

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

4 Telephone: (916) 227-0789

FILED

AUG 18 2010

DEPARTMENT OF REAL ESTATE

By K. Mat

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) DRE No. H-10836 SF
12)
13 DONALD DOUGLAS CAMPBELL,) STIPULATION AND AGREEMENT
14) IN SETTLEMENT AND ORDER
15 Respondent.)

16 It is hereby stipulated by and between DONALD DOUGLAS CAMPBELL
17 (Respondent), his attorney, Frank M. Buda, and the Complainant, acting by and through Richard
18 K. Uno, Counsel for the Department of Real Estate; as follows for the purpose of settling and
19 disposing of the Accusation filed on January 19, 2010, 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 January 25, 2010, 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 he
7 will waive other rights afforded to him in connection with the hearing such as the right to present
8 evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

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

20 6. The Order or any subsequent Order of the Real Estate Commissioner made
21 pursuant to this Stipulation and Agreement In Settlement and Order shall not constitute an
22 estoppel, merger or bar to any further administrative or civil proceedings by the Department of
23 Real Estate with respect to any matters which were not specifically alleged to be causes for
24 accusation in this proceeding.

25 7. Respondent understands that by agreeing to this Stipulation and Agreement In
26 Settlement and Order, Respondent agrees to pay, pursuant to Section 10148 of the Business and
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1 Professions Code, the cost of the audit which led to this disciplinary action. The amount of said
2 cost is \$5,697.61.

3 8. Respondent has received, read and understands the "Notice Concerning Costs
4 of Subsequent Audits". Respondent understands that by agreeing to this Stipulation and
5 Agreement in Settlement and Order, the findings set forth below in the DETERMINATION OF
6 ISSUES become final, and that the Commissioner may charge Respondent for the cost of any
7 audit conducted pursuant to Section 10148 of the Business and Professions Code to determine if
8 the violations have been corrected. The maximum costs of said audit will not exceed \$5,697.61.

9 DETERMINATION OF ISSUES

10 By reason of the foregoing stipulations, admissions and waivers, and solely for
11 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed
12 that the acts and/or omissions of Respondent, as described in the Accusation, constitute grounds
13 for the suspension or revocation of the licenses and license rights of Respondent under the
14 provisions of Sections 2731, 2831, 2832 and 2834 of Title 10, California Code of Regulations,
15 and Sections 10130, 10137, 10145, 10159.5, 10163, 10176(e) and 10177(d) of the Business and
16 Professions Code (the Code).

17 ORDER

18 1. All licenses and license rights of Respondent DONALD DOUGLAS
19 CAMPBELL under the Real Estate Law are suspended for a period of sixty (60) days from the
20 effective date of this Order; provided, however, that thirty (30) days of said suspension shall be
21 stayed for two (2) years upon the following terms and conditions:

22 (a) Respondent CAMPBELL shall obey all laws, rules and regulations
23 governing the rights, duties and responsibilities of a real estate licensee in the State of
24 California; and

25 (b) That no final subsequent determination be made, after hearing or upon
26 stipulation, that cause for disciplinary action occurred within two (2) years from the effective

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1 date of this Order. Should such a determination be made, the Commissioner may, in his
2 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
3 suspension. Should no such determination be made, the stay imposed herein shall become
4 permanent.

5 2. The remaining thirty (30) days of said sixty (60) day suspension shall be
6 stayed upon the condition that Respondent CAMPBELL petition pursuant to Section 10175.2 of
7 the Business and Professions Code and pay a monetary penalty pursuant to Section 10175.2 of
8 the Code at the rate of \$100.00 for each day of thirty (30) days of the suspension for a total
9 monetary penalty of \$3,000.00.

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

13 (b) No further cause for disciplinary action against the real estate license of
14 Respondent occurs within one year from the effective date of the Decision in this matter.

15 (c) If Respondent fails to pay the monetary penalty in accordance with the terms
16 and conditions of the Decision, the Commissioner may, without a hearing, order the immediate
17 execution of all or any part of the stayed suspension in which event the Respondent shall not be
18 entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department
19 under the terms of this Decision.

20 (d) If Respondent pays the monetary penalty and if no further cause for
21 disciplinary action against the real estate license of Respondent occurs within two (2) years from
22 the effective date of the Decision, the remaining thirty (30) days of said sixty (60) day suspension
23 will be stayed and the stay hereby granted shall become permanent.

24 3. Pursuant to Section 10148 of the Business and Professions Code, Respondent
25 shall pay for the cost of audits No. OK 08-0065 (PM) in the amount of \$5,697.61 for the
26 Commissioner's reasonable cost for: a) the audit which led to this disciplinary action and, b) a
27 subsequent audit to determine if Respondent has corrected the trust fund violations found in the

1 Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the
2 Commissioner may use the estimated average hourly salary for all persons performing audits of
3 real estate brokers, and shall include an allocation for travel costs, including mileage, time to
4 and from the auditor's place of work and per diem. Respondent shall pay such cost within sixty
5 (60) days of receiving an invoice from the Commissioner detailing the activities performed
6 during the audit and the amount of time spent performing those activities. The Commissioner
7 may, in his discretion, vacate and set aside the stay order, if payment is not timely made as
8 provided for herein, or as provided for in a subsequent agreement between the Respondent and
9 the Commissioner. The vacation and the set aside of the stay shall remain in effect until
10 payment is made in full, or until Respondent enters into an agreement satisfactory to the
11 Commissioner to provide for payment. Should no order vacating the stay be issued, either in
12 accordance with this condition, the stay imposed herein shall become permanent.

