

1 BUREAU OF REAL ESTATE  
2 P. O. Box 137007  
3 Sacramento, CA 95813-7007

4 Telephone: (916) 263-8670

**FILED**

JAN 28 2016

BUREAU OF REAL ESTATE

By B. Nicholas

7 BEFORE THE BUREAU OF REAL ESTATE

8 STATE OF CALIFORNIA

9 \* \* \*

10 In the Matter of the Accusation of: ) Case No. H-6253 SAC  
11 )  
12 TIM PATRICK AGUILAR, ) STIPULATION AND AGREEMENT  
13 ) IN SETTLEMENT AND ORDER  
14 Respondent. )

15 It is hereby stipulated by and between Respondent TIM PATRICK AGUILAR  
16 ("Respondent"), acting by and through Hannah M. Shafsky, counsel for Respondent, and the  
17 Complainant, acting by and through Jason D. Lazark, Counsel for the Bureau of Real Estate, as  
18 follows for the purpose of settling and disposing of the Accusation filed on May 19, 2015, in  
19 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  
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 In Settlement and Order ("Stipulation and Agreement").

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

1                   3. On June 2, 2015, Respondent filed a Notice of Defense pursuant to Section  
2 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the  
3 Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.  
4 Respondent acknowledges and understands that by withdrawing said Notice of Defense,  
5 Respondent will thereby waive his right to require the Commissioner to prove the allegations  
6 in the Accusation at a contested hearing held in accordance with the provisions of the APA and  
7 that he will waive other rights afforded to him in connection with the hearing such as the right  
8 to present evidence in defense of the allegations in the Accusation and the right to cross-  
9 examine witnesses.

10                   4. Respondent, pursuant to the limitations set forth below, hereby admits that  
11 the factual allegations, as set forth in the Accusation filed in this proceeding, are true and  
12 correct and the Real Estate Commissioner shall not be required to provide further evidence of  
13 such allegations.

14                   5. This Stipulation and Agreement is made for the purpose of reaching an  
15 agreed disposition of this proceeding and is expressly limited to this proceeding and any other  
16 proceeding or case in which the Bureau, the state or federal government, any agency of this  
17 state, or an agency of another state is involved.

18                   6. It is understood by the parties that the Real Estate Commissioner may adopt  
19 the Stipulation and Agreement as his Decision in this matter, thereby imposing the penalties  
20 and sanctions on Respondent's real estate license and license rights as set forth in the below  
21 "Order." In the event that the Commissioner in his discretion does not adopt the Stipulation  
22 and Agreement, it shall be void and of no effect, and Respondent shall retain the right to a  
23 hearing and proceeding on the Accusation under all the provisions of the APA and shall not be  
24 bound by any admission or waiver made herein.

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

3 8. Respondent understands that by agreeing to this Stipulation and Agreement,  
4 Respondent agrees to be responsible for paying, pursuant to Section 10148 of the California  
5 Business and Professions Code (“the Code”), the costs of the audit which resulted in the  
6 determination that Respondent committed the trust fund violation(s) found in the Determination  
7 of Issues. The amount of such costs is \$3,641.00.

8 9. Respondent further understands that by agreeing to this Stipulation and  
9 Agreement, the findings set forth below in the Determination of Issues become final, and that the  
10 Commissioner may charge Respondent for the costs of any audit conducted pursuant to Section  
11 10148 of the Code to determine if the violations have been corrected and hold Respondent  
12 responsible for paying the costs of the follow up audit. The maximum costs of said audit shall  
13 not exceed \$3,641.00.

14 10. Respondent understands that by agreeing to this Stipulation and Agreement,  
15 Respondent agrees to be responsible for paying, pursuant to Section 10106 of the Code, the costs  
16 of the investigation and enforcement of this case which resulted in the determination that  
17 Respondent committed the violation(s) found in the Determination of Issues. The amount of  
18 such cost is \$3,000.00.

#### 19 DETERMINATION OF ISSUES

20 By reason of the foregoing stipulations, admissions and waivers, and solely for  
21 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and  
22 agreed that the acts and/or omissions of Respondent, as described in the Accusation, constitute  
23 grounds for the suspension or revocation of the licenses and license rights of Respondent under  
24 the provisions of Sections 10130, 10137, 10145(c), and 10177(d) of the Code.

#### 25 ORDER

26 1. All licenses and licensing rights of Respondent under the Real Estate Law are  
27 revoked; provided, however, a restricted real estate salesperson license shall be issued to

1 Respondent pursuant to Section 10156.5 of the Code if Respondent makes application therefore  
2 and pays to the Bureau the appropriate fee for the restricted license within 90 days from the  
3 effective date of this Decision.

4           2. The restricted license issued to Respondent shall be subject to all of the  
5 provisions of Section 10156.7 of the Code as to the following limitations, conditions and  
6 restrictions imposed under authority of Section 10156.6 of that Code:

7           (a) The restricted license issued to Respondent shall be suspended prior to  
8 hearing by Order of the Commissioner in the event of Respondent's  
9 conviction (including by plea of guilty or nolo contendere) to a crime  
10 which is substantially related to Respondent's fitness or capacity as a real  
11 estate licensee; and,

12           (b) The restricted license issued to Respondent shall be suspended prior to  
13 hearing by Order of the Commissioner on evidence satisfactory to the  
14 Commissioner that Respondent has violated provisions of the California  
15 Real Estate Law, the Subdivided Lands Law, Regulations of the Real  
16 Estate Commissioner, or conditions attaching to the restricted license.

