

1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6982

FILED

DEC - 4 2012

DEPARTMENT OF REAL ESTATE
BY: *K. Eberhart*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 BRITTINGHAM REAL ESTATE, INC.,)
13 and ROBERT BRITTINGHAM,)
14 individually and as a designated)
15 officer of Brittingham Real)
16 Estate Inc.,)
17 Respondents.)

No. H-37642 LA
L-2012050801

STIPULATION
AND
AGREEMENT

18 It is hereby stipulated by and between Respondents BRITTINGHAM REAL
19 ESTATE, INC. and ROBERT BRITTINGHAM, individually and as designated officer of
20 Brittingham Real Estate Inc., (collectively "Respondents"), represented by Charles Richmond,
21 Esq. and the Complainant, acting by and through Diane Lee, Counsel for the Department of Real
22 Estate, as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed
23 on November 3, 2011, in this matter:

24 1. All issues which were to be contested and all evidence which were to be
25 presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing
26 was to be held in accordance with the provisions of the Administrative Procedure Act ("APA"),
27 shall instead and in place thereof be submitted solely on the basis of the provisions of this

1 Stipulation and Agreement (“Stipulation”).

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

5 3. Respondents timely filed a Notice of Defense pursuant to California
6 Government Code Section 11506 for the purpose of requesting a hearing on the allegations in the
7 Accusation. Respondents hereby freely and voluntarily withdraw said Notice of Defense.
8 Respondents acknowledges that they understands that by withdrawing said Notice of Defense
9 they thereby waive their right to require the Commissioner to prove the allegations in the
10 Accusation at a contested hearing held in accordance with the provisions of the APA and that
11 they will waive other rights afforded to them in connection with the hearing such as the right to
12 present evidence in their defense and the right to cross-examine witnesses.

13 4. This Stipulation is based on the factual allegations contained in the Accusation.
14 In the interest of expedience and economy, Respondents choose not to contest these allegations,
15 but to remain silent and understand that, as a result thereof, these factual allegations, without
16 being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to
17 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove
18 said factual allegations.

19 5. This Stipulation is made for the purpose of reaching an agreed disposition of
20 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
21 which the Department of Real Estate, the state or federal government, or any agency of this state,
22 or another state or federal government is involved.

23 6. It is understood by the parties that the Real Estate Commissioner may adopt
24 this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on
25 Respondents’ real estate licenses and license rights as set forth in the “Order” herein below. In
26 the event that the Commissioner in his discretion does not adopt this Stipulation, it shall be void
27 and of no effect and Respondents shall retain the right to a hearing and proceeding on the

1 Accusation under the provisions of the APA and shall not be bound by this Stipulation and
2 Waiver herein.

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

9 8. Respondent ROBERT BRITTINGHAM understands that by agreeing to this
10 Stipulation and Waiver, Respondent ROBERT BRITTINGHAM agrees to pay, pursuant to
11 California Business and Professions Code Section 10106, the cost of the investigation and
12 enforcement. The amount of said cost is \$1,783.52.

13
14 DETERMINATION OF ISSUES

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

17 I.

18 The conduct, acts, or omissions of Respondents BRITTINGHAM REAL
19 ESTATE, INC. and ROBERT BRITTINGHAM, as described in Paragraph 4, herein above, are
20 in violation of California Business and Professions Code Sections 10085 and 10085.5 and Title
21 10, Chapter 6 of the California Code of Regulations, Section 2970, and are a basis for discipline
22 of Respondent's license and license rights as violation of the Real Estate Law pursuant to
23 California Business and Professions Code Section 10177(d).

24 II.

25 The conduct, acts or omissions of Respondent ROBERT BRITTINGHAM, as
26 described in Paragraph 4, herein above, are in violation of California Business and Professions
27 Code Section 10159.2, and are a basis for discipline of Respondent's license and license rights as

1 violations of the Real Estate Law pursuant to California Business and Professions Code Section
2 10177(h).

3
4 ORDER

5 WHEREFORE, THE FOLLOWING ORDER is hereby made:

6 I.

7 All licenses and licensing rights of Respondent BRITTINGHAM REAL
8 ESTATE, INC. under the Real Estate Law are revoked.

9 II.

10 All licenses and licensing rights of Respondent ROBERT BRITTINGHAM under
11 the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this
12 Decision:

13 A. Provided, however, that Respondent request, the initial thirty (30) days of said
14 suspension (or a portion thereof) shall be stayed upon condition that:

15 1. Respondent pays a monetary penalty pursuant to California Business and
16 Professions Code Section 10175.2 at the rate of \$60.00 per day for each day of the suspension for
17 a total monetary penalty of \$1,800.00.

