

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187007  
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

FILED

SEP 30 2010

DEPARTMENT OF REAL ESTATE

By R. Henry

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

11 \* \* \*

12 In the Matter of the Accusation of )

13 )  
14 GODWIN O. UMOREN, )

15 Respondent. )  
16 )  
17 )

NO. H-10637 SF

STIPUATION AND AGREEMENT  
IN SETTLEMENT AND ORDER

18 It is hereby stipulated by and between Respondent GODWIN O. UMOREN  
19 (herein "Respondent" or "Respondent UMOREN"), by and through Mary Work, attorney of  
20 record herein for Respondent, and the Complainant, acting by and through Daniel E. Kehew,  
21 Counsel for the Department of Real Estate (herein "the Department"), as follows for the purpose  
22 of settling and disposing of the Accusation filed on April 9, 2009, in this matter:

23 1. All issues which were to be contested and all evidence which was to be  
24 presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing  
25 was to be held in accordance with the provisions of the Administrative Procedure Act (herein  
26 "APA"), shall instead and in place thereof be submitted solely on the basis of the provisions of  
27 this Stipulation and Agreement in Settlement and Order.

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 Department in this  
3 proceeding.

4                   3. A Notice of Defense was filed on April 16, 2009, by Respondent pursuant  
5 to Section 11506 of the Government Code for the purpose of requesting a hearing on the  
6 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice  
7 of Defense. Respondent acknowledges he understands that by withdrawing said Notice of  
8 Defense he will thereby waive his right to require the Commissioner to prove the allegations in  
9 the Accusation at a contested hearing held in accordance with the provisions of the APA and that  
10 he will waive other rights afforded to him in connection with the hearing such as the right to  
11 present evidence in defense of the allegations in the Accusation and the right to cross-examine  
12 witnesses.

13                  4. With regard to the issues alleged by the Department in Paragraphs 8, 10, and  
14 12 of the Accusation, sufficient evidence has been developed through the discovery process for  
15 the Department to withdraw the specific causes of action based upon these paragraphs; however,  
16 additional causes of action remain. Specifically, the Department continues to assert the causes of  
17 action described in Paragraph 14, citing grounds for the suspension or revocation of the license  
18 and license rights of Respondent UMOREN under Sections 2831 and 2832 of Chapter 6, Title  
19 10, California Code of Regulations (herein "Regulations") in conjunction with Section 10177(d)  
20 of the California Business and Professions Code (herein "Code").

21                  5. Acknowledging the revised Accusation as described in Paragraph 4, above,  
22 Respondent, pursuant to the limitations set forth below, hereby admits that the factual allegations  
23 pertaining to him in the Accusation filed in this proceeding are true and correct, and the Real  
24 Estate Commissioner shall not be required to provide further evidence of such allegations.

25                  6. This Stipulation and Respondent's decision not to contest the remaining  
26 portion of the Accusation is made for the purpose of reaching an agreed disposition of this  
27 proceeding and is expressly limited to this proceeding and any other proceeding or case in which

1 the Department, the state or federal government, or an agency of this state, another state or the  
2 federal government is involved.

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

10 8. The Order or any subsequent Order of the Real Estate Commissioner made  
11 pursuant to this Stipulation and Agreement in Settlement and Order shall not constitute an  
12 estoppel, merger, or bar to any further administrative or civil proceedings by the Department  
13 with respect to any matters which were not specifically alleged to be causes for accusation in this  
14 proceeding.

#### 15 DETERMINATION OF ISSUES

##### 16 I

17 The acts and omissions of Respondent UMOREN, as described in the Accusation  
18 (as amended pursuant to Paragraph 4, above) are grounds for the suspension or revocation of the  
19 licenses and license rights of Respondent UMOREN under the following provisions of the Code  
20 and/or the Regulations:

21 (a) Failed to deposit said earnest money deposits into escrow within three  
22 business days after acceptance as required by Section 2832 of the Regulations; and,

23 (b) failed to keep an accurate record in chronological sequence of all trust funds  
24 received and disbursed, containing all the information required by Section 2831 of the  
25 Regulations, such that all the dates of receipt and disposition of earnest money deposit checks  
26 received by Respondent UMOREN in connection with the Thomas Property and the Park  
27 Property (properties as described in the Accusation) cannot be established.

