

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

4 Telephone: (916) 227-0789

FILED

APR 21 2010

DEPARTMENT OF REAL ESTATE

By K. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) DRE No. H-10769 SF
12)
13 BRUCE E. MILLER,) STIPULATION AND AGREEMENT
14) IN SETTLEMENT AND ORDER
Respondent.)

15 It is hereby stipulated by and between BRUCE E. MILLER (Respondent), his
16 attorney J. Anne Rawlins and the Complainant, acting by and through Richard K. Uno, Counsel
17 for the Department of Real Estate; as follows for the purpose of settling and disposing of the
18 Accusation filed on October 15, 2009, in this matter:

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

24 2. Respondent has received, read and understands the Statement to Respondent,
25 the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate
26 in this proceeding.

27 ///

1 3. On November 12, 2009, Respondent filed a Notice of Defense pursuant to
2 Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations
3 in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
4 Respondent acknowledges that he understands that by withdrawing said Notice of Defense he
5 will thereby waive his right to require the Commissioner to prove the allegations in the
6 Accusation at a contested hearing held in accordance with the provisions of the APA and that
7 he will waive other rights afforded to him in connection with the hearing such as the right to
8 present evidence in defense of the allegations in the Accusation and the right to cross-examine
9 witnesses.

10 4. Respondent, pursuant to the limitations set forth below, hereby admit that the
11 factual allegations or findings of fact as set forth in the Accusation filed in this proceeding are
12 true and correct and the Real Estate Commissioner shall not be required to provide further
13 evidence of such allegations.

14 5. It is understood by the parties that the Real Estate Commissioner may adopt
15 the Stipulation and Agreement In Settlement and Order as his Decision in this matter, thereby
16 imposing the penalty and sanctions on Respondent's real estate license and license rights as set
17 forth in the below "Order". In the event that the Commissioner in his discretion does not adopt
18 the Stipulation and Agreement In Settlement and Order, it shall be void and of no effect, and
19 Respondent shall retain the right to a hearing and proceeding on the Accusation under all the
20 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 Real Estate Commissioner made
22 pursuant to this Stipulation and Agreement In Settlement and Order shall not constitute an
23 estoppel, merger or bar to any further administrative or civil proceedings by the Department of
24 Real Estate with respect to any matters which were not specifically alleged to be causes for
25 accusation in this proceeding.

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27 ///

1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions and waivers, and solely for
3 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and
4 agreed that the acts and/or omissions of Respondent, as described in the Accusation, constitute
5 grounds for the suspension or revocation of the licenses and license rights of Respondent under
6 the provisions of Sections 10177(d) of the Business of Professions Code (the Code).

7 ORDER

8 The real estate broker license and license rights of Respondent BRUCE E.
9 MILLER (MILLER) under the Real Estate Law are suspended for a period of sixty (60) days
10 from the effective date of this Order; provided, however, that if Respondent petitions, said
11 suspension shall be stayed upon condition that:

12 1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the
13 Business and Professions Code at the rate of \$75.00 per day for thirty (30) days of the
14 suspension for a total monetary penalty of \$2,250.00. Upon receipt of payment, thirty (30) days
15 of the suspension will then be stayed.

16 2. Said payment shall be in the form of a cashier's check or certified check made
17 payable to the Recovery Account of the Real Estate Fund. Said check must be received by the
18 Department prior to the effective date of the Decision in this matter.

19 3. No further cause for disciplinary action against the real estate license of
20 Respondent occurs within one year from the effective date of the Decision in this matter.

21 4. If Respondent fails to pay the monetary penalty in accordance with the terms
22 and conditions of the Decision, the Commissioner may, without a hearing, order the immediate
23 execution of all or any part of the stayed suspension in which event the Respondent shall not be
24 entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department
25 under the terms of this Decision.

26 5. If Respondent pays the monetary penalty, the remaining thirty (30) days of said
27 sixty (60) day suspension will be stayed, and if no further cause for disciplinary action against the

1 real estate license of Respondent occurs within one (1) year from the effective date of the
2 Decision, the stay hereby granted shall become permanent.

3 6. Respondent shall pay for the cost of the audits No. OK 08-0123 and
4 No. OK 08-0142 in the amount of \$3,308.51. Said payment shall be in the form of a cashiers
5 check or certified check made payable to the Recovery Account of the Real Estate Fund. Said
6 check must be received by the Department prior to the effective date of the Decision in this
7 matter. If Respondents fail to satisfy this condition, the Commissioner may order the suspension
8 of Respondents' licenses until this sum is paid in full.

