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Bureau of Real Estate
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JAN 28 2016

BUREAU OF REAL ESTATE

By S. Black

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

ROBERT BURGESS INGOLS,

Respondent.

No. H-6297 SAC

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between ROBERT BURGESS INGOLS (Respondent), represented by Alexander W. Munn, and the Complainant, acting by and through Truly Sughrue, Counsel for the Bureau of Real Estate (Bureau), as follows for the purpose of settling and disposing the Accusation (Accusation) filed on August 6, 2015, in this matter:

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

2. Respondent has received, read, and understands the Statement to Respondent, and the Discovery Provisions of the APA filed by the Bureau 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 Respondent understands that by withdrawing said Notice of Defense
5 Respondent will thereby waive Respondent's rights to require the Real Estate Commissioner
6 (Commissioner) to prove the allegations in the Accusation at a contested hearing held in
7 accordance with the provisions of the APA, and that Respondent will waive other rights afforded
8 to Respondent in connection with the hearing such as the right to present evidence in defense of
9 the allegations in the Accusation and the right to cross-examine witnesses.

10 4. This Stipulation and Agreement is based on the factual allegations
11 contained in the Accusation. In the interest of expediency and economy, Respondent chooses not
12 to contest these factual allegations, but to remain silent and understand that, as a result thereof,
13 these factual statements will serve as a prima facie basis for the "Determination of Issues" and
14 "Order" set forth below. The Commissioner shall not be required to provide further evidence to
15 prove such allegations.

16 5. This Stipulation and Agreement and Respondent's decision not to contest
17 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and
18 are expressly limited to this proceeding and any other proceeding or case in which the Bureau,
19 the state or federal government, an agency of this state, or an agency of another state is involved.

20 6. Respondent understands that by agreeing to this Stipulation and
21 Agreement, Respondent agrees to pay, pursuant to Section 10148 of the California Business and
22 Professions Code (Code), the cost of the audit, which resulted in the determination that
23 Respondents committed the trust fund violation(s) found in the Determination of Issues. The
24 amount of said costs is \$7,602.50.

25 7. Respondent further understands that by agreeing to this Stipulation and
26 Agreement, the findings set forth below in the Determination of Issues become final, and that
27 the Commissioner may charge said Respondents for the costs of any audit conducted pursuant to

1 Section 10148 of the Code to determine if the violations have been corrected. The maximum
2 costs of said audit shall not exceed \$7,602.50.

3 8. It is understood by the parties that the Commissioner may adopt the
4 Stipulation and Agreement as his decision in this matter thereby imposing the penalty and
5 sanctions on the real estate licenses and license rights of Respondent as set forth in the below
6 "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and
7 Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing
8 and proceeding on the Accusation under all the provisions of the APA and shall not be bound by
9 any admission or waiver made herein.

10 9. The Order or any subsequent Order of the Commissioner made pursuant to
11 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further
12 administrative or civil proceedings by the Bureau with respect to any matters which were not
13 specifically alleged to be causes for action in Accusation H-6297 SAC.

14 * * *

15 DETERMINATION OF ISSUES

16 By reason of the foregoing stipulations and waivers and solely for the purpose of
17 settlement of the pending Accusation without a hearing, it is stipulated and agreed that the
18 following determination of issues shall be made:

19 I

20 The acts and omissions of Respondent as described in the First Cause of Action
21 of the Accusation are grounds for the suspension or revocation of Respondent's licenses and
22 license rights under the following sections of the Code and Title 10 of the California Code of:

23 As to Paragraph 10(a), under Section 10177(d) of the Code in conjunction with
24 Section 10145 of the Code and Section 2832.1 of the Regulations;

25 As to Paragraph 10(b), under Section 10177(d) of the Code in conjunction with
26 Section 2832 of the Regulations and Section 10145 of the Code;

