

1 Department of Real Estate
2 P.O. Box 137007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 576-8700
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FILED

OCT 14 2020

DEPARTMENT OF REAL ESTATE
By B. dew

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

10 * * *

11 In the Matter of the Accusation of

12 **CARITAS MANAGEMENT CORPORATION**
13 **and RICHARD MALCOLM HIPPARD,**

14 **Respondents.**

No. H-12415 SF

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

15 It is hereby stipulated by and between CARITAS MANAGEMENT
16 CORPORATION (CMC) and RICHARD MALCOLM HIPPARD (HIPPARD), collectively
17 Respondents, represented by Robert F. Hahn, and the Complainant, acting by and through
18 Megan Lee Olsen, Counsel for the Department of Real Estate (Department), as follows for the
19 purpose of settling and disposing of the Accusation filed on January 14, 2020, in this matter:

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

25 2. Respondents have received, read, and understand the Statement to
26 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department in
27 this proceeding.

1 3. Respondents 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 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents
4 acknowledge and understand that by withdrawing said Notice of Defense they will thereby waive
5 their right to require the Real Estate Commissioner (Commissioner) to prove the allegations in
6 the Accusation at a contested hearing held in accordance with the provisions of the APA and that
7 they will waive other rights afforded to them in connection with the hearing such as the right to
8 present evidence in defense of the allegations in the Accusation and the right to cross-examine
9 witnesses.

10 4. This Stipulation is based on the factual allegations contained in the
11 Accusation. In the interest of expediency and economy, Respondents choose not to contest these
12 factual allegations, but to remain silent and understand that, as a result thereof, these factual
13 statements will serve as a prima facie basis for the "Determination of Issues" and "Order" set
14 forth below. The Commissioner shall not be required to provide further evidence to prove such
15 allegations.

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

23 6. This Decision and Order or any subsequent Order of the Commissioner
24 made pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
25 administrative or civil proceedings by the Department with respect to any matters which were
26 not specifically alleged to be causes for accusation in this proceeding.

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1 7. Respondents understand that by agreeing to this Stipulation, Respondents
2 agree to pay, pursuant to Section 10148 of the Business and Professions Code (Code), the cost of
3 the audit which resulted in the violations found in the Determination of Issues. The amount of
4 such costs is \$8,574.60.

5 8. Respondents further understand that by agreeing to this Stipulation, the
6 findings set forth below in the "Determination of Issues" become final, and that the
7 Commissioner may charge said Respondents for the costs of any audit conducted pursuant to
8 Section 10148 of the Code to determine if the violations have been corrected. The maximum
9 cost of said audit shall not exceed \$10,718.25.

10 DETERMINATION OF ISSUES

11 CARITAS MANAGEMENT CORPORATION and RICHARD MALCOLM HIPPARD

12 By reason of the foregoing stipulations, admissions and waivers, and solely for
13 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed
14 that the acts and/or omissions of Respondents, as described in the Accusation, constitute grounds
15 for the suspension or revocation of the licenses and license rights of Respondents under the
16 provisions of Sections 10137, 10176 (e), 10177(d) and 10177 (g) of the Code, in conjunction
17 with Sections 10161.8 (a), 10140.6, 10145 and 10176 (g) of the Code, and Sections 2725, 2773,
18 2831, 2832, and 2834 of Title 10 of the California Code of Regulations.

19 RICHARD MALCOLM HIPPARD

20 By reason of the foregoing stipulations, admissions and waivers, and solely for
21 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed
22 that the acts and/or omissions of Respondent HIPPARD, as described in the Accusation,
23 constitute grounds for the suspension or revocation of the licenses and license rights of
24 Respondent HIPPARD under the provisions of Sections 10177 (d), 10177 (g) and 10177 (h) of
25 the Code, in conjunction with Section 10159.2 of the Code, and Section 2725 of Title 10 of the
26 California Code of Regulations.

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Abstract

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1 3. The restricted broker license issued to HIPPARD may be suspended prior
2 to hearing by Order of the Commissioner in the event of HIPPARD's conviction or plea of nolo
3 contendere to a crime which is substantially related to HIPPARD's fitness or capacity as a real
4 estate licensee.

