FILED

MAY 23 2013

DEPARTMENT OF REAL ESTATE

By L. Jones

Department of Real Estate
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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of PIZZIMENTI HILL & ASSOCIATES INC., and MARY MARGARET PIZZIMENTI, Respondents.	No. H-11525 SF STIPULATION AND AGREEMENT

It is hereby stipulated by and between PIZZIMENTI HILL & ASSOCIATES INC., and MARY MARGARET PIZZIMENTI (Respondents), represented by Roger D. Wintle, and the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real Estate (Department), as follows for the purpose of settling and disposing the Accusation (Accusation) filed on March 5, 2013 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 in this proceeding.

3. Respondents 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. Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents acknowledge that they understand that by withdrawing said Notice of Defense they will thereby waive their rights to require the Real Estate Commissioner (Commissioner) to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA, and that they will waive other rights afforded to them in connection with the hearing such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

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

6. Respondents understand that by agreeing to this Stipulation and Agreement, Respondents agrees to pay, pursuant to Section 10148 of the California Business and Professions Code (Code), the cost of the audit, which resulted in the determination that Respondents committed the trust fund violation(s) found in the Determination of Issues. The amount of said costs is $6,559.15.

7. Respondents further understand that by agreeing to this Stipulation and Agreement, the findings set forth below in the Determination of Issues become final, and that the Commissioner may charge said Respondents for the costs of any audit conducted pursuant to

Section 10148 of the Code to determine if the violations have been corrected. The maximum costs of said audit shall not exceed $6,559.15.

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

9. The Order or any subsequent Order of the 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 with respect to any matters which were not specifically alleged to be causes for action in Accusation H-11525 SF.

* * *

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 PIZZIMENTI HILL & ASSOCIATES INC. (PHAI) as described in the First Cause of Action of the Accusation are grounds for the suspension or revocation of PHAI's licenses and license rights under the following sections of the Code and Title 10 of the California Code of Regulations (Regulations):

(1) As to Paragraph 11(a), under Section 10177(d) of the Code in conjunction with Section 2831.1 of the Regulations;

(2) As to Paragraph 11(b), under Section 10177(d) of the Code in conjunction with Section 2831.2 of the Regulations; and

(3) As to Paragraph 11(c), under Section 10177(d) of the Code in conjunction with Section 10145 of the Code and Section 2832 of the Regulations.

II

The acts and/or omissions of MARY MARGARET PIZZIMENTI (PIZZIMENTI) as described in the Second Cause of Action of the Accusation is cause for the suspension or revocation of PIZZIMENTI license and/or license rights under Section 10177(h) of the Code.

* * *

ORDER

I

All licenses and licensing rights of Respondent PHAI under the Real Estate Law are suspended for a period of thirty (30) days from the effective date of this Order; provided, however, that:

1) Thirty (30) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

a) PHAI 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.

II

All licenses and licensing rights of Respondent PIZZIMENTI under the Real Estate Law are suspended for a period of thirty (30) days from the effective date of this Order; provided, however, that:

1) Thirty (30) days of said suspension shall be stayed for two (2) years upon the following

terms and conditions:

a) PIZZIMENTI 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) All licenses and licensing rights of PIZZIMENTI are indefinitely suspended unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and successfully completed the continuing education course on trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of satisfaction of this requirement includes evidence that respondent has successfully completed the trust fund account and handling continuing education course within 120 days prior to the effective date of the Decision in this matter.

III

1) Pursuant to Section 10148 of the Code, Respondents shall jointly and severally pay the sum of $6,559.15 for the Commissioner's cost of the audit which led to this disciplinary action. Respondents shall pay such cost within sixty (60) days of receiving an invoice from the Commissioner. The Commissioner may suspend the Respondents 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 Respondents and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondents enter into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

2) Pursuant to Section 10148 of the Code, Respondents shall jointly and severally pay the

Commissioner's reasonable cost, not to exceed $6,559.15, for an audit to determine if Respondents have corrected the trust fund violation(s) found in the Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Respondents shall pay such cost within sixty (60) days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may suspend Respondents 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 Respondents and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondents enter into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

3-April-13
DATED

TRULY SUGHRUE
Counsel for Complainant

* * *

I have read the Stipulation and Agreement, discussed it with my counsel, 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, and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusations 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.

DATED 4/3/13

Mary Margaret Pizzimenti, on behalf of
PIZZIMENTI HILL & ASSOCIATES INC.
Respondent

DATED 4/3/13

MARY MARGARET PIZZIMENTI
Respondent

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

DATED 4/3/13

ROGER D. WINTLE
Attorney for Respondents

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The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on JUN 12 2013.

IT IS SO ORDERED May 14, 2013.

Real Estate Commissioner

By: Jeffrey Mason
Chief Deputy Commissioner