9 7. Respondent shall be pay for the cost of the follow up audit which shall be less
10 than or equal to \$3,308.51.

11 8. Respondent shall submit proof satisfactory to the Commissioner of having
12 taken and successfully completed the continuing education course on real estate trust fund
13 accounting and handling specified in subdivision (a) of Section 10170.5 of the Business and
14 Professions Code. Proof of satisfaction of this requirement includes evidence that respondent
15 has successfully completed the trust fund account and handling continuing education course
16 within 120 days prior to the effective date of the Decision in this matter. If Respondent fails to
17 satisfy this condition, the Commissioner may order the suspension of Respondent's license until
18 Respondent completes the continuing education.

19 9. The auditor, in her report has confirmed that the shortages revealed in the
20 audit have been cured.

21
22 3/29/10

23 DATED

24 Richard K. Uno

25 RICHARD K. UNO, Counsel
26 DEPARTMENT OF REAL ESTATE

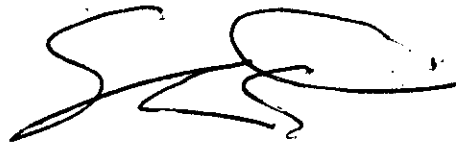
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1 I have read the Stipulation and Agreement in Settlement and Order and its terms
2 are understood by me and are agreeable and acceptable to me. I understand that I am waiving
3 rights given to me by the California Administrative Procedure Act (including but not limited to
4 Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly,
5 intelligently, and voluntarily waive those rights, including the right of requiring the
6 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
7 right to cross-examine witnesses against me and to present evidence in defense and mitigation
8 of the charges.

9
10 3-9-10

11 DATED



12 BRUCE E. MILLER
Respondent

13 I have reviewed this Stipulation and Agreement as to form and content and have
14 advised my client accordingly.

15
16 DATED

17 J. ANNE RAWLINS
Attorney For Respondent

18 * * *

19 The foregoing Stipulation and Agreement is hereby adopted by the Real Estate
20 Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on

21
22 IT IS SO ORDERED

23 JEFF DAVI
24 Real Estate Commissioner
25
26
27

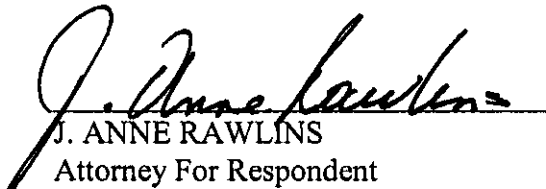
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7 right to cross-examine witnesses against me and to present evidence in defense and mitigation
8 of the charges.
9

10
11 _____
DATED

BRUCE E. MILLER
Respondent

12
13 *I have reviewed this Stipulation and Agreement as to form and content and have*
14 *advised my client accordingly.*

15
16 3/28/2010
DATED

17 
J. ANNE RAWLINS
Attorney For Respondent

18 * * *

19 The foregoing Stipulation and Agreement is hereby adopted by the Real Estate
20 Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on
21 _____

22 IT IS SO ORDERED _____

23 JEFF DAVI
24 Real Estate Commissioner
25
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8 of the charges.

9
10
11 _____
DATED

BRUCE E. MILLER
Respondent

12
13 *I have reviewed this Stipulation and Agreement as to form and content and have*
14 *advised my client accordingly.*

15
16 _____
DATED

J. ANNE RAWLINS
Attorney For Respondent

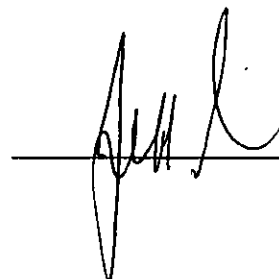
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18 * * *

19 The foregoing Stipulation and Agreement is hereby adopted by the Real Estate
20 Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on
21 MAY 12 2010

22 IT IS SO ORDERED

4-14-2010

23 JEFF DAVI
24 Real Estate Commissioner

25
26 
27 _____

1 RICHARD K. UNO, COUNSEL (SBN 98275)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-2380

FILED

OCT 15 2009

DEPARTMENT OF REAL ESTATE

By H. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

12 In the Matter of the Accusation of
13 BRUCE E. MILLER,
14 Respondent.

No. H-10769 SF

ACCUSATION

16 The Complainant, E. J. HABERER, II, a Deputy Real Estate Commissioner of
17 the State of California for cause of accusation against BRUCE E. MILLER, (Respondent), is
18 informed and alleges as follows:

1

The Complainant makes this Accusation in his official capacity.