18 2. Said payment shall be in the form of a cashier's check or certified check made
19 payable to the Recovery Account of the Real Estate Fund. Said check must be received by the
20 Department of Real Estate prior to the effective date of the Decision in this matter.

21 3. No further cause for disciplinary action against the real estate license of a
22 Respondent occurs within two (2) years from the effective date of the Decision in this matter.

23 4. If a Respondent fails to pay the monetary penalty in accordance with the terms
24 of the Decision, the Commissioner may, without a hearing, order the immediate execution of all
25 or any part of the stayed suspension, in which event the Respondent shall not be entitled to any
26 repayment nor credit, prorated or otherwise, for money paid to the Department of Real Estate
27 under the terms of this Decision.

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

4 B. The remaining thirty (30) days of the sixty (60) day suspension shall be stayed
5 for two (2) years upon the following terms and conditions:

6 1. Respondents shall obey all laws, rules, and regulations governing the rights,
7 duties, and responsibilities of a real estate licensee in the State of California; and

8 2. That no final subsequent determination be made after hearing or upon
9 stipulation, which cause for disciplinary action occurred within two (2) years from the effective
10 date of this Decision. Should such a determination be made, the Commissioner may, in his
11 discretion, vacate, and set aside the stay order and reimpose all or a portion of the stayed
12 suspension. Should no such determination be made, the stay imposed herein shall become
13 permanent.

14 3. Respondent ROBERT BRITTINGHAM shall, within six months from the
15 effective date of the Decision, take and pass the Professional Responsibility Examination
16 administered by the Department of Real Estate including the payment of the appropriate
17 examination fee. If Respondent fails to satisfy this condition, the Commissioner may order
18 suspension of Respondent's license until Respondent passes the examination. The
19 Commissioner shall afford Respondent the opportunity for a hearing pursuant to the
20 Administrative Procedure Act to present such evidence.

21 4. Respondent ROBERT BRITTINGHAM shall, within nine (9) months from the
22 effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner
23 that Respondent has, since the most recent issuance of an original or renewal real estate license,
24 taken and successfully completed the continuing education requirements of Article 2.5 of
25 Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to
26 satisfy this condition, the Commissioner may order the suspension of Respondent's license until
27

1 Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity
2 for a hearing pursuant to the Administrative Procedure Act to present such evidence.

3 5. During the two year period above, Respondent ROBERT BRITTINGHAM
4 shall not serve as the designated broker at any corporate real estate broker unless and until
5 Respondent is the sole owner of record of the controlling shares of the corporation.

6 III.

7 Pursuant to California Business and Professions Code Section 10106, Respondent
8 ROBERT BRITTINGHAM shall pay the Commissioner's reasonable cost for investigation and
9 enforcement of the matter. The investigation and enforcement cost which led to this disciplinary
10 action is \$1,783.52. Said payment shall be made within sixty (60) days after the effective date of
11 this Decision.

12 The Commissioner may suspend the licenses of Respondents pending a hearing
13 held in accordance with California Government Code Section 11500, et seq., if payment is not
14 timely made as provided for herein, or as provided for in a subsequent agreement between the
15 Respondents and the Commissioner. The suspension shall remain in effect until payment is
16 made in full or until Respondents enter into an agreement satisfactory to the Commissioner to
17 provide for payment, or until a decision providing otherwise is adopted following a hearing held
18 pursuant to this condition.

19 IV.

20 Respondent ROBERT BRITTINGHAM shall, within six (6) months from the
21 effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner
22 that:

23 (A) With respect to the Homeowners in the Table ("Homeowners") below:

24 (1) Full restitution of fees paid for the loan modification and loss mitigation
25 services have been made;

26 (2) Unless determined by the Real Estate Commissioner to be satisfied or not
27 applicable; and

1 (3) If Respondent ROBERT BRITTINGHAM fails to satisfy either condition (1)
2 or (2), the Commissioner may order the suspension of Respondent ROBERT BRITTINGHAM's
3 license and license rights until Respondent ROBERT BRITTINGHAM present such evidence.
4 The Commissioner shall afford Respondent ROBERT BRITTINGHAM the opportunity for a
5 hearing pursuant to the Administrative Procedure Act to present such evidence.