17           3. Respondent shall not be eligible to apply for the issuance of an unrestricted  
18 real estate license nor for removal of any of the conditions, limitations or restrictions of a  
19 restricted license until four (4) years have elapsed from the effective date of this Decision.

20           4. Respondent shall notify the Commissioner in writing within 72 hours of any  
21 arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post Office  
22 Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of Respondent's  
23 arrest, the crime for which Respondent was arrested and the name and address of the arresting  
24 law enforcement agency. Respondent's failure to timely file written notice shall constitute an  
25 independent violation of the terms of the restricted license and shall be grounds for the  
26 suspension or revocation of that license.

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1                   5. 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 which shall certify:

4                   (a) That the employing broker has read the Decision of the Commissioner  
5                                   which granted the right to a restricted real estate salesperson license; and

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

9                   6. Respondent shall, within nine (9) months from the effective date of this Order,  
10 present evidence satisfactory to the Commissioner that Respondent has, since the most recent  
11 issuance of an original or renewal real estate license, taken and successfully completed the  
12 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal  
13 of a real estate license. If Respondent fails to satisfy this condition, Respondent's real estate  
14 license shall automatically be suspended until Respondent presents evidence satisfactory to the  
15 Commissioner of having taken and successfully completed the continuing education  
16 requirements. Proof of completion of the continuing education course must be delivered to the  
17 Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.

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

23                   8. All licenses and licensing rights of Respondent are indefinitely suspended  
24 unless or until Respondent provides proof satisfactory to the Commissioner, of having taken  
25 and successfully completed the continuing education course on trust fund accounting and  
26 handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and  
27 Professions Code. Proof of satisfaction of this requirement includes evidence that Respondent

1 has successfully completed the trust fund accounting and handling continuing education course  
2 no earlier than 120 days prior to the effective date of the Order in this matter. Proof of  
3 completion of the trust fund accounting and handling course must be delivered to the Bureau of  
4 Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-  
5 263-8758, prior to the effective date of this Order.

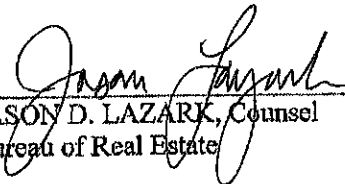
6 9. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of  
7 \$3,641.00 for the Commissioner's cost of the audit which led to this disciplinary action.  
8 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the  
9 Commissioner. Payment of audit costs should not be made until Respondent receives the  
10 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,  
11 Respondent's real estate license shall automatically be suspended until payment is made in full,  
12 or until a decision providing otherwise is adopted following a hearing held pursuant to this  
13 condition.

14 10. Pursuant to Section 10148 of the Code, Respondent shall pay the  
15 commissioner's reasonable cost, not to exceed \$3,641.00, for an audit to determine if Respondent  
16 has corrected the violation(s) found in the Determination of Issues. In calculating the amount of  
17 the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly  
18 salary for all persons performing audits of real estate brokers, and shall include an allocation for  
19 travel time to and from the auditor's place of work. Respondent shall pay such cost within sixty  
20 (60) days of receiving an invoice therefore from the Commissioner. Payment of the audit costs  
21 should not be made until Respondent receives the invoice. If Respondent fails to satisfy this  
22 condition in a timely manner as provided for herein, Respondent's real estate license shall  
23 automatically be suspended until payment is made in full, or until a decision providing otherwise  
24 is adopted following a hearing held pursuant to this condition.

25 11. All licenses and licensing rights of Respondent are indefinitely suspended  
26 unless or until Respondent pays the sum of \$3,000.00 for the Commissioner's reasonable costs  
27 of the investigation and enforcement which led to this disciplinary action. Said payment shall

1 be in the form of a cashier's check or certified check made payable to the Bureau of Real  
2 Estate. The investigative and enforcement costs must be delivered to the Bureau of Real  
3 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective  
4 date of this Order.

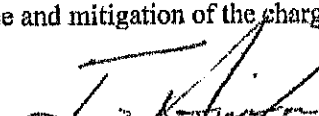
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JASON D. LAZARK, Counsel  
Bureau of Real Estate

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

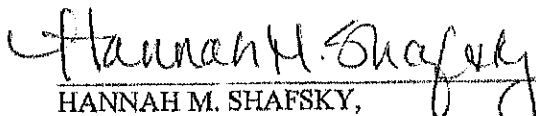
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TIM PATRICK AGUILAR,  
Respondent

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

23  
24 11/19/15  
25 DATED

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HANNAH M. SHAFSKY,  
Attorney for Respondent

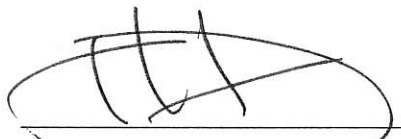
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The foregoing Stipulation and Agreement is hereby adopted as my Decision in  
this matter and shall become effective at 12 o'clock noon on FEB 18 2016.

IT IS SO ORDERED January 29 2016.

WAYNE S. BELL  
REAL ESTATE COMMISSIONER



By: JEFFREY MASON  
Chief Deputy Commissioner