

FILED

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

BUREAU OF REAL ESTATE

By S. Black

Telephone: (916) 263-8670
Fax: (916) 263-3767

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

HALA BALBAKY,

Respondent.

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NO. H-11763 SF

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

It is hereby stipulated by and between Respondent HALA BALBAKY (herein "Respondent") by and through Stephen K. Lightfoot II, attorney of record herein for Respondent and the complainant acting by and through Mary F. Clarke, Counsel for the Bureau of Real Estate (herein "the Bureau"), as follows for the purpose of settling and disposing of the Accusation filed on October 7, 2014, in this matter (herein "Accusation"):

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

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

3. A Notice of Defense was filed on October 22, 2014 by Respondent pursuant to

File No. H-11763 SF

HALA BALBAKY

1 Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations
2 in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
3 Respondent acknowledges she understands that by withdrawing said Notice of Defense she will
4 thereby waive her rights to require the Real Estate Commissioner (herein "the Commissioner") to
5 prove the allegations in the Accusation at a contested hearing held in accordance with the
6 provisions of the APA and that she will waive other rights afforded to her in connection with the
7 hearing such as the right to present evidence in defense of the allegations in the Accusation and
8 the right to cross-examine witnesses.

9 4. Respondent, pursuant to the "Determination of Issues" set forth below, hereby
10 admits that the factual allegations in the Accusation filed in this proceeding are true and correct
11 and the Commissioner shall not be required to provide further evidence of such allegations.

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

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

22 7. Respondent understands that by agreeing to this Stipulation, Respondent
23 agrees to pay, pursuant to Section 10148 of the California Business and Professions Code (herein
24 "Code"), the cost of the audit which resulted in the determination that Respondent committed the
25 violations found in the "Determination of Issues" below. The amount of said cost is \$4,494.58.
26

1 8. Respondent understands that by agreeing to this Stipulation, the findings set
2 forth below in the "Determination of Issues" become final, and that the Commissioner may
3 charge Respondent for the cost of any audit conducted pursuant to Section 10148 of the Code to
4 determine if the trust fund violations found in the "Determination of Issues," below, have been
5 corrected. The maximum cost of said audit shall not exceed \$4,494.58.

6 9. Respondent further understands that by agreeing to this Stipulation,
7 Respondent agrees to pay, pursuant to Section 10106(a) of the Code, investigative and
8 enforcement costs of \$1,184.95 which led to this disciplinary action.

9 DETERMINATION OF ISSUES

10 The acts and/or omissions of Respondent as described in the Accusation are
11 grounds for the suspension or revocation of the license and license rights of Respondent under
12 the following provisions of the Code and/or Chapter 6, Title 10, California Code of Regulations
13 (herein "the Regulations"):

14 (a) as to Paragraph 6(a) under Section 10145 of the Code and Section 2832 of
15 the Regulations in conjunction with Section 10177(d) of the Code;

16 (b) as to Paragraph 6(b) under Section 2831 of the Regulations in conjunction
17 with Section 10177(d) of the Code;

18 (c) as to Paragraph 6(c) under Section 2831.1 of the Regulations in conjunction
19 with Section 10177(d) of the Code;

20 (d) as to Paragraph 6(d) under Section 2831.2 of the Regulations in conjunction
21 with Section 10177(d) of the Code;

22 (e) as to Paragraph 6(e) under Section 10176(e) of the Code and Section 2835
23 of the Regulations in conjunction with Section 10177(d) of the Code;

24 (f) as to Paragraph 6(f) under Section 2834 of the Regulations, in
25 conjunction with Section 10177(d) of the Code;

26 (g) as to Paragraph 6(g) under Section 10159.5 of the Code and Section

1 2731 of the Regulations, in conjunction with Section 10177(d) of the Code; and

2 (h) as to Paragraph 6(h) under Section 10140.6(b) of the Code and Section 2773
3 of the Regulations in conjunction with Section 10177(d) of the Code.

4 ORDER

5 All licenses and licensing rights of Respondent under the Real Estate Law are
6 suspended for a period of ninety (90) days from the effective date of this Order; provided,
7 however, that:

8 1. All licenses and licensing rights of Respondent are indefinitely suspended
9 unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and
10 successfully completed the continuing education course on trust fund accounting and handling
11 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions
12 Code. Proof of satisfaction of these requirements includes evidence that Respondent has
13 successfully completed the trust fund account and handling continuing education courses, no
14 earlier than 120 days prior to the effective date of the Order in this matter. Proof of completion
15 of the trust fund accounting and handling course must be delivered to the Bureau of Real Estate,
16 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior
17 to the effective date of this Order.

18 2. Sixty (60) days of said ninety (90) day said suspension shall be stayed for two
19 (2) years upon the following terms and conditions:

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

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

1 vacate and set aside the stay order and reimpose all or a portion of
2 the stayed suspension. Should no such determination be made, the
3 stay imposed herein shall become permanent.