13 4. All licenses and licensing rights of Respondent under the Real Estate Law are
14 suspended until such time as Respondent provides proof satisfactory to the Commissioner that
15 Respondent has completed the continuing education course on real estate trust fund accounting
16 and handling specified in subdivision (a) of Section 10170.5 of the Code. The course must have
17 been completed no earlier than one hundred twenty (120) days prior to the effective date of this
18 Order, and proof submitted prior to the effective date of this Order, to prevent suspension of
19 Respondent's license pursuant to this condition.

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21 8/9/10

22 DATED

21 

22 RICHARD K. UNO, Counsel
23 DEPARTMENT OF REAL ESTATE

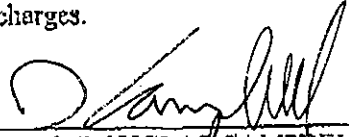
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I have read the Stipulation and Agreement In Settlement and Order, have discussed it with my attorney, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative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

7/9/10

DATED

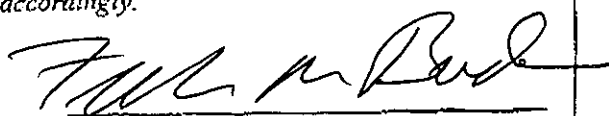


DONALD DOUGLAS CAMPBELL
Respondent

I have reviewed this Stipulation and Agreement In Settlement and Order as to form and content and have advised my clients accordingly.

7-12-10

DATED



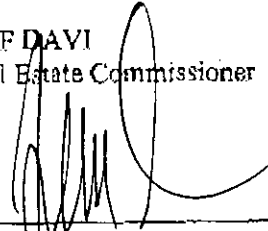
FRANK M. BUDA
Attorney for Respondent

The foregoing Stipulation and Agreement is hereby adopted by the Real Estate Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on **SEP - 8 2010**

IT IS SO ORDERED

8-12-2010

JEFF DAVI
Real Estate Commissioner



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

JAN 19 2010

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

11 In the Matter of the Accusation of)
12) NO. H-10836 SF
13 DONALD DOUGLAS CAMPBELL,)
14) ACCUSATION
Respondent.)

15 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner
16 of the State of California, for Accusation against Respondent DONALD DOUGLAS
17 CAMPBELL (CAMPBELL), is informed and alleges as follows:

1

19 The Complainant makes this Accusation against Respondents in her official
20 capacity.

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22 CAMPBELL 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.

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Carmel Properties, Inc. (CPI) was licensed by the Department to act as a corporate real estate broker with CAMPBELL as its Designated Officer. CPI's corporate broker license expired on February 19, 2006.

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At all times mentioned, CAMPBELL, doing business as CPI, engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(b) of the Code, including the operation and conduct of a property management business wherein Respondent leased, rented, or offered to lease or rent, solicited listings for lease or rent, collected rents from tenants or lessees, or performed other services for real property owners and tenants or lessees, all for or in expectation of compensation.

FIRST CAUSE OF ACTION

5

Beginning on February 13, 2009, and continuing intermittently through April 6, 2009, an audit was conducted at CAMPBELL's main office located at 881 Sneath Lane, Suite 210 in San Bruno, California, where the auditor examined records for the period of January 1, 2007 through January 31, 2009 (the audit period).

6

While acting as a real estate broker as described in Paragraph 4, above, and within the audit period, CAMPBELL accepted or received funds in trust (trust funds) from or on behalf of lenders, investors, borrowers and others in connection with the property management activities, deposited or caused to be deposited those funds into a bank account maintained by CPI, including: 1) Bank of America, 1655 Grant Street, Building A, 10th Floor, Concord, California 94520-2445, Account No. 1420301012, entitled "Carmel Partners, Inc.", signatories DONALD D. CAMPBELL and Brian Smith, unlicensed. (Bank Account #1), and thereafter from time to time made disbursements of said trust funds. 2) Wells Fargo Bank,

1 P. O. Box 63020, San Francisco, California 94163, Account No. 14208-36151, entitled "Pacific
2 Equity and Capital Fund, LLC", signatories DONALD D. CAMPBELL, Ron Zeff, unlicensed,
3 John Williams, unlicensed and Brian Smith, unlicensed. (Bank Account #2), and thereafter
4 from time to time made disbursement of said trust funds and 3) Wells Fargo Bank, P. O. Box
5 63020, San Francisco, California 94163, Account No. 412-1360150, entitled "CP II Park Lake,
6 LLC, signatories DONALD D. CAMPBELL, Ron Zeff, unlicensed, John Williams, unlicensed,
7 Brian Smith, unlicensed and Dan Nelson, unlicensed, and thereafter from time to time made
8 disbursement of said trust funds.

