

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

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FILED

FEB 09 2017

BUREAU OF REAL ESTATE

By B. Nicholas

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

10 In the Matter of the Accusation of:

Case No. H-11984 SF

11 PATRICK DANIEL FARRIS and
12 ORCE NAUMOVSKI,

)
)
) STIPULATION AND AGREEMENT
) IN SETTLEMENT AND ORDER
)

13 Respondents,
14)

15 It is hereby stipulated by and between Respondent PATRICK DANIEL FARRIS
16 ("FARRIS"), acting by and through Brian W. Newcomb, counsel for Respondent FARRIS,
17 Respondent ORCE NAUMOVSKI ("NAUMOVSKI") representing himself, (FARRIS and
18 NAUMOVSKI are collectively referred herein to as "Respondents"), and the Complainant,
19 acting by and through Jason D. Lazark, Counsel for the Bureau of Real Estate, as follows for the
20 purpose of settling and disposing of 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
23 hearing was to be held in accordance with the provisions of the Administrative Procedure Act
24 ("APA"), shall instead and in place thereof be submitted solely on the basis of the provisions of
25 this Stipulation and Agreement In Settlement and Order.

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

1 Real Estate in this proceeding.

2 3. On July 13, 2016, FARRIS filed a Notice of Defense pursuant to Section
3 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the
4 Accusation. On July 15, 2016, NAUMOVSKI, filed a Notice of Defense pursuant to section
5 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the
6 Accusation. Respondents hereby freely and voluntarily withdraw said Notices of Defense.
7 Respondents acknowledge that they understand that by withdrawing said Notices of Defense
8 they will thereby waive their rights to require the Commissioner to prove the allegations in the
9 Accusation at a contested hearing held in accordance with the provisions of the APA and that
10 they will waive other rights afforded to them in connection with the hearing such as the right to
11 present evidence in defense of the allegations in the Accusation and the right to cross-examine
12 witnesses.

13 4. Respondents, pursuant to the limitations set forth below, hereby admit that
14 the factual allegations or findings of fact as set forth in the Accusation filed in this proceeding
15 are true and correct and the Real Estate Commissioner shall not be required to provide further
16 evidence of such allegations.

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

24 6. The Order or any subsequent Order of the Real Estate Commissioner made
25 pursuant to this Stipulation and Agreement-In Settlement and Order shall not constitute an
26 estoppel, merger or bar to any further administrative or civil proceedings by the Bureau of
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1 Real Estate with respect to any matters which were not specifically alleged to be causes for
2 accusation in this proceeding.

3 7. Respondents understand that by agreeing to this Stipulation and Agreement,
4 Respondents agree to be responsible for jointly and severally paying, pursuant to Section 10148
5 of the California Business and Professions Code ("the Code"), the costs of the audit which
6 resulted in the determination that Respondents committed the trust fund violation(s) found in the
7 Determination of Issues. The amount of such costs is \$4,648.60.

8 8. Respondents further understand that by agreeing to this Stipulation and
9 Agreement, the findings set forth below in the Determination of Issues become final, and that the
10 Commissioner may charge said Respondents for the costs of any audit conducted pursuant to
11 Section 10148 of the Code to determine if the violations have been corrected and hold
12 Respondents jointly and severally responsible for paying the costs of the follow up audit. The
13 maximum costs of said audit shall not exceed \$5,810.75.

14 9. Respondents understand that by agreeing to this Stipulation and Agreement,
15 Respondents agree to be responsible for jointly and severally paying, pursuant to Section 10106
16 of the Code, the costs of the investigation and enforcement of this case which resulted in the
17 determination that Respondent committed the violation(s) found in the Determination of Issues.
18 The amount of such cost is \$3,455.00.

