

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789

FILED

OCT 24 2012

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 PATRICIA KAY GOODWIN, and) NO. H-11363 SF
14 LAWRENCE MICHAEL GOODWIN,) STIPULATION AND AGREEMENT
15 Respondents.) IN SETTLEMENT AND ORDER

16
17 It is hereby stipulated by and between Respondents PATRICIA KAY GOODWIN
18 (herein "P. GOODWIN") and LAWRENCE MICHAEL GOODWIN (herein "L. GOODWIN")
19 (herein collectively "Respondents"), by and through Mark A. Cameron, attorney of record herein
20 for Respondents, and the Complainant, acting by and through Mary F. Clarke, Counsel for the
21 Department of Real Estate (herein "the Department"), as follows for the purpose of settling and
22 disposing of the Accusation filed on April 27, 2012, in this matter:

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

1 2. Respondents have received, read and understand 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 May 11, 2012 by Respondents, pursuant to
5 Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations
6 in the Accusation. Respondents hereby freely and voluntarily withdraw said Notice of Defense.
7 Respondents acknowledge they understand that by withdrawing said Notice of Defense they will
8 thereby waive their right to require the Real Estate Commissioner (herein the "Commissioner")
9 to prove the allegations in the Accusation at a contested hearing held in accordance with the
10 provisions of the APA and that they will waive other rights afforded to them in connection with
11 the hearing such as the right to present evidence in defense of the allegations in the Accusation
12 and the right to cross-examine witnesses.

13 4. Respondents, pursuant to the limitations set forth below, hereby admit that
14 the factual allegations pertaining to them in the Accusation filed in this proceeding are true and
15 correct, and the Commissioner shall not be required to provide further evidence of such
16 allegations.

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

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

1 f. as to Paragraph 9(e), and P. GOODWIN, under Section 10145 of the
2 Code and Section 2831.1 of the Regulations, in conjunction with
3 Section 10177(d) of the Code; and

4 g. as to Paragraph 10, under Section 10140.6 of the Code, in conjunction
5 with Section 10177(d) of the Code.

6 ORDER

7 I

8 A. All licenses and licensing rights of Respondent P. GOODWIN under the Real Estate Law
9 are suspended until such time as Respondent P. GOODWIN provides proof satisfactory to
10 the Commissioner that Respondent P. GOODWIN has, within one hundred twenty (120)
11 days prior to the effective date of the Order herein completed the continuing education
12 course on trust fund accounting and handling specified in subdivision (a) of Section
13 10170.5 of the Code.

14 B. All licenses and licensing rights of Respondent P. GOODWIN under the Real Estate Law
15 are suspended for a period of one hundred and twenty (120) days from the effective date of
16 this Order; provided, however, that:

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

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

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

1 2. The remaining sixty (60) days of said 120-day suspension shall be stayed upon the
2 condition that Respondent P. GOODWIN petition, pursuant to Section 10175.2 of the
3 Code, and pay a monetary penalty pursuant to Section 10175.2 of the Code at a rate of
4 \$66.66 for each day of the suspension for a total monetary penalty of \$4,000.00:

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

9 (b) No further cause for disciplinary action against the real estate license(s) of
10 Respondent P. GOODWIN occurs within two (2) years from the effective date
11 of the Order in this matter.

12 (c) If Respondent P. GOODWIN fails to pay the monetary penalty as provided
13 above prior to the effective date of this Order, the stay of the suspension shall
14 be vacated as to Respondent P. GOODWIN and the order of suspension shall
15 be immediately executed, under this Order, in which event Respondent
16 P. GOODWIN shall not be entitled to any repayment nor credit, prorated or
17 otherwise, for the money paid to the Department under the terms of this Order.

18 (d) If Respondent P. GOODWIN pays the monetary penalty and any other moneys
19 due under this Stipulation and Agreement in Settlement and Order and if no
20 further cause for disciplinary action against the real estate license of
21 Respondent occurs within two (2) years from the effective date of this Order,
22 the entire stay hereby granted under this Order shall become permanent.

23 C. Pursuant to Section 10148 of the Code, Respondent P. GOODWIN shall pay the sum of
24 \$5,346.62 for the Commissioner's cost of the audit which led to this disciplinary action.
25 Respondent P. GOODWIN shall pay such cost within sixty (60) days of receiving an invoice
26 therefor from the Commissioner. The Commissioner may indefinitely suspend all licenses
27 and licensing rights pending a hearing held in accordance with Section 11500, et seq., of

1 the Government Code, if payment is not timely made as provided for herein, or as provided
2 for in a subsequent agreement between Respondent P. GOODWIN and the Commissioner.
3 The suspension shall remain in effect until payment is made in full or until Respondent
4 P. GOODWIN enters into an agreement satisfactory to the Commissioner to provide for
5 payment, or until a decision providing otherwise is adopted following a hearing held
6 pursuant to this condition.

