

1 Department of Real Estate
2 P.O. Box 137007
3 Sacramento, CA 95813-7007

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FILED

OCT 18 2021

DEPARTMENT OF REAL ESTATE
By B. Nicholas

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7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

12 JUANITA BENNETT and MICHELLE)
13 SHERMAN,)

14 Respondents.)

No. H-6978 SAC

STIPULATION AND
AGREEMENT

15 It is hereby stipulated by and between JUANITA BENNETT (BENNETT) and
16 MICHELLE SHERMAN (SHERMAN) (collectively "Respondents"), represented by Arnold
17 W. Gross, and the Complainant, acting by and through Truly Sughrue, Counsel for the
18 Department of Real Estate (Department), as follows for the purpose of settling and disposing
19 of the First Accusation filed on September 9, 2020, in this matter:

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

25 2. Respondents have received, read, and understand the Statement to
26 Respondent, and the Discovery Provisions of the APA filed by the Department in this
27 proceeding.

1 3. Respondents 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 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents
4 acknowledge that Respondents understand that by withdrawing said Notice of Defense
5 Respondents will thereby waive Respondents' 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 Respondents will waive other rights
8 afforded to Respondents in connection with the hearing such as the right to present evidence in
9 defense of 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, Respondents choose 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 Respondents' 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
19 Department, the state or federal government, an agency of this state, or an agency of another
20 state is involved.

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

1 7. The Order or any subsequent Order of the Commissioner made pursuant to
2 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further
3 administrative or civil proceedings by the Department with respect to any matters which were
4 not specifically alleged to be causes for action in Accusation H-6978 SAC.

5 * * *

6 DETERMINATION OF ISSUES

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

10 I

11 The acts and omissions of Respondents as described in the Accusation are
12 grounds for the suspension or revocation of Respondents' licenses and license rights under
13 Section 10177(g) of the Code.

14 II

15 The acts and/or omissions of BENNETT as described in the Accusation is cause
16 for the suspension or revocation of BENNETT's license and/or license rights under Section
17 10177(d) of the Code in conjunction with Section 2832 of the Regulations and Section 10145 of
18 the Code.

19 * * *

20 ORDER

21 I

22 All licenses and licensing rights of SHERMAN under the Real Estate Law are
23 suspended for a period of sixty (60) days from the effective date of this Order; provided,
24 however, that:

- 25 1) Thirty (30) days of said suspension shall be stayed, upon the condition that
26 SHERMAN petition pursuant to Section 10175.2 of the Code and pays a monetary penalty
27

1 pursuant to Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total
2 monetary penalty of \$1,500.

3 a) Said payment shall be in the form of a cashier's check made payable to the
4 Department of Real Estate. Said check must be delivered to the Department of Real Estate,
5 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of
6 this Order.

7 b) No further cause for disciplinary action against the Real Estate licenses of
8 SHERMAN occurs within two (2) years from the effective date of the decision in this matter.

9 c) If SHERMAN fails to pay the monetary penalty as provided above prior to the
10 effective date of this Order, the stay of the suspension shall be vacated as to that SHERMAN and
11 the order of suspension shall be immediately executed, under this Order, in which event the said
12 SHERMAN shall not be entitled to any repayment nor credit, prorated or otherwise, for the
13 money paid to the Department under the terms of this Order.

14 d) If SHERMAN pays the monetary penalty and any other moneys due under this
15 Stipulation and Agreement and if no further cause for disciplinary action against the real estate
16 license of said SHERMAN occurs within two (2) years from the effective date of this Order, the
17 entire stay hereby granted this Order, as to said SHERMAN only, shall become permanent.

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

20 a) SHERMAN shall obey all laws, rules and regulations governing the rights, duties
21 and responsibilities of a real estate licensee in the State of California; and,

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

All licenses and licensing rights of BENNETT under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Order; provided, however, that:

1) Thirty (30) days of said suspension shall be stayed, upon the condition that BENNETT petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total monetary penalty of \$1,500.

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

b) No further cause for disciplinary action against the Real Estate licenses of BENNETT occurs within two (2) years from the effective date of the decision in this matter.

c) If BENNETT fails to pay the monetary penalty as provided above prior to the effective date of this Order, the stay of the suspension shall be vacated as to that BENNETT and the order of suspension shall be immediately executed, under this Order, in which event the said BENNETT shall not be entitled to any repayment nor credit, prorated or otherwise, for the money paid to the Department under the terms of this Order.

d) If BENNETT pays the monetary penalty and any other moneys due under this Stipulation and Agreement and if no further cause for disciplinary action against the real estate license of said BENNETT occurs within two (2) years from the effective date of this Order, the entire stay hereby granted this Order, as to said BENNETT only, shall become permanent.

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

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

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

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

16 25 August 2021

17 DATED



18 TRULY SUGHRUE
19 Counsel for Complainant

20 * * *

21 I have read the Stipulation and Agreement, discussed it with my counsel, and its
22 terms are understood by me and are agreeable and acceptable to me. I understand that I am
23 waiving rights given to me by the California Administrative Procedure Act, and I willingly,
24 intelligently and voluntarily waive those rights, including the right of requiring the
25 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
26 right to cross-examine witnesses against me and to present evidence in defense and mitigation of
27 the charges.

1 Respondents and Respondents' attorney further agree to send the original signed
2 Stipulation and Agreement by mail to the following address no later than one (1) week from the
3 date the Stipulation and Agreement is signed by Respondents and Respondents' attorney:

4 Department of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-
5 7007. Respondents and Respondents' attorney understand and agree that if they fail to return the
6 original signed Stipulation and Agreement by the due date, Complainant retains the right to set
7 this matter for hearing.

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10 DATED

8/16/21

JUANITA BENNETT

Respondent

11
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13 DATED

8-16-21

MICHELLE SHERMAN

Respondent

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15
16 I have reviewed the Stipulation and Agreement as to form and content and have
17 advised my clients accordingly.

18 DATED

8/24/21

ARNOLD W. GROSS

Attorney for Respondents

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21 The foregoing Stipulation and Agreement is hereby adopted as my Decision and
22 Order and shall become effective at 12 o'clock noon on NOV 08 2021

23 IT IS SO ORDERED

10-11-21

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25 DOUGLAS R. McCAULEY
26 REAL ESTATE COMMISSIONER

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