

FILED

MAY - 7 2015

BUREAU OF REAL ESTATE

By K. Contreras

BUREAU OF REAL ESTATE
P. O. Box 137007
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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
) NO. H-11764 SF
)
RAYMOND JOHN SCARABOSIO,) STIPULATION AND AGREEMENT
) IN SETTLEMENT AND ORDER
)
Respondent.)

It is hereby stipulated by and between RAYMOND JOHN SCARABOSIO (herein
"Respondent") by and through Joshua A. Rosenthal, 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:

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 (APA),
shall instead and in place thereof be submitted solely on the basis of the provisions of this
Stipulation and Agreement in Settlement and Order.

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 17, 2014, by Respondent pursuant to
Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations

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

8 4. This Stipulation is based on the factual allegations contained in the Accusation
9 filed in this proceeding. In the interest of expedience and economy, Respondent choose not to
10 contest these factual allegations, but to remain silent and understands that, as a result thereof,
11 these factual statements, will serve as a prima facie basis for the disciplinary action stipulated to
12 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove
13 such allegations.

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

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

25 7. Respondent understands that by agreeing to this Stipulation and Agreement in
26 Settlement and Order, Respondent agrees to pay, pursuant to Section 10148 of the California
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1 Business and Professions Code (herein "Code"), the cost of the audit which resulted in the
2 determination that Respondent committed the violations found in the Determination of Issues.
3 The amount of said costs is \$5,869.24.

4 8. Respondent understands that by agreeing to this Stipulation and Agreement in
5 Settlement and Order, the findings set forth below in the Determination of Issues become final,
6 and that the Commissioner may charge said Respondent, for the costs of any audit conducted
7 pursuant to Section 10148 of the Code to determine if the trust fund violations found in the
8 Determination of Issues, below, have been corrected. The maximum costs of said audit shall not
9 exceed \$5,869.24.

10 9. Respondent further understands that by agreeing to this Stipulation and
11 Agreement in Settlement and Order, Respondent agrees to pay, pursuant to Section 10106(a) of
12 the Code, investigative and enforcement costs of \$2,724.85 which led to this disciplinary action.

13 DETERMINATION OF ISSUES

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

18 (a) as to Paragraph 7(a) under Section 2832.1 of the Regulations in conjunction
19 with Section 10177(d) of the Code;

20 (b) as to Paragraph 7(b) under Section 10145 of the Code and Section 2832 of
21 the Regulations in conjunction with Section 10177(d) of the Code;

22 (c) as to Paragraph 7(c) under Section 2831 of the Regulations in conjunction
23 with Section 10177(d) of the Code;

24 (d) as to Paragraph 7(d) under Section 2831.1 of the Regulations in conjunction
25 with Section 10177(d) of the Code;

26 (e) as to Paragraph 7(e) under Section 2831.2 of the Regulations in conjunction
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1 with Section 10177(d) of the Code;

2 (f) as to Paragraph 7(f) under Section 10176(e) of the Code and Section 2835 of
3 the Regulations in conjunction with Section 10177(d) of the Code; and

4 (g) as to Paragraph 7(g) under Section 10140.6(b) of the Code and Section 2773
5 of the Regulations in conjunction with Section 10177(d) of the Code.

6 ORDER

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

10 1. All licenses and licensing rights of Respondent under the Real Estate Law
11 are suspended until such time as Respondent provides proof satisfactory to the Commissioner
12 that Respondent has, within one hundred twenty (120) days prior to the effective date of the
13 Order herein completed the continuing education course on trust fund accounting and handling
14 specified in subdivision (a) of Section 10170.5 of the Code. **Proof of completion of the trust**
15 **fund accounting and handling course must be delivered to the Bureau of Real Estate, Flag**
16 **Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-3767, prior to**
17 **the effective date of this Order.**

18 2. Thirty (30) days of said sixty (60) 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,
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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 sixty (60) day suspension shall be
5 stayed upon the condition that Respondent petitions, pursuant to Section 10175.2 of the Code,
6 and pays a monetary penalty, pursuant to Section 10175.2, of the Code at a rate of \$100.00 for
7 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
9 payable to the Bureau of Real Estate. Said check must be
10 delivered to the Bureau of Real Estate, Flag Section at P.O. Box
11 137013, Sacramento, CA 95813-7013, prior to the effective date of
12 this Order.