7 D. Respondent P. GOODWIN shall pay the Commissioner's costs, not to exceed \$5,346.62,
8 of any audit conducted pursuant to Section 10148 of the Code to determine if Respondent
9 P. GOODWIN has corrected the violations described in the Determination of Issues, above.
10 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may
11 use the estimated average hourly salary for all persons performing audits of real estate
12 brokers, and shall include an allocation for travel time to and from the auditor's place of
13 work. Respondent P. GOODWIN shall pay such cost within sixty (60) days of receiving an
14 invoice therefor from the Commissioner detailing the activities performed during the audit
15 and the amount of time spent performing those activities. If Respondent P. GOODWIN
16 fails to pay such cost within the sixty (60) days, the Commissioner may indefinitely
17 suspend all licenses and licensing rights of Respondent P. GOODWIN under the Real
18 Estate Law until payment is made in full or until Respondent P. GOODWIN enters into an
19 agreement satisfactory to the Commissioner to provide for payment. Upon payment in full,
20 the indefinite suspension provided in this paragraph shall be stayed.

21 E. Respondent P. GOODWIN shall within six (6) months from the effective date of this Order
22 take and pass the Professional Responsibility Examination administered by the Department,
23 including the payment of the appropriate examination fee. If Respondent P. GOODWIN
24 fails to satisfy this condition the Commissioner shall order the suspension of the license
25 until Respondent P. GOODWIN passes the examination.

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II

A. All licenses and licensing rights of Respondent L. GOODWIN under the Real Estate Law are suspended for a period of one hundred and twenty (120) days from the effective date of this Order; provided, however, that:

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

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

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

2. The remaining sixty (60) days of said 120-day suspension shall be stayed upon the condition that Respondent L. GOODWIN petition, pursuant to Section 10175.2 of the Code, and pay a monetary penalty pursuant to Section 10175.2 of the Code at a rate of \$66.66 for each day of the suspension for a total monetary penalty of \$4,000.00:

(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 received by the Department prior to the effective date of the Order in this matter.


(b) No further cause for disciplinary action against the real estate license(s) of Respondent L. GOODWIN occurs within two (2) years from the effective date of the Order in this matter.

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

8 (d) If Respondent L. GOODWIN pays the monetary penalty and any other
9 moneys due under this Stipulation and Agreement in Settlement and Order
10 and if no further cause for disciplinary action against the real estate license
11 of Respondent L. GOODWIN occurs within two (2) years from the
12 effective date of this Order, the entire stay hereby granted under this Order
13 shall become permanent.

14 B. Respondent L. GOODWIN shall within six (6) months from the effective date of this Order
15 take and pass the Professional Responsibility Examination administered by the Department,
16 including the payment of the appropriate examination fee. If Respondent L. GOODWIN
17 fails to satisfy this condition the Commissioner shall order the suspension of the license
18 until Respondent L. GOODWIN passes the examination.

19
20
21 9-11-12
22 DATED


23 MARY F. CLARKE, Counsel
24 DEPARTMENT OF REAL ESTATE

25 * * *

26 I have read the Stipulation and Agreement in Settlement and Order and its terms
27 are understood by me and are agreeable and acceptable to me. I understand that I am waiving
rights given to me by the California APA (including but not limited to Sections 11506, 11508,
11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive

1 those rights, including the right of requiring the Commissioner to prove the allegations in the
2 Accusation at a hearing at which I would have the right to cross-examine witnesses against me
3 and to present evidence in defense and mitigation of the charges.

4
5 8/20/2012
6 DATED


7 PATRICIA KAY GOODWIN
8 Respondent

9
10 8/20/2012
11 DATED


12 LAWRENCE MICHAEL GOODWIN
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
18 9-6-2012
19 DATED


20 MARK A. CAMERON
21 Attorney for Respondents

22 * * *

23 The foregoing Stipulation and Agreement in Settlement and Order is hereby
24 adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on
25 November 13, 2012.

26
27 IT IS SO ORDERED 10/22/2012

Real Estate Commissioner

By WAYNE S. BELL
Chief Counsel