

FILED

APR - 8 2011

DEPARTMENT OF REAL ESTATE

By 

Department of Real Estate
P.O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0781

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

CONNIE LYNN ORR,

Respondent.

No. H-11011 SF

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between CONNIE LYNN ORR (hereafter "Respondent") and her attorney, Frank M. Buda, and the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing the Accusation filed on October 12, 2010 in this matter:

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

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

3. Respondent filed a Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation.

1 Respondent hereby freely and voluntarily withdraw said Notice of Defense. Respondent
2 acknowledge that she understands that by withdrawing said Notice of Defense she will thereby
3 waive her rights to require the Commissioner to prove the allegations in the Accusation at a
4 contested hearing held in accordance with the provisions of the APA, and that she will waive
5 other rights afforded to her in connection with the hearing such as the right to present evidence in
6 defense of the allegations in the Accusation and the right to cross-examine witnesses.

7 4. This stipulation is based on the factual allegations contained in the
8 Accusation. In the interest of expediency and economy, Respondent chooses not to contest these
9 factual allegations, but to remain silent and understands that, as a result thereof, these factual
10 statements will serve as a prima facie basis for the "Determination of Issues" and "Order" set forth
11 below. The Real Estate Commissioner shall not be required to provide further evidence to prove
12 such allegations.

13 5. This Stipulation and Respondent's decision not to contest the Accusation
14 are made for the purpose of reaching an agreed disposition of this proceeding and are expressly
15 limited to this proceeding and any other proceeding or case in which the Department of Real
16 Estate (hereinafter "the Department"), the state or federal government, an agency of this state, or
17 an agency of another state is involved.

18 6. Respondent understands that by agreeing to this Stipulation and
19 Agreement, Respondent agrees to pay, pursuant to Section 10148 of the California Business and
20 Professions Code, the cost of the audit which resulted in the determination that Respondent
21 committed the trust fund violation(s) found in the Determination of Issues. The amount of said
22 costs is \$5752.50.

23 7. Respondent further understands that by agreeing to this Stipulation and
24 Agreement in Settlement, the findings set forth below in the Determination Of Issues become
25 final, and that the Commissioner may charge said Respondent for the costs of any audit
26 conducted pursuant to Section 10148 of the California Business and Professions Code to
27 determine if the violations have been corrected. The maximum costs of said audit shall not
exceed \$5752.50.

8. It is understood by the parties that the Real Estate Commissioner may
adopt the Stipulation and Agreement as his decision in this matter thereby imposing the penalty

1 and sanctions on the real estate licenses and license rights of Respondent as set forth in the below
2 "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and
3 Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing
4 and proceeding on the Accusation under all the provisions of the APA and shall not be bound by
any admission or waiver made herein.

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

9 * * *

10 DETERMINATION OF ISSUES

11 By reason of the foregoing stipulations and waivers and solely for the purpose of
12 settlement of the pending Accusation without a hearing, it is stipulated and agreed that the
13 following determination of issues shall be made:

14 I

15 The acts and omissions of Respondent as described in the Accusation are
16 grounds for the suspension or revocation of Respondent's licenses and license rights under the
17 following sections of the Business and Professions Code (hereinafter "Code") and Title 10 of
the California Code of Regulations (hereinafter "Regulations"):

18 (1) As to Paragraphs 6(a), under Section 10177(d) of the Code in conjunction
19 with Section 10145 of the Code;

20 (2) As to Paragraph 6(b), under Section 10177(d) of the Code in conjunction
21 with Section 2832.1 of the Regulations;

22 (3) As to Paragraph 6(c), under Section 10177(d) of the Code in conjunction
23 with Section 2831 of the Regulations;

24 (4) As to Paragraph 6(d), under Section 10177(d) of the Code in conjunction
25 with Section 2831.1 of the Regulations;

26 (5) As to Paragraph 6(e), under Section 10177(d) of the Code in conjunction
27 with Section 2831.2 of the Regulations;

1 (6) As to Paragraphs 6(f), under Section 10177(d) of the Code in conjunction
2 with Section 10145 of the Code and Section 2832 of the Regulations; and

3 (7) As to Paragraph 7, under Section 10177(d) of the Code in conjunction
4 with Section 10160 of the Code and Section 2753 of the Regulations.

5 * * *

6 ORDER

7 I

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

11 1. Sixty (60) days of said suspension shall be stayed for two (2) years upon the following terms
12 and conditions:

13 a) Respondent shall obey all laws, rules and regulations governing the rights, duties and
14 responsibilities of a real estate licensee in the State of California; and,

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

20 2. Respondent shall, prior to the effective date submit proof satisfactory to the Commissioner of
21 having cured the shortage alleged in Paragraph 6(a) of the Accusation. If Respondent fails to
22 satisfy this condition, the Commissioner may order the suspension of Respondent's license
23 until Respondent presents proof that Respondent has cured the trust fund shortage.

