

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

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FILED

MAY - 6 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-10777 SF
12)
13 JKL ENTERPRISES., and) STIPULATION AND AGREEMENT
14 ANDREW B. JACKSON,) IN SETTLEMENT AND ORDER
15 Respondents.)

16 It is hereby stipulated by and between JKL ENTERPRISES, (Respondent),
17 ANDREW B. JACKSON, (Respondent) and their attorney, Robert B. Yee, and the Complainant,
18 acting by and through Richard K. Uno, Counsel for the Department of Real Estate; as follows for
19 the purpose of settling and disposing of the Accusation filed on October 20, 2009, in this matter:

20 1. All issues which were to be contested and all evidence which was to be
21 presented by Complainant and Respondent 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 In Settlement and Order.

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

1 3. On November 2, 2009, Respondents 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. Respondents 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. Respondents, 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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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 Respondents, as described in the Accusation, constitute
5 grounds for the suspension or revocation of the licenses and license rights of Respondent JKL
6 ENTERPRISES under the provisions of Sections 10176(a) and 10177(d) of the Business and
7 Professions Code (the Code) and constituted grounds for the suspension or revocation of the
8 licenses and license rights of Respondent ANDREW B. JACKSON under the provisions of
9 Sections 10177(d) and (h) of the Code.

10 ORDER

11 1. All licenses and licensing rights of respondent ANDREW B. JACKSON
12 (JACKSON), under the Real Estate Law are revoked; provided, however, a restricted real estate
13 salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business
14 and Professions Code, if Respondent makes application therefore and pays to the Department of
15 Real Estate the appropriate fee for the restricted license within 90 days from the effective date of
16 this Decision. The restricted license issued to Respondent shall be subject to all of the provisions
17 of Section 10156.7 of the Business and Professions Code and to the following limitations,
18 conditions and restrictions imposed under authority of Section 10156.6 of that Code:

19 2. The license shall not confer any property right in the privileges to be
20 exercised, and the Real Estate Commissioner may by appropriate order suspend the right to
21 exercise any privileges granted under this restricted license in the event of:

- 22 (a) The conviction of JACKSON (including a plea of nolo contendere)
23 of a crime which is substantially related to Respondent's fitness or
24 capacity as a real estate licensee; or

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1 (b) The receipt of evidence that JACKSON has violated provisions of
2 the California Real Estate Law, the Subdivided Lands Law,
3 Regulations of the Real Estate Commissioner, or conditions
4 attaching to this restricted license.

5 3. JACKSON shall not be eligible to apply for the issuance of an unrestricted
6 real estate license nor the removal of any of the conditions, limitations, or restrictions attaching
7 to the restricted license until two (2) years have elapsed from the date of issuance of the
8 restricted license to JACKSON.

9 4. With the application for license, or with the application for transfer to a new
10 employing broker, JACKSON shall submit a statement signed by the prospective employing
11 real estate broker on a form approved by the Department which shall certify as follows:

12 (a) That the employing broker has read the Decision which is the
13 basis for the issuance of the restricted license; and

14 (b) That the employing broker will carefully review all transaction
15 documents prepared by the restricted licensee and otherwise
16 exercise close supervision over the licensee's performance of acts
17 for which a license is required.

18 5. JACKSON shall, within nine (9) months from the effective date of this Order,
19 present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the
20 most recent issuance of an original or renewal real estate license, taken and successfully
21 completed the continuing education requirements as specified in subdivision (a) of Section
22 10170.5 of the Business and Professions Code. If Respondent fails to satisfy this condition, the
23 Commissioner may order the suspension of the restricted license until Respondent presents such
24 evidence. The Commissioner shall afford Respondent the opportunity for hearing pursuant to the
25 Administrative Procedure Act to present such evidence.

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1 6. JACKSON shall, within six (6) months from the effective date of this
2 Decision, take and pass the Professional Responsibility Examination administered by the
3 Department including the payment of the appropriate examination fee. If JACKSON fails to
4 satisfy this condition, the Commissioner may order suspension of JACKSON's license until
5 JACKSON passes the examination.

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

10 a. JKL pays a monetary penalty pursuant to Section 10175.2 of the Business and
11 Professions Code at the rate of \$50.00 per day for thirty (30) days of the suspension for a total
12 monetary penalty of \$1,500.00. Upon receipt of payment, thirty (30) days of the suspension will
13 then be stayed.

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

17 c. No further cause for disciplinary action against the real estate license of JKL
18 occurs within one year from the effective date of the Decision in this matter.

