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

FILED
JUL 27 2015
BUREAU OF REAL ESTATE
By L. Frost

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

ROBERT MORRIS STEWART,

Respondent.

No. H-11815 SF
STIPULATION AND
AGREEMENT

It is hereby stipulated by and between ROBERT MORRIS STEWART (Respondent), represented by David Hamerslough, and the Complainant, acting by and through Truly Sughrue, Counsel for the Bureau of Real Estate (Bureau), as follows for the purpose of settling and disposing the Accusation filed on February 18, 2015 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.
2. Respondent has received, read, and understands the Statement to Respondent, and the Discovery Provisions of the APA filed by the Bureau in this proceeding.
3. Respondent 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.

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

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

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

18 6. Respondent understands that by agreeing to this Stipulation and
19 Agreement, Respondent agrees to pay, pursuant to Section 10148 of the California Business and
20 Professions Code (Code), the cost of the audit, which resulted in the determination that
21 Respondent committed the trust fund violation(s) found in Paragraph I of the Determination of
22 Issues. The amount of said costs is \$2,295.48.

23 7. Respondent further understands that by agreeing to this Stipulation and
24 Agreement, the findings set forth below in the Determination of Issues become final, and that
25 the Commissioner may charge said Respondent for the costs of any audit conducted pursuant to
26 Section 10148 of the Code to determine if the violations have been corrected. The maximum
27 costs of said audit shall not exceed \$2,295.48.

1 (4) As to Paragraph 8(d), under Section 10177(d) of the Code in conjunction
2 with Section 2831.1 of the Regulations;

3 (5) As to Paragraph 8(e), under Section 10177(d) of the Code in conjunction
4 with Section 2831.2 of the Regulations;

5 (6) As to Paragraph 8(f), under Section 10176(e) of the Code; and

6 (7) As to Paragraph 8(g), under Section 10177(d) of the Code in conjunction
7 with Section 2731 of the Regulations and Section 10159.5 of the Code.

8 * * *

9 ORDER

10 I

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

14 1) Thirty (30) days of said suspension shall be stayed, upon the condition that Respondent
15 petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to Section
16 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total monetary penalty
17 of \$1,500.

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

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

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

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

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

- 8 a) Respondent shall obey all laws, rules and regulations governing the rights, duties and
9 responsibilities of a real estate licensee in the State of California; and,
10 b) That no final subsequent determination be made, after hearing or upon stipulation, that
11 cause for disciplinary action occurred within two (2) years from the effective date of this
12 Order. Should such a determination be made, the Commissioner may, in his discretion,
13 vacate and set aside the stay order and reimpose all or a portion of the stayed suspension.
14 Should no such determination be made, the stay imposed herein shall become permanent.

15 3) All licenses and licensing rights of Respondent are indefinitely suspended unless or until
16 Respondent provides proof satisfactory to the Commissioner, of having taken and
17 successfully completed the continuing education course on trust fund accounting and
18 handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof
19 of satisfaction of these requirements includes evidence that Respondent has successfully
20 completed the trust fund account and handling continuing education courses, no earlier than
21 120 days prior to the effective date of the Order in this matter. Proof of completion of the
22 trust fund accounting and handling course must be delivered to the Bureau of Real Estate,
23 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758,
24 prior to the effective date of this Order

25 4) All licenses and licensing rights of Respondent are indefinitely suspended unless or until
26 Respondent provides proof satisfactory to the Commissioner, of having taken and
27 successfully completed the continuing education course on risk management specified in

1 paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of satisfaction of
2 these requirements includes evidence that Respondent has successfully completed the trust
3 fund account and handling continuing education courses, no earlier than 120 days prior to the
4 effective date of the Order in this matter. Proof of completion of the trust fund accounting
5 and handling course must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box
6 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the effective date
7 of this Order

8 5) Pursuant to Section 10148 of the Code, Respondent shall pay the sum of \$2,295.48 for the
9 Commissioner's cost of the audit which led to this disciplinary action. Respondent shall pay
10 such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.
11 Payment of audit costs should not be made until Respondent receives the invoice. If
12 Respondent fails to satisfy this condition in a timely manner as provided for herein,
13 Respondent's real estate licenses shall automatically be suspended until payment is made in
14 full, or until a decision providing otherwise is adopted following a hearing held pursuant to
15 this condition.

16 6) Pursuant to Section 10148 of the Code, Respondent shall pay the Commissioner's reasonable
17 cost, not to exceed \$2,295.48, for an audit to determine if Respondent has corrected the
18 violation(s) found in the Determination of Issues. In calculating the amount of the
19 Commissioner's reasonable cost, the Commissioner may use the estimated average hourly
20 salary for all persons performing audits of real estate brokers, and shall include an allocation
21 for travel time to and from the auditor's place of work. Respondent shall pay such cost within
22 sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of the
23 audit costs should not be made until Respondent receives the invoice. If Respondent fails to
24 satisfy this condition in a timely manner as provided for herein, Respondent's real estate
25 license shall automatically be suspended until payment is made in full, or until a decision
26 providing otherwise is adopted

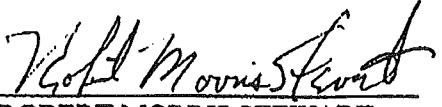
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21-May-15
DATED


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.

5/3/2015
DATED


ROBERT MORRIS STEWART
Respondent


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

5/21/15
DATED


DAVID HAMERSLOUGH
Attorney for Respondent

The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on AUG 17 2015.

IT IS SO ORDERED 2.17.3, 2015.

REAL ESTATE COMMISSIONER


By: JEFFREY MASON

- 7 - Chief Deputy Commissioner