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Department of Real Estate
320 W. 4th St., Room 350
Los Angeles, California 90013

Telephone: (213) 576-6982

FILED

AUG 15 2012

DEPARTMENT OF REAL ESTATE
BY: *A. Medeiros*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-37579 LA
)	L-2011 121 042
)	
MICHAEL STEPHEN TIMOSCHUK,)	<u>STIPULATION AND AGREEMENT</u>
)	
)	
)	
)	
)	
)	
Respondent.)	
)	

It is hereby stipulated by and between MICHAEL STEPHEN TIMOSCHUK (sometimes referred to as Respondent), and the Complainant, acting by and through James R. Peel, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on October 7, 2011, in this matter.

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///

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

8 2. Respondent has received, read and understands the
9 Statement to Respondent, the Discovery Provisions of the
10 Administrative Procedure Act ("APA") and the Accusation filed by
11 the Department of Real Estate in this proceeding.

12 3. On October 28, 2011, Respondent filed a Notice of
13 Defense pursuant to Section 11506 of the Government Code for the
14 purpose of requesting a hearing on the allegations in the
15 Accusation. Respondent hereby freely and voluntarily withdraws
16 said Notice of Defense. Respondent acknowledges that he
17 understands that by withdrawing said Notice of Defense he will
18 thereby waive his rights to require the Commissioner to prove
19 the allegations in the Accusation at a contested hearing held in
20 accordance with the provisions of the APA and that he will waive
21 other rights afforded to him in connection with the hearing such
22 as the right to present evidence in defense of the allegations
23 in the Accusation and the right to cross-examine witnesses.

24 4. This Stipulation is based on the factual
25 allegations contained in the Accusation filed in this
26 proceeding. In the interest of expedience and economy,
27

1 Respondent chooses not to contest these factual allegations, but
2 to remain silent and understands that, as a result thereof,
3 these factual statements, will serve as a prima facie basis for
4 the disciplinary action stipulated to herein. The Real Estate
5 Commissioner shall not be required to provide further evidence
6 to prove such allegations.

7 5. This Stipulation is made for the purpose of
8 reaching an agreed disposition of this proceeding and is
9 expressly limited to this proceeding and any other proceeding or
10 case in which the Department of Real Estate ("Department"), the
11 state or federal government, or an agency of this state, another
12 state or the federal government is involved.

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

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 administrative or civil proceedings by the Department of Real

1 Estate with respect to any conduct which was not specifically
2 alleged to be causes for accusation in this proceeding.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations and waivers
5 and solely for the purpose of settlement of the pending
6 Accusation, it is stipulated and agreed that the following
7 determination of issues shall be made:

8 I

9 The conduct, acts and/or omissions of Respondent
10 MICHAEL STEPHEN TIMOSCHUK, as set forth in the Accusation,
11 constitutes cause for the suspension or revocation of all of the
12 real estate licenses and license rights of Respondent under the
13 provisions of Section 10177(g) of the Business and Professions
14 Code ("Code").

15 ORDER

16 All licenses and licensing rights of Respondent
17 MICHAEL STEPHEN TIMOSCHUK under the Real Estate Law are
18 suspended for a period of ninety (90) days from the effective
19 date of this Decision.

20
21 1. Provided, however, that ninety (90) days of said
22 suspension shall be stayed for one (1) year, upon the following
23 terms and conditions:

24 a. Respondent shall obey all laws, rules and
25 regulations governing the rights, duties and responsibilities of
26 a real estate licensee in the State of California; and
27

1 hearing at which I would have the right to cross-examine
2 witnesses against me and to present evidence in defense and
3 mitigation of the charges.

4 Respondent can signify acceptance and approval of the
5 terms and conditions of this Stipulation and Agreement by faxing
6 a copy of the signature page, as actually signed by Respondent,
7 to the Department at the following telephone/fax number:
8 (213) 576-6917. Respondent agrees, acknowledges and understands
9 that by electronically sending to the Department a fax copy of
10 his or her actual signature as it appears on the Stipulation and
11 Agreement, that receipt of the faxed copy by the Department
12 shall be as binding on Respondent as if the Department had
13 received the original signed Stipulation and Agreement.

14 Further, if the Respondent is represented, the
15 Respondent's counsel can signify his or her agreement to the
16 terms and conditions of the Stipulation and Agreement by
17 submitting that signature via fax.

18
19 DATED: _____

MICHAEL STEPHEN TIMOSCHUK
Respondent

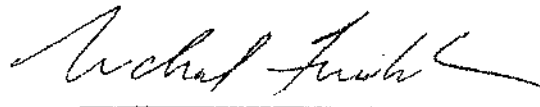
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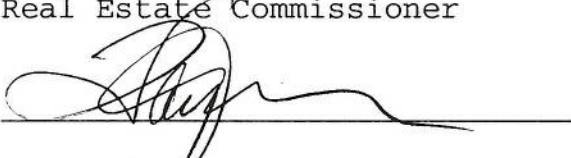
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19 DATED: 5/16/2012


MICHAEL STEPHEN TIMOSCHUK
Respondent

* * *

1 The foregoing Stipulation and Agreement is hereby
2 adopted as my Decision and Order in this matter, and shall
3 become effective at 12 o'clock noon on SEP - 4 2012
4 _____.

5 IT IS SO ORDERED May 29, 2012
6 _____.

7 Real Estate Commissioner
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9 _____
10 By WAYNE S. BELL
11 Chief Counsel

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