

FILED
MAY 26 2008
DEPARTMENT OF REAL ESTATE

Rv K. Thiel

STATE OF CALIFORNIA

* * *

STIPULATION
AND
AGREEMENT

- 1 -

1 and disposing of the Accusation ("Accusation") filed on September
2 26, 2005, in this matter:

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

10 2. Respondent has received, read and understands the
11 Statement to Respondent, the Discovery Provisions of the APA and
12 the Accusation filed by the Department of Real Estate in this
13 proceeding.

14 3. Respondent timely filed a Notice of Defense
15 pursuant to Section 11506 of the Government Code for the purpose
16 of requesting a hearing on the allegations in the Accusation.
17 Respondent hereby freely and voluntarily withdraws said Notice of
18 Defense. Respondent acknowledges that he understands that by
19 withdrawing said Notice of Defense he thereby waives his right to
20 require the Commissioner to prove the allegations in the
21 Accusation at a contested hearing held in accordance with the
22 provisions of the APA and that he will waive other rights
23 afforded to him in connection with the hearing such as the right
24 to present evidence in his defense the right to cross-examine
25 witnesses.
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1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation. In the interest of
3 expedience and economy, Respondent chooses not to contest these
4 allegations, but to remain silent and understands that, as a
5 result thereof, these factual allegations, without being admitted
6 or denied, will serve as a prima facie basis for the disciplinary
7 action stipulated to herein. The Real Estate Commissioner shall
8 not be required to provide further evidence to prove said factual
9 allegations.

10 5. This Stipulation and Respondent's decision not to
11 contest the Accusation is made for the purpose of reaching an
12 agreed disposition of this proceeding and is expressly limited to
13 this proceeding and any other proceeding or case in which the
14 Department of Real Estate ("Department"), the state or federal
15 government, or any agency of this state, another state or federal
16 government is involved, and otherwise shall not be admissible in
17 any other criminal or civil proceeding.

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

3 7. The Order or any subsequent Order of the Real
4 Estate Commissioner made pursuant to this Stipulation shall not
5 constitute an estoppel, merger or bar to any further
6 administrative or civil proceedings by the Department of Real
7 Estate with respect to any matters which were not specifically
8 alleged to be causes for Accusation in this proceeding but do
9 constitute a bar, estoppel and merger as to any allegations
10 actually contained in the Accusations against Respondent herein.
11

12 8. Respondent understands that by agreeing to this
13 Stipulation, Respondent agrees to pay, pursuant to Business and
14 Professions Code Section 10148, the cost of audit which led to
15 this disciplinary action. The amount of said cost for the audit
16 is \$2,121.40 (Audit LA020202).

17 9. Respondent has received, read, and understands the
18 "Notice Concerning Costs of Subsequent Audit". Respondents
19 further understand that by agreeing to this Stipulation, the
20 findings set forth below in the Determination of Issues become
21 final, and the Commissioner may charge Respondents for the cost
22 of any subsequent audit conducted pursuant to Business and
23 Professions Code Section 10148 to determine if the violations
24 have been corrected. The maximum cost of the subsequent audit
25 will not exceed \$2,21.40.
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DETERMINATION OF ISSUES

By reason of the foregoing, it is stipulated and agreed that the following determination of issues shall be made:

I.

The conduct of ROGER DAVID PRO, as described in Paragraph 4, above, is in violation of Business and Professions Code Sections 10145 and 10148 and Section 2831 and 2831.1 of Title 10, Chapter 6 of the California Code of Regulations ("Regulations") and is a basis for the suspension or revocation of Respondent's license and license rights as violations of the Real Estate Law pursuant to Code Sections 10177(d).

ORDER

I.

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Respondent ROGER DAVID PRO is publicly reprovred.

II.

Pursuant to Section 10148 of the Business and Professions Code, Respondent ROGER DAVID PRO, shall pay the Commissioner's reasonable cost for (a) the audit which led to this disciplinary action (b) a subsequent audit to determine if Respondent is now in compliance with the Real Estate Law. The cost of the audit which led to this disciplinary action is \$2.121.40. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate

1 brokers, and shall include an allocation for travel time to and
2 from the auditor's place of work. Said amount for the prior and
3 subsequent audits shall not exceed \$4,242.80.

4 Respondent shall pay such cost within 60 days of
5 receiving an invoice from the Commissioner detailing the
6 activities performed during the audit and the amount of time
7 spent performing those activities.

