

FILED

MAY - 8 2013

1 Department of Real Estate
2 320 W. 4TH Street, Suite 350
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

DEPARTMENT OF REAL ESTATE

BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-37226 LA

12 AFT MORTGAGE & REALTY INC.; and)
13 RAJAEI YACOUB ABU-ATA)

STIPULATION

14 individually and as designated)
15 officer of AFT Mortgage &)
16 Realty Inc.,)

AND

AGREEMENT

17 Respondents.)

18 It is hereby stipulated by and between Respondent
19 RAJAEI YACOUB ABU-ATA, ("Respondent"), acting on his own behalf,
20 and the Complainant, acting by and through Amelia V. Vetrone,
21 Counsel for the Department of Real Estate, as follows for the
22 purpose of settling and disposing of the Accusation filed on
23 April 26, 2011, in this matter:

24 1. All issues which were to be contested and all
25 evidence which was to be presented by Complainant and Respondent
26 at a formal hearing on the Accusation, which hearing was to be
27 held in accordance with the provisions of the Administrative

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

4 2. Respondent has received, read and understands the
5 Statement to Respondent, the Discovery Provisions of the APA and
6 the Accusation filed by the Department of Real Estate in this
7 proceeding.

8 3. Respondent filed a Notice of Defense pursuant to
9 Section 11506 of the Government Code for the purpose of
10 requesting a hearing on the allegations in the Accusation.
11 Respondent hereby freely and voluntarily withdraws said Notice of
12 Defense. Respondent acknowledges that he understands that by
13 withdrawing said Notice of Defense he thereby waives his right to
14 require the Commissioner to prove the allegations in the
15 Accusation at a contested hearing held in accordance with the
16 provisions of the APA and that he will waive other rights
17 afforded to him in connection with the hearing such as the right
18 to present evidence in his defense, and the right to cross-
19 examine witnesses.

20 4. This Stipulation is based on the factual
21 allegations contained in the Accusation. In the interest of
22 expedience and economy Respondent chooses not to contest these
23 allegations but to remain silent and understands that, as a
24 result thereof, these factual allegations, without being admitted
25 or denied, will serve as a prima facie basis for the disciplinary
26 action stipulated to herein. The Real Estate Commissioner shall
27 not be required to provide further evidence to prove said factual

1 allegations.

2 5. This Stipulation is made for the purpose of
3 reaching an agreed disposition of this proceeding and is
4 expressly limited to this proceeding and any other proceeding or
5 case in which the Department of Real Estate ("Department"), or
6 another licensing agency of this state, another state, or the
7 federal government is involved, and otherwise shall not be
8 admissible in any other criminal or civil proceeding.

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

19 7. The Order or any subsequent Order of the Real
20 Estate Commissioner made pursuant to this Stipulation shall not
21 constitute an estoppel, merger or bar to any further
22 administrative or civil proceedings by the Department of Real
23 Estate with respect to any matters which were not specifically
24 alleged to be causes for accusation in this proceeding.

25 8. Respondent understands that by agreeing to this
26 Stipulation, Respondent agrees to pay, pursuant to Business and
27 Professions Code Section 10148, the cost of the audit (LA

1 080323). The amount of said cost for the audits was \$5,538.50.

2 9. Respondent has received, read, and understands the
3 "Notice Concerning Costs of Subsequent Audit". Respondent
4 further understands that by agreeing to this Stipulation, the
5 findings set forth below in the Determination of Issues become
6 final, and the Commissioner may charge Respondent for the cost of
7 any subsequent audit conducted pursuant to Business and
8 Professions Code Section 10148 to determine if the violations to
9 the audit have been corrected. The maximum cost of the
10 subsequent audit will not exceed \$5,538.50.

11 DETERMINATION OF ISSUES

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

14 The conduct, acts or omissions of RAJAEI YACoub ABU-
15 ATA, as described in Paragraph 4, above, is in violation of
16 Sections 10145, 10148, 10159.2, 10177(d) and 10177(h) of the
17 Business and Professions Code ("Code") and Sections 2725, 2831,
18 and 2831.1, of Title 10, Chapter 6 of the California Code of
19 Regulations ("Regulations") and is a basis for discipline of
20 Respondent's license and license rights as a violation of the
21 Real Estate Law pursuant to Code Sections 10177(d), and 10177(h).

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1 to any repayment nor credit, prorated or otherwise, for money
2 paid to the Department under the terms of this Decision.

3 5. If Respondent RAJAEI YACOUB ABU-ATA pays the
4 monetary penalty and if no further cause for disciplinary action
5 against the real estate license of Respondent RAJAEI YACOUB ABU-
6 ATA occurs within two (2) years from the effective date of the
7 Decision, the stay hereby granted shall become permanent.

8 B. The remaining sixty (60) days of the ninety (90)
9 day suspension shall be stayed for two (2) years upon the
10 following terms and conditions:

11 1. Respondent RAJAEI YACOUB ABU-ATA shall obey all
12 laws, rules and regulations governing the rights, duties and
13 responsibilities of a real estate licensee in the State of
14 California; and

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

23 II.

24 Respondent shall submit proof satisfactory to the
25 Commissioner of having taken and successfully completed the
26 continuing education course on trust fund accounting and handling
27 specified in paragraph (3) of subdivision (a) of Section 10170.5

1 of the Business and Professions Code. Proof of satisfaction of
2 this requirement includes evidence that Respondent has
3 successfully completed the trust fund account and handling
4 continuing education course within 120 days prior to the
5 effective date of this Decision. If Respondent fails to satisfy
6 this condition, the Commissioner may, in his discretion, vacate
7 and set aside the stay order and reimpose all or a portion of the
8 stayed suspension until Respondent presents such evidence.

