

FILED

NOV 29 2011

Department of Real Estate
P.O. Box 187007
Sacramento, CA 95818-7007
Telephone: (916) 227-0781

DEPARTMENT OF REAL ESTATE

By R. J. J. J.

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

JOHN V. PINTO & ASSOCIATES, INC.,
and JOHN VINCENT PINTO,

Respondents.

No. H-11063 SF

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between JOHN V. PINTO & ASSOCIATES, INC., and JOHN VINCENT PINTO (Respondents), represented by Frank 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 February 10, 2011 in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents 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. Respondents have received, read, and understand the Statement to Respondent, and the Discovery Provisions of the APA filed by the Department of Real Estate in this proceeding.

1 3. Respondents filed a Notice of Defense pursuant to Section 11505 of the
2 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
3 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents
4 acknowledge that they understand that by withdrawing said Notice of Defense they will thereby
5 waive their rights to require the Commissioner to prove the allegations in the Accusation at a
6 contested hearing held in accordance with the provisions of the APA, and that they will waive
7 other rights afforded to them in connection with the hearing such as the right to present evidence
8 in defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

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

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

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

DETERMINATION OF ISSUES

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

I

The acts and omissions of JOHN V. PINTO & ASSOCIATES, INC. (JVP) as described in the Accusation are grounds for the suspension or revocation of JVP's licenses and license rights under Sections 10130 of the Code and Section 2742(c) of Title 10 of the California Code of Regulations (Regulations) in conjunction with Section 10177(d) of the Code.

II

The acts and omissions of JOHN VINCENT PINTO (PINTO) as described in the Accusation are grounds for the suspension or revocation of PINTO's licenses and license rights under the following Section 10177(h) of the Code.

ORDER

I

All licenses and licensing rights of PINTO under the Real Estate Law are suspended for a period of forty-five (45) days from the effective date of this Order; provided, however, that:

1) Thirty (30) days of said suspension shall be stayed, upon the condition that PINTO petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total monetary penalty of \$1,500.

a) Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be delivered to the Department prior to the effective date of the Order in this matter.

b) No further cause for disciplinary action against the Real Estate licenses of PINTO occurs within one (1) year from the effective date of the decision in this matter.

1 c) If PINTO fails to pay the monetary penalty as provided above prior to the effective date
2 of this Order, the stay of the suspension shall be vacated and the order of suspension shall
3 be immediately executed, in which event PINTO shall not be entitled to any repayment
4 nor credit, prorated or otherwise, for the money paid to the Department under the terms of
5 this Order.

6 d) If PINTO pays the monetary penalty and any other moneys due under this Stipulation and
7 Agreement and if no further cause for disciplinary action against the real estate license of
8 PINTO occurs within one (1) year from the effective date of this Order, the entire stay
9 hereby as to Respondent only, shall become permanent.

10 2) The remaining fifteen (15) days of said suspension shall be stayed for one (1) year upon the
11 following terms and conditions:

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

14 b) That no final subsequent determination be made, after hearing or upon stipulation, that
15 cause for disciplinary action occurred within one (1) year from the effective date of this
16 Order. Should such a determination be made, the Commissioner may, in his discretion,
17 vacate and set aside the stay order and reimpose all or a portion of the stayed suspension.
18 Should no such determination be made, the stay imposed herein shall become permanent.

19 II

20 All licenses and licensing rights of JVP under the Real Estate Law are suspended
21 for a period of forty-five (45) days from the effective date of this Order; provided, however, that
22 the suspension shall be stayed for one (1) year upon the following terms and conditions:

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

25 b) That no final subsequent determination be made, after hearing or upon stipulation, that
26 cause for disciplinary action occurred within one (1) year from the effective date of this
27 Order. Should such a determination be made, the Commissioner may, in his discretion,
vacate and set aside the stay order and reimpose all or a portion of the stayed suspension.
Should no such determination be made, the stay imposed herein shall become permanent.

1) All licenses and licensing rights of JVP are indefinitely suspended unless or until JVP

1 provides proof satisfactory to the Commissioner, of being in good standing with the Secretary
2 of State.

3
4 27-Oct-11

5 DATED

6
7
8 TRULY SUGHRUE
Counsel for Complainant

9 ***

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

16 10/18/2011

17 DATED

18 JOHN VINCENT PINTO, on behalf of
19 JOHN V. PINTO & ASSOCIATES, INC.
Respondent

20 10/18/2011

21 DATED

22 JOHN VINCENT PINTO
23 Respondent

24 ***

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

27 10-20-11

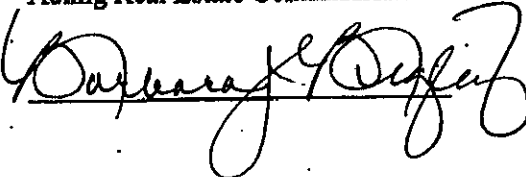
DATED

FRANK BUDA
Attorney for Respondents

1 The foregoing Stipulation and Agreement is hereby adopted as my Decision and
2 shall become effective at 12 o'clock noon on DEC 19 2011, 2011.