13 (b) No further cause for disciplinary action against the Real Estate license
14 of Respondent occurs within two (2) years from the effective date of
15 this Order.

16 (c) If Respondent fails to pay the monetary penalty as provided above prior
17 to the effective date of this Order, the suspension shall go into effect
18 automatically and remain in effect until Respondent pays the monetary
19 penalty in full, in which event Respondent shall not be entitled to any
20 repayment nor credit, prorated or otherwise, for the money paid to the
21 Bureau under the terms of this Order.

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

3 4. Respondent understands that by agreeing to this Stipulation and Agreement in
4 Settlement and Order, Respondent agrees to pay, pursuant to Section 10148 of the Code, the cost
5 of the audit which resulted in the determination that Respondent committed the trust fund
6 violations found in the Determination of Issues, above. The amount of said cost is \$5,869.24.
7 **Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from**
8 **the Commissioner.** If Respondent fails to pay such cost within the sixty (60) days,
9 Respondent's real estate license shall automatically be suspended until Respondent's payment is
10 made in full. Upon payment in full, the indefinite suspension provided for in this paragraph shall
11 be stayed.

12 5. Respondent shall pay the Commissioner's costs, not to exceed \$5,869.24, of
13 any audit conducted pursuant to Section 10148 of the Code to determine if Respondent has
14 corrected the violations described in the Determination of Issues, above. In calculating the
15 amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average
16 hourly salary for all persons performing audits of real estate brokers, and shall include an
17 allocation for travel time to and from the auditor's place of work. **Respondent shall pay such**
18 **cost within sixty (60) days of receiving an invoice therefore from the Commissioner**
19 detailing the activities performed during the audit and the amount of time spent performing those
20 activities. If Respondent fails to pay such cost within the sixty (60) days, Respondent's real estate
21 license shall automatically be suspended until Respondent's payment is made in full. Upon
22 payment in full, the indefinite suspension provided for in this paragraph shall be stayed.

23 6. Respondent shall pay the sum of \$2,724.85 for the Commissioner's
24 investigative and enforcement costs, pursuant to Section 10106(a) of the Code, for the
25 investigation and enforcement which led to this disciplinary action. Said payment shall be in the
26 form of a cashier's check or certified check made payable to the Real Estate Fund. Said check
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1 must be received by the Bureau prior to the effective date of this Order. **The investigative and**
2 **enforcement costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box**
3 **137013, Sacramento, CA 95813-7013, prior to the effective date of this Order. If**

4 Respondent fails to satisfy this condition, Respondent's real estate license shall automatically be
5 suspended until Respondent's payment is made in full. Upon payment in full, the indefinite
6 suspension provided for in this paragraph shall be stayed.

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

12
13 3-5-15

14 DATED

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MAY F. CLARKE, Counsel
BUREAU OF REAL ESTATE

17 I have read the Stipulation and Agreement in Settlement and Order and its terms
18 are understood by me and are agreeable and acceptable to me. I understand that I am waiving
19 rights given to me by the California APA (including but not limited to Sections 11506, 11508,
20 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive
21 those rights, including the right of requiring the Commissioner to prove the allegations in the
22 Accusation at a hearing at which I would have the right to cross-examine witnesses against me
23 and to present evidence in defense and mitigation of the charges.

24
25 February 11, 2015

26 DATED

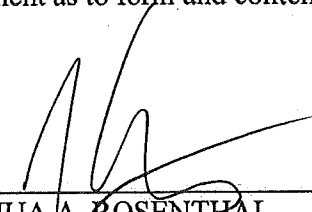
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RAYMOND JOHN SCARABOSIO
Respondent

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

2/11/15

DATED

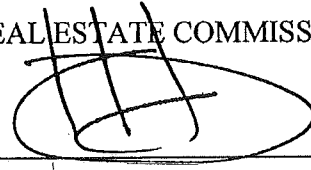

JOSHUA A. ROSENTHAL
Attorney for Respondent

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

JUN 8 2015

IT IS SO ORDERED April 28, 2015.

REAL ESTATE COMMISSIONER


By: JEFFREY MASON
Chief Deputy Commissioner