

1 Bureau of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0781
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FILED
AUG 21 2018
DEPARTMENT OF REAL ESTATE
By B. Nicholas

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

12 JOSEPH BATISTE VILLA,)

13 Respondent.)

No. H-12191 SF

STIPULATION AND
AGREEMENT

14 It is hereby stipulated by and between JOSEPH BATISTE VILLA
15 (Respondent), and the Complainant, acting by and through Truly Sughrue, Counsel for the
16 Bureau of Real Estate (Bureau), as follows for the purpose of settling and disposing the
17 Accusation filed on January 17, 2018, 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 \$5,163.91.

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1 7. Respondent further understands 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 Respondent 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 \$6,454.89.

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-12191 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 The acts and omissions of Respondents as described in the Accusation are
23 grounds for the suspension or revocation of Respondents' licenses and license rights under the
24 following sections of the Code and Title 10 of the California Code of:

25 As to Paragraph 8(a), under Section 10177(d) of the Code in conjunction with
26 Section 10145 of the Code and Section 2832.1 of the Regulations;
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1 As to Paragraph 8(b), under Section 10177(d) the Code in conjunction with
2 Section 2834 of the Regulations and Section 10145 of the Code; and

3 As to Paragraph 8(c), under Section 10177(d) of the Code in conjunction with
4 Section 2731 of the Regulations and Section 10159.5 of the Code.

5 * * *

6 ORDER

7 1. All licenses and licensing rights of Respondent under the Real Estate Law
8 are suspended for a period of sixty (60) days from the effective date of this Order; provided,
9 however, that Sixty day (60) days of said suspension shall be stayed for two (2) years upon the
10 following terms and conditions:

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

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

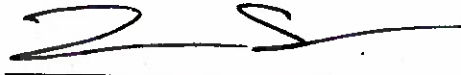
18 2. All licenses and licensing rights of Respondent are indefinitely suspended
19 unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and
20 successfully completed the continuing education course on trust fund accounting and handling
21 specified in paragraph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

1 3. All licenses and licensing rights of Respondent are indefinitely suspended
2 unless or until Respondent provides proof satisfactory to the Commissioner, of having corrected
3 the violation described in Paragraph 8(c) of the Accusation. Proof of correction may include
4 submission of Broker Change Application (RE 204) and required paperwork to the Bureau,
5 and/or declaration signed by Respondent under penalty of perjury that the fictitious business
6 name is no longer being used. Proof of correction must be delivered to the Bureau of Real
7 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-
8 8758, prior to the effective date of this Decision and Order.

9 4. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
10 \$5,163.91 for the Commissioner's cost of the audit which led to this disciplinary action.
11 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the
12 Commissioner. Payment of audit costs should not be made until Respondent receives the
13 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
14 Respondent's real estate license shall automatically be suspended until payment is made in full,
15 or until a decision providing otherwise is adopted following a hearing held pursuant to this
16 condition.

17 5. Pursuant to Section 10148 of the Code, Respondent shall pay the
18 Commissioner's reasonable cost, not to exceed \$6,454.89, for an audit to determine if
19 Respondent has corrected the violation(s) found in the Determination of Issues. In calculating
20 the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated
21 average hourly salary for all persons performing audits of real estate brokers, and shall include an
22 allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost
23 within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of the
24 audit costs should not be made until Respondent receives the invoice. If Respondent fails to
25 satisfy this condition in a timely manner as provided for herein, Respondent's real estate license
26 shall automatically be suspended until payment is made in full, or until a decision providing
27 otherwise is adopted following a hearing held pursuant to this condition.

19-July-18
DATED


TRULY SUGHRUE
Counsel for Complainant

I have read the Stipulation and Agreement, 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.

Respondent further agrees 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 Respondent and Respondent's attorney: *Bureau of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-7007*. Respondent understands and agree that if he fails to return the original signed Stipulation by the due date, Complainant retains the right to set this matter for hearing.

7/19/18
DATED


JOSEPH BATISTE VILLA
Respondent

The foregoing Stipulation and Agreement is hereby adopted as my Decision and
Order and shall become effective at 12 o'clock noon on SEP 11 2018

IT IS SO ORDERED August 17, 2018

DANIEL J. SANDRI
ACTING REAL ESTATE COMMISSIONER