9 III.

10 Respondent shall, within nine (9) months from the
11 effective date of this Decision, present evidence satisfactory to
12 the Real Estate Commissioner that Respondent has, since the most
13 recent issuance of an original or renewal real estate license,
14 taken and successfully completed the continuing education
15 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
16 for renewal of a real estate license. If Respondent fails to
17 satisfy this condition, the Commissioner may, in his discretion,
18 vacate and set aside the stay order and reimpose all or a portion
19 of the stayed suspension until Respondent presents such evidence.
20 The Commissioner shall afford Respondent the opportunity for a
21 hearing pursuant to the Administrative Procedure Act to present
22 such evidence.

23 IV.

24 Respondent shall, within six (6) months after the
25 effective date of this Decision, take and pass the Professional
26 Responsibility Examination administered by the Department
27 including the payment of the appropriate examination fee. If

1 Respondent fails to satisfy this condition, the Commissioner may
2 order suspension of the license until respondent passes the
3 examination.

4 V.

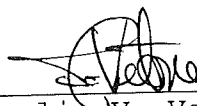
5 Pursuant to Section 10148 of the Business and
6 Professions Code, Respondent shall pay the Commissioner's
7 reasonable cost for (a) the audits which led to this disciplinary
8 action and (b) a subsequent audit to determine if Respondent is
9 now in compliance with the Real Estate Law. The cost of the
10 audit which led to this disciplinary action is \$5,538.50. In
11 calculating the amount of the Commissioner's reasonable cost, the
12 Commissioner may use the estimated average hourly salary for all
13 persons performing audits of real estate brokers, and shall
14 include an allocation for travel time to and from the auditor's
15 place of work. Said amount for the subsequent audits, shall not
16 exceed \$5,538.50.

17 Respondent shall pay such cost within 60 days of
18 receiving an invoice from the Commissioner detailing the
19 activities performed during the audit and the amount of time
20 spent performing those activities.

21 The Commissioner may suspend the license of Respondent
22 pending a hearing held in accordance with Section 11500, et seq.,
23 of the Government Code, if payment is not timely made as provided
24 for herein, or as provided for in a subsequent agreement between
25 the Respondents and the Commissioner. The suspension shall
26 remain in effect until payment is made in full or until a
27 Respondent enters into an agreement satisfactory to the

1 Commissioner to provide for payment, or until a decision
2 providing otherwise is adopted following a hearing held pursuant
3 to this condition.

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6 DATED: 4-8-13


Amelia V. Vetrone, Counsel for
the Department of Real Estate

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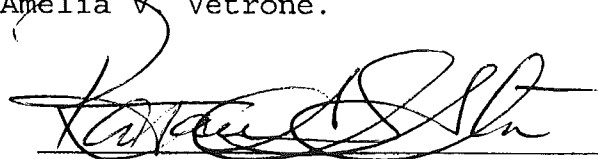
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10 EXECUTION OF THE STIPULATION

11 I have read the Stipulation and Agreement. Its terms
12 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
14 Administrative Procedure Act (including but not limited to
15 Sections 11506, 11508, 11509 and 11513 of the Government Code),
16 and I willingly, intelligently and voluntarily waive those
17 rights, including the right of requiring the Commissioner to
18 prove the allegations in the Accusation at a hearing at which I
19 would have the right to cross-examine witnesses against me and to
20 present evidence in defense and mitigation of the charges.

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1 Respondent shall (1) mail the original signed signature
2 page of the stipulation herein to Amelia V. Vetrone: Attention:
3 Legal Section, Department of Real Estate, 320 W. Fourth St.,
4 Suite 350, Los Angeles, California 90013-1105. Additionally,
5 Respondent shall also (2) facsimile a copy of the signed
6 signature page, to the Department at the following fax number:
7 (213) 576-6917, Attention: Amelia V. Vetrone.

8
9 DATED: 3/15/13


RAJAEI YACOUB ABU-ATA,
Respondent

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12 * * *

13 The foregoing Stipulation and Agreement is hereby
14 adopted as my Decision as to Respondent RAJAEI YACOUB ABU-ATA and
15 shall become effective at 12 o'clock noon on
16

17 _____
18 IT IS SO ORDERED _____.


19 Real Estate Commissioner
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2 page of the stipulation herein to Amelia V. Vetrone: Attention:
3 Legal Section, Department of Real Estate, 320 W. Fourth St.,
4 Suite 350, Los Angeles, California 90013-1105. Additionally,
5 Respondent shall also (2) facsimile a copy of the signed
6 signature page, to the Department at the following fax number:
7 (213) 576-6917, Attention: Amelia V. Vetrone.

8
9 DATED: _____

RAJAEI YACOUB ABU-ATA,
Respondent

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12 DATED: 3-26-13


Kurt D. Elkins
Counsel for Respondent
Approved as to Form

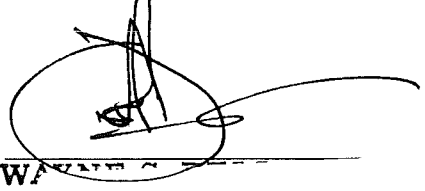
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16 * * *

17 The foregoing Stipulation and Agreement is hereby
18 adopted as my Decision as to Respondent RAJAEI YACOUB ABU-ATA and
19 shall become effective at 12 o'clock noon on
20 June 7, 2013

21 IT IS SO ORDERED

Apr. 23, 2013

22 Real Estate Commissioner

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By: Jeffrey Mason
Chief Deputy Commissioner