

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

9 4) Respondent, pursuant to the "Determination of Issues" set forth below, hereby
10 admits that the factual allegations, in the Accusation filed in this proceeding are true and correct
11 and the Commissioner shall not be required to provide further evidence of such allegations.

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

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

22 7) Respondent understands that by agreeing to this Stipulation, Respondent
23 agrees to pay, pursuant to Section 10148 of the California Business and Professions Code (herein
24 "Code"), the cost of the audit which resulted in the determination that Respondent committed the
25 violations found in the "Determination of Issues" below. The amount of said cost is \$2,641.25.

26 8) Respondent understands that by agreeing to this Stipulation, the findings set
27 forth below in the "Determination of Issues" become final, and that the Commissioner may

1 charge Respondent for the cost of any audit conducted pursuant to Section 10148 of the Code to
2 determine if the trust fund violations found in the "Determination of Issues," below, have been
3 corrected. The maximum cost of said audit shall not exceed \$2,641.25.

4 9) Respondent further understands that by agreeing to this Stipulation,
5 Respondent agrees to pay, pursuant to Section 10106(a) of the Code, investigative and
6 enforcement costs of \$2,929.40 which led to this disciplinary action.

7 DETERMINATION OF ISSUES

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

- 12 (a) as to Paragraph 6(a) under Section 10148 of the Code, in conjunction
13 with Section 10177(d) of the Code
14 (b) as to Paragraph 6(b) under Section 10145 of the Code and Section 2832
15 of the Regulations, in conjunction with Section 10177(d) of the Code;
16 (c) as to Paragraph 6(c) under Section 2831 of the Regulations, in
17 conjunction with Section 10177(d) of the Code;
18 (d) as to Paragraph 6(d) under Section 10145 of the Code and Section
19 2831.1 of the Regulations, in conjunction with Section 10177(d) of the
20 Code;
21 (e) as to Paragraph 6(e) under Section 2831.2 of the Regulations, in
22 conjunction with Section 10177(d) of the Code;
23 (f) as to Paragraph 6(f) under Section 2834 of the Regulations, in
24 conjunction with Section 10177(d) of the Code; and
25 (g) as to Paragraph 7 under Sections 10130, 10137 and 10177(g) of the
26 Code, in conjunction with Section 10177(d) of the Code.

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1) 30 days of said suspension shall be stayed, upon the condition that Respondent petition pursuant to Section 10175.2 of the Code and pay a monetary penalty pursuant to Section 10175.2 of the Code at a rate of \$75.00 per day for a total monetary penalty of \$2,250.00.

b) No further cause for disciplinary action against the Real Estate license of
Respondent occurs within two (2) years from the effective date of the Decision in this matter.

Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Bureau under the terms of this Decision.

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

b) That no final subsequent determination be made, after hearing or upon

1 stipulation, that cause for disciplinary action occurred within two (2) years from the effective
2 date of this Decision. Should such a determination be made, the Commissioner may, in his
3 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
4 suspension. Should no such determination be made, the stay imposed herein shall become
5 permanent.

6 3) All licenses and licensing rights of Respondent are indefinitely suspended
7 unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and
8 successfully completed the continuing education course on trust fund accounting and handling
9 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions
10 Code. Proof of satisfaction of these requirements includes evidence that Respondent has
11 successfully completed the trust fund account and handling continuing education courses, no
12 earlier than 120 days prior to the effective date of the Decision in this matter. **Proof of**
13 **completion of the trust fund accounting and handling course must be delivered to the**
14 **Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by**
15 **fax at 916-263-8758, prior to the effective date of this Decision.**

16 4) Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
17 \$2,641.25 for the Commissioner's cost of the audit which led to this disciplinary action.
18 **Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from**
19 **the Commissioner.** Payment of audit costs should not be made until Respondent receives the
20 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
21 Respondent's real estate license shall automatically be suspended until payment is made in full,
22 or until a decision providing otherwise is adopted following a hearing held pursuant to this
23 condition.

24 5) Pursuant to Section 10148 of the Code, Respondent shall pay the
25 Commissioner's reasonable cost, not to exceed \$2,641.25, for an audit to determine if
26 Respondent has corrected the violations found in the "Determination of Issues." In calculating
27 the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated

1 average hourly salary for all persons performing audits of real estate brokers, and shall include an
2 allocation for travel time to and from the auditor's place of work. **Respondent shall pay such**
3 **cost within sixty (60) days of receiving an invoice therefore from the Commissioner.**

4 Payment of the audit costs should not be made until Respondent receives the invoice. If
5 Respondent fails to satisfy this condition in a timely manner as provided for herein, Respondent's
6 real estate license shall automatically be suspended until payment is made in full, or until a
7 decision providing otherwise is adopted following a hearing held pursuant to this condition.

8 6) All licenses and licensing rights of Respondent are indefinitely suspended
9 unless or until Respondent pays the sum of \$2,929.40 for the Commissioner's reasonable cost of
10 the investigation and enforcement which led to this disciplinary action. Said payment shall be in
11 the form of a cashier's check made payable to the Bureau of Real Estate. **The investigative and**
12 **enforcement costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box**
13 **137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision.**

14 7) Respondent shall, within six (6) months from the effective date of this
15 **Decision,** take and pass the Professional Responsibility Examination administered by the
16 Bureau including the payment of the appropriate examination fee. If Respondent fails to satisfy
17 this condition, Respondent's real estate license shall automatically be suspended until
18 Respondent passes the examination.

19
20 9-29-15

21 DATED

22 MARY F. CLARKE, Counsel
23 Bureau of Real Estate

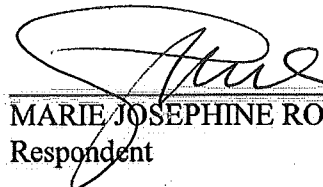
24 * * *

25 I have read this Stipulation and its terms are understood by me and are agreeable
26 and acceptable to me. I understand that I am waiving rights given to me by the California APA
27 (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

1 requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I
2 would have the right to cross-examine witnesses against me and to present evidence in defense
3 and mitigation of the charges.

4
5 2 Sept 2015

6 DATED

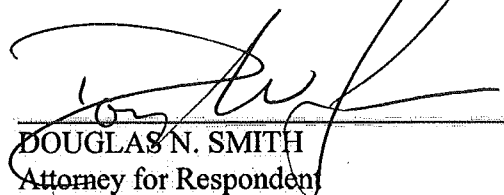
7 
MARIE JOSEPHINE ROSSI
Respondent

8 * * *

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

11 9-2-15

12 DATED

13 
DOUGLAS N. SMITH
Attorney for Respondent

14 * * *

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

17 DEC 10 2015, 2015.

18 IT IS SO ORDERED NOVEMBER 17, 2015,

19
20 WAYNE S. BELL
REAL ESTATE COMMISSIONER

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23 By: JEFFREY MASON
24 Chief Deputy Commissioner
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