3 IT IS SO ORDERED 11/8, 2011.

4 BARBARA J. BIGBY
5 Acting Real Estate Commissioner

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FILED
AUG 12 2011

DEPARTMENT OF REAL ESTATE

By J. Jones

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)

JOHN V. PINTO & ASSOCIATES, INC.,)
and JOHN VINCENT PINTO,)

Respondents.)

NO. H-11063 SF

ORDER GRANTING RECONSIDERATION

On May 27, 2011, a Decision was rendered in the above-entitled matter. The Decision was to become effective at 12 o'clock noon on July 14, 2011.

On July 8, 2011, Respondents petitioned for reconsideration of the Decision.

I have given due consideration to the petition of Respondent. I find good cause to reconsider the Decision of May 27, 2011, and reconsideration is hereby granted.

IT IS HEREBY ORDERED AUG 11 2011

BARBARA J. BIGBY
Acting Real Estate Commissioner

William F. Moran

By WILLIAM E. MORAN
Assistant Commissioner, Enforcement

FILED

JUL 12 2011

DEPARTMENT OF REAL ESTATE

[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-11063 SF

JOHN V. PINTO & ASSOCIATES, INC.,
and JOHN VINCENT PINTO,

Respondents.

ORDER STAYING EFFECTIVE DATE

On June 24, 2011, a Default Decision was rendered in the above-entitled matter to become effective July 14, 2011.

IT IS HEREBY ORDERED that the effective date of the Decision of the Real Estate Commissioner of June 24, 2011, is stayed for a period of thirty (30) days.

The Decision of the Real Estate Commissioner of June 24, 2011, shall become effective at 12 o'clock noon on August 15, 2011.

DATED: July 12, 2011

BARBARA J. BIGBY
Acting Real Estate Commissioner

[Signature]

FILED

JUN 24 2011

DEPARTMENT OF REAL ESTATE

By L. Jones

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

JOHN V. PINTO & ASSOCIATES, INC.,
and JOHN VINCENT PINTO,

Respondents.

No. H-11063 SF

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on April 29, 2011, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1

On February 4, 2011, E. J. Haberer II made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified and regular mail, to Respondents' last known mailing address on file with the Department on February 10, 2011 and March 22, 2011.

On April 29, 2011, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondents' default was entered herein.

Respondents are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code").

At all times prior to August 8, 2009, Respondent JOHN V. PINTO & ASSOCIATES, INC. (hereinafter "JVP") was and is licensed by the State of California Department of Real Estate (hereinafter "the Department") as a real estate broker corporation. At no time after August 8, 2009 was JVP licensed in any capacity.

Beginning on or about February 1, 2008, the corporate powers, rights and privileges of JVP have been suspended pursuant to the provisions of the Revenue and Taxation Code.

At all times mentioned, Respondent JOHN VINCENT PINTO, (hereinafter "PINTO") was and is licensed by the Department individually as a real estate broker. At all times prior to August 8, 2009 PINTO was licensed as the designated broker officer of JVP. As said designated officer-broker, PINTO was responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees and employees of JVP for which a license is required. At all times mentioned, PINTO was and is a Director, Chief Executive Officer, and Chief Financial Officer of JVP.

Whenever reference is made in an allegation in this Accusation to an act or omission of JVP, such allegation shall be deemed to mean that the officers, directors, employees, agents and/or real estate licensees employed by or associated with JVP committed such act or omission while engaged in the furtherance of the business or operations of JVP, and while acting within the course and scope of their authority and employment.

At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers in the State of California, within the meaning of Section 10131(a) of the Code, including the operation and conduct of a real estate resale brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents sold and offered to sell, bought and offered to buy, solicited prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the purchase and resale of real property.

Beginning on or about February 2009, JVP, while suspended by the Secretary of State and unlicensed by the Department, in course of the real estate resale brokerage activities described in Paragraph 7, negotiated and arranged the purchase and sale of real property, including but not necessarily limited to:

Property Owner
Allan and Health B.

PROPERTY ADDRESS
769 Dailey Avenue, San Jose, California

Respondent PINTO failed to exercise reasonable supervision over the acts of Respondent JVP in such a manner as to allow the acts and events described above to occur.

The acts and/or omissions of PINTO described above constitutes failure on the part of PINTO, as designated broker-officer for JVP, to exercise reasonable supervision and control over the licensed activities of JVP required by Section 10159.2 of the Code.

DETERMINATION OF ISSUES

Cause for disciplinary action against Respondent JVP exists pursuant to Section 10130 of the Code and Section 2742(c) of the Commissioner's Regulations (Title 10 of the California Code of Regulations) (hereinafter "Regulations") in conjunction with 10177(d) of the Code.

Cause for disciplinary action against Respondent PINTO exists pursuant to Section 10177(g) and Section 10177(h) of the Code, and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

The standard of proof applied was clear and convincing proof to a reasonable certainty.