19 DETERMINATION OF ISSUES

20 By reason of the foregoing stipulations, admissions, and waivers, and solely for
21 the purpose of settlement of the pending Accusation without further proceedings, it is stipulated
22 and agreed that the following Determination of Issues shall be made:

23 The acts and/or omissions of FARRIS as described in the Accusation are grounds
24 for the suspension or revocation of the licenses and license rights of FARRIS under the
25 provisions of Sections 10159.2, 10176(g), 10177(d), 10177(g) and 10177(h) of the Code, in
26 conjunction with Sections 10130, 10140.6, 10145, 10145(a), 10145(g), 10159.5, and 10163 of
27

1 the Code and Sections 2715, 2725, 2726, 2731, 2773, 2831, 2831.1, 2831.2, and 2832 of Title 10
2 of the California Code of the Regulations.

3 The acts and/or omissions of NAUMOVSKI as described in the Accusation are
4 grounds for the suspension or revocation of the licenses and license rights of NAUMOVSKI
5 under the provisions of Sections 10176(g) of the Code.

6 ORDER

7 I.

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

11 1. Forty five (45) days of said suspension shall be stayed upon the condition that
12 FARRIS petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant
13 to Section 10175.2 of the Code, at a rate of \$50 for each day of the suspension, for a total
14 monetary penalty of \$2,250.00.

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

19 b. No further cause for disciplinary action against the real estate license
20 of FARRIS occurs within two (2) years from the effective date of the Order in this matter.

21 c. If FARRIS fails to pay the monetary penalty in accordance with the
22 terms and conditions of the Decision, the Commissioner may, without a hearing, order the
23 immediate execution of all or any part of the stayed suspension, in which event, FARRIS shall
24 not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Bureau
25 under the terms of this decision.

26 d. If FARRIS pays the monetary penalty, and if no further cause for
27 disciplinary action against the real estate license of FARRIS occurs within two (2) years from

1 the effective date of the Decision herein, then the stay hereby granted shall become permanent.

2 2. The remaining seventy five (75) days of said suspension shall be stayed for
3 two (2) years upon the following terms and conditions:

4 a. FARRIS shall obey all laws, rules and regulations governing the
5 rights, duties and responsibilities of a real estate licensee in the State of California.

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

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

17 4. All licenses and licensing rights of FARRIS are indefinitely suspended unless
18 or until FARRIS provides proof satisfactory to the Commissioner, of having taken and
19 successfully completed the continuing education course on trust fund accounting and handling
20 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of
21 satisfaction of these requirements includes evidence that FARRIS has successfully completed the
22 trust fund accounting and handling continuing education course, no earlier than one hundred
23 twenty (120) days prior to the effective date of the Decision and Order in this matter. Proof of
24 completion of the trust fund accounting and handling course must be delivered to the Bureau of
25 Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-
26 263-8785, prior to the effective date of this Decision and Order.
27

II.

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

1. Forty five (45) days of said suspension shall be stayed upon the condition that NAUMOVSKI petitions 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 \$2,250.00.

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 license of NAUMOVSKI occurs within two (2) years from the effective date of the Order in this matter.

c. If NAUMOVSKI fails to pay the monetary penalty in accordance with the terms and conditions of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension, in which event, NAUMOVSKI shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Bureau under the terms of this decision.

d. If NAUMOVSKI pays the monetary penalty, and if no further cause for disciplinary action against the real estate license of NAUMOVSKI occurs within two (2) years from the effective date of the Decision herein, then the stay hereby granted shall become permanent.

2. The remaining seventy five (75) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

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

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

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

12 4. All licenses and licensing rights of NAUMOVSKI are indefinitely suspended
13 unless or until NAUMOVSKI provides proof satisfactory to the Commissioner, of having taken
14 and successfully completed the continuing education course on trust fund accounting and
15 handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of
16 satisfaction of these requirements includes evidence that NAUMOVSKI has successfully
17 completed the trust fund accounting and handling continuing education course, no earlier than
18 one hundred twenty (120) days prior to the effective date of the Decision and Order in this
19 matter. Proof of completion of the trust fund accounting and handling course must be delivered
20 to the Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or
21 by fax at 916-263-8785, prior to the effective date of this Decision and Order.