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

24 e. If JKL pays the monetary penalty, the remaining thirty (30) days of said sixty
25 (60) day suspension will be stayed, and if no further cause for disciplinary action against the real
26 estate license of JKL occurs within one (1) year from the effective date of the Decision, the stay
27 hereby granted shall become permanent.

1 8. JKL shall replace the Designated Officer. Notice identifying the new
2 Designated Officer must be received by the Department prior to the effective date of the Decision
3 in this Matter. If JKL fails to satisfy this condition, the Commissioner may order the suspension
4 of JKL's license until notice of the new Designated Officer is received by the Department.

5 9. Respondents ANDREW B. JACKSON and JKL ENTERPRISES shall be
6 jointly and severally liable to pay for the cost of the audits No. OK 080075 and OK 080090, in
7 the amount of \$6,936.80. Said payment shall be in the form of a cashiers check or certified
8 check made payable to the Recovery Account of the Real Estate Fund. Said check must be
9 received by the Department prior to the effective date of the Decision in this matter. If
10 Respondents fail to satisfy this condition, the Commissioner may order the suspension of
11 Respondents' licenses until this sum is paid in full.

12 10. Respondents ANDREW B. JACKSON and JKL ENTERPRISES shall be
13 jointly and severally liable to pay for the cost of the follow up audit which shall be less than or
14 equal to \$6,936.80.

15 11. Respondents ANDREW B. JACKSON and JKL ENTERPRISES shall
16 provide certified proof, which may be in the form of a letter from their counsel, that the shortage
17 of \$11,425.00 revealed in the audit was cured and identify the source of funds. Said certified
18 proof must be received by the Department prior to the effective date of the Decision in this
19 matter. If Respondents fail to satisfy this condition, the Commissioner may order suspension of
20 Respondent's license until Respondent provides such proof.

21
22 4/22/10

23 DATED

24 Richard K. Uno

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

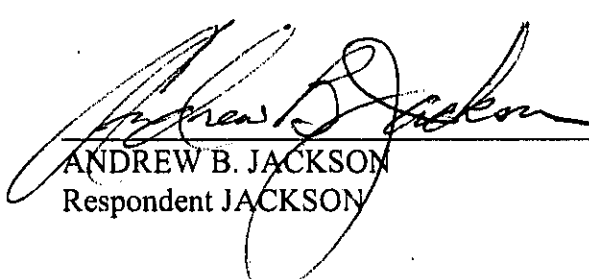
27 * * *

I have read the Stipulation and Agreement in Settlement and Order and its terms
are understood by me and are agreeable and acceptable to me. I understand that I am waiving

1 rights given to me by the California Administrative Procedure Act (including but not limited to
2 Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly,
3 intelligently, and voluntarily waive those rights, including the right of requiring the
4 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
5 right to cross-examine witnesses against me and to present evidence in defense and mitigation
6 of the charges.

7 4-13-10

8 DATED

9 
ANDREW B. JACKSON
Respondent JACKSON

10 For JKL ENTERPRISES:

11 4-13-10

12 DATED

13 
by ANDREW B. JACKSON Robert
Respondent JKL ENTERPRISES' KITTITAS

14
15 I have reviewed this Stipulation and Agreement as to form and content and have advised my
16 clients accordingly.

17 April 21, 2010

18 DATED

19 
ROBERT B. YEE

20 * * *

21 The foregoing Stipulation and Agreement In Settlement and Order is hereby
22 adopted by the Real Estate Commissioner as his Decision and Order and shall become effective
23 at 12 o'clock noon on MAY 27 2010

24 IT IS SO ORDERED 4/25/2010

25 JEFF DAVI
Real Estate Commissioner
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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
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OCT 20 2009

DEPARTMENT OF REAL ESTATE

By K. Mar

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of

13 JKL ENTERPRISES and
14 ANDREW B. JACKSON,

15 Respondents.

No. H-10777 SF

ACCUSATION

16 The Complainant, E. J. HABERER, II, a Deputy Real Estate Commissioner
17 of the State of California for cause of Accusation against JKL ENTERPRISES, (JKL) and
18 ANDREW B. JACKSON, (JACKSON), (collectively, Respondents), is informed and alleges
19 as follows:

20 1

21 The Complainant makes this Accusation in his official capacity.

22 2

23 At all times mentioned, JKL was and is licensed by the Department as a
24 corporate real estate broker by and through JACKSON as designated officer-broker of JKL
25 to qualify said corporation and to act for said corporation as a real estate broker dba R R
26 Rentals and dba Real World Image Properties.

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2 At all times mentioned, JACKSON was licensed by the Department as a real
3 estate broker and as designated officer-broker of JKL.