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ORDER

All licenses and licensing rights of Respondents JOHN V. PINTO & ASSOCIATES, INC., and JOHN VINCENT PINTO under the provisions of Part I of Division 4 of the Business and Professions Code are revoked

This Decision shall become effective at 12 o'clock noon on

JUL 14 2011

DATED: _____

5/27/11

BARBARA J. BIGBY
Acting Real Estate Commissioner

_____

FILED

FEB 10 2011

DEPARTMENT OF REAL ESTATE

By 

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007

6 Telephone: (916) 227-0789
7 -or- (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 JOHN V. PINTO & ASSOCIATES, INC.,
13 and JOHN VINCENT PINTO,

14 Respondents.

No. H-11063 SF

ACCUSATION

15
16 The Complainant, E. J. Haberer II, a Deputy Real Estate Commissioner of the
17 State of California, for cause of Accusation against JOHN V. PINTO & ASSOCIATES, INC.,
18 and JOHN VINCENT PINTO, (hereinafter "Respondents"), is informed and alleges as follows:

19 1

20 The Complainant, E. J. Haberer II, a Deputy Real Estate Commissioner of the
21 State of California, makes this Accusation in his official capacity.

22 2

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

25 3

26 At all times prior to August 8, 2009, Respondent JOHN V. PINTO &
27 ASSOCIATES, INC. (hereinafter "JVP") was and is licensed by the State of California

1 Department of Real Estate (hereinafter "the Department") as a real estate broker corporation. At
2 no time after August 8, 2009, was JVP licensed in any capacity.

3 4

4 Beginning on or about February 1, 2008, the corporate powers, rights and
5 privileges of JVP have been suspended pursuant to the provisions of the Revenue and Taxation
6 Code.

7 5

8 At all times mentioned, Respondent JOHN VINCENT PINTO, (hereinafter
9 "PINTO") was and is licensed by the Department individually as a real estate broker. At all
10 times prior to August 8, 2009, PINTO was licensed as the designated broker officer of JVP. As
11 said designated officer-broker, PINTO was responsible pursuant to Section 10159.2 of the Code
12 for the supervision of the activities of the officers, agents, real estate licensees and employees of
13 JVP for which a license is required. At all times mentioned, PINTO was and is a Director,
14 Chief Executive Officer, and Chief Financial Officer of JVP.

15 6

16 Whenever reference is made in an allegation in this Accusation to an act or
17 omission of JVP, such allegation shall be deemed to mean that the officers, directors, employees,
18 agents and/or real estate licensees employed by or associated with JVP committed such act or
19 omission while engaged in the furtherance of the business or operations of JVP, and while acting
20 within the course and scope of their authority and employment.

21 7

22 At all times mentioned, Respondents engaged in the business of, acted in the
23 capacity of, advertised, or assumed to act as real estate brokers in the State of California, within
24 the meaning of Section 10131(a) of the Code, including the operation and conduct of a real
25 estate resale brokerage with the public wherein, on behalf of others, for compensation or in
26 expectation of compensation, Respondents sold and offered to sell, bought and offered to buy,

27 ///

1 solicited prospective sellers and purchasers of, solicited and obtained listings of, and negotiated
2 the purchase and resale of real property.

3 8

4 Beginning on or about February 2009, JVP, while suspended by the Secretary of
5 State and unlicensed by the Department, in course of the real estate resale brokerage activities
6 described in Paragraph 7, negotiated and arranged the purchase and sale of real property,
7 including but not necessarily limited to:.

8 **PROPERTY OWNER**

PROPERTY ADDRESS

9 Allan and Health B.

769 Dailey Avenue, San Jose, California

10 9

11 The facts alleged in Paragraph 8 are grounds for the suspension or revocation of
12 the licenses of JVP under Section 10130 of the Code and Section 2742(c) of the Commissioner's
13 Regulations (Title 10 of the California Code of Regulations) (hereinafter "Regulations") in
14 conjunction with 10177(d) of the Code.

15 10

16 Respondent PINTO failed to exercise reasonable supervision over the acts of
17 Respondent JVP in such a manner as to allow the acts and events described above to occur.

18 11

19 The acts and/or omissions of PINTO described in Paragraph 10, constitute failure
20 on the part of PINTO, as designated broker-officer for JVP, to exercise reasonable supervision
21 and control over the licensed activities of JVP required by Section 10159.2 of the Code.

22 12

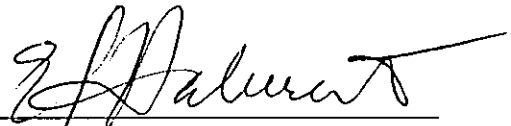
23 The facts described in Paragraph 8 constitute cause to suspend or revoke all
24 licenses and license rights of JVP pursuant to the provisions of Section 10130 of the Code and
25 2742(c) of the Regulations in conjunction with Section 10177(d) of the Code.

26 ///

27 ///

The facts described in Paragraphs 9 and 10 constitute cause for the suspension or revocation of the licenses and license rights of Respondent PINTO under Section 10177(g) and/or Section 10177(h) of the Code and Section 10159.2 of the Code in conjunction with 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 Respondent 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.



E. J. HABERER II
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 24th day of February, 2011