1 ORDER

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

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

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

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

16 2. The remaining thirty (30) days of said 60-day suspension shall be stayed upon  
17 the condition that Respondent UMOREN petition pursuant to Section 10175.2 of the Code and  
18 pay a monetary penalty pursuant to Section 10175.2 of the Code at a rate of \$50.00 for each day  
19 of the suspension for a total monetary penalty of \$1,500.00:

20 (a) Said payment shall be in the form of a cashier's check or certified  
21 check made payable to the Recovery Account of the Real Estate Fund. Said check must  
22 be received by the Department prior to the effective date of the Order in this matter.

23 (b) No further cause for disciplinary action against the real estate  
24 licenses of Respondent UMOREN occurs within two (2) years from the effective date of  
25 the Order in this matter.

26 (c) If Respondent UMOREN fails to pay the monetary penalty as  
27 provided above prior to the effective date of this Order, the stay of the suspension shall be

1 vacated as to Respondent UMOREN and the order of suspension shall be immediately  
2 executed, under this Order, in which event Respondent UMOREN shall not be entitled to  
3 any repayment nor credit, prorated or otherwise, for the money paid to the Department  
4 under the terms of this Order.

5 (d) If Respondent UMOREN pays the monetary penalty and any other  
6 moneys due under this Stipulation and Agreement in Settlement and Order and if no  
7 further cause for disciplinary action against the real estate licenses of Respondent  
8 UMOREN occurs within two (2) years from the effective date of this Order, the entire  
9 stay hereby granted under this Order shall become permanent.

10 3. Respondent UMOREN shall, within six (6) months from the effective date of  
11 the Order, take and pass the Professional Responsibility Examination administered by the  
12 Department, including the payment of the appropriate examination fee. If Respondent  
13 UMOREN fails to satisfy this condition, the Commissioner may order the suspension of the  
14 license until Respondent UMOREN passes the examination.

15 8/17/2010

16 DATED

16 Daniel E. Kehew

17 DANIEL E. KEHEW, Counsel  
18 DEPARTMENT OF REAL ESTATE

18 \* \* \*

19 I have read the Stipulation and Agreement in Settlement and Order and its terms  
20 are understood by me and are agreeable and acceptable to me. I understand that I am waiving  
21 rights given to me by the California APA (including but not limited to Sections 11506, 11508,  
22 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive  
23 those rights, including the right of requiring the Commissioner to prove the allegations in the  
24 Accusation at a hearing at which I would have the right to cross-examine witnesses against me  
25 and to present evidence in defense and mitigation of the charges.

26 2/25/10

27 DATED

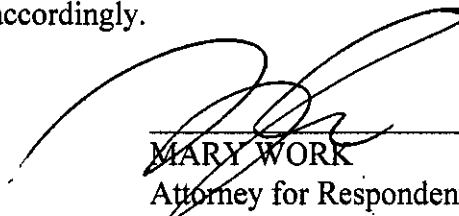
27 GODWIN O. UMOREN, Respondent

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

2/25/10  
DATED

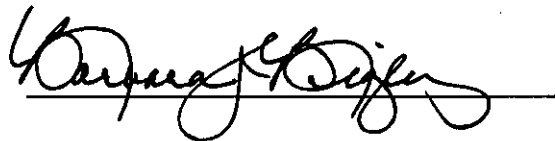
  
MARY WORK  
Attorney for Respondent

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The foregoing Stipulation and Agreement in Settlement and Order is hereby  
adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on  
OCT 20 2010, 2010.

IT IS SO ORDERED 9/29, 2010.

