

SACTO

FILED

1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105

OCT 14 2010

4 Telephone: (213) 576-6982

DEPARTMENT OF REAL ESTATE
BY: James B. Demus

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H-36563 LA
12)	L-2010041330
13 STATEWIDE PROPERTY SERVICES INC,)	<u>STIPULATION</u>
14 and DAVID RUSSELL DANIEL,)	<u>AND</u>
15 individually, and as designated)	<u>AGREEMENT</u>
16 officer of Statewide Property)	
Services Inc,)	
Respondents.)	

17 It is hereby stipulated by and between Respondents
18 STATEWIDE PROPERTY SERVICES INC and DAVID RUSSELL DANIEL,
19 represented by Frank M. Buda, Esq. and the Complainant, acting by
20 and through James A. Demus, Counsel for the Department of Real
21 Estate, as follows for the purpose of settling and disposing of
22 the Accusation ("Accusation") filed on March 27, 2010, in this
23 matter:

- 24
- 25 1. All issues which were to be contested and all
- 26 evidence which was to be presented by Complainant and Respondent
- 27 at a formal hearing on the Accusation, which hearing was to be

1 held in accordance with the provisions of the Administrative
2 Procedure Act ("APA"), shall instead and in place thereof be
3 submitted solely on the basis of the provisions of this
4 Stipulation and Agreement ("Stipulation").

5 2. Respondents have received, read and understand the
6 Statement to Respondent, the Discovery Provisions of the APA and
7 the Accusation filed by the Department of Real Estate in this
8 proceeding.

9 3. Respondents timely filed a Notice of Defense
10 pursuant to Section 11506 of the Government Code for the purpose
11 of requesting a hearing on the allegations in the Accusation.
12 Respondents hereby freely and voluntarily withdraw said Notice of
13 Defense. Respondents acknowledge that they understand that by
14 withdrawing said Notice of Defense they thereby waive their right
15 to require the Commissioner to prove the allegations in the
16 Accusation at a contested hearing held in accordance with the
17 provisions of the APA and that they will waive other rights
18 afforded to them in connection with the hearing such as the right
19 to present evidence in her defense of the allegations in the
20 Accusation and the right to cross-examine witnesses.

22 4. This Stipulation is based on the factual
23 allegations contained in the Accusation. In the interest of
24 expedience and economy, Respondents choose not to contest these
25 allegations, but to remain silent and understand that, as a
26 result thereof, these factual allegations, without being admitted
27

1 or denied, will serve as a prima facie basis for the disciplinary
2 action stipulated to herein. The Real Estate Commissioner shall
3 not be required to provide further evidence to prove said factual
4 allegations.

5 5. This Stipulation and Respondents decision not to
6 contest the Accusation are made for the purpose of reaching an
7 agreed disposition of this proceeding and are expressly limited
8 to this proceeding and any other proceeding or case in which the
9 Department of Real Estate ("Department"), or another licensing
10 agency of this state, another state or if the federal government
11 is involved and otherwise shall not be admissible in any other
12 criminal or civil proceedings.

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

24 7. The Order or any subsequent Order of the Real
25 Estate Commissioner made pursuant to this Stipulation shall not
26 constitute an estoppel, merger or bar to any further
27

1 administrative or civil proceedings by the Department of Real
2 Estate with respect to any matters which were not specifically
3 alleged to be causes for Accusation in this proceeding but do
4 constitute a bar, estoppel and merger as to any allegations
5 actually contained in the Accusations against Respondents herein.

6 DETERMINATION OF ISSUES

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

9 The conduct of STATEWIDE PROPERTY SERVICES INC and
10 DAVID RUSSELL DANIEL as described in Paragraph 4, hereinabove, is
11 a basis for discipline of Respondents' licenses and license
12 rights as violations of the Real Estate law pursuant to Business
13 and Professions Code ("Code") Section 10177(g).

14 ORDER

15 WHEREFORE, THE FOLLOWING ORDER is hereby made:

16 I.

17 All licenses and licensing rights of Respondent DAVID
18 RUSSELL DANIEL, under the Real Estate Law are suspended for a
19 period of thirty (30) days from the effective date of this
20 Decision; provided, however, that thirty (30) days of said
21 suspension, shall be stayed for one (1) year upon the followings
22 terms and condition:

23 1. Respondent shall obey all laws, rules and
24 regulations governing the rights, duties and responsibilities of
25 a real estate licensee in the State of California; and
26

1 2. That no final subsequent determination be made,
2 after hearing or upon stipulation, that cause for disciplinary
3 action occurred within one (1) year of the effective date of this
4 Decision. Should such a determination be made, the Commissioner
5 may, in his discretion, vacate and set aside the stay order and
6 reimpose all or a portion of the stayed suspension. Should no
7 such determination be made, the stay imposed herein shall become
8 permanent.

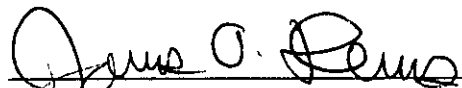
9 II.

