

**FILED**

JUN 15 2015

1 BUREAU OF REAL ESTATE  
2 P. O. Box 137007  
3 Sacramento, CA 95813-7007

BUREAU OF REAL ESTATE

By S. Black

4 Telephone: (916) 263-8670  
5 Fax: (916) 263-3767  
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8 BEFORE THE BUREAU OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of	)	
12 BEST PROPERTY MANAGEMENT, INC.	)	NO. H-11669 SF
13 and DUSTIN JAMES VENTURA,	)	
14	)	<u>STIPULATION AND AGREEMENT IN</u>
15 Respondents.	)	<u>SETTLEMENT AND ORDER</u>

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17 It is hereby stipulated by and between Respondents BEST PROPERTY  
18 MANAGEMENT, INC. and DUSTIN JAMES VENTURA, (collectively "Respondents"), acting  
19 by and through Joshua A. Rosenthal, Esq., Counsel for Respondents, and the Complainant,  
20 acting by and through Richard K. Uno, Esq., Counsel for the Bureau of Real Estate ("Bureau"),  
21 as follows for the purpose of settling and disposing of the Accusation filed on April 8, 2014, in  
22 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  
25 hearing was to be held in accordance with the provisions of the Administrative Procedure Act  
26 ("APA"), shall instead and in place thereof be submitted solely on the basis of the provisions  
27 of this Stipulation and Agreement In Settlement and Order ("Stipulation and Order").

1                   2.       Respondents have received, read and understand the Statement to  
2 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Bureau in  
3 this proceeding.

4                   3.       Respondents filed a Notice of Defense pursuant to Section 11505 of the  
5 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.  
6 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents  
7 acknowledge that Respondents understand that by withdrawing said Notice of Defense,  
8 Respondents will thereby waive Respondents' right to require the Real Estate Commissioner  
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 Respondents will waive other rights  
11 afforded to Respondents in connection with the hearing such as the right to present evidence in  
12 defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

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

23                   6.       It is understood by the parties that the Commissioner may adopt this  
24 Stipulation and Order as his decision in this matter, thereby imposing the penalty and sanctions  
25 on Respondents' real estate licenses and license rights as set forth in the "Order" below. In the  
26 event that the Commissioner in his discretion does not adopt this Stipulation and Order, it shall

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1 be void and of no effect, and Respondents shall retain the right to a hearing and proceeding on  
2 the Accusation under all of the provisions of the APA and shall not be bound by any admission  
3 or waiver made herein.

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

8 8. Respondents understand that by agreeing to this Stipulation and Order,  
9 Respondents agree to pay, pursuant to Section 10148 of the California Business and  
10 Professions Code ("the Code"), the cost of the audit which resulted in the violation(s) found in  
11 the Determination of Issues. The amount of such costs is \$7,621.34.

12 9. Respondents further understand that by agreeing to this Stipulation and  
13 Order, the findings set forth below in the "Determination of Issues" become final, and that the  
14 Commissioner may charge said Respondents for the costs of any audit conducted pursuant to  
15 Section 10148 of the Code to determine if the violations have been corrected. The maximum  
16 cost of said audit shall not exceed \$7,621.34.

17 DETERMINATION OF ISSUES

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

21 1. The acts and omissions of Respondent BEST PROPERTY  
22 MANAGEMENT, INC., as described in the Accusation, are grounds for the suspension or  
23 revocation of the licenses and license rights of Respondent BEST PROPERTY  
24 MANAGEMENT, INC. under the provisions of Section 10177(g) of the Code.

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2. The acts and omissions of Respondent DUSTIN JAMES VENTURA, as described in the Accusation, are grounds for the suspension or revocation of the licenses and license rights of Respondent DUSTIN JAMES VENTURA under the provisions of Section 10177(g) of the Code.

