

1 DEPARTMENT OF REAL ESTATE
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3 Sacramento, CA 95818-7007

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FILED

MAR 11 2011

DEPARTMENT OF REAL ESTATE

By K. Contreras

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

11 * * *

12 In the Matter of the Accusation of)
13) NO. H-10938 SF
14 ROBYN LAUREL KAUFMAN) STIPULATION AND AGREEMENT
15) IN SETTLEMENT AND ORDER
16 Respondent.)

17 It is hereby stipulated by and between Respondent ROBYN LAUREL
18 KAUFMAN (herein "Respondent"), individually, by and through Paul P. DeAngelis, attorney of
19 record herein for Respondent, and the Complainant, acting by and through Mary F. Clarke,
20 Counsel for the Department of Real Estate (herein "the Department"), as follows for the purpose
21 of settling and disposing of the Accusation filed on June 7, 2010, in this matter (herein "the
22 Accusation"):

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 (APA),
26 shall instead and in place thereof be submitted solely on the basis of the provisions of this
27 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 July 13, 2010 by Respondent, pursuant to
5 Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations
6 in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
7 Respondent acknowledges that she understands that by withdrawing said Notice of Defense,
8 she will thereby waive her right to require the Real Estate Commissioner (herein "the
9 Commissioner") to prove the allegations in the Accusation at a contested hearing held in
10 accordance with the provisions of the APA and that she will waive other rights afforded to her in
11 connection with the hearing such as the right to present evidence in defense of the allegations in
12 the Accusation and the right to cross-examine witnesses.

13 4. This Stipulation is based on the factual allegations contained in the Accusation.
14 In the interests of expedience and economy, Respondent chose not to contest these allegations,
15 but to remain silent and understands that, as a result thereof, these factual allegations, without
16 being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to
17 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove
18 said factual allegations.

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

26 6. The Order or any subsequent Order of the Commissioner made pursuant to this
27 Stipulation and Agreement in Settlement and Order shall not constitute an estoppel, merger, or

1 bar to any further administrative or civil proceedings by the Department with respect to any
2 matters which were not specifically alleged to be causes for accusation in this proceeding.

3 DETERMINATION OF ISSUES

4 I

5 The acts and omissions of Respondent as described in the Accusation are
6 grounds for the suspension or revocation of the license and license rights of Respondent under
7 Sections 10176(a) and 10177(g) of the Code.

8 ORDER

9 All licenses and licensing rights of Respondent under the Real Estate Law are
10 revoked; provided, however, a restricted real estate salesperson license shall be issued to
11 Respondent pursuant to Section 10156.5 of the Code if, within 90 days from the effective date of
12 the Decision entered pursuant to this Order, Respondent, prior to and as a condition of the
13 issuance of said restricted license makes application for the restricted license and pays to the
14 Department the appropriate fee therefor.

15 The restricted license issued to Respondent shall be subject to all of the
16 provisions of Section 10156.7 of the Code and to the following limitations, conditions, and
17 restrictions imposed under authority of Section 10156.6 of that Code:

18 1. The restricted license issued to Respondent may be suspended prior to hearing
19 by Order of the Commissioner in the event of Respondent's conviction or plea of nolo contendere
20 to a crime which is substantially related to Respondent fitness or capacity as a real estate licensee.

21 2. The restricted license issued to Respondent may be suspended prior to hearing
22 by Order of the Commissioner on evidence satisfactory to the Commissioner that Respondent has
23 violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of
24 the Real Estate Commissioner, or conditions attaching to the restricted license.

25 3. Respondent shall not be eligible to apply for the issuance of an unrestricted
26 real estate license or for the removal of any of the conditions, limitations, or restrictions of a
27 restricted license until two (2) years have elapsed from the effective date of this Order.

1 4. Respondent shall submit with any application for license under an employing
2 broker, or any application for transfer to a new employing broker, a statement signed by the
3 prospective employing real estate broker on a form approved by the Department of Real Estate
4 which shall certify:


5 (a) That the employing broker has read the Decision of the
6 Commissioner which granted the right to a restricted license; and

7 (b) That the employing broker will exercise close supervision over
8 the performance by the restricted licensee relating to activities for
9 which a real estate license is required.

10 5. Respondent shall, within nine (9) months from the effective date of the
11 Order, present evidence satisfactory to the Commissioner that Respondent has, since the most
12 recent issuance of an original or renewal real estate license, taken and successfully completed
13 the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for
14 renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner
15 may order the suspension of the restricted license until Respondent presents such evidence. The
16 Commissioner shall afford Respondent the opportunity for a hearing pursuant to the APA to
17 present such evidence.

18 6. Respondent shall, within six (6) months from the issuance of the restricted
19 license, take and pass the Professional Responsibility Examination administered by the
20 Department, including the payment of the appropriate examination fee. If Respondent fails to
21 satisfy this condition, the Commissioner may order the suspension of the restricted license until
22 Respondent passes the examination.

23
24
25 2-8-11
26 DATED

27

28 MARY F. CLARKE, Counsel
29 DEPARTMENT OF REAL ESTATE

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

9
10 2/3/11
11 DATED

Robyn Laurel Kaufman
12 ROBYN LAUREL KAUFMAN
13 Respondent

14 * * *

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

17 2-3-11

18 DATED

Paul P. DeAngelis
19 PAUL P. DeANGELIS
20 Attorney for Respondent

21 * * *

22 The foregoing Stipulation and Agreement in Settlement and Order is hereby
23 adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on
24 April 1, 2011.