5 4. The restricted broker license issued to HIPPARD may be suspended prior
6 to hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that
7 HIPPARD has violated provisions of the California Real Estate Law, the Subdivided Lands Law,
8 Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

9 5. HIPPARD shall not be eligible to apply for the issuance of an unrestricted
10 real estate broker license nor for removal of any of the conditions, limitations or restrictions of a
11 restricted license broker license until two (2) years have elapsed from the effective date of this
12 Decision and Order. HIPPARD shall not be eligible to apply for any unrestricted licenses until
13 all restrictions attaching to the license have been removed.

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

24 7. All licenses and licensing rights HIPPARD are indefinitely suspended
25 unless or until HIPPARD provides proof satisfactory to the Commissioner, of having taken and
26 successfully completed the continuing education course on trust fund accounting and handling
27 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of

1 satisfaction of these requirements includes evidence that HIPPARD has successfully completed
2 the trust fund account and handling continuing education courses, no earlier than 120 days prior
3 to the effective date of the Decision and Order in this matter. Proof of completion of the trust
4 fund accounting and handling course must be delivered to the Department of Real Estate, Flag
5 Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
6 Decision and Order.

7 CARITAS MANAGEMENT CORPORATION and RICHARD MALCOLM HIPPARD

8 8. Pursuant to Section 10148 of the Code, Respondents shall, jointly and
9 severally, pay the sum of \$8,574.60 for the Commissioner's cost of the audit which led to this
10 disciplinary action. Respondents shall pay such cost within sixty (60) days of receiving an
11 invoice therefore from the Commissioner. Payment of audit costs should not be made until
12 Respondents receives the invoice. If Respondents fail to satisfy this condition in a timely
13 manner as provided for herein, Respondents' real estate licenses shall automatically be
14 suspended until payment is made in full, or until a decision providing otherwise is adopted
15 following a hearing held pursuant to this condition.

16 9. Pursuant to Section 10148 of the Code, Respondents shall pay the
17 Commissioner's reasonable cost, not to exceed \$10,718.25 for an audit to determine if
18 Respondents have corrected the violations found in the "Determination of Issues". In calculating
19 the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated
20 average hourly salary for all persons performing audits of real estate brokers, and shall include
21 an allocation for travel time to and from the auditor's place of work. Respondents shall pay such
22 cost within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of
23 the audit costs should not be made until Respondents receives the invoice. If Respondents fail to
24 satisfy this condition in a timely manner as provided for herein, Respondents' real estate licenses
25 shall automatically be suspended until payment is made in full, or until a decision providing
26 otherwise is adopted following a hearing held pursuant to this condition.

27 10. All licenses and licensing rights of Respondents are indefinitely suspended

1 unless or until Respondents, jointly and severally, pay the sum of \$3,525.75 for the
2 Commissioner's reasonable cost of the investigation which led to this disciplinary action. Said
3 payment shall be in the form of a cashier's check made payable to the Department of Real Estate,
4 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
5 Stipulation.

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7 8/13/20

8 DATED

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MEGAN LEE OLSEN, Counsel
DEPARTMENT OF REAL ESTATE

10 * * *

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

19 Respondents and Respondents attorney further agree to send the original signed
20 Stipulation by mail to the following address no later than one (1) week from the date the
21 Stipulation is signed by Respondents and Respondents' attorney: *Department of Real Estate,*
22 *Legal Section, P.O. Box 137007, Sacramento, California 95813-7007.* Respondents and
23 Respondents' attorney understand and agree that if they fail to return the original signed
24 Stipulation by the due date, Complainant retains the right to set this matter for hearing.

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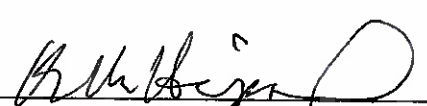
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7-29-20
DATED

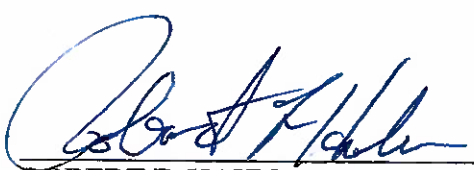

CARITAS MANAGEMENT
CORPORATION, Respondent
By: RICHARD MALCOLM HIPPARD
Designated Officer

7-29-20
DATED


RICHARD MALCOLM HIPPARD,
Respondent

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

7-29-20
DATED


ROBERT F. HAHN, 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

NOV 05 2020

IT IS SO ORDERED 10.1.20

DOUGLAS R. McCAULEY
Real Estate Commissioner

