

1 Bureau of Real Estate
2 P.O. Box 137007
3 Sacramento, CA 95813-7007

4 Telephone: (916) 263-8672

FILED

MAY 07 2019

DEPARTMENT OF REAL ESTATE
By B. Nicholas

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7
8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

12 SONOMA EQUITY LENDING)
13 CORPORATION, and JEFFERY BRIAN)
14 MAYNE,)

No. H-11983 SF

STIPULATION AND
AGREEMENT

Respondents.

15
16 It is hereby stipulated by and between SONOMA EQUITY LENDING
17 CORPORATION (SELCO), and JEFFERY BRIAN MAYNE (MAYNE) (collectively referred to
18 as "Respondents"), represented by Frank M. Buda, and the Complainant, acting by and through
19 Truly Sughrue, Counsel for the Bureau of Real Estate (Bureau), as follows for the purpose of
20 settling and disposing the Accusation filed on June 30, 2016, in this matter:

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

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

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

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

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

20 6. Respondents understand that by agreeing to this Stipulation and
21 Agreement, Respondents agrees to pay, pursuant to Section 10148 of the California Business
22 and Professions Code (Code), the cost of the audit, which resulted in the determination that
23 Respondents committed the trust fund handling violation(s) found in the Determination of
24 Issues. The amount of said costs is \$12,005.07.

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1 7. Respondents further understand that by agreeing to this Stipulation and
2 Agreement, the findings set forth below in the Determination of Issues become final, and that
3 the Commissioner may charge said Respondents for the costs of any audit conducted pursuant to
4 Section 10148 of the Code to determine if the violations have been corrected. The maximum
5 costs of said audit shall not exceed \$15,006.34.

6 8. It is understood by the parties that the Commissioner may adopt the
7 Stipulation and Agreement as his Decision and Order in this matter thereby imposing the penalty
8 and sanctions on the real estate licenses and license rights of Respondents as set forth in the
9 below "Order". In the event that the Commissioner in his discretion does not adopt the
10 Stipulation and Agreement, it shall be void and of no effect, and Respondents shall retain the
11 right to a hearing and proceeding on the Accusation under all the provisions of the APA and shall
12 not be bound by any admission or waiver made herein.

13 9. The Order or any subsequent Order of the Commissioner made pursuant to
14 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further
15 administrative or civil proceedings by the Bureau with respect to any matters which were not
16 specifically alleged in Accusation H-11983 SF.

17 * * *

18 DETERMINATION OF ISSUES

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

22 I

23 The acts and omissions of Respondents as described in the First Cause of Action
24 in the Accusation are grounds for the suspension or revocation of Respondents' licenses and
25 license rights under the following sections of the Code and Title 10 of the California Code of
26 Regulations (Regulations):

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1 As to Paragraphs 11(a) and 11(b), under Section 10177(d) of the Code in
2 conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

3 As to Paragraph 11(c), under Section 10177(d) of the Code in conjunction with
4 Section 10145 of the Code and Section 2832 of the Regulations;

5 As to Paragraph 11(d), under Section 10177(d) of the Code in conjunction with
6 Section 2831 of the Regulations;

7 As to Paragraph 11(e), under Section 10177(d) of the Code in conjunction with
8 Section 2831.1 of the Regulations;

9 As to Paragraph 11(f), under Section 10177(d) of the Code in conjunction with
10 Sections 10232.2(a), 10232.25 and/or 10238(o) of the Code;

11 As to Paragraph 11(g), under Section 10177(d) of the Code in conjunction with
12 Section 10238(a) of the Code;

13 As to Paragraph 11(h), under Section 10177(d) of the Code in conjunction with
14 Section 10238(k)(3) of the Code; and

15 As to Paragraph 11(i), under Section 10177(d) of the Code in conjunction with
16 Section 10232.5 of the Code.

17 II

18 The acts and omissions of MAYNE as described in the Second Cause of Action
19 in the Accusation are grounds for the suspension or revocation of MAYNE's licenses and
20 license rights under Section 10177(h) of the Code.

21 * * *

22 ORDER

23 I

24 All licenses and licensing rights of SELC under the Real Estate Law are
25 suspended for a period of one hundred and twenty (120) days from the effective date of this
26 Order; provided, however, that:

1) Sixty (60) days of said suspension shall be stayed, upon the condition that SELC petition 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 \$50 for each day of the suspension for a total monetary penalty of \$3,000.

a) 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.