ORDER

I. AS TO RESPONDENT BEST PROPERTY MANAGEMENT, INC.

1. All licenses and licensing rights of Respondent BEST PROPERTY MANAGEMENT, INC. ("Respondent BPMI") under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Order; provided, however, that:

a. Thirty (30) days of said suspension shall be stayed, upon the condition that Respondent BPMI petitions 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 \$100.00 for each day of the suspension for a total monetary penalty of \$3,000.00.

i. Said payment shall be in the form of a cashier's check made payable to the Bureau of Real Estate. Said check must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Order.

ii. No further cause for disciplinary action against the Real Estate license of Respondent BPMI occurs within two (2) years from the effective date of the Order in this matter.

iii. If Respondent BPMI fails to pay the monetary penalty as provided above prior to the effective date of this Order, the suspension shall go into effect automatically and remain in effect until Respondent BPMI pays the monetary penalty in full, in which event Respondent BPMI shall not be entitled to any repayment or credit, prorated or otherwise, for the money paid to the Bureau under the terms of this Order.

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1    iv. If Respondent BPMI timely pays the monetary penalty  
2    and any other moneys due under this Stipulation and Order; and if no further cause for  
3    disciplinary action against the real estate license of Respondent BPMI occurs within two (2)  
4    years from the effective date of this Order, the stay of the thirty (30) day suspension set out  
5    above shall become permanent.

6    2. The remaining thirty (30) days of said suspension shall also be stayed  
7    for two (2) years upon the following terms and conditions:

8    a. Respondent BPMI shall obey all laws, rules and regulations  
9    governing the rights, duties and responsibilities of a real estate licensee in the State of  
10 California; and

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

17    II.    AS TO RESPONDENT DUSTIN JAMES VENTURA

18    1. All licenses and licensing rights of Respondent DUSTIN JAMES  
19 VENTURA ("Respondent VENTURA") under the Real Estate Law are suspended for a period  
20 of ninety (90) days from the effective date of this Order; provided, however, that:

21    a. Thirty (30) days of said suspension shall be stayed, upon the  
22 condition that Respondent VENTURA petitions pursuant to Section 10175.2 of the Code and  
23 pays a monetary penalty pursuant to Section 10175.2 of the Code at a rate of \$50.00 for each  
24 day of the suspension for a total monetary penalty of \$1,500.00.

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1 i. Said payment shall be in the form of a cashier's check  
2 made payable to the Bureau of Real Estate. Said check must be delivered to the Bureau of  
3 Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the  
4 effective date of this Order.

5 ii. No further cause for disciplinary action against the Real  
6 Estate license of Respondent VENTURA occurs within two (2) years from the effective date of  
7 the Order in this matter.

8 iii. If Respondent VENTURA fails to pay the monetary  
9 penalty as provided above prior to the effective date of this Order, the suspension shall go into  
10 effect automatically and remain in effect until Respondent VENTURA pays the monetary  
11 penalty in full, in which event Respondent VENTURA shall not be entitled to any repayment  
12 or credit, prorated or otherwise, for the money paid to the Bureau under the terms of this Order.

13 iv. If Respondent VENTURA timely pays the monetary  
14 penalty and any other monies due under this Stipulation and Order; and if no further cause for  
15 disciplinary action against the real estate license of Respondent VENTURA occurs within two  
16 (2) years from the effective date of this Order, the stay of the thirty (30) day suspension set out  
17 above shall become permanent.

18 2. The remaining sixty (60) days of said suspension shall also be stayed for  
19 two (2) years upon the following terms and conditions:

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

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

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1 suspension. Should no such determination be made, the stay imposed herein shall become  
2 permanent.

3           3.       Respondent VENTURA in anticipation of the Commissioner approving  
4 the original Stipulation and Agreement, which VENTURA signed on November 5, 2014,  
5 completed a continuing education course on trust fund accounting and handling specified in  
6 paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code on  
7 November 10, 2014. Proof of satisfaction of these requirements has been provided to the  
8 Bureau.

9           4.       Respondent VENTURA shall, within six (6) months from the effective  
10 date of this Order, take and pass the Professional Responsibility Examination administered by  
11 the Bureau including the payment of the appropriate examination fee. If Respondent  
12 VENTURA fails to satisfy this condition, Respondent VENTURA's real estate license shall  
13 automatically be suspended until Respondent VENTURA passes the examination.

