

1 Bureau of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0781

FILED

OCT 17 2017

BUREAU OF REAL ESTATE

By B. Nicholas

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

10 * * *

11 In the Matter of the Accusation of)
12 ANNE KEIKO WILBUR,)
13 Respondent.)

No. H-12028 SF

STIPULATION AND
AGREEMENT

14 It is hereby stipulated by and between ANNE KEIKO WILBUR (Respondent),
15 represented by David M. Van Atta, and the Complainant, acting by and through Truly
16 Sughrue, Counsel for the Bureau of Real Estate (Bureau), as follows for the purpose of
17 settling and disposing the Accusation filed on October 5, 2016, in this matter:

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

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

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1 3. Respondent 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 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
4 acknowledges that Respondent understands that by withdrawing said Notice of Defense
5 Respondent will thereby waive Respondent's 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 Respondent will waive other rights afforded
8 to Respondent in connection with the hearing such as the right to present evidence in defense of
9 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, Respondent chooses 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 Respondent's 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. Respondent understands that by agreeing to this Stipulation and
21 Agreement, Respondent agrees to pay, pursuant to Section 10148 of the California Business and
22 Professions Code (Code), the cost of the audit, which resulted in the determination that
23 Respondent committed the trust fund handling violation(s) found in the Determination of Issues.
24 The amount of said costs is \$3,883.84.

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1 7. Respondent 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 \$4,854.80.

6 8. It is understood by the parties that the Commissioner may adopt the
7 Stipulation and Agreement as his decision in this matter thereby imposing the penalty and
8 sanctions on the real estate licenses and license rights of Respondent as set forth in the below
9 "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and
10 Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing
11 and proceeding on the Accusation under all the provisions of the APA and shall not be bound by
12 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 to be causes for action in Accusation H-12028 SF.

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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 The acts and omissions of Respondent as described in the Accusation are
23 grounds for the suspension or revocation of Respondent's licenses and license rights under
24 Section 10177(g) of the Code.

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1 Law for renewal of a real estate license. If Respondent fails to satisfy this condition,
2 Respondent's real estate license shall automatically be suspended until Respondent presents
3 evidence satisfactory to the Commissioner of having taken and successfully completed the
4 continuing education requirements. Proof of completion of the continuing education courses
5 must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento,
6 CA 95813-7013.

7 5. Respondent 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 Respondent fails to
10 satisfy this condition, Respondent's real estate license shall automatically be suspended until
11 Respondent passes the examination.


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

22 7. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
23 \$3,883.84 for the Commissioner's cost of the audit which led to this disciplinary action.
24 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the
25 Commissioner. Payment of audit costs should not be made until Respondent receives the
26 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
27 Respondent's real estate license shall automatically be suspended until payment is made in full,

1 or until a decision providing otherwise is adopted following a hearing held pursuant to this
2 condition.

3 8. Pursuant to Section 10148 of the Code, Respondent shall pay the
4 Commissioner's reasonable cost, not to exceed \$4,854.80, for an audit to determine if
5 Respondent has corrected the violation(s) found in the Determination of Issues. In calculating
6 the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated
7 average hourly salary for all persons performing audits of real estate brokers, and shall include an
8 allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost
9 within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of the
10 audit costs should not be made until Respondent receives the invoice. If Respondent fails to
11 satisfy this condition in a timely manner as provided for herein, Respondent's real estate license
12 shall automatically be suspended until payment is made in full, or until a decision providing
13 otherwise is adopted following a hearing held pursuant to this condition.

14 8-Aug-17
15 DATED


15 TRULY SUGHRUE
16 Counsel for Complainant

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

25 Respondent and Respondent's attorney further agree to send the original signed
26 Stipulation by mail to the following address no later than one (1) week from the date the
27 Stipulation is signed by Respondent and Respondent's attorney: *Bureau of Real Estate, Legal*

1 **Section, P.O. Box 137007, Sacramento, California 95813-7007. Respondent and Respondent's**
2 **attorney understand and agree that if they fail to return the original signed Stipulation by the due**
3 **date, Complainant retains the right to set this matter for hearing.**
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5 8-2-2017
6 DATED


ANNE KEIKO WILBUR
Respondent

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

10 08/02/2017
11 DATED


DAVID M. VAN ATTA
Attorney for Respondent

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14 The foregoing Stipulation and Agreement is hereby adopted as my Decision and
15 Order and shall become effective at 12 o'clock noon on OCT 31 2017

16 IT IS SO ORDERED 10/16/17

18 WAYNE S. BELL
19 REAL ESTATE COMMISSIONER

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21 By: DANIEL J. SANDRI
22 Chief Deputy Commissioner