25 IT IS SO ORDERED 3/7, 2011.

26 JEFF DAVI
27 Real Estate Commissioner

Jeff Davi

1 JOHN VAN DRIEL, Counsel (SBN 84056)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789
6 -or- (916) 227-0787 (Direct)

FILED

JUN - 7 2010

DEPARTMENT OF REAL ESTATE

By L. Zin

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) NO. H-10938 SF
12)
13 ROBYN LAUREL KAUFMAN,) ACCUSATION
14) Respondent.)

15
16 The Complainant, Tricia Sommers, in her official capacity as a Deputy Real
17 Estate Commissioner of the State of California, for cause of Accusation against ROBYN
18 LAUREL KAUFMAN, is informed and alleges as follows:

19 1

20 At all times mentioned herein, Respondent ROBYN LAUREL
21 KAUFMAN (Respondent) was and now is licensed and has license rights under the Real Estate
22 Law (Part 1 of Division 4 of the California Business and Professions Code) (the Code) as a real
23 estate salesperson.

24 2

25 At all times mentioned herein, Respondent was employed as a real estate
26 salesperson by corporate real estate broker Pacific Union Real Estate Group Ltd. (PURE). While
27 so employed by PURE, Respondent acted in the capacity of a real estate salesperson within the

1 State of California within the meaning of Sections 10131(a) (the purchase and sale of real
2 property) and 10132 (salesperson defined) of the Code, by soliciting prospective sellers or
3 purchasers of, or obtaining listings of, and/or negotiating the purchase and sale of real property
4 on behalf of others, for or in expectation of compensation.

5 3

6 In early 2007, Robert and Bobbie Carter (Carter) made an offer to purchase condo
7 Unit S204 in a high-rise building located at 355 First Street, San Francisco, California (Unit
8 S204) from sellers Eric and Melissa Deneault, who were represented in the transaction by
9 Respondent. Carter's offer was accepted by Deneault and escrow was opened.

10 4

11 In connection with Carter's purchase of Unit S204, and in response to Carter's
12 request for disclosure of any information about 355 First Street, and Unit S204 in particular,
13 which would affect Carter's decision to purchase Unit S204, Respondent, on behalf of Deneault,
14 provided several disclosures to Carter, including the following:

- 15 (a) Real Estate Transfer Disclosure Statement dated 4-13-07
- 16 (b) Market Conditions Advisory
- 17 (c) Buyer's Inspection Advisory
- 18 (d) General Disclosure Items The Metropolitan
- 19 (e) Final Subdivision Public Report
- 20 (f) Advisory and Disclosure Regarding Square Footage Figure Variances
- 21 (g) Minutes of several HOA Board of Directors meetings

22 5

23 In reliance on the disclosures provided to Carter by Respondent, as set out in
24 paragraph 4 above, Carter agreed to close escrow on the purchase of Unit S204 on
25 June 8, 2007.

26 ///

27 ///

1
2 In connection with Carter's purchase of Unit S204 and prior to close of escrow,
3 notwithstanding Carter's request for disclosure referred to in paragraph 4 above, Respondent
4 failed to disclose to Carter material facts which affected the desirability of Unit S204, including,
5 but not limited to the fact that a lawsuit entitled *Ben Bedi v. Folsom/First, LLC, et al.* concerned
6 a dispute over building or construction defects in 355 First Street, in addition to a dispute over
7 the square footage of units in 355 First Street, and failed to provide any or all of three disclosure
8 letters created for new buyers and/or lenders in connection with the purchase and sale or
9 financing of the units in 355 First Street written by Ann Rankin, attorney for the 355 First Street
10 Homeowner's Association. Respondent also failed to provide complete information to Carter
11 concerning 355 First Street, including odor transmission, water leaks between units, mold, and a
12 proposed adjacent high-rise building which would substantially block the daylight entering
13 Unit S204.

14
15 Respondent's failure to provide complete and accurate disclosures concerning the
16 material issues mentioned in Paragraph 6 at 355 First Street, including Unit S204, to Carter as
17 requested, was done with the intent to induce Carter to purchase Unit S204. The true facts,
18 which were known to, or should have been known to, Respondent during the time Carter's
19 purchase of Unit S204 was pending, were that the *Ben Bedi* lawsuit involved a dispute over
20 building and/or construction defects in addition to a dispute over the square footage of units in
21 355 First Street; that attorney Ann Rankin had prepared three disclosure letters (dated 3-28-07,
22 8-25-06, and 9-11-06) to be given by real estate agents to every potential buyer and lender for
23 units in 355 First Street; that odor transmission, water leaks, and mold were material problems in
24 355 First Street which were not resolved at the time Carter made their offer to purchase Unit
25 S204; and that a high-rise building had been proposed to be built adjacent to 355 First Street
26 which would substantially block the daylight entering Unit S204. At no time prior to close of

27 ///

1 escrow did Respondent disclose the complete true facts to Carter, although she had a duty to be
2 "fair and honest" to Carter in the transaction.

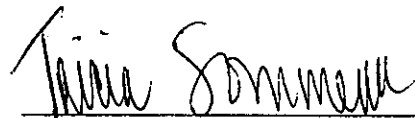
3 8

4 Carter considered each of the failures to disclose the facts set out in paragraph 7
5 above to be material to their decision to purchase Unit S204. If Carter had known the true fact
6 concerning 355 First Street, and Unit S204 in particular, they would not have agreed to
7 purchase Unit S204, or any unit in 355 First Street, and close escrow on June 8, 2007, or on any
8 other date.

9 9

10 The facts alleged above are grounds for the suspension or revocation of the
11 licenses and license rights of Respondent under Section 10176(a), (c), and (i), or, in the
12 alternative, under Section 10177(g) of the Code

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

18 

19 TRICIA SOMMERS
20 Deputy Real Estate Commissioner

21 Dated at Sacramento, California,
22 this 7th day of June, 2010.