24 3. Pursuant to Section 10148 of the Business and Professions Code, Respondent shall pay the
25 sum of \$5752.50 for the Commissioner's cost of the audit which led to this disciplinary
26 action. Respondent shall pay such cost within sixty (60) days of receiving an invoice therefor
27 from the Commissioner. The Commissioner may suspend the Respondent's license pending
a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment
is not timely made as provided for herein, or as provided for in a subsequent agreement
between the Respondent and the Commissioner. The suspension shall remain in effect until

1 payment is made in full or until Respondent enters into an agreement satisfactory to the
2 Commissioner to provide for payment, or until a decision providing otherwise is adopted
3 following a hearing held pursuant to this condition.

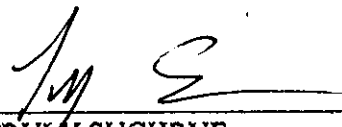
4 4. Pursuant to Section 10148 of the Business and Professions Code, Respondent shall pay the
5 Commissioner's reasonable cost, not to exceed \$5752.50, for an audit to determine if
6 Respondent has corrected the trust fund violation(s) found the Determination of Issues. In
7 calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the
8 estimated average hourly salary for all persons performing audits of real estate brokers, and
9 shall include an allocation for travel time to and from the auditor's place of work.
10 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefor from
11 the Commissioner detailing the activities performed during the audit and the amount of time
12 spent performing those activities. The Commissioner may suspend Respondent's license
13 pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if
14 payment is not timely made as provided for herein, or as provided for in a subsequent
15 agreement between Respondent and the Commissioner. The suspension shall remain in
16 effect until payment is made in full or until Respondent enters into an agreement satisfactory
17 to the Commissioner to provide for payment, or until a decision providing otherwise is
18 adopted following a hearing held pursuant to this condition.

19 5. Respondent shall, prior to the effective date of this Decision, submit proof satisfactory to the
20 Commissioner of having taken and successfully completed the continuing education course
21 on trust fund accounting and handling specified in subdivision (a) of Section 10170.5 of the
22 Business and Professions Code. Proof of satisfaction of this requirement includes evidence
23 that Respondent has successfully completed the trust fund account and handling continuing
24 education course within 120 days prior to the effective date of the Decision in this matter. If
25 Respondent fails to satisfy this condition, the Commissioner may order the suspension of
26 Respondent's license until Respondent presents proof that he has successfully completed the
27 trust fund course.

6. Respondent shall, within six (6) months from the effective date of this Decision, take and
pass the Professional Responsibility Examination administered by the Department including
the payment of the appropriate examination fee. If Respondent fails to satisfy this condition,

1 the Commissioner may order suspension of the restricted license until Respondent passes the
2 examination.

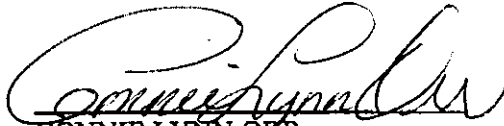
3 14-March-11
4 DATED

5 
6 TRULY SUGHRUE
7 Counsel for Complainant

8 ***

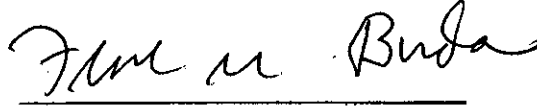
9 I have read the Stipulation and Agreement, discussed it with my counsel, and its
10 terms are understood by me and are agreeable and acceptable to me. I understand that I am
11 waiving rights given to me by the California Administrative Procedure Act, and I willingly,
12 intelligently and voluntarily waive those rights, including the right of requiring the
13 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
14 right to cross-examine witnesses against me and to present evidence in defense and mitigation of
15 the charges.

16 2/25/11
17 DATED

18 
19 CONNIE LYNN ORR
20 Respondent

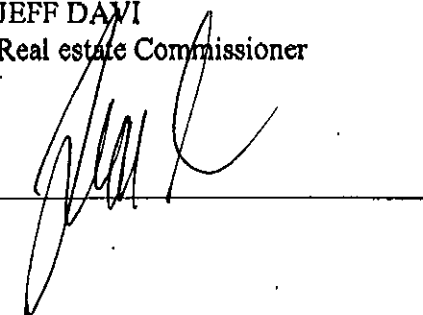
21 I have reviewed the Stipulation and Agreement as to form and content and have
22 advised my client accordingly.

