

FILED

APR 21 2021

DEPARTMENT OF REAL ESTATE

By *adew*

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**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

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In the Matter of the Accusation of:

MARK ANTHONY TOGNOLI,

Respondent.

No. H-12312 SF

**STIPULATION AND
AGREEMENT IN
SETTLEMENT AND ORDER**

It is hereby stipulated by and between MARK ANTHONY TOGNOLI (“Respondent”) and his attorney Jason J. Granskog of Bowles & Vern, LLP, and Complainant, acting by and through Adriana Z. Badilas, Counsel for the Department of Real Estate (“Department”), as follows for the purpose of settling and disposing of the Accusation filed on October 16, 2019, in this matter:

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

2. Respondent has received, read, and understands the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department 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 will waive his right to require the Real Estate Commissioner
5 (“Commissioner”) to prove the allegations in the Accusation at a contested hearing held in
6 accordance with the provisions of the APA and that Respondent will waive other rights afforded
7 to him in connection with the hearing, such as the right to present evidence in defense of the
8 allegations in the Accusation and the right to cross-examine witnesses.

9 4. This Stipulation and Agreement and Respondent’s decision not to contest
10 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and
11 are expressly limited to this proceeding and any other proceeding or case in which the
12 Department, the state or federal government, an agency of this state, or an agency of another state
13 is involved.

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

21 6. This Decision and Order or any subsequent Order of the Commissioner
22 made pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar
23 to any further administrative or civil proceedings by the Department with respect to any matters,
24 which were not specifically alleged in Accusation H-12312 SF.

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1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions, and waivers and solely for the
3 purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed that
4 the following Determination of Issues shall be made:

5 The acts and/or omissions of Respondent, as described in the Accusation, are
6 grounds for the suspension or revocation of the licenses and license rights of Respondent under
7 Business and Professions Code ("Code") Sections 10177(d) and 10177(g).

8 ORDER

9 All licenses and licensing rights of Respondent under the Real Estate Law are
10 suspended for a period of ninety (90) days from the effective date of this Decision; provided,
11 however, that:

12 1. Forty-five (45) days of said suspension shall be stayed, upon the condition
13 that Respondent petition pursuant to Section 10175.2 of the Code and pays a monetary penalty
14 pursuant to Section 10175.2 of the Code at a rate of \$50.00 per day for a total monetary penalty
15 of \$2,250.00.

16 2. Payment shall be in the form of a cashier's check made payable to the
17 Department of Real Estate. The check must be delivered to the Department of Real Estate, Flag
18 Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
19 Decision.

20 3. No further cause for disciplinary action against the Real Estate license of
21 Respondent occurs within two (2) years from the effective date of the Decision in this matter.

22 4. If Respondent fails to pay the monetary penalty in accordance with the
23 terms and conditions of this Decision, the suspension shall go into effect automatically.
24 Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money
25 paid to the Department under the terms of this Decision.

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1 5. If Respondent pays the monetary penalty and any other moneys due under
2 this Stipulation and if no further cause for disciplinary action against the real estate license of
3 Respondent occurs within two (2) years from the effective date of this Decision, the entire stay
4 hereby granted pursuant to this Decision shall become permanent.

5 6. Remaining forty-five (45) days of said suspension shall be stayed for two
6 (2) years upon the following terms and conditions: (a) That Respondent shall obey all laws, rules
7 and regulations governing the rights, duties and responsibilities of a real estate licensee in the
8 State of California; and (b) That no final subsequent determination be made, after hearing or
9 upon stipulation, that cause for disciplinary action occurred within two (2) years from the
10 effective date of this Decision. Should such a determination be made, the Commissioner may, in
11 his discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed
12 suspension. Should no such determination be made, the stay imposed herein shall become
13 permanent.

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

19 8. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
20 \$4,639.50 for the Commissioner's cost of the investigation which led to this disciplinary action.
21 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the
22 Commissioner. Payment of audit costs should not be made until Respondent receives the
23 invoice. If Respondent fail to satisfy this condition in a timely manner as provided for herein,
24 Respondent's real estate licenses shall automatically be suspended until payment is made in full,
25 or until a decision providing otherwise is adopted following a hearing held pursuant to this
26 condition.

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9/16/2020

DATED



ADRIANA Z. BADILAS
Real Estate Counsel III
Department of Real Estate

I have read the Stipulation and Agreement, have 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 (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), 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.

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by Respondent, to the Department at fax number (916) 263-3767 or by e-mail to adriana.badilas@DRE.ca.gov. Respondent agree, acknowledge, and understand that by electronically sending to the Department a fax copy of Respondent's actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

8/13/2020

DATED



MARK ANTHONY TOGNOLI
Respondent

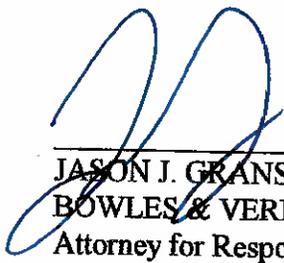
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I have reviewed this Stipulation and Agreement as to form and content and have advised my clients accordingly.

8-13-20

DATED



JASON J. GRANSKOG
BOWLES & VERNA, LLP
Attorney for Respondent

The foregoing Stipulation and Agreement in Settlement and Order is hereby adopted by the Real Estate Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on MAY 12 2021

IT IS SO ORDERED 3.19.21

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

