a Corporation, and)	<u>STIPULATION AND AGREEMENT</u>
YUV RAJ GILL, and)	<u>IN SETTLEMENT AND ORDER</u>
PRABHJOT SINGH,)	
)	(As to EMINENT REALTY SERVICES, INC.,
Respondents.)	and YUV RAJ GILL, only.)

It is hereby stipulated by and between Respondents EMINENT REALTY SERVICES, INC. (herein "EMINENT") and YUV RAJ GILL (herein "GILL") (herein collectively "Respondents") 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 May 31, 2013 in this matter:

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

1 2. Respondents have received, read and understand the Statement to Respondent,
2 the Discovery Provisions of the APA, and the Accusation filed by the Bureau in this proceeding.

3 3. Notices of Defense were filed on June 11, 2013, by Respondents pursuant to
4 Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations
5 in the Accusation. Respondents hereby freely and voluntarily withdraw said Notices of Defense.
6 Respondents acknowledge that they understand that by withdrawing said Notices of Defense,
7 they will thereby waive their rights to require the Real Estate Commissioner (herein
8 "Commissioner") to prove the allegations in the Accusation at a contested hearing held in
9 accordance with the provisions of the APA and that they will waive other rights afforded to them
10 in connection with the hearing such as the right to present evidence in defense of the allegations
11 in the Accusation and the right to cross-examine witnesses.

12 4. Respondents hereby admit that the factual allegations pertaining to them in the
13 Accusation filed in this proceeding are true and correct and the Commissioner shall not be
14 required to provide further evidence of such allegations.

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

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

26 7. Respondents understand that by agreeing to this Stipulation and Agreement in
27 Settlement and Order, Respondents agree to pay, jointly and severally, pursuant to Section 10148

of the California Business and Professions Code (herein "Code"), the cost of the audit which resulted in the determination that Respondents committed the violations found in the Determination of Issues. The amount of said costs is \$4,389.00,

8. Respondents understand that by agreeing to this Stipulation and Agreement in Settlement and Order, the findings set forth below in the Determination of Issues become final, and that the Commissioner may charge said Respondents, jointly and severally, for the costs of any audit conducted pursuant to Section 10148 of the Code to determine if the trust fund violations found in the Determination of Issues, below, have been corrected. The maximum costs of said audit shall not exceed \$4,389.00.

9. Respondents further understand that by agreeing to this Stipulation and Agreement in Settlement and Order, Respondents agree to pay, jointly and severally, pursuant to Section 10106(a) of the Code, investigative and enforcement costs of \$1,991.83 which led to this disciplinary action.

DETERMINATION OF ISSUES

The acts and omissions of Respondents as described in the Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondents under the following provisions of the Code and/or Chapter 6, Title 10, California Code of Regulations (herein “the Regulations”):

- (a) as to Paragraph 9(a) under Sections 10145 and 10176(i) and/or 10177(g) of the Code and Section 2832.1 of the Regulations in conjunction with Section 10177(d) of the Code;
- (b) as to Paragraph 9(b) under Section 10176(g) of the Code;
- (c) as to Paragraph 9(c) under Sections 10176(a) and (i) and/or 10177(j) and/or 10177(g) of the Code in conjunction with Section 10177(d) of the Code; and
- (d) as to Paragraph 9(d) under Section 10145 of the Code and Section 2831.2 of the Regulations in conjunction with Section 10177(d) of the Code.

1 ORDER

2 I

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

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

8 (a) EMINENT shall obey all laws, rules and regulations governing the
9 rights, duties and responsibilities of a real estate licensee in the
10 State of California; and,

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

18 2. The remaining thirty (30) days of said ninety (90) day suspension shall be
19 stayed upon the condition that EMINENT petitions, pursuant to Section 10175.2 of the Code,
20 and pays a monetary penalty, pursuant to Section 10175.2, of the Code at a rate of \$100.00 for
21 each day of said remaining thirty (30) days for a total monetary penalty of \$3,000.00:

22 (a) Said payment shall be in the form of a cashier's check or certified
23 check made payable to the Recovery Account of the Real Estate Fund.
24 Said check must be received by the Bureau prior to the effective date
25 of this Order.