23 3-2-11
24 DATED

25 
26 FRANK M. BUDA
27 Attorney for Respondent

28 The foregoing Stipulation and Agreement is hereby adopted as my Decision and
29 shall become effective at 12 o'clock noon on APR 29 2011

30 IT IS SO ORDERED 3/30/2011

31 JEFF DAVI
32 Real estate Commissioner
33 

FILED

OCT 12 2010

DEPARTMENT OF REAL ESTATE

L. Zui

1 TRULY SUGHRUE, Counsel

2 State Bar No. 223266

3 Department of Real Estate

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5 Telephone: (916) 227-0789

(916) 227-0781 (Direct)

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:

12 'CONNIE LYNN ORR,

13 Respondent.

)
) No. H-11011 SF

)
) ACCUSATION

14
15
16 The Complainant, Tricia Sommers, a Deputy Real Estate Commissioner of the
17 State of California, for cause of Accusation against CONNIE LYNN ORR, (hereinafter
18 "Respondent"), is informed and alleges as follows:

19 1

20 The Complainant, Tricia Sommers, a Deputy Real Estate Commissioner of the
21 State of California, makes this Accusation in her official capacity.

22 2

23 Respondent is presently licensed and/or has license rights under the Real Estate
24 Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "the Code").

25 3

26 At all times mentioned, Respondent was and is licensed by the Department as a
27 real estate broker.

At all times mentioned, Respondent engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate licensee in the State of California within the meaning of Section 10131(b) of the Code, for or in expectation of compensation, and leased or rented, offered to lease or rent, solicited prospective tenants, collected rents on, and/or managed certain real properties in California.

Beginning on or before January 1, 2009 through December 31, 2009, Respondent maintained the following trust fund account:

TITLE AND ACCOUNT NUMBERS

BANK

Connie Orr
Rohnerville Rentals & R/E/Client Trust Account
Account No. 2000006243
(hereinafter "Trust #1")

Redwood Capital Bank
1075 South Fortuna Boulevard
Suite A
Fortuna, CA 95540

In connection with the receipt and disbursement of trust funds, Respondent:

(a) Failed to deposit and maintain trust funds in Trust #1 in such manner that as of November 30, 2009, there was a shortage of \$10,645.19 of trust funds.

(b) Failed to obtain prior written consent from each of the principals for the reduction of the aggregate balance of trust funds in Trust #1 to an amount less than the existing aggregate trust fund liability to the owners of said funds in violation of Section 2832.1 of Title 10 of the California Code of Regulations (hereinafter "the Regulations").

(c) Failed to maintain a written control record of all trust funds received and disbursed, containing all information required by Section 2831 of the Regulations.

(d) Failed to maintain separate beneficiary or transaction records containing all information required by Section 2831.1 of the Regulations.

(e) Failed to reconcile the balance of separate beneficiary or transaction records with the control record of trust funds received and disbursed at least once a month,

1 and/or failed to maintain a record of such reconciliations for each account as required by Section
2 2831.2 of the Regulations.

3 (f) Failed to deposit collected trust funds into a trust account within three
4 business days in conformance with Section 10145 of the Code and Section 2832 of the
5 Regulations.

6 7

7 In the course of the activities described in Paragraph 4, Respondent, failed to
8 retain the real estate salesperson license certificates of Rebecca Suzanne Aitken and Crystal
9 Rose Town at her main office as required by Section 10160 of the Code and Section 2753 of the
10 Regulations.

11 8

12 The facts alleged above are grounds for the suspension or revocation of
13 Respondents licenses and license rights under the following sections of the Code and
14 Regulations:

15 (1) As to Paragraphs 6(a), under Section 10177(d) of the Code in conjunction
16 with Section 10145 of the Code;

17 (2) As to Paragraph 6(b), under Section 10177(d) of the Code in conjunction
18 with Section 2832.1 of the Regulations;

19 (3) As to Paragraph 6(c), under Section 10177(d) of the Code in conjunction
20 with Section 2831 of the Regulations;

21 (4) As to Paragraph 6(d), under Section 10177(d) of the Code in conjunction
22 with Section 2831.1 of the Regulations;

23 (5) As to Paragraph 6(e), under Section 10177(d) of the Code in conjunction
24 with Section 2831.2 of the Regulations;

25 (6) As to Paragraphs 6(f), under Section 10177(d) of the Code in conjunction
26 with Section 10145 of the Code and Section 2832 of the Regulations; and

27 ///

1 (7) As to Paragraph 7, under Section 10177(d) of the Code in conjunction
2 with Section 10160 of the Code and Section 2753 of the Regulations.

3 In addition, the Department is entitled to reimbursement of the costs of its audit
4 pursuant to Section 10148 of the Code.

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

10 
11 TRICIA SOMMERS
12 Deputy Real Estate Commissioner

13 Dated at Sacramento, California,
14 this 27th day of September 2010