8 The Commissioner may suspend the license of Respondent
9 pending a hearing held in accordance with Section 11500, et seq.,
10 of the Government Code, if payment is not timely made as provided
11 for herein, or as provided for in a subsequent agreement between
12 Respondent and the Commissioner. The suspension shall remain in
13 effect until payment is made in full or until Respondent enters
14 into an agreement satisfactory to the Commissioner to provide for
15 payment, or until a decision providing otherwise is adopted
16 following a hearing held pursuant to this condition.
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21 DATED: 3-14-06

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ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

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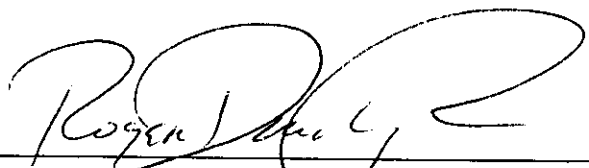
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EXECUTION OF THE STIPULATION

I have read the Stipulation. 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 (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 by faxing a copy of its signature page, as actually signed by Respondent, to the Department at the following telephone/fax number: Elliott Mac Lennan at (213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of Respondent's actual signature as it appears on the Stipulation, 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.

DATED: 3/22/06


ROGER DAVID PRO, Respondent

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to ROGER DAVID PRO and shall become
effective at 12 o'clock noon on JUN 15, 2006.

IT IS SO ORDERED S-18, 2006.

JEFF DAVI
Real Estate Commissioner

A handwritten signature, likely "Jeff Davi", is written over a horizontal line. The signature is in cursive and extends above and below the line.

1 MARTHA J. ROSETT, Counsel (SBN 142072)
2 Department of Real Estate
3 320 West Fourth St., #350
4 Los Angeles, CA 90013

5 (213) 576-6982
6 (213) 576-6907

FILED
SEP 26 2005
DEPARTMENT OF REAL ESTATE

By C.2

7
8
9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * * *

12 In the Matter of the Accusation of) No. H-32200 LA
13)
14 ROGER DAVID PRO, aka David Pro,) A C C U S A T I O N
15 dba ERA Worldwide Realtors &)
16 Associates, Home Monster.com)
17 Real Estate and Investments,)
18 Northland Financial Services,)
19 and Northland Mortgage Services,)
20)
21 Respondent.)
22)

23 The Complainant, Phil Ihde, a Deputy Real Estate
24 Commissioner, for cause of Accusation against ROGER DAVID PRO,
25 aka David Pro, dba ERA Worldwide Realtors & Associates, Home
26 Monster.com Real Estate and Investments, Northland Financial
27 Services, and Northland Mortgage Services, is informed and
alleges as follows:

1.

The Complainant, Phil Ihde, a Deputy Real Estate

1 Commissioner of the State of California, makes this Accusation in
2 his official capacity.

3
4 2.

5 Respondent ROGER DAVID PRO, aka David Pro, dba ERA
6 Worldwide Realtors & Associates, Home Monster.com Real Estate and
7 Investments, Northland Financial Services, and Northland Mortgage
8 Services (hereinafter "Respondent") is presently licensed and at
9 all times relevant herein was licensed under the Real Estate Law,
10 Part 1 of Division 4 of the California Business and Professions
11 Code (hereinafter "Code") as a real estate broker. Respondent
12 was first licensed by the Department in 1997 as a salesperson and
13 in 1998 as a broker.

14 3.

15 Respondent was at all times herein engaged in the
16 following businesses as defined by Code Sections 10131(a),
17 10131(b) and 10131(d) in that Respondent, for or in expectation
18 of compensation, acting on behalf of another or others:

19 (a) Solicited buyers and sellers of real property and
20 negotiated on behalf of buyers and sellers for the sale of real
21 property. In this regard, Respondent engaged in the escrow
22 business as defined by Financial Code Section
23 17006(a)(4) (Escrows).

24 (b) Solicited borrowers and lenders and negotiated the
25 terms of loans secured by real property (Mortgage Loans).

26 (c) Solicited landlords and tenants and collected
27 rents from tenants on behalf of landlords (Property Management).

1 4.

2 All further references to "Respondent" include the
3 employees, agents and real estate licensees employed by or
4 associated with Respondent, who at all times material herein were
5 engaged in the furtherance of the business or operations of
6 Respondent and who were acting within the course and scope of
7 their authority, agency or employment.

8 5.