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

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

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

2) Sixty (60) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

a) SELC shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and,

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

1 II

2 All licenses and licensing rights of MAYNE under the Real Estate Law are
3 suspended for a period of one hundred and twenty (120) day from the effective date of this Order;
4 provided, however, that:

5 1) Sixty (60) days of said suspension shall be stayed, upon the condition that
6 MAYNE petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant
7 to Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total
8 monetary penalty of \$3,000.

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

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

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

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

23 2) Sixty (60) days of said suspension shall be stayed for two (2) years upon the
24 following terms and conditions:

25 a) MAYNE shall obey all laws, rules and regulations governing the rights, duties and
26 responsibilities of a real estate licensee in the State of California; and,

27 b) That no final subsequent determination be made, after hearing or upon stipulation,

1 that cause for disciplinary action occurred within two (2) years from the effective date of this
2 Order. Should such a determination be made, the Commissioner may, in his discretion, vacate
3 and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no
4 such determination be made, the stay imposed herein shall become permanent.

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

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

20 III

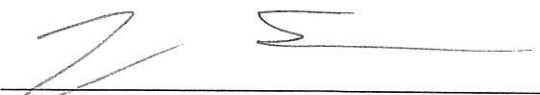
21 1) Pursuant to Section 10148 of the Code, Respondents shall jointly and severally
22 pay the sum of \$12,005.07 for the Commissioner's cost of the audit which led to this disciplinary
23 action. Respondents shall pay such cost within sixty (60) days of receiving an invoice therefore
24 from the Commissioner. Payment of audit costs should not be made until Respondents receive
25 the invoice. If Respondents fail to satisfy this condition in a timely manner as provided for
26 herein, Respondents' real estate license shall automatically be suspended until payment is made
27 in full, or until a decision providing otherwise is adopted following a hearing held pursuant to

1 this condition.

2 2) Pursuant to Section 10148 of the Code, Respondents shall pay the Commissioner's
3 reasonable cost, not to exceed \$15,006.34, for an audit to determine if Respondents have
4 corrected the violation(s) found in the Determination of Issues. In calculating the amount of the
5 Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary
6 for all persons performing audits of real estate brokers, and shall include an allocation for travel
7 time to and from the auditor's place of work. Respondents shall pay such cost within sixty (60)
8 days of receiving an invoice therefore from the Commissioner. Payment of the audit costs should
9 not be made until Respondents receive the invoice. If Respondents fail to satisfy this condition
10 in a timely manner as provided for herein, Respondents' real estate license shall automatically be
11 suspended until payment is made in full, or until a decision providing otherwise is adopted
12 following a hearing held pursuant to this condition.

13
14 21-Nov-18

15 DATED

14 
15 TRULY SUGHRUE
16 Counsel for Complainant

17 * * *

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

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1 Respondent and Respondent's attorney further agree to send the original signed
2 Stipulation by mail to the following address no later than one (1) week from the date the
3 Stipulation is signed by Respondent and Respondent's attorney: *Bureau of Real Estate, Legal*
4 *Section, P.O. Box 137007, Sacramento, California 95813-7007*. Respondent and Respondent's
5 attorney understand and agree that if they fail to return the original signed Stipulation by the due
6 date, Complainant retains the right to set this matter for hearing.

7 11/8/18
8 DATED

Jeffery Brian Mayne
Jeffery Brian Mayne, on behalf of
SONOMA EQUITY LENDING
CORPORATION
Respondent

11 11/9/18
12 DATED

Jeffery Brian Mayne
JEFFERY BRIAN MAYNE
Respondent

14 ***

15 *I have reviewed the Stipulation and Agreement as to form and content and have*
16 *advised my clients accordingly.*

17 11-8-18
18 DATED

Frank M. Buda
FRANK M. BUDA
Attorney for Respondents

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21 The foregoing Stipulation and Agreement is hereby adopted as my Decision and
22 Order and shall become effective at 12 o'clock noon on **MAY 28 2019**

23 IT IS SO ORDERED May 6, 2019.

24 DANIEL J. SANDRI
25 ACTING REAL ESTATE COMMISSIONER

26 *Daniel J. Sandri*
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