2

22 MILLER is presently licensed and/or has license rights under the Real Estate
23 Law (Part 1 of Division 4 of the California Business and Professions Code) (the Code) as a real
24 estate broker dba Arnold Realty.

3

26 At all times herein mentioned, Respondent engaged in the business of, acted in
27 the capacity of, advertised or assumed to act as a real estate broker in the State of California,

1 within the meaning of Section 10131 (b) of the Code, including the operation and conduct of a
2 property management business wherein Respondent leased, rented, or offered to lease or rent,
3 solicited listings for lease or rent, collected rents from tenants or lessees, or performed other
4 services for real property owners and tenants or lessees, all for or in expectation of
5 compensation and including the operation and conduct of a residential resale brokerage wherein
6 Respondents bought, sold, or offered to buy or sell, solicited or obtained listings of, and
7 negotiated the purchase, sale or exchange of real property or business opportunities, all for or
8 in expectation of compensation

9 4

10 Beginning on or about May 18, 2009 and intermittently through June 16, 2009,
11 the Department conducted an audit of MILLER'S property management and residential resale
12 business for the period of May 1, 2006 to May 1, 2009 as set forth in Audit Nos. OK 08-0123
13 (PM) and OK 08-0142 (OA), dated July 2, 2009. During the course of the property management
14 activities described in Paragraph 3, Respondent received and disbursed funds held in trust on
15 behalf of others.

16 5

17 The following facts were ascertained by the audit for the period referred to above:

18 a. Respondent maintained one trust account at Wells Fargo Bank, 34988 Newark
19 Boulevard, Newark, California 94560. Account #1 was designated as the "Bruce E. Miller dba
20 Arnold Realty Trustee", Account No. 3128-621476.

21 b. Account #1 was used for property management activities.

22 c. Roberta Miller, the wife of MILLER, is an unlicensed authorized signatory of
23 Account #1. She is not covered by a fidelity bond which at least equals the maximum amount in
24 Account #1, in violation of Section 2834 of the Regulations.

25 d. A bank reconciliation was prepared as of March 31, 2009 for Account #1
26 which showed a shortage of \$3,308.51, in violation of Section 2832.1 of the Regulations and
27 Section 10145 of the Code.

1 e. MILLER failed to reconcile monthly the total balance of the beneficiary
2 records to the Control Record balance or adjusted bank balance for Account #1, in violation of
3 Section 2831.2 of the Regulations.

4 f. MILLER failed to deposit into Account #1 within three business days upon
5 receipt rental deposits from April Haynes for property owned by Robert Von Merta, from Mario
6 Mancina for property owned by Richard Winckel and from Duff & Gipson for property owned by
7 the H & S Wong Family Trust, all in violation of Section 2832(a) of the Regulations.

8 g. MILLER failed to maintain accurate accounting records for All Trust Funds
9 Received and Disbursed (Control Record), in violation of Section 2831 of the Regulations.

10 h. MILLER failed to maintain a property file and a copy of an addendum of a
11 property management agreement concerning certain real property known as 36875 Sycamore
12 Street, Newark, California 94560 in violation of Section 10148 of the Code.

13 6

14 The acts and omissions of Respondent MILLER described in Paragraph 5, above,
15 constitute violations of Sections 2831, 2831.2, 2832(a), 2832.1 and 2834 of the Regulations and
16 Sections 10145 and 10148 of the Code.

17 7

18 The facts alleged in Paragraphs 1 through 5, above, are grounds for the suspension
19 or revocation of the licenses of Respondent MILLER under section 10177(d) of the Code.

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22 ///

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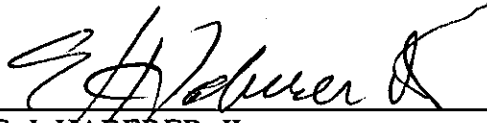
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27 ///

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

6
7 
8 E. J. HABERER, II
Deputy Real Estate Commissioner

9 Dated at Oakland, California,
10 this 13th day of October, 2009.