JEFF DAVI  
Real Estate Commissioner



BY: Barbara J. Blgby  
Chief Deputy Commissioner

1 DANIEL E. KEHEW, Counsel  
2 State Bar No. 231550  
3 Department of Real Estate  
4 P. O. Box 187007  
5 Sacramento, CA 95818-7007

6 Telephone: (916) 227-0425

FILED

APR - 9 2009

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

12 GODWIN O. UMOREN, )

13 Respondent. )

NO. H-10637 SF

ACCUSATION

14  
15 The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the  
16 State of California, for cause of Accusation against GODWIN O. UMOREN (hereinafter  
17 Respondent "UMOREN"), is informed and alleges as follows:

18 1

19 The Complainant makes this Accusation in his official capacity.

20 2

21 At all times herein mentioned, Respondent UMOREN was and now is licensed  
22 and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and  
23 Professions Code) (hereinafter "the Code") as a real estate broker.

24 3

25 At all times herein mentioned and in acting in his licensed capacity as described  
26 in Paragraph 3, above, Respondent UMOREN operated under the fictitious business names "Bay  
27 Metropolitan Homes," "Bay Metropolitan Mortgage," and "Bay Metropolitan Properties."

At all times herein mentioned, Respondent UMOREN engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Section 10131(a) of the Code, including the operation and conduct of a real estate brokerage that included the sale or offer of sale, purchase or offer of purchase, solicitation of prospective sellers and purchasers of, solicitation or obtaining listings of, or negotiations of the purchase, sale or exchange of real property or a business opportunity, including but not limited to:

- (a) Acting as agent on behalf of Akindele Kolade ("Buyer Kolade") in offering to purchase and/or negotiating the purchase of residential real property commonly known as 1231 Thomas Drive in Martinez, California ("Thomas Property").
- (b) Acting as agent on behalf of Buyer Kolade in offering to purchase and/or negotiating the purchase of residential real property commonly known as 211 Park Street in Martinez, California ("Park Property").

In so acting as a real estate broker, as described in Paragraph 4, above, Respondent UMOREN accepted or received funds in trust (hereinafter "trust funds") from Buyer Kolade in the form of earnest money deposits accompanying Buyer Kolade's written offer to purchase the real properties described above.

Between January 1, 2007 and December 31, 2007, in connection with the collection and disbursement of said trust funds described in Paragraph 5, above, Respondent UMOREN:

- (a) failed to deposit said earnest money deposits related to the Thomas Property into escrow within three business days after acceptance as required by Section 2832 of Title 10 of the California Code of Regulations ("Regulations"); and,

1 (b) failed to keep an accurate record in chronological sequence of all trust funds  
2 received and disbursed, containing all the information required by Section  
3 2831 of the Regulations, such that all the dates of receipt and disposition of  
4 earnest money deposit checks received by Respondent UMOREN in  
5 connection with the Thomas Property and the Park Property cannot be  
6 established.

7 7

8 On or about February 21, 2007, in acting as a real estate broker as described in  
9 Paragraph 4, above, Respondent UMOREN presented to Donald and Carole Brown, the Sellers  
10 of the Thomas Property ("Thomas Sellers"), an offer from Buyer Kolade for the purchase of the  
11 Thomas Property, including Respondent UMOREN's representations on behalf of Buyer Kolade  
12 that Buyer Kolade had given a deposit in the amount of \$5,000.00 to Respondent UMOREN by  
13 personal check made payable to Land America Title to be held uncashed until acceptance of the  
14 purchase offer and then deposited within three business days after acceptance.

15 8

16 The representation made by Respondent UMOREN to the Thomas Sellers set out  
17 in Paragraph 7, above, was false, and Respondent UMOREN knew that it was false when the  
18 representation was made. The true facts were that Buyer Kolade did not give a deposit check to  
19 Respondent UMOREN, made payable to any title company, until at least February 28, 2007, and  
20 from February 21, 2007 through February 28, 2007, Respondent UMOREN did not have such  
21 check to establish escrow should acceptance occur.