4 3. The remaining thirty (30) days of said ninety (90) day suspension shall be
5 stayed upon the condition that Respondent petitions, pursuant to Section 10175.2 of the
6 Code, and pays a monetary penalty, pursuant to Section 10175.2, of the Code at a rate of \$100.00
7 for each day of said remaining thirty (30) days for a total monetary penalty of \$3,000.00:

8 (a) Said payment shall be in the form of a cashier's check made payable

9 to the Bureau of Real Estate. Said check must be delivered to the
10 Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento,
11 CA 95813-7013, prior to the effective date of this Order.

12 (b) If Respondent fails to pay the monetary penalty in accordance with the

13 terms and conditions of this Order, the suspension shall go into effect
14 automatically and remain in effect until Respondent pays the monetary
15 penalty in full.

16 (c) If Respondent pays the monetary penalty and any other moneys due under

17 this Stipulation and Agreement in Settlement and Order and if no further
18 cause for disciplinary action against the real estate license of said
19 Respondent occurs within two (2) years from the effective date of this
20 Order, the entire stay hereby granted pursuant to this Order, as to said
21 Respondent only, shall become permanent.

22 (c) No further cause for disciplinary action against the Real Estate license of

23 Respondent occurs within two (2) years from the effective date of the
24 Order in this matter.

1 4. Respondent understands that by agreeing to this Stipulation and Agreement in
2 Settlement and Order, Respondent agrees to pay, pursuant to Section 10148 of the Code, the cost
3 of the audit which resulted in the determination that Respondent committed the trust fund
4 violations found in the Determination of Issues, above. The amount of said cost is \$4,494.58.
5 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the
6 Commissioner. If Respondent fails to pay such cost within the sixty (60) days, Respondent's real
7 estate license shall automatically be suspended until Respondent's payment is made in full.
8 Upon payment in full, the indefinite suspension provided for in this paragraph shall be stayed.

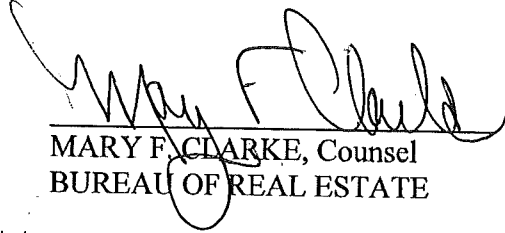
9 5. Respondent shall pay, the Commissioner's costs, not to exceed \$4,494.58, of
10 any audit conducted pursuant to Section 10148 of the Code to determine if Respondent has
11 corrected the violations described in the Determination of Issues, above. In calculating the
12 amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average
13 hourly salary for all persons performing audits of real estate brokers, and shall include an
14 allocation for travel time to and from the auditor's place of work. Respondent shall pay such
15 cost within sixty (60) days of receiving an invoice therefore from the Commissioner detailing
16 the activities performed during the audit and the amount of time spent performing those
17 activities. If Respondent fails to pay such cost within the sixty (60) days, Respondent's real estate
18 license shall automatically be suspended until Respondent's payment is made in full. Upon
19 payment in full, the indefinite suspension provided for in this paragraph shall be stayed.

20 6. All licenses and licensing rights of Respondent are indefinitely suspended
21 unless or until Respondent pays the sum of \$1,184.95 for the Commissioner's reasonable cost of
22 the investigation and enforcement which led to this disciplinary action. Said payment shall be in
23 the form of a cashier's check made payable to the Bureau of Real Estate. The investigative and
24 enforcement costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box
25 137013, Sacramento, CA 95813-7013, prior to the effective date of this Order.

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

6 4-30-15

7 DATED

8 
9 MARY F. CLARKE, Counsel
10 BUREAU OF REAL ESTATE

11 * * *

12 I have read the Stipulation and Agreement in Settlement and Order and its terms
13 are understood by me and are agreeable and acceptable to me. I understand that I am waiving
14 rights given to us by the California APA (including but not limited to Sections 11506, 11508,
15 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive
16 those rights, including the right of requiring the Commissioner to prove the allegations in the
17 Accusation at a hearing at which I would have the right to cross-examine witnesses against me
18 and to present evidence in defense and mitigation of the charges.

19 4/2/2015

20 DATED

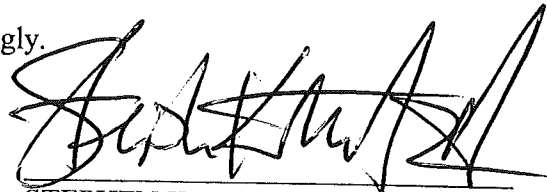
21 
22 HALA BALBAKY
23 Respondent

24 * * *

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

27 4/2/15

 DATED


 STEPHEN K. LIGHTFOOT, II
 Attorney for Respondent

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The foregoing Stipulation and Agreement in Settlement and Order is hereby
adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on
JUL 08 2015, 2015.

IT IS SO ORDERED JUNE 16, 2015.

REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner