

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

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6
7

FILED

OCT 26 2016

BUREAU OF REAL ESTATE

By B. Nicholas

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA
10

11 In the Matter of the First Amended Accusation of)
12)
13) NO. H-6365 SAC
14) STIPULATION AND AGREEMENT
15) IN SETTLEMENT AND ORDER
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27)
Respondent.

It is hereby stipulated by and between Respondent DAVID WILLIAM PRACHT (herein "Respondent") 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 the First Amended Accusation filed on July 8, 2016, in this matter (herein "Accusation"):

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 (herein "APA"), shall instead and in place thereof be submitted on the basis of the provisions of this Stipulation and Agreement in Settlement and Order (herein "Stipulation").

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

3 3. A Notice of Defense was filed on March 15, 2016, by Respondent pursuant to
4 Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations
5 in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
6 Respondent acknowledges he understands that by withdrawing said Notice of Defense he will
7 thereby waive his rights to require the Real Estate Commissioner (herein "the Commissioner") to
8 prove the allegations in the Accusation at a contested hearing held in accordance with the
9 provisions of the APA and that he will waive other rights afforded to him in connection with the
10 hearing such as the right to present evidence in defense of the allegations in the Accusation and
11 the right to cross-examine witnesses.

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

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

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

1 7. Respondent understands that by agreeing to this Stipulation, Respondent agrees
2 to pay, pursuant to Section 10106(a) of the Code, investigative and enforcement costs of \$856.27
3 which led to this disciplinary action.

4 DETERMINATION OF ISSUES

5 The acts and/or omissions of Respondent as described in the Accusation are
6 grounds for the suspension or revocation of the license and license rights of Respondent under
7 Section 10176(a) of the Code.

8 ORDER

9 All licenses and licensing rights of Respondent under the Real Estate Law are
10 suspended for a period of 60 days from the effective date of this Decision; provided, however,
11 that:

12 1) 30 days of said suspension shall be stayed, upon the condition that
13 Respondent petition pursuant to Section 10175.2 of the Code and pays a monetary penalty
14 pursuant to Section 10175.2 of the Code at a rate of \$50.00 per day for a total monetary penalty
15 of \$1,500.00.

16 a) Said payment shall be in the form of a cashier's check made payable
17 to the Bureau of Real Estate. Said check must be delivered to the Bureau of Real Estate,
18 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of
19 this Decision.

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

22 c) If Respondent fails to pay the monetary penalty in accordance with the
23 terms and conditions of this Decision, the suspension shall go into effect automatically.
24 Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money
25 paid to the Bureau under the terms of this Decision.

1 d) If Respondent pays the monetary penalty and any other moneys due under
2 this Stipulation and if no further cause for disciplinary action against the real estate license of
3 Respondent occurs within two (2) years from the effective date of this Decision, the entire stay
4 hereby granted pursuant to this Decision shall become permanent.

5 2) 30 days of said suspension shall be stayed for two (2) years upon the
6 following terms and conditions:

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

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

15 3) All licenses and licensing rights of Respondent are indefinitely suspended
16 unless or until Respondent pays the sum of \$856.27 for the Commissioner's reasonable cost of
17 the investigation and enforcement which led to this disciplinary action. Said payment shall be in
18 the form of a cashier's check made payable to the Bureau of Real Estate. **The investigative and**
19 **enforcement costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box**
20 **137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision.**

21 4) Respondent shall, within six (6) months from the effective date of this
22 **Decision**, take and pass the Professional Responsibility Examination administered by the
23 Bureau including the payment of the appropriate examination fee. If Respondent fails to satisfy

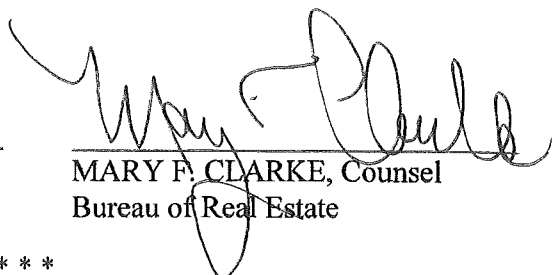
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1 This condition, Respondent's real estate license shall automatically be suspended until
2 Respondent passes the examination.

3
4 8-30-16

5 DATED


6 MARY F. CLARKE, Counsel
Bureau of Real Estate

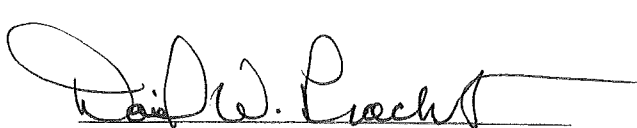
7 * * *

8 Respondent can signify acceptance and approval of the terms and conditions of
9 this Stipulation by faxing or electronically e-mailing a copy of the signature page, as actually
10 signed by Respondent, to the Bureau at fax number (916) 263-3767. Respondent agrees,
11 acknowledges and understands that by electronically sending to the Bureau a fax or other
12 electronic copy of Respondent's actual signature as it appears on the Stipulation, that receipt of
13 the faxed or e-mailed copy by the Bureau shall be as binding on Respondent as if the Bureau had
received the original signed Stipulation.

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

21
22 Aug. 26, 2016

23 DATED


24 DAVID WILLIAM PRACHT
Respondent

25 * * *

26 The foregoing Stipulation and Agreement in Settlement and Order is hereby
27

1 adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on

2 NOV 16 2016, 2016.

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4 IT IS SO ORDERED

10/24/2016

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2016

6 WAYNE S. BELL
7 REAL ESTATE COMMISSIONER

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