

FILED

Bureau of Real Estate
P.O. Box 137007
Sacramento, CA 95818-7007

Telephone: (916) 263-8672

AUG 29 2016

BUREAU OF REAL ESTATE

By B. New

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of
TAMMY LYNN EWING,
Respondent.

No. H-6369 SAC

STIPULATION AND AGREEMENT
(Business and Professions Code §10156.5)

It is hereby stipulated by and between TAMMY LYNN EWING (Respondent) by and through James V. McGrail, attorney of record herein for Respondent, and the Complainant, acting by and through Stephanie K. Sese, Counsel for the Bureau of Real Estate (Bureau), as follows for the purpose of settling and disposing of the Accusation filed on March 9, 2016, 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, the Discovery Provisions of the APA and the Accusation 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
3 Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
4 Respondent acknowledges that Respondent will thereby waive Respondent's right to require
5 the Real Estate Commissioner (Commissioner) to prove the allegations in the Accusation at a
6 contested hearing held in accordance with the provisions of the APA and that Respondent
7 will waive other rights afforded to Respondent in connection with the hearing such as the
8 right to present evidence in defense of the allegations in the Accusation and the right to
9 cross-examine witnesses.

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

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

20 6. This Decision and Order or any subsequent Order of the Commissioner
21 made pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or
22 bar to any further administrative or civil proceedings by the Bureau with respect to any
23 matters which were not specifically alleged in Accusation H-6369 SAC.

24 DETERMINATION OF ISSUES

25 By reason of the foregoing stipulations, admissions, and waivers and solely for
26 the purpose of settlement of the pending Accusation without hearing, it is stipulated and
27 agreed that the following Determination of Issues shall be made:

I

The acts and/or omissions of Respondent as described in the Accusation violate Sections 490, 10177(b), 10177(d), and 10186.2 of the Code.

ORDER

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

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

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

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions of a restricted license until two (2) years have elapsed from the effective date of this Decision and Order.

4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement

1 signed by the prospective employing real estate broker on a form approved by the Bureau
2 which shall certify:

3 (a) That the employing broker has read the Decision and Order of the
4 Commissioner which granted the right to a restricted license; and,

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

8 5. Respondent shall, within nine (9) months from the effective date of this
9 Decision and Order, present evidence satisfactory to the Commissioner that Respondent has,
10 since the most recent issuance of an original or renewal real estate license, taken and
11 successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of
12 the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this
13 condition, Respondent's real estate license shall automatically be suspended until
14 Respondent presents evidence satisfactory to the Commissioner of having taken and
15 successfully completed the continuing education requirement.

16 6. All licenses and licensing rights of Respondents are indefinitely
17 suspended unless or until Respondent pays the sum of \$967.30 for the Commissioner's
18 reasonable cost of the investigation and enforcement which led to this disciplinary action.
19 Said payment shall be in the form of a cashier's check made payable to the Bureau of Real
20 Estate. The investigative and enforcement costs must be delivered to the Bureau of Real
21 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective
22 date of this Decision and Order.

23 7. Respondent shall notify the Commissioner in writing within 72 hours
24 of any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate,
25 Post Office Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of
26 Respondent's arrest, the crime for which Respondent was arrested and the name and address
27 of the arresting law enforcement agency. Respondent's failure to timely file written notice

1 shall constitute an independent violation of the terms of the restricted license and shall be
2 grounds for the suspension or revocation of that license.

3
4 7/13/16
5 DATED

6 SKS
7 STEPHANIE K. SESE, Counsel
8 BUREAU OF REAL ESTATE

9 ***

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

17 Respondent may signify acceptance and approval of the terms and conditions
18 of this Stipulation and Agreement by faxing a copy of the signature page, as actually signed
19 by Respondent, to the Bureau at fax number (916) 263-3767. Respondent agrees,
20 acknowledges, and understands that by electronically sending to the Bureau a fax copy of
21 Respondent's actual signature as it appears on the Stipulation and Agreement, that receipt
22 of the faxed copy by the Bureau shall be as binding on Respondent as if the Bureau had
23 received the original signed Stipulation and Agreement. Respondent shall mail the signed
24 Stipulation and Agreement to the Commissioner at the Bureau of Real Estate, Post Office
25 Box 137000, Sacramento, CA 95813-7000.

26 7/13/16
27 DATED

28 Tammy Lynn Ewing
29 TAMMY LYNN EWING
30 Respondent