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1 (b) No further cause for disciplinary action against the Real Estate license
2 of EMINENT occurs within two (2) years from the effective date of
3 this Order.

4 (c) If EMINENT fails to pay the monetary penalty as provided above prior
5 to the effective date of this Order, the suspension shall go into effect
6 automatically and remain in effect until EMINENT pays the monetary
7 penalty in full, in which event EMINENT shall not be entitled to any
8 repayment nor credit, prorated or otherwise, for the money paid to the
9 Bureau under the terms of this Order.

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

16 3. EMINENT understands that by agreeing to this Stipulation and Agreement in
17 Settlement and Order, EMINENT agrees to pay, jointly and severally with Respondent GILL,
18 pursuant to Section 10148 of the Code, the cost of the audit which resulted in the determination
19 that Respondents committed the trust fund violations found in the Determination of Issues,
20 above. The amount of said cost is \$4,389.00. Respondents shall pay such cost within sixty (60)
21 days of receiving an invoice therefore from the Commissioner. If Respondents fails to pay such
22 cost within the sixty (60) days, EMINENT's real estate license shall automatically be suspended
23 until Respondents' payment is made in full. Upon payment in full, the indefinite suspension
24 provided for in this paragraph shall be stayed.

25 4. EMINENT shall pay, jointly and severally with Respondent GILL, the
26 Commissioner's costs, not to exceed \$4,389.00, of any audit conducted pursuant to Section
27 10148 of the Code to determine if Respondents have corrected the violations described in the

1 Determination of Issues, above. In calculating the amount of the Commissioner's reasonable
2 cost, the Commissioner may use the estimated average hourly salary for all persons performing
3 audits of real estate brokers, and shall include an allocation for travel time to and from the
4 auditor's place of work. Respondents shall pay such cost within sixty (60) days of receiving an
5 invoice therefore from the Commissioner detailing the activities performed during the audit and
6 the amount of time spent performing those activities. If Respondents fail to pay such cost within
7 the sixty (60) days, EMINENT's real estate license shall automatically be suspended until
8 Respondents' payment is made in full. Upon payment in full, the indefinite suspension provided
9 for in this paragraph shall be stayed.

10 5. EMINENT shall pay, jointly and severally with Respondent GILL, the sum of
11 \$1,991.83 for the Commissioner's investigative and enforcement costs, pursuant to Section
12 10106(a) of the Code, for the investigation and enforcement which led to this disciplinary
13 action. 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 Bureau prior to the
15 effective date of this Order. If Respondents fail to satisfy this condition, EMINENT's real
16 estate license shall automatically be suspended until Respondents' payment is made in full.

17 II

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

21 1. All licenses and licensing rights of GILL under the Real Estate Law are
22 suspended until such time as GILL provides proof satisfactory to the Commissioner that GILL
23 has, within one hundred twenty (120) days prior to the effective date of the Order herein
24 completed the continuing education course on trust fund accounting and handling specified in
25 subdivision (a) of Section 10170.5 of the Code.

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

1 (a) GILL shall obey all laws, rules and regulations governing the
2 rights, duties and responsibilities of a real estate licensee in the
3 State of California; and,

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

11 3. The remaining thirty (30) days of said ninety (90) day suspension shall be
12 stayed upon the condition that GILL petitions, pursuant to Section 10175.2 of the Code, and pays
13 a monetary penalty, pursuant to Section 10175.2, of the Code at a rate of \$100.00 for each day of
14 said remaining thirty (30) days for a total monetary penalty of \$3,000.00:

15 (a) Said payment shall be in the form of a cashier's check or certified
16 **check** made payable to the Recovery Account of the Real Estate Fund.
17 Said check must be **received by the Bureau prior to the effective**
18 **date of this Order.**

19 (b) No further cause for disciplinary action against the Real Estate license
20 of GILL occurs within two (2) years from the effective date of this
21 Order.