10 Respondent DAVID RUSSELL DANIEL shall within six (6)
11 months from the effective date of this Decision, take and pass
12 the Professional Responsibility Examination administered by the
13 Department including the payment of the appropriate examination
14 fee. If Respondent DAVID RUSSELL DANIEL fails to satisfy this
15 condition, the Commissioner may order suspension of Respondent
16 DAVID RUSSELL DANIEL's license until Respondent passes the
17 examination.
18

19 III.

20 Respondent STATEWIDE PROPERTY SERVICES INC is publicly
21 reproved.

22
23 DATED: 8/18/10


JAMES A. DEMUS, Counsel for
the Department of Real Estate

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25 * * *

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EXECUTION OF THE STIPULATION

1 I have read the Stipulation and discussed it with my
2 counsel. Its terms are understood by me and are agreeable and
3 acceptable to me. I understand that I am waiving rights given to
4 me by the California Administrative Procedure Act (including but
5 not limited to Sections 11506, 11508, 11509 and 11513 of the
6 Government Code), and I willingly, intelligently and voluntarily
7 waive those rights, including the right of requiring the
8 Commissioner to prove the allegations in the Accusation at a
9 hearing at which I would have the right to cross-examine
10 witnesses against me and to present evidence in defense and
11 mitigation of the charges.
12

13 Respondents can signify acceptance and approval of the
14 terms and conditions of this Stipulation by faxing a copy of its
15 signature page, as actually signed by Respondents, to the
16 Department at the following telephone/fax number: James A. Demus
17 at (213) 576-6917. Respondents agree, acknowledge and understand
18 that by electronically sending to the Department a fax copy of
19 Respondents' actual signatures as they appear on the Stipulation,
20 that receipt of the faxed copy by the Department shall be as
21 binding on Respondents as if the Department had received the
22 original signed Stipulation.
23

24
25 DATED: _____

26 DAVID RUSSELL DANIEL, Respondent &
27 Designated Officer of STATEWIDE
PROPERTY SERVICES INC.

EXECUTION OF THE STIPULATION

1 I have read the Stipulation and discussed it with my
2 counsel. Its terms are understood by me and are agreeable and
3 acceptable to me. I understand that I am waiving rights given to
4 me by the California Administrative Procedure Act (including but
5 not limited to Sections 11506, 11508, 11509 and 11513 of the
6 Government Code), and I willingly, intelligently and voluntarily
7 waive those rights, including the right of requiring the
8 Commissioner to prove the allegations in the Accusation at a
9 hearing at which I would have the right to cross-examine
10 witnesses against me and to present evidence in defense and
11 mitigation of the charges.
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19 Respondents' actual signatures as they appear on the Stipulation,
20 that receipt of the faxed copy by the Department shall be as
21 binding on Respondents as if the Department had received the
22 original signed Stipulation.
23

DATED:

8/4/10

24 
25 DAVID RUSSELL DANIEL, Respondent &
26 Designated Officer of STATEWIDE
27 PROPERTY SERVICES INC.

1
2
3 DATED:

8-3-10

Frank M. Buda

FRANK M. BUDA
Attorney for Respondents

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5 * * *

6 The foregoing Stipulation and Agreement is hereby
7 adopted as my Decision as to Respondents STATEWIDE PROPERTY
8 SERVICES INC and DAVID RUSSELL DANIEL and shall become effective
9 at 12 o'clock noon on NOV - 3 2010, 2010.

10 IT IS SO ORDERED 9-8, 2010.

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12 JEFF DAVI
13 Real Estate Commissioner

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Jeff Davi

1 JAMES DEMUS, Counsel (SBN 225005)
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6982
6 (Direct) (213) 576-6910

FILED

MAR 27 2010

DEPARTMENT OF REAL ESTATE

By H. Contreras

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H- 36563 LA
13)
14 STATEWIDE PROPERTY SERVICES INC,) A C C U S A T I O N
15 and DAVID RUSSELL DANIEL,)
16 individually, and as designated)
17 officer of Statewide Property)
Services Inc,)
Respondents.)

18 The Complainant, Joseph Aiu, a Deputy Real Estate
19 Commissioner of the State of California, for cause of
20 Accusation against STATEWIDE PROPERTY SERVICES INC (hereafter
21 "Respondent STATEWIDE") and DAVID RUSSELL DANIEL (hereafter
22 "Respondent DANIEL") as designated officer of Respondent
23 STATEWIDE, is informed and alleges as follows:
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1.

The Complainant, Joseph Aiu, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

2.

Respondent STATEWIDE is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code"), as a real estate corporation acting by and through Respondent DANIEL as its designated broker-officer.

3.

Respondent DANIEL is presently licensed and/or has license rights under the Real Estate Law as a real estate broker.

4.

On or about November 14, 2007, the final judgment of the Superior Court of the State of California, County of Riverside, Case No. TES029799, was entered against Respondent STATEWIDE and Respondent DANIEL based on the grounds of fraud, misrepresentation, or deceit with reference to a transaction for which a real estate license is required.

5.

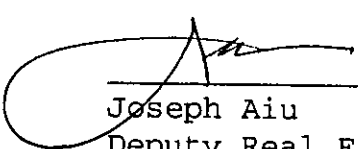
The facts set forth in Paragraph 4 constitute cause under Section 10177.5 of the Code for the suspension or

1 revocation of all licenses and license rights of Respondents
2 STATEWIDE PROPERTY SERVICES INC and DAVID RUSSELL DANIEL under
3 the Real Estate Law.

4 WHEREFORE, Complainant prays that a hearing be
5 conducted on the allegations of this Accusation and that upon
6 proof thereof, a decision be rendered imposing disciplinary
7 action against all licenses and/or license rights of Respondent
8 STATEWIDE PROPERTY SERVICES INC and of Respondent DAVID RUSSELL
9 DANIEL under the Real Estate Law and for such other and further
10 relief as may be proper under applicable provisions of law.
11

12 Dated at San Diego, California

13 this 3 day of March, 2010.
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17 
18 Joseph Aiu
19 Deputy Real Estate Commissioner
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24

25 cc: Statewide Property Services Inc.
26 David Russell Daniel
27 Joseph Aiu
Sacto.