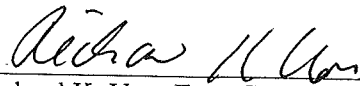
14           III.     AS TO BOTH RESPONDENTS BEST PROPERTY MANAGEMENT, INC.  
15 AND DUSTIN JAMES VENTURA

16           1.       Pursuant to Section 10148 of the Code, Respondents BEST PROPERTY  
17 MANAGEMENT, INC. and DUSTIN JAMES VENTURA shall jointly and severally pay the  
18 sum of \$7,621.34 for the Commissioner's cost of the audit which led to this disciplinary action.  
19 Respondents shall pay such cost within sixty (60) days of receiving an invoice therefore from the  
20 Commissioner. Payment of audit costs should not be made until Respondents receive the  
21 invoice. If Respondents fail to satisfy this condition in a timely manner as provided for herein,  
22 Respondents' real estate licenses shall automatically be suspended until payment is made in full,  
23 or until a decision providing otherwise is adopted following a hearing held pursuant to this  
24 condition.

25           2.       Pursuant to Section 10148 of the Code, Respondents shall jointly and  
26 severally pay the Commissioner's reasonable cost, not to exceed \$7,621.34, for an audit to  
27 determine if Respondents have corrected the violation(s) found in the "Determination of Issues".

1 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the  
2 estimated average hourly salary for all persons performing audits of real estate brokers, and shall  
3 include an allocation for travel time to and from the auditor's place of work. Respondents shall  
4 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.  
5 Payment of the audit costs should not be made until Respondents receive the invoice. If  
6 Respondents fail to satisfy this condition in a timely manner as provided for herein,  
7 Respondents' real estate licenses shall automatically be suspended until payment is made in full,  
8 or until a decision providing otherwise is adopted following a hearing held pursuant to this  
9 condition.

10 4/11/15  
11 DATED

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11 Richard K. Uno, Esq., Counsel  
12 Bureau of Real Estate

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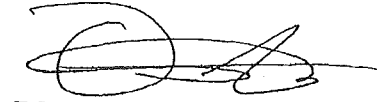
15 I have read the Stipulation and Order and its terms are understood by me and are  
16 agreeable and acceptable to me. I understand that I am waiving rights given to me by the  
17 California Administrative Procedure Act (including but not limited to Sections 11506, 11508,  
18 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily  
19 waive those rights, including the right of requiring the Commissioner to prove the allegations  
20 in the Accusation at a hearing at which I would have the right to cross-examine witnesses  
21 against me and to present evidence in defense and mitigation of the charges. Respondents can  
22 signify acceptance and approval of the terms and conditions of this Stipulation and Order by  
23 faxing a copy of the signature page, as actually signed by Respondents, to the Bureau at fax  
24 number (916) 263-3767. Respondents agree, acknowledge and understand that by  
25 electronically sending to the Bureau a fax copy of Respondents' actual signatures as they  
26 appear on the Stipulation and Order, that receipt of the faxed copy by the Bureau shall be as  
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1 binding on Respondents as if the Bureau had received the original signed Stipulation and  
2 Order.

3 April 1, 2015

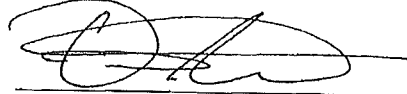
4 DATED



BEST PROPERTY MANAGEMENT,  
INC., Respondent  
By Dustin James Ventura,  
Designated Officer of Respondent

7 April 1, 2015

8 DATED



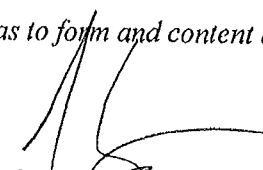
DUSTIN JAMES VENTURA,  
Respondent

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10  
11 *I have reviewed this Stipulation and Order as to form and content and have*  
12 *advised my clients accordingly.*

13 4-1-15

14 DATED

  
15 Joshua A. Rosenthal, Esq.,  
16 Attorney for Respondents

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18 The foregoing Stipulation and Agreement In Settlement and Order is hereby  
19 adopted by me as my Decision in this matter as to Respondents BEST PROPERTY  
20 MANAGEMENT, INC. and DUSTIN JAMES VENTURA, and shall become effective at 12  
21 o'clock noon on JUL 13 2015

22 IT IS SO ORDERED

23 June 11, 2015

24 REAL ESTATE COMMISSIONER



25 By: JEFFREY MASON  
26 Chief Deputy Commissioner  
27