

FILED

Department of Real Estate 320 West Fourth Street, #350 Los Angeles, California 90013

AUG 15 2012

DEPARTMENT OF REAL ESTATE BY: Suosaly Nature

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of

HOME RETENTION AND FINANCIAL

PROGRAMS INC, dba J L Richman and Associates

MICHAEL JEFFREY SIMPSON, individually, and

Financial Programs Inc, LLOYDS INVESTMENT

individually, and as designated officer of Lloyds

Investment Inc and ERNESTO GALINATO

Respondents.

Co, WINSTON CHI, JONATHAN ARNO and

as designated officers of Home Retention and

INC, and HAMID REZA LAVASSANI,

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No. H-37434 LA L-2011090565

STIPULATION AND AGREEMENT

It is hereby stipulated by and between WINSTO

It is hereby stipulated by and between WINSTON CHI (sometimes referred to herein as "Respondent"), and his attorney of record, Edward O. Lear, and the Complainant, acting by and through James A. Demus, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on August 9, 2011 in this matter:

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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 of Real Estate in this proceeding.
- 3. On August 24, 2011, Respondent filed a Notice of Defense pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. In order to effectuate this settlement, Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent acknowledges that he understands that by withdrawing said Notice of Defense, he will thereby waive his right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that he will waive other rights afforded to him in connection with the hearing such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.
- 4. Respondent, pursuant to the limitations set forth below, although not admitting or denying the truth of the allegations, will not contest the factual allegations contained in the Accusation filed in this proceeding and the Real Estate Commissioner shall not be required to provide further evidence of such allegations.
- 5. It is understood by the parties that the Real Estate Commissioner may adopt the Stipulation and Agreement as his Decision in this matter, thereby imposing the penalty and sanctions on Respondent's real estate license and license rights as set forth in the below "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and Agreement, it shall be void and of no effect, and Respondent shall retain the

right to a hearing and proceeding on the Accusation under all the provisions of the APA and shall not be bound by any stipulation or waiver made herein.

- 6. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further administrative proceedings by the Department of Real Estate with respect to any matters which were not specifically alleged to be causes for accusation in this proceeding.
- 7. This Stipulation and Respondent's decision not to contest the Accusation are made for the purpose of reaching an agreed disposition of this proceeding, and are expressly limited to this proceeding and any other proceeding or case in which the Department of Real Estate ("Department"), or another licensing agency of this state, another state, or of the federal government is involved, and otherwise shall not be admissible in any other criminal or civil proceedings.
- 8. Respondent understands that by agreeing to this Stipulation, Respondent agrees to pay, within six (6) months of the effective date of this Decision, jointly and severally with JONATHAN ARNO and MICHAEL JEFFREY SIMPSON, the cost of the audit which led to this disciplinary action, pursuant to Business and Professions Code Section 10148. The amount of said cost is \$7,162.16.
- 9. Respondent has received, read, and understands the "Notice Concerning Costs of Subsequent Audit." Respondent further understands that by agreeing to this Stipulation, the findings set forth below in the Determination of Issues become final, and the Commissioner may charge Respondent for the cost of any subsequent audit of Respondent WINSTON CHI conducted pursuant to Business and Professions Code Section 10148 to determine compliance with Real Estate Law. The maximum cost of the subsequent audit will not exceed \$7,162.16.

DETERMINATION OF ISSUES

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

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The conduct, acts or omissions of Respondent WINSTON CHI, as set forth in the Accusation, are in violation of Business and Professions Code ("Code") Sections 10085, 10145, 10159.2 and 10137 and constitute cause to suspend or revoke the real estate license and licensing rights of Respondent WINSTON CHI under the provisions of Code Sections 10177(d) and 10177(g).

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent WINSTON CHI under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

- 1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.
- 2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
- 3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or

- 4. Pursuant to Section 10148 of the Business and Professions Code,
 WINSTON CHI, shall, within six (6) months from the effective date of this Decision, jointly and
 severally with JONATHAN ARNO and MICHAEL JEFFREY SIMPSON, pay the
 Commissioner's reasonable cost for the audit which led to this disciplinary action. The cost of
 said audit is \$7,162.16.
- cost for a subsequent audit to determine if Respondent WINSTON CHI is in compliance with Real Estate Law. 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 brokers, and shall include an allocation for travel costs, including mileage, time to and from the auditor's place of work and per diem. Respondent shall pay such costs within 60 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may, in his discretion, suspend the license of Respondent, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The suspension shall remain in effect until payment is made in full, or until Respondent enters into an agreement satisfactory to the Commissioner to provide for payment.
- 6. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

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JAMES A. DEMUS

Counsel for Complainant

* * *

I have read the Stipulation and discussed it with my counsel. 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: James A. Demus 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 rescript of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation.

DATED: 5/16/12

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DATED: 9//0//2

WINSTON CHI

Respondent

EDWARD O. LEAR

Attorney for Respondent

The foregoing Stipulation and Agreement is hereby adopted as my Decision in

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IT IS SO ORDERED Twe 6, 2012

this matter and shall become effective at 12 o'clock noon on SEP 0 4 2012

Real Estate Commissioner

By WAYNE STRELL