1 As to Paragraph 10(c), under Section 10177(d) of the Code in conjunction with
2 Section 2831 of the Regulations;

3 As to Paragraph 10(d), under Section 10177(d) of the Code in conjunction with
4 Section 2831.1 of the Regulations;

5 As to Paragraph 10(e), under Section 10177(d) of the Code in conjunction with
6 Section 2831.2 of the Regulations;

7 As to Paragraphs 10(f) and 11, under Section 10176(e) of the Code; and

8 II

9 The acts and/or omissions of Respondent as described in the Second Cause of
10 Action of the Accusation is cause for the suspension or revocation of Respondent's license
11 and/or license rights under Sections 10176(e) and 10177(g) of the Code.

12 III

13 The acts and/or omissions of Respondent as described in the Third Cause of
14 Action of the Accusation is cause for the suspension or revocation of Respondent's license
15 and/or license rights under Section 10177(d) of the Code in conjunction with Section 10137.

16 * * *

17 ORDER

18 I

19 All licenses and licensing rights of Respondent under the Real Estate Law are
20 revoked; provided, however, a restricted real estate broker license shall be issued to Respondent
21 pursuant to Section 10156.5 of the Code if Respondent makes application therefor and pays to
22 the Bureau the appropriate fee for the restricted license within 90 days from the effective date of
23 this Decision and Order. The restricted license issued to Respondent shall be subject to all of the
24 provisions of Section 10156.7 of the Code and to the following limitations, conditions and
25 restrictions imposed under authority of Section 10156.6 of that Code:

26 .1. The restricted license issued to Respondent may be suspended prior to
27 hearing by Order of the Commissioner in the event of Respondent's conviction or plea of nolo

1 contendere to a crime which is substantially related to Respondent's fitness or capacity as a real
2 estate licensee.

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

8 3. Respondent shall not be eligible to apply for the issuance of an
9 unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions
10 of a restricted license until three (3) years have elapsed from the effective date of this Decision
11 and Order.

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

22 5. All licenses and licensing rights of Respondent are indefinitely suspended
23 unless or until Respondent provides proof satisfactory to the Commissioner, of having cured the
24 combined the shortage of \$57,289.37 found, during the Bureau's audit #SC14-005, in Bank
25 Account #s 1, 2, 3, 4, and 5 as of October 31, 2014, as described in Paragraph 10(a) of the
26 Accusation. Proof of having cred the shortage must be delivered to the Bureau of Real Estate,
27 Legal Section at P.O. Box 137007, Sacramento, CA 95813-7007 or by fax at 916.263.3767, prior

1 to the effective date of this Decision and Order.

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

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

17 8. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
18 \$7,602.50 for the Commissioner's cost of the audit which led to this disciplinary action.
19 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the
20 Commissioner. Payment of audit costs should not be made until Respondent receives the
21 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
22 Respondent's real estate license shall automatically be suspended until payment is made in full,
23 or until a decision providing otherwise is adopted following a hearing held pursuant to this
24 condition.

25 9. Pursuant to Section 10148 of the Code, Respondent shall pay the
26 Commissioner's reasonable cost, not to exceed \$7,602.50, for an audit to determine if
27 Respondent has corrected the violation(s) found in the Determination of Issues. In calculating

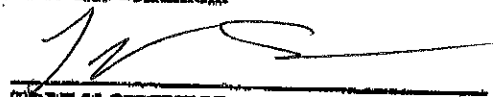
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the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of the audit costs should not be made until Respondent receives the invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein, Respondent's real estate license shall automatically be suspended until payment is made in full, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

14-Oct-15

DATED


TRULY SUGERUE
Counsel for Complainant

I have read the Stipulation and Agreement, discussed it with my counsel, 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, and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusations 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.

10-13-15

DATED


ROBERT BURGESS INGOLS
Respondent

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

10/15/15

DATED


ALEXANDER W. MUNN
Attorney for Respondent

The foregoing Stipulation and Agreement is hereby adopted as my Decision 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