22 III.


23 1. Respondents, jointly and severally, shall pay the sum of \$4,648.60 for the
24 Commissioner's cost of the audit which led to this disciplinary action. Respondents shall pay
25 such cost within sixty (60) days of receiving an invoice therefore from the Commissioner. The
26 Commissioner shall indefinitely suspend all licenses and licensing rights of Respondents
27 pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if

1 payment is not timely made as provided for herein, or as provided for in a subsequent
2 agreement between Respondents and the Commissioner. The suspension shall remain in effect
3 until payment is made in full or until Respondents enter into an agreement satisfactory to the
4 Commissioner to provide for payment, or until a decision providing otherwise is adopted
5 following a hearing held pursuant to this condition.

6 2. Respondents, jointly and severally, shall pay the Commissioner's costs, not
7 to exceed \$5,810.75, of any audit conducted pursuant to Section 10148 of the Code to
8 determine if Respondents have corrected the violations described in the Determination of
9 Issues, above, and any other violations found in the audit which led to this disciplinary action.
10 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use
11 the estimated average hourly salary for all persons performing audits of real estate brokers, and
12 shall include an allocation for travel time to and from the auditor's place of work. Respondents
13 shall pay such cost within sixty (60) days of receiving an invoice therefore from the
14 Commissioner detailing the activities performed during the audit and the amount of time spent
15 performing those activities. If Respondents fail to pay such cost within the sixty (60) days, the
16 Commissioner shall indefinitely suspend all licenses and licensing rights of Respondents under
17 the Real Estate Law until payment is made in full or until Respondents enter into an agreement
18 satisfactory to the Commissioner to provide for payment. Upon full payment, the indefinite
19 suspension provided for in this paragraph shall be stayed.

20 3. All licenses and licensing rights of Respondents, are indefinitely suspended
21 unless or until Respondents, jointly and severally, pay the sum of \$3,455.00 for the
22 Commissioner's reasonable cost of the investigation and enforcement which led to this
23 disciplinary action. Said payment shall be in the form of a cashier's check or certified check
24 made payable to the Real Estate Fund.

25
26 11/15/16
27 DATED


JASON D. LAZARK, Counsel
Bureau of Real Estate

1 * * *

2 I, FARRIS have read the Stipulation and Agreement in Settlement and Order,
3 discussed it with my counsel, Brian W. Newcomb, and its terms are understood by me and are
4 agreeable and acceptable to me. I understand that I am waiving rights given to me by the
5 California Administrative Procedure Act (including but not limited to Sections 11506, 11508,
6 11509 and 11513 of the Government Code), and I willingly, intelligently, and voluntarily
7 waive those rights, including the right of requiring the Commissioner to prove the allegations
8 in the Accusation at a hearing at which I would have the right to cross-examine witnesses
9 against me and to present evidence in defense and mitigation of the charges.

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

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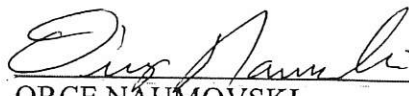
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1 FARRIS, NAUMOVSKI and FARRIS' attorney further agree to send the original
2 signed Stipulation and Agreement by mail to the following address no later than one (1) week
3 from the date the Stipulation and Agreement is signed by FARRIS, NAUMOVSKI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

8
9 11/10/16
DATED


PATRICK DANIEL FARRIS,
Respondent

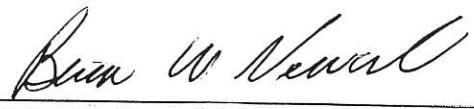
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12 11/10/16
DATED


ORCE NAUMOVSKI,
Respondent

14 * * *

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

17 *March 10, 2016*
DATED


Brian W. Newcomb,
Attorney for Respondent,
PATRICK DANIEL FARRIS

20 * * *

21 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
22 this matter and shall become effective at 12 o'clock noon on **MAR 02 2017**

23 IT IS SO ORDERED

12/22/2016

25 WAYNE S. BELL
26 REAL ESTATE COMMISSIONER

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