

FILED

JUN 16 2016

BUREAU OF REAL ESTATE

By R. Uno

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

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9 BEFORE THE BUREAU OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12	In the Matter of the Accusation of)	BRE No. H-6295 SAC
13	BRIAN WILLIAM BARRINGER,)	
14)	<u>STIPULATION AND AGREEMENT</u>
15	Respondent.)	<u>IN SETTLEMENT AND ORDER</u>

16 It is hereby stipulated by and between BRIAN WILLIAM BARRINGER
17 (Respondent), his counsel, Chad J. Wood, and the Complainant, acting by and through Richard
18 K. Uno, Counsel for the Bureau of Real Estate (Bureau); as follows for the purpose of settling
19 and disposing of the Accusation filed on August 6, 2015, in 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 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 In Settlement and Order (Stipulation).

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

1 3. Respondent 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 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
4 acknowledges that he understands that by withdrawing said Notice of Defense he will thereby
5 waive his right to require the Real Estate Commissioner (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 to
8 present evidence in defense of the allegations in the Accusation and the right to cross-examine
9 witnesses.

10 4. This Stipulation is based on the factual allegations contained in the
11 Accusation. In the interest of expediency and economy, Respondent choses not to contest these
12 factual allegations, but to remain silent and understand that, as a result thereof, these factual
13 statements will serves 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. It is understood by the parties that the Commissioner may adopt the
17 Stipulation as his Decision in this matter, thereby imposing the penalty and sanctions on
18 Respondent's real estate licenses and license rights as set forth in the below "Order". In the
19 event that the Commissioner in his discretion does not adopt the Stipulation, it shall be void and
20 of no effect, and Respondent shall retain the rights to a hearing and proceeding on the Accusation
21 under all the provisions of the APA and shall not be bound by any admission or waiver made
22 herein.

23 6. The Order or any subsequent Order of the Commissioner made pursuant to
24 this Stipulation shall not constitute an estoppel, merger, or bar to any further administrative or
25 civil proceedings by the Bureau of Real Estate with respect to any matters which were not
26 specifically alleged to be causes for accusation in this proceeding.
27

1 2. The restricted license issued to Respondent may be suspended prior to
2 hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that
3 Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
4 Law, Regulations of the Commissioner or conditions attaching to the restricted license.

5 3. Respondent shall not be eligible to apply for the issuance of any
6 unrestricted real estate license nor the removal of any of the conditions, limitations, or
7 restrictions of a restricted license until two (2) years have elapsed from the effective date of this
8 Stipulation. Respondent shall not be eligible to apply for any unrestricted licenses until all
9 restrictions attaching to the license have been removed.

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

20 5. All licenses and licensing rights of Respondent are indefinitely suspended
21 unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and
22 successfully completed the continuing education course on trust fund accounting and handling
23 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of
24 satisfaction of these requirements includes evidence that Respondent has successfully completed
25 the trust fund account and handling continuing education courses, no earlier than 120 days prior
26 to the effective date of the Stipulation in this matter. Proof of completion of the trust fund
27 accounting and handling course must be delivered to the Bureau of Real Estate, Flag Section at

1 P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the effective
2 date of this Decision and Order.

3 6. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
4 \$5,569.65 for the Commissioner's cost of the audit which led to this disciplinary action.

5 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the
6 Commissioner. Payment of audit costs should not be made until Respondent receives the
7 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
8 Respondent's real estate licenses shall automatically be suspended until payment is made in full,
9 or until a decision providing otherwise is adopted following a hearing held pursuant to this
10 condition.

11 7. Pursuant to Section 10148 of the Code, Respondent shall pay the
12 Commissioner's reasonable cost, not to exceed 125% of the original audit (\$6,962.06), for an
13 audit to determine if Respondent has corrected the violation(s) found in the "Determination of
14 Issues". In calculating the amount of the Commissioner's reasonable cost, the Commissioner
15 may use the estimated average hourly salary for all persons performing audits of real estate
16 brokers, and shall include an allocation for travel time to and from the auditor's place of work.
17 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the
18 Commissioner. Payment of the audit costs should not be made until Respondent receives the
19 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
20 Respondent's real estate licenses shall automatically be suspended until payment is made in full,
21 or until a decision providing otherwise is adopted following a hearing held pursuant to this
22 condition.

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25 4/18/16
26 DATED

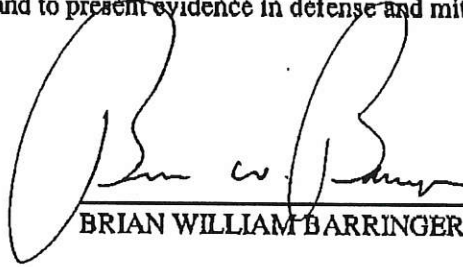
25 *Richard K. Uno*
26 RICHARD K. UNO, Counsel III
27 BUREAU OF REAL ESTATE

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I have read the Stipulation and Agreement in Settlement and Order 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.

4-18-16

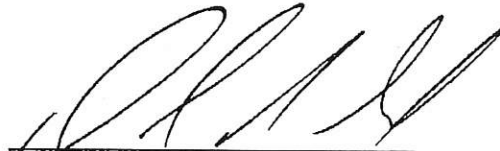
DATED


BRIAN WILLIAM BARRINGER

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

4-18-16

DATED

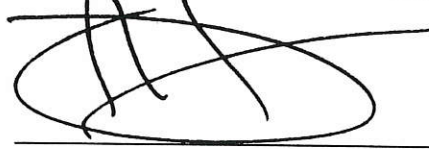

CHAD J. WOOD
Attorney for Respondent

The foregoing Stipulation and Agreement In Settlement and Order is hereby adopted by the Real Estate Commissioner as his Decision and Order and shall become effective

1 at 12 o'clock noon on JUL 07 2016

2 IT IS SO ORDERED June 31, 2016

3 WAYNE S. BELL
4 REAL ESTATE COMMISSIONER

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7 By: JEFFREY MASON
8 Chief Deputy Commissioner

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