4 4

5 At all times mentioned, Respondents engaged in the business of, acted in the
6 capacity of, advertised or assumed to act as a real estate broker in the State of California, within
7 the meaning of Section 10131 (b) of the Code, including the operation and conduct of a
8 property management business wherein Respondent leased, rented, or offered to lease or rent,
9 solicited listings for lease or rent, collected rents from tenants or lessees, or performed other
10 services for real property owners and tenants or lessees, all for or in expectation of
11 compensation and including the operation and conduct of a residential resale brokerage
12 wherein Respondents bought, sold, or offered to buy or sell, solicited or obtained listings of,
13 and negotiated the purchase, sale or exchange of real property or business opportunities, all for
14 or in expectation of compensation.

15 FIRST CAUSE OF ACTION

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17 Beginning on or about January 1, 2008 and intermittently through February 27,
18 2009, the Department conducted an audit of JKL's property management business for the
19 period of January 1, 2007 to February 27, 2009 as set forth in Audit Nos. OK 080075 (PM)
20 and OK 080090 (OA), dated April 17, 2009. During the course of the property management
21 activities described in Paragraph 5, Respondent received and disbursed funds held in trust on
22 behalf of others.

23 6

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

25 a. Respondent maintained one trust account at Fremont Bank, P. O. Box 5101,
26 Fremont, California 94537-0000. Account #1 was designated as the "JKL Enterprises R R
27 Rentals, A Trust Account, Account No. 09907122.

1 b. Account #1 was used for property management activities. Deposits consisted
2 of rents and security deposits collected from tenants. Disbursements consisted of payments for
3 expenses related to the properties managed, remittances to owners and to JKL for management
4 fees.

5 c. Bank reconciliations for Account #1 were prepared on three different dates.
6 As of November 28, 2008 there was a shortage of \$58,176.06, as of December 31, 2008 there
7 was a shortage of \$69,765.20 and as of February 27, 2009 there was a shortage of \$11,425.03.
8 Each of the shortages was violations of Section 2832.1 of the Regulations and Section 10145
9 of the Code.

10 d. JKL failed to maintain copies of the front and back of cancelled checks, in
11 violation of Section 10148 of the Code.

12 e. JKL failed to maintain copies of the file concerning certain real property
13 known as 7889 Tamarack, in violation of Section 10148 of the Code.

14 f. JKL failed to perform the required monthly reconciliations comparing the
15 balance of the control records to the total balance of the beneficiary records for Account #1,
16 in violation of Section 2831.2 of the Regulations.

17 g. JKL failed to place funds in the form of rent receipts in a designated trust
18 account within three business days for certain real property known as 435 Firloch, #3, 4420
19 Muirwood and 1652 Via Nueva, all in violation of Section 2832 of the Regulations.

20 h. JKL overstated their account, as it was seeking reimbursement for repair
21 costs that it had advanced, in violation of Section 2832 of the Regulations and Section 10145
22 of the Code.

23 i. Deposits in the amount of \$8,000.00 were not recorded on the Beneficiary
24 Records, in violation of Section 10176(a) of the Code.

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2 The acts and omissions of Respondent JKL described in Paragraph 6, above,
3 constitute violations of Sections 2831.2, 2832, and 2832.1 of the Regulations and Sections
4 10145, 10148 and 10176(a) of the Code.

5 8

6 The facts alleged in Paragraphs 1 through 6, above, are grounds for the
7 suspension or revocation of the licenses of Respondent JKL under Sections 10176(a) and
8 10177(d) of the Code.

9 SECOND CAUSE OF ACTION

10 9

11 Complainant refers to Paragraphs 1 through 9, above, and incorporates them
12 herein by reference.

13 10

14 At all times herein above mentioned, JACKSON, was responsible as the
15 supervising broker for JKL, for the supervision and control of the activities conducted on
16 behalf of JKL'S business by its employees. JACKSON failed to exercise reasonable
17 supervision and control over the property management activities of JKL. In particular,
18 JACKSON permitted, ratified and/or caused the conduct described above, to occur, and
19 failed to take reasonable steps, including but no limited to handling of trust funds, supervision
20 of employees, and the implementation of policies, rules, and systems to ensure the compliance
21 of the business with the Real Estate Law and the Regulations.

22 11

23 The above acts and/or omissions of JACKSON violate Section 10159.2 of the
24 Code and Section 2725 of the Regulations and constituted grounds for disciplinary action
25 under the provisions of Section 10177(d) and (h) of the Code.


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PRIOR ADMINISTRATIVE ACTION

Effective March 30, 1999, before the Department of Real Estate, Case No. H-7603 SF, the Commissioner suspended Respondent JACKSON's license and licensing rights for two years, but stayed the suspension for one year.

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


E. J. HABERER, II
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 19th day of October, 2009.