6 (B) To the extent that restitution repayment is applicable:

7 (1) Respondent ROBERT BRITTINGHAM shall deliver or mail the restitution
8 payments, by certified mail, return receipt requested, to the Homeowners' last address on file
9 with or known to Respondents.

10 (2) If any of the payments are returned by the Post Office marked "unable to
11 deliver," Respondent ROBERT BRITTINGHAM shall employ a locator service (that may
12 include or be limited to the Internet or other database retrieval search) to try and locate the
13 aforesaid borrowers. Repayments shall then be made to the addresses recommended by the
14 locator service.

15 (3) If unable to effect repayment after using a locator service, Respondent
16 ROBERT BRITTINGHAM shall provide reasonable proof satisfactory to the Commissioner of
17 their efforts to comply with the provisions of this Paragraph.

18 (4) If the Commissioner determines that proof to be unsatisfactory, the
19 Commissioner shall so advise Respondent ROBERT BRITTINGHAM, and indicate what
20 additional reasonable efforts should be made to make repayment to the Homeowners.

21 (5) If Respondent ROBERT BRITTINGHAM fails to satisfy this condition, the
22 Commissioner may order suspension of Respondent ROBERT BRITTINGHAM's license and
23 license rights until Respondent ROBERT BRITTINGHAM effects compliance herein and/or
24 order that undeliverable or undelivered restitution payments escheat to the State of California.

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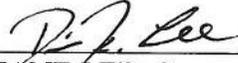
Table: Restitution

Homeowners – Complainants	Service	Advance Fee
Sean Sims	Modification	\$2,995.00
Deborra Bender	Modification	\$1,995.00

V.

All proof required by this Decision shall be submitted to the Department at
Department of Real Estate, Attention: Legal Section – Counsel Diane Lee, 320 West Fourth
Street, Suite 350, Los Angeles, California 90013-1105.

DATED: 10/03/2012



DIANE LEE, Counsel for
Department of Real Estate

* * *

EXECUTION OF THE STIPULATION

We have read the Stipulation and Agreement and discussed it with our attorney. Its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to California Government Code Sections 11506, 11508, 11509, and 11513), and we willingly, intelligently, and voluntarily waive those rights, including but not limited to the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which we would have the right to cross-examine witnesses against us and to present evidence in defense and mitigation of the charges.

MAILING AND FACSIMILE

Respondents (1) shall mail the original signed signature page of the Stipulation herein to Department of Real Estate, Attention: Legal Section – Diane Lee, 320 West Fourth Street, Suite 350, Los Angeles, California 90013-1105. Respondents shall also (2) facsimile a copy of signed signature page, to the Department at the following telephone/fax number: (213)

1 576-6917, Attention: Diane Lee.

2 A facsimile constitutes acceptance and approval of the terms and conditions of
3 this stipulation. Respondents agree, acknowledge, and understand that by electronically sending
4 to the Department a facsimile copy of Respondents' actual signatures as they appear on the
5 Stipulation that receipt of the facsimile copy by the Department shall be as binding on
6 Respondents as if the Department had received the original signed stipulation.

7
8 DATED: _____

BRITTINGHAM REAL ESTATE, INC.,
Respondent
By: ROBERT BRITTINGHAM, as designated
officer

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12 DATED: _____

ROBERT BRITTINGHAM, Respondent,
Individually and as designated officer of
Brittingham Real Estate, Inc.

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16 DATED: _____

CHARLES RICHMOND, ESQ.
Attorney for Respondents

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3 this stipulation. Respondents agree, acknowledge, and understand that by electronically sending
4 to the Department a facsimile copy of Respondents' actual signatures as they appear on the
5 Stipulation that receipt of the facsimile copy by the Department shall be as binding on
6 Respondents as if the Department had received the original signed stipulation.

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8 DATED: 10-1-12

Robert Brittingham
BRITTINGHAM REAL ESTATE, INC.,
Respondent
By: ROBERT BRITTINGHAM, as designated
officer

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12 DATED: 10-1-12

Robert Brittingham
ROBERT BRITTINGHAM, Respondent,
Individually and as designated officer of
Brittingham Real Estate, Inc.

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16 DATED: 10/5/12

Charles Richmond
CHARLES RICHMOND, ESQ.
Attorney for Respondents

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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents BRITTINGHAM REAL ESTATE, INC. and ROBERT BRITTINGHAM, and shall become effective at 12 o'clock noon on DEC 24, 2012.

IT IS SO ORDERED Oct. 22, 2012.

Real Estate Commissioner



By WAYNE S. BELL
Chief Counsel