22 (c) If GILL fails to pay the monetary penalty as provided above prior to
23 the effective date of this Order, the suspension shall go into effect
24 automatically and remain in effect until GILL pays the monetary
25 penalty in full, in which event GILL shall not be entitled to any
26 repayment nor credit, prorated or otherwise, for the money paid to the
27 Bureau under the terms of this Order.

1 (d) If GILL pays the monetary penalty and any other moneys due

2 under this Stipulation and Agreement in Settlement and if no
3 further cause for disciplinary action against the real estate license
4 of GILL occurs within two (2) years from the effective date of this
5 Order, the entire stay hereby granted under this Order shall become
6 permanent.

7 4. GILL understands that by agreeing to this Stipulation and Agreement in

8 Settlement and Order, GILL agrees to pay, jointly and severally with Respondent EMINENT,
9 pursuant to Section 10148 of the Code, the cost of the audit which resulted in the determination
10 that Respondents committed the trust fund violations found in the Determination of Issues,
11 above. The amount of said cost is \$4,389.00. Respondents shall pay such cost within sixty (60)
12 days of receiving an invoice therefore from the Commissioner. If Respondents fail to pay such
13 cost within the sixty (60) days, Respondents' real estate license shall automatically be suspended
14 until Respondents' payment is made in full. Upon payment in full, the indefinite suspension
15 provided for in this paragraph shall be stayed.

16 5. GILL shall pay, jointly and severally with Respondent EMINENT, the

17 Commissioner's costs, not to exceed \$4,389.00, of any audit conducted pursuant to Section
18 10148 of the Code to determine if Respondents have corrected the violations described in the
19 Determination of Issues, above. In calculating the amount of the Commissioner's reasonable
20 cost, the Commissioner may use the estimated average hourly salary for all persons performing
21 audits of real estate brokers, and shall include an allocation for travel time to and from the
22 auditor's place of work. Respondents shall pay such cost within sixty (60) days of receiving an
23 invoice therefore from the Commissioner detailing the activities performed during the audit and
24 the amount of time spent performing those activities. If Respondents fail to pay such cost within
25 the sixty (60) days, Respondents' real estate license shall automatically be suspended until
26 Respondent s' payment is made in full. Upon payment in full, the indefinite suspension provided
27 for in this paragraph shall be stayed.

1 6. GILL shall pay, jointly and severally with Respondent EMINENT, the sum
2 of \$1,991.83 for the Commissioner's investigative and enforcement costs, pursuant to Section
3 10106(a) of the Code, for the investigation and enforcement which led to this disciplinary
4 action. **Said payment shall be in the form of a cashier's check or certified check** made
5 payable to the Real Estate Fund. **Said check must be received by the Bureau prior to the**
6 **effective date of this Order.** If Respondents fail to satisfy this condition, Respondents' real
7 estate license shall automatically be suspended until Respondents' payment is made in full.

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

12 7-9-14

13 DATED

14 MARY F. CLARKE, Counsel
15 BUREAU OF REAL ESTATE

16 * * *

17 I have read the Stipulation and Agreement in Settlement and Order and its terms
18 are understood by me and are agreeable and acceptable to me. I understand that I am waiving
19 rights given to me by the California APA (including but not limited to Sections 11506, 11508,
20 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive
21 those rights, including the right of requiring the Commissioner to prove the allegations in the
22 Accusation at a hearing at which I would have the right to cross-examine witnesses against me
23 and to present evidence in defense and mitigation of the charges.

24 EMINENT REALTY SERVICES, INC.
25 Respondent

26 7/8/2014

27 DATED

By:

28 YUV RAJ GILL
29 Designated Officer - Broker

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7/8/2014

DATED



YUV RAJ GILL

Respondent

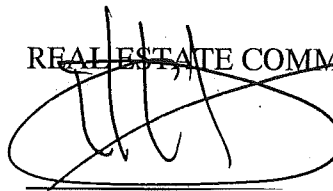
The foregoing Stipulation and Agreement in Settlement and Order is hereby
adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on

SEP 08 2014

IT IS SO ORDERED

AUG 19 2014

REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner