

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

4 Telephone: (916) 263-8670

FILED

SEP 06 2017

BUREAU OF REAL ESTATE

By B. Nicholas

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

11 * * *

12 In the Matter of the Accusation of:

13 RASKIN REAL ESTATE INC., and
14 RICHARD BENNETT RASKIN,

15 Respondents.

)
) No. H-12059 SF

) STIPULATION AND AGREEMENT
) IN SETTLEMENT AND ORDER

16 It is hereby stipulated by and between RASKIN REAL ESTATE INC.
17 ("RREI"), and RICHARD BENNETT RASKIN ("RICHARD") (collectively referred to
18 herein as "Respondents"), represented by Counsel Joshua A. Rosenthal, and the Complainant,
19 acting by and through Jason D. Lazark, Counsel for the Bureau of Real Estate ("Bureau"), as
20 follows for the purpose of settling and disposing the Accusation filed on February 2, 2017, in
21 this matter:

22 1. All issues which were to be contested and all evidence which was to be
23 presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing
24 was to be held in accordance with the provisions of the Administrative Procedure Act ("APA"),
25 shall instead and in place thereof be submitted solely on the basis of the provisions of this
26 Stipulation and Agreement ("Stipulation").
27

1 2. Respondents have received, read, and understands the allegations in the
2 Accusation, Statement to Respondent, and the Discovery Provisions of the APA filed by the
3 Bureau in this proceeding.

4 3. Respondents filed Notices of Defense pursuant to Section 11505 of the
5 Government Code for the purpose of disputing the allegations in the Accusation and requesting a
6 hearing. Respondents hereby freely and voluntarily withdraw said Notices of Defense.
7 Respondents acknowledge that Respondents understand that by withdrawing said Notices of
8 Defense, Respondents will thereby waive Respondents' rights to require the Real Estate
9 Commissioner ("Commissioner") to prove the allegations in the Accusation at a contested
10 hearing held in accordance with the provisions of the APA, and that Respondents will waive
11 other rights afforded to Respondents in connection with the hearing such as the right to present
12 evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

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

23 6. The Order, or any subsequent Order of the Commissioner made pursuant
24 to this Stipulation, shall not constitute an estoppel, merger, or bar to any further administrative or
25 civil proceedings by the Bureau with respect to any matters which were not specifically alleged in
26 Accusation H-12059 SF.

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1 7. RICHARD understands that by agreeing to this Stipulation, RICHARD agrees
2 to be responsible for paying, pursuant to Section 10148 of the California Business and
3 Professions Code ("the Code"), the costs of the audit which resulted in the determination that
4 Respondents committed the trust fund violation(s) found in the Determination of Issues. The
5 amount of such costs is \$2,431.25.

6 8. RICHARD further understand that by agreeing to this Stipulation, the findings
7 set forth below in the Determination of Issues become final, and that the Commissioner may
8 charge RICHARD for the costs of any audit conducted, pursuant to Section 10148 of the Code,
9 to determine if the violations have been corrected and hold RICHARD responsible for paying the
10 costs of the follow up audit. The maximum costs of said audit shall not exceed \$3,039.06.

11 9. RICHARD understands that by agreeing to this Stipulation, RICHARD agrees
12 to be responsible for paying, pursuant to Section 10106 of the Code, the costs of the investigation
13 and enforcement of this case which resulted in the determination that RICHARD committed the
14 violation(s) found in the Determination of Issues. The amount of such cost is \$2,995.60.

15 DECLARATION OF RREI

16 In lieu of proceeding in this matter in accordance with the provisions of the APA,
17 RREI wishes to voluntarily surrender its corporate real estate broker license issued by the
18 Bureau, pursuant to Code Section 10100.2. RICHARD is the Designated Officer of RREI, and is
19 authorized to sign this declaration on behalf of RREI.

20 RICHARD, on behalf of RREI, understands that by voluntarily surrendering
21 RREI's license(s), RREI may be re-licensed as a corporate broker only by petitioning for
22 reinstatement pursuant to section 11522 of the Government Code. RICHARD, on behalf of
23 RREI, also understands that by voluntarily surrendering RREI's license(s), RICHARD agrees to
24 the following:

25 1. The filing of this Declaration shall be deemed as RREI's petition for
26 voluntary surrender.
27

1 2. RREI waives all rights RREI has to require the Commissioner to prove the
2 allegations contained in the Accusation filed in this matter at a hearing held in accordance with
3 the provisions of the APA, and that RREI also waives other rights afforded to RREI in
4 connection with the hearing such as the right to discovery, the right to present evidence in
5 defense of the allegations in the Accusation, and the right to cross-examine witnesses.

6 3. RICHARD, on behalf of RREI, further agrees that upon acceptance by the
7 Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence
8 obtained by the Bureau in this matter prior to the Commissioner's acceptance, and all allegations
9 contained in the Accusation filed in the Bureau Case No. H-12059 SF may be considered by the
10 Bureau to be true and correct for the purpose of deciding whether to grant re-licensure or
11 reinstatement pursuant to Government Code section 11522.

12 4. RICHARD, on behalf of RREI, freely and voluntarily surrenders all of
13 RREI's licenses and license rights under the Real Estate Law.

14 DETERMINATION OF ISSUES

15 By reason of the foregoing stipulations, admissions and waivers, and solely for the
16 purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed
17 that the acts and omissions of RICHARD, as described in the Accusation, violate Sections
18 10177(d), 10177(g), and 10177(h) of the Code, in conjunction with Sections 10145, 10159.2,
19 10177(d) of the Code, and Sections 2725, 2831.2 and 2832.1 of the Title 10, of the California
20 Code of Regulations ("the Regulations").

21 DECISION AND ORDER

22 1. All licenses and licensing rights of RICHARD under the Real Estate Law
23 are revoked; provided, however, a restricted real estate broker license shall be issued to
24 RICHARD pursuant to Section 10156.5 of the Code if RICHARD makes application therefore
25 and pays to the Bureau the appropriate fee for the restricted license within 90 days from the
26 effective date of this Decision.
27

1 2. The restricted license issued to RICHARD shall be subject to all of the
2 provisions of Section 10156.7 of the Code and to the following limitations, conditions, and
3 restrictions imposed under authority of Section 10156.6 of that Code:

4 (a) The restricted license issued to RICHARD shall be suspended prior to
5 hearing by Order of the Commissioner in the event of RICHARD's
6 conviction (including by plea of guilty or nolo contendere) to a crime
7 which is substantially related to RICHARD's fitness or capacity as a real
8 estate licensee; and,

9 (b) The restricted license issued to RICHARD shall be suspended prior to
10 hearing by Order of the Commissioner on evidence satisfactory to the
11 Commissioner that RICHARD has violated provisions of the California
12 Real Estate Law, the Subdivided Lands Law, Regulations of the Real
13 Estate Commissioner, or conditions attaching to the restricted license.

14 3. RICHARD shall not be eligible to apply for the issuance of an unrestricted
15 real estate license nor for removal of any of the conditions, limitations or restrictions of a
16 restricted license until four (4) years have elapsed from the effective date of this Decision.
17 RICHARD shall not be eligible to apply for any unrestricted license until all restrictions
18 attaching to the license have been removed.

19 4. RICHARD shall, within nine (9) months from the effective date of this
20 Decision, present evidence satisfactory to the Commissioner that RICHARD has, since the most
21 recent issuance of an original or renewal real estate license, taken and successfully completed the
22 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal
23 of a real estate license. If RICHARD fails to satisfy this condition, RICHARD's real estate
24 license shall automatically be suspended until RICHARD presents evidence satisfactory to the
25 Commissioner of having taken and successfully completed the continuing education
26 requirements. Proof of completion of the continuing education courses must be delivered to:
27 Bureau of Real Estate, Flag Section, P. O. Box 137013, Sacramento, CA 95813-7013.

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

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

16 7. All licenses and licensing rights of RICHARD are indefinitely suspended
17 unless or until RICHARD pays the sum of \$2,995.60 for the Commissioner's reasonable costs
18 of the investigation and enforcement which led to this disciplinary action. Said payment shall
19 be in the form of a cashier's check or certified check made payable to the Bureau of Real
20 Estate. The investigative and enforcement costs must be delivered to the Bureau of Real
21 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective
22 date of this Decision and Order.

23 8. RICHARD shall pay the sum of \$2,431.25 for the Commissioner's cost of
24 the audit which led to this disciplinary action. RICHARD shall pay such cost within sixty (60)
25 days of receiving an invoice therefore from the Commissioner. The Commissioner shall
26 indefinitely suspend all licenses and licensing rights of RICHARD pending a hearing held in
27 accordance with Section 11500, et seq., of the Government Code, if payment is not timely

1 made as provided for herein, or as provided for in a subsequent agreement between RICHARD
2 and the Commissioner. The suspension shall remain in effect until payment is made in full or
3 until RICHARD enters into an agreement satisfactory to the Commissioner to provide for
4 payment, or until a decision providing otherwise is adopted following a hearing held pursuant
5 to this condition.

6 9. RICHARD shall pay the Commissioner's costs, not to exceed \$3,039.06, of
7 any audit conducted pursuant to Section 10148 of the Code to determine if RICHARD has
8 corrected the violations described in the Determination of Issues, above, and any other
9 violations found in the audit which led to this disciplinary action. In calculating the amount of
10 the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly
11 salary for all persons performing audits of real estate brokers, and shall include an allocation
12 for travel time to and from the auditor's place of work. RICHARD shall pay such cost within
13 sixty (60) days of receiving an invoice therefore from the Commissioner detailing the activities
14 performed during the audit and the amount of time spent performing those activities. If
15 RICHARD fail to pay such cost within the sixty (60) days, the Commissioner shall indefinitely
16 suspend all licenses and licensing rights of RICHARD under the Real Estate Law until
17 payment is made in full or until RICHARD enter into an agreement satisfactory to the
18 Commissioner to provide for payment. Upon full payment, the indefinite suspension provided
19 for in this paragraph shall be stayed.

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VOLUNTARY SURRENDER OF RREI

RREI's petition for voluntary surrender of its corporate real estate broker license
is accepted as of the effective date of this Order as set forth below, based upon the understanding
and agreement expressed in RREI's Declaration incorporated herein as part of this Stipulation.
RREI's license certificates, pocket cards and any branch office license certificates shall be sent to
the below listed address so that they reach the Bureau on or before the effective date of this
Order:

BUREAU OF REAL ESTATE
Attn: Licensing Flag Section
P. O. Box 137013
Sacramento, CA 95815-7013

8/3/17
DATED

Jason Lazark
JASON D. LAZARK, Counsel
Bureau of Real Estate

* * *

I have read the Stipulation, 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 APA, and I willingly, intelligently and voluntarily waive those rights,
including the right of requiring the Commissioner to prove the allegations in the Accusation 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.

Respondents and Respondents' attorney further agree to send the original signed
Stipulation by mail to the following address no later than one (1) week from the date the
Stipulation is signed by Respondents and Respondents' attorney: *Bureau of Real Estate, Legal
Section, P.O. Box 137007, Sacramento, California 95813-7007.* Respondents and Respondents'

1 attorney understand and agree that if they fail to return the original signed Stipulation by the due
2 date, Complainant retains the right to set this matter for hearing.

3 RASKIN REAL ESTATE INC.
4 Respondent

5
6 7/15/2017
7 DATED

8 By: Richard B Raskin
9 Richard Bennett Raskin

10 7/15/2017
11 DATED

12 Richard B Raskin
13 RICHARD BENNETT RASKIN
14 Respondent

15 ***

16 *I have reviewed the Stipulation as to form and content and have advised my*
17 *client accordingly.*

18 7/15/2017
19 DATED

20 JOSHUA A. ROSENTHAL
21 Attorney for Respondents

22 ***

23 The foregoing Stipulation is hereby adopted as my Decision and Order and shall
24 become effective at 12 o'clock noon on SEP 27 2017

25 IT IS SO ORDERED

26 9/3/2017

27 WAYNE S. BELL
Real Estate Commissioner

Wayne S. Bell

1 attorney understand and agree that if they fail to return the original signed Stipulation by the due
2 date, Complainant retains the right to set this matter for hearing.

3 RASKIN REAL ESTATE INC.
4 Respondent

5
6 7/15/2017
7 DATED

By: Richard B. Raskin

Richard Bennett Raskin

8
9 7/15/2017
10 DATED

11 Richard B. Raskin
12 RICHARD BENNETT RASKIN
13 Respondent

14 ***

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

17 DATED _____

18 JOSHUA A. ROSENTHAL
19 Attorney for Respondents

20 * * *

21 The foregoing Stipulation is hereby adopted as my Decision and Order and shall
22 become effective at 12 o'clock noon on _____.

23 IT IS SO ORDERED _____

24 WAYNE S. BELL
25 Real Estate Commissioner
26
27 _____