9 7

10 In the course of the activities described in Paragraph 6, in connection with the
11 collection and disbursement of trust funds, CAMPBELL:

- 12 (a) Failed to designate Bank Account #1, Bank Account #2 and Bank
13 Account #3 as trust accounts as required by Section 2832 of Chapter 6,
14 Title 10, California Code of Regulations (Regulations);
15 (b) Failed to properly maintain control records for Bank Account #1 and
16 Bank Account #2 as required by Section 2831 of the Regulations;
17 (c) Failed to deposit within three business days rent receipts collected from
18 the tenants listed below, in violation of Section 2832 of the Regulations
19 and Section 10145 of the Code.

<u>Tenant</u>	<u>Amount</u>	<u>Date Collected</u>	<u>Date Deposited</u>
21 Reisig	\$1,480.00	12/07/08	12/30/08
22 Jackson	\$ 630.00	12/07/08	12/30/08
23 Bonner	\$ 740.00	12/07/08	12/30/08
24 Houston	\$ 695.00	12/12/08	12/30/08

- 25 (d) Commingled broker funds with owner funds after it failed to disburse
26 management fees within 25 days after the collection of rent receipts, as
27 set forth below, in violation of Section 10176(e) of the Code;

<u>Account #</u>	<u>Dates Commingled</u>	<u>Net Rent</u>	<u>Management Fees</u>	<u>Date Disbursed</u>
Bank #2	03/25/08 to 04/18/08	\$315,867.56	\$ 9,517.73	05/15/08
Bank #2	07/28/08 to 08/21/08	\$306,863.66	\$ 9,241.54	09/18/08
Bank #1	08/25/08 to 09/16/08	\$637,314.73	\$24,439.89	10/17/08

- (e) Unlicensed and unbonded employees were authorized to make trust fund distributions for Bank Account #1, Bank Account 2 and Bank Account #3 in violation of Section 2834 of the Regulations;
- (f) Used three unregistered fictitious business names including Arbors at Antelope, Lafayette Parc and Park Lake in violation of Section 2731 of the Regulations and Section 10159.5 of the Code and
- (g) Failed to license branch offices as set forth below in violation of Section 10163 of the Code.

<u>Address</u>	<u>Manager</u>
3700 Navaho Drive, Antelope	W. Campbell
6058 Riverside Boulevard, Sacramento	E. Burrow
260 Park Lane Circle, Walnut Creek	K. Becker
1100 East Fairhaven Avenue, Santa Ana	K. Jeffries
7545 Katella Avenue, Stanton	W. Curiel
624 South Glendora Avenue, West Covina	C. Ofstad
8655 Belford Avenue, Los Angeles	L. Thibodeau
2501 Pico Boulevard, Santa Monica	L. Thibodeau
16282 Main Street, Tustin	G. Haden
14452 Goldenwest Street, Westminster	W. Curiel
18641 Saticoy Street, #28, Reseda	M. Zdraljevic
415 Gayley Avenue, Westwood	J. Baron

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The acts and/or omissions of WALLACE as alleged above violate Sections 2731, 2831, 2832 and 2834 of the Regulations and of Sections 10145, 10159.5, 10163 and 10176(e) of the Code.

9

The acts and/or omission of WALLACE alleged above are grounds for discipline under Section 10176(e) and 10177(d) of the Code.

SECOND CAUSE OF ACTION

10

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

11

At no time within the last three years did the Department issue a real estate license to Ron Zeff, Wendee Owens, Gabe Liberman, Ashley Douglas, Nick Bussick, Craig Ofstad, Mark Pereira, Kelly Becker, Lisa Benker or Amy Wagar either as a real estate broker or as a real estate salesperson.

12

Within the three year period prior to the filing of this Accusation, Respondent CAMPBELL employed and compensated those unlicensed individuals named in Paragraph 11, above, to perform the activities requiring a real estate license as alleged in Paragraph 4, above.

13

Within the last three years before the filing of this Accusation, those individuals named in Paragraph 11, above, engaged in the business of, acted in the capacity of, advertised the capacity of the operation and conduct of a property management business wherein they leased, rented, or offered to lease or rent, solicited listings for lease or rent, collected rents from tenants or lessees, or performed other services for real property owners and tenants or lessees, all for or in expectation of compensation.

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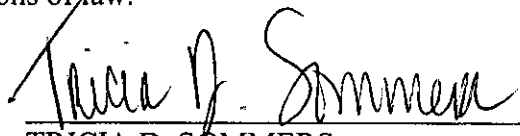
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The acts or omissions alleged in Paragraph 13, above, constitute a violation of Sections 10130 and 10137 of the Code.

15

The acts or omissions alleged in Paragraph 12, above, are cause for the suspension or revocation of the licenses and license rights of Respondent CAMPBELL under Section 10177(d) of the Code.

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 other provisions of law.



TRICIA D. SOMMERS
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 14th day of January, 2010.