9 Property Management

10 On November 26, 2002, the Department examined the books
11 and records of Respondent's property management business covering
12 the period of time between January 1, 2002 through October 28,
13 2002. The results of that examination are set forth in an Audit
14 Report dated December 30, 2002, No. LA 020202. That examination
15 revealed the following violations of the Code and California Code
16 of Regulations, Title 10, Chapter 6 (hereafter "Regulations"), as
17 set forth below, and as more specifically set forth in the Audit
18 Report and the Exhibits attached to said Audit.

19 (a) Respondent did not maintain the control record in
20 chronological sequence and it failed to contain a daily balance,
21 in willful violation of Code Section 10145 and Regulation 2831.

22 (b) Respondent collected rents for three property
23 owners. Respondent did not maintain separate records for each
24 property owner, in willful violation of Code Section 10145 and
25 Regulation 2831.1.
26
27

1 6.

2 Escrows

3 On August 21, 26, and September 12, 2002, the
4 Department attempted to examine the books and records of
5 Respondent's escrow activities covering the period of time
6 between June 1, 2000 through September 30, 2001. The results of
7 that attempted examination are set forth in an Audit Report dated
8 October 31, 2002, No. LA 010499/LA 020132. Respondent provided
9 limited and incomplete accounting records of his escrow business.
10 Because of the limited and incomplete accounting records, the
11 Department was unable to determine whether or not Respondent was
12 in compliance with the Code and Regulations.

13 7.

14 Subpoena Duces Tecum

15 (a) On November 26, 2002, Respondent was personally
16 served with a Subpoena Duces Tecum alleging sufficient cause to
17 require Respondent to produce (or make available for examination,
18 inspection or copying) the following material connected with a
19 transaction or transactions for which a real estate broker
20 license is required:

21 For Escrow Activities (June 1 2002 through November 22, 2002):

- 22 1. Bank Statements for Account #084511379, People's
23 Bank-AKA California National Bank;
24 2. Certified copy of Bank Signature Cards;
25 3. Escrow Log and Files;
26 4. Records of trust funds receipts, disbursements,
27 separate records including SMS report;

1 5. Cancelled checks and deposit tickets;

2 6. Records of bank reconciliation.

3 For Property Management Activity (January 1, 2002 to November 22,
4 2002:

5 1. Bank statements for all trust fund and general
6 accounts used in connection with property management;

7 2. Records of trust fund receipts, disbursements and
8 separate records;

9 3. Canceled checks and records of deposit tickets;

10 4. Invoices related to trust fund disbursements;

11 5. Bank certified signature card for the trust
12 account;

13 6. Property management/tenant agreements (rental or
14 lease agreements);

15 7. Monthly statements to property owners.

16 (b) The above Subpoena Duces Tecum required Respondent
17 to produce said records by no later than December 3, 2002.

18 Respondent failed to produce all of the above subpoenaed records
19 by December 3, 2002, or any time thereafter.

20 (c) Because of the limited and incomplete accounting
21 records, the Department was unable to determine whether or not
22 Respondent was in compliance with the Code and Regulations.

23 8.

24 The facts alleged above are grounds for the suspension
25 or revocation of Respondent's license under Code Sections

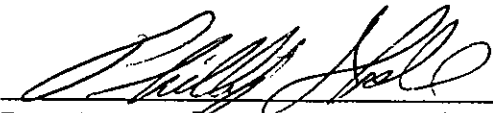
26 (a) 10177(d) for willful violations of the following
27 Code Sections and Regulations:

1 (i) Section 10145 and Regulation 2831.
2 (ii) Section 10145 and Regulation 2831.1.
3 (iii) Section 10148 for failure to provide all
4 requested documents.

5 (b) 10177(g) for negligence in transactions for which
6 a license is required.

7 WHEREFORE, Complainant prays that a hearing be
8 conducted on the allegations of this Accusation and that upon
9 proof thereof, a decision be rendered imposing disciplinary
10 action against all licenses and/or license rights of Respondent
11 ROGER DAVID PRO, aka David Pro, dba ERA Worldwide Realtors &
12 Associates, Home Monster.com Real Estate and Investments,
13 Northland Financial Services, and Northland Mortgage Services,
14 under the Real Estate Law and for such other and further relief
15 as may be proper under applicable provisions of law.

16 Dated at Los Angeles, California,
17 this 21st day of September, 2005.

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20 
21 Deputy Real Estate Commissioner
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23
24

25 cc: Roger David Pro
26 Sacto.
27 Maria Suarez
Isaiah Kim, L.A. Audits