

1 Bureau of Real Estate
2 P.O. Box 137007
3 Sacramento, CA 95813-7007
4 Telephone: (916) 263-8672

FILED

MAR 17 2015

BUREAU OF REAL ESTATE

By L. Anst

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 III CREATE INC. and BARBARA A.)
13 BRENZEL,)
14 Respondents.)

No. H-11752 SF

STIPULATION AND
AGREEMENT

15 It is hereby stipulated by and between BARBARA A. BRENZEL
16 (Respondent), represented by P. Kurt Peterson, and the Complainant, acting by and through
17 Truly Sughrue, Counsel for the Bureau of Real Estate (Bureau), as follows for the purpose of
18 settling and disposing the Accusation filed on September 3, 2014 in this matter:

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

24 2. Respondent has received, read, and understands the Statement to
25 Respondent, and the Discovery Provisions of the APA filed by the Bureau in this proceeding.
26
27

1 3. Respondent 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 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
4 acknowledges that it understands that by withdrawing said Notice of Defense it will thereby
5 waive its rights to require the Real Estate Commissioner (Commissioner) to prove the allegations
6 in the Accusation at a contested hearing held in accordance with the provisions of the APA, and
7 that it will waive other rights afforded to it in connection with the hearing such as the right to
8 present evidence in defense of the allegations in the Accusation and the right to cross-examine
9 witnesses.

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

15 5. This Stipulation and Respondent's decision not to contest the Accusation are
16 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 Bureau, the state or
18 federal government, an agency of this state, or an agency of another state is involved.

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

26 7. The Order or any subsequent Order of the Commissioner made pursuant to
27 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further

1 administrative or civil proceedings by the Bureau of Real Estate with respect to any matters
2 which were not specifically alleged in Accusation H-11752 SF.

3 * * *

4 DETERMINATION OF ISSUES

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

8 I

9 The acts and omissions of Respondent as described in the Accusation are
10 grounds for the suspension or revocation of Respondent's licenses and license rights under
11 Section 10177(d) of the Business and Professions Code (Code) in conjunction with Sections
12 10130 and 10145(c) of the Code.

13 * * *

14 ORDER

15 I

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

19 1) Thirty (30) days of said suspension shall be stayed, upon the condition that Respondent
20 petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to Section
21 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total monetary penalty
22 of \$1,500.

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

26 b) No further cause for disciplinary action against the Real Estate licenses of Respondent
27 occurs within two (2) years from the effective date of the decision in this matter.

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

6 d) If Respondent pays the monetary penalty and any other moneys due under this Stipulation
7 and Agreement and if no further cause for disciplinary action against the real estate
8 license of said Respondent occurs within two (2) years from the effective date of this
9 Order, the entire stay hereby granted this Order, as to said Respondent only, shall become
10 permanent.

11 2) Thirty (30) 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,

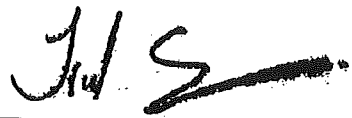
15 b) That no final subsequent determination be made, after hearing or upon stipulation, that
16 cause for disciplinary action occurred within two (2) years from the effective date of this
17 Order. Should such a determination be made, the Commissioner may, in his discretion,
18 vacate and set aside 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 3) All licenses and licensing rights of Respondent are indefinitely suspended unless or until
21 Respondent provides proof satisfactory to the Commissioner, of having taken and
22 successfully completed the continuing education course on trust fund accounting and
23 handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof
24 of satisfaction of these requirements includes evidence that Respondent has successfully
25 completed the trust fund account and handling continuing education courses, no earlier than
26 120 days prior to the effective date of the Order in this matter. Proof of completion of the
27 trust fund accounting and handling course must be delivered to the Bureau of Real Estate,

1 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758,
2 prior to the effective date of this Order

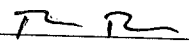
3 4) Respondent shall, within six (6) months from the effective date of this Order, take and pass
4 the Professional Responsibility Examination administered by the Bureau including the
5 payment of the appropriate examination fee. If Respondent fails to satisfy this condition,
6 Respondent's real estate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

8
9 1-28-15
10 DATED


11 TRULY SUGHRUE
12 Counsel for Complainant

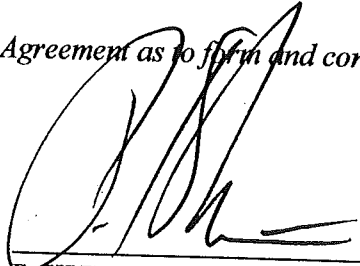
13 I have read the Stipulation and Agreement, discussed it with my counsel, and its
14 terms are understood by me and are agreeable and acceptable to me. I understand that I am
15 waiving rights given to me by the California Administrative Procedure Act, and I willingly,
16 intelligently and voluntarily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

20 12-23-14
DATED


21 BARBARA A. BRENZEL
22 Respondent

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

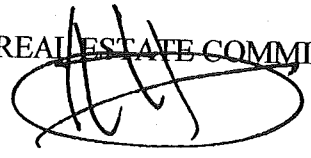
25 1/12/15
26 DATED


27 P. KURT PETERSON
Attorney for Respondent

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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 APR 06 2015.

IT IS SO ORDERED FEB 18 2015.

REAL ESTATE COMMISSIONER


By: JEFFREY MASON
Chief Deputy Commissioner