22 9

23 On or about March 4, 2007, the Thomas Sellers completed acceptance of the offer  
24 described in Paragraph 7, above.

25 10

26 Had the Thomas Sellers known the information provided by Respondent UMOREN  
27 in Paragraph 7 to be false, the Thomas Sellers would not have completed the transaction.

On or about March 15, 2007, in acting as a real estate broker as described in Paragraph 4, above, Respondent UMOREN presented to the Thomas Sellers a fax communication asserting that:

- (a) Respondent UMOREN on behalf of Buyer Kolade had sought and been unable to contract for financing in the amount necessary to complete the purchase of the Thomas Property, based upon particular lenders leaving a market niche; and,
- (b) Respondent UMOREN on behalf of Buyer Kolade had sought and been unable to contract for financing greater than \$1,000,000.00; and,
- (c) Buyer Kolade had decided to cancel the contract for the Thomas Property and seek another property "within his maximum price of \$960,000.00."

The representations made by Respondent UMOREN to the Thomas Sellers set out in Paragraph 11, above, were false, and Respondent UMOREN knew that they were false when the representations were made. The true facts were that Respondent UMOREN was able to arrange for financing for Buyer Kolade in the price range Respondent UMOREN stated to be unavailable, was able to arrange full financing in an amount greater than \$1,000,000.00, and Buyer Kolade was actively seeking a purchase opportunity at an amount greater than that stated by Respondent UMOREN to be Buyer Kolade's maximum purchase price. Specifically,

- (a) On March 6, 2007, one day after entering contract to purchase the Thomas Property, Buyer Kolade via Respondent UMOREN submitted an offer to purchase the Park Property; and,
- (b) On March 16, 2007, one day after the fax described in Paragraph 12, above, Commonwealth Title Company took receipt of a \$5,000.00 earnest money deposit check from Buyer Kolade to open escrow on the Park Property, indicating that agreement on the Park Property sale had occurred

shortly before this deposit and closely coincident to the assertions in the March 15, 2007, fax; and,

(c) The Park Property purchase was fully financed at an amount greater than \$1,000,000.00, greater than the agreed-upon price for the Thomas Property, and greater than the \$960,000.00 price that Respondent UMOREN asserted was Buyer Kolade's maximum price for any purchase in his March 15, 2007, fax attempting to cancel the contract on the Thomas Property purchase.

13

On or about May 1, 2007, the Thomas Sellers and their brokers, now represented by legal counsel, rejected the fax communication sent by Respondent UMOREN on March 15, 2007, and asserted Respondent UMOREN's breach of his obligations as a licensed agent in the transaction for failure to place the \$5,000.00 earnest money deposit into escrow.

14

The facts alleged in Paragraphs 1 through 6, above, are grounds for the suspension or revocation of the license and license rights of Respondent UMOREN under Sections 2831 and 2832 of the Regulations in conjunction with Section 10177(d) of the Code.

15

The facts alleged in Paragraphs 1 through 4 and Paragraphs 6 through 10, above, are grounds for the suspension or revocation of the licenses or license rights of Respondent UMOREN under Sections 10176(a), (b), and/or (i) of the Code.

16

The facts alleged in Paragraphs 1 through 4 and Paragraphs 11 through 13, above, are grounds for the suspension or revocation of the licenses or license rights of Respondent UMOREN under Sections 10176(a), (b), and/or (i) of the Code.

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1                   WHEREFORE, Complainant prays that a hearing be conducted on the  
2 allegations of this Accusation and that upon proof thereof a decision be rendered imposing  
3 disciplinary action against all licenses and license rights of Respondent UMOREN under the  
4 Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other  
5 and further relief as may be proper under other applicable provisions of law.

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11                  E. J. HABERER II  
12                  Deputy Real Estate Commissioner

13                  Dated at Oakland, California,  
14                  this 25<sup>th</sup> day of February, 2009.  
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