

1 Bureau of Real Estate
2 320 W. 4th St., Room 350
3 Los Angeles, California 90013

4 Telephone: (213) 576-6982

FILED

FEB 10 2014

BUREAU OF REAL ESTATE

By *J. L. Lano*

7
8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-37720 LA
12) L-2012 021 198
12 LOMA LINDA PROPERTIES, INC.;)
13 and MARY KATHRYN SHAW-MC MINN) STIPULATION AND AGREEMENT
13 individually and as)
14 designated officer of)
14 Loma Linda Properties, Inc.,)
15)
15)
16)
16 Respondents.)
17)

18 It is hereby stipulated by and between LOMA LINDA
19 PROPERTIES, INC. and MARY KATHRYN SHAW-MC MINN (sometimes
20 referred to as Respondents), and their attorney, Frank M. Buda,
21 and the Complainant, acting by and through James R. Peel,
22 Counsel for the Bureau of Real Estate, as follows for the
23 purpose of settling and disposing of the Accusation filed on
24 December 8, 2011, in this matter.
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1 1. All issues which were contested and all evidence
2 which was presented by Complainant and Respondents at a formal
3 hearing on the Accusation, which hearing is to be held in
4 accordance with the provisions of the Administrative Procedure
5 Act ("APA"), shall instead and in place thereof be submitted
6 solely on the basis of the provisions of this Stipulation and
7 Agreement ("Stipulation").

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

12 3. On December 21, 2011, Respondents filed a Notice
13 of Defense pursuant to Section 11506 of the Government Code for
14 the purpose of requesting a hearing on the allegations in the
15 Accusation. Respondents hereby freely and voluntarily withdraw
16 said Notice of Defense. Respondents acknowledge that they
17 understand that by withdrawing said Notice of Defense they will
18 thereby waive their right 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 they will
21 waive other rights afforded to them in connection with the
22 hearing such as the right to present evidence in defense of the
23 allegations in the Accusation and the right to cross-examine
24 witnesses.
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1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation filed in this
3 proceeding. In the interest of expedience and economy,
4 Respondents choose not to contest these factual allegations, but
5 to remain silent and understand that, as a result thereof, these
6 factual statements, will serve as a prima facie basis for the
7 disciplinary action stipulated to herein. The Real Estate
8 Commissioner shall not be required to provide further evidence
9 to prove such allegations.

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

16 6. It is understood by the parties that the Real
17 Estate Commissioner may adopt the Stipulation as his decision
18 in this matter thereby imposing the penalty and sanctions on
19 Respondents' real estate licenses and license rights as set
20 forth in the below "Order". In the event that the Commissioner
21 in his discretion does not adopt the Stipulation, the
22 Stipulation shall be void and of no effect, and Respondents
23 shall retain the right to a hearing and proceeding on the
24 Accusation under all the provisions of the APA and shall not be
25 bound by any stipulation or waiver made herein.
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1 7. The Order or any subsequent Order of the Real
2 Estate Commissioner made pursuant to this Stipulation shall not
3 constitute an estoppel,, merger or bar to any further
4 administrative or civil proceedings by the Bureau of Real Estate
5 with respect to any conduct which was not specifically alleged
6 to be causes for accusation in this proceeding.

7 DETERMINATION OF ISSUES

8 By reason of the foregoing stipulations and waivers
9 and solely for the purpose of settlement of the pending
10 Accusation, it is stipulated and agreed that the following
11 determination of issues shall be made:

12 I

13 The conduct, acts and/or omissions of Respondents
14 LOMA LINDA PROPERTIES, INC. and MARY KATHRYN SHAW-MC MINN, as
15 set forth in the Accusation, constitute cause for the suspension
16 or revocation of all of the real estate licenses and license
17 rights of Respondents under the provisions of Sections 10177(d)
18 and 10177(g) of the Business and Professions Code ("Code") for
19 violation of Code Section 10145.

20 ORDER

21 All licenses and licensing rights of Respondents LOMA
22 LINDA PROPERTIES, INC. and MARY KATHRYN SHAW-MC MINN under the
23 Real Estate Law are suspended for a period of sixty (60) days
24 from the effective date of this Decision; provided, however,
25 that thirty (30) days of said suspension shall be stayed for two
26 (2) years upon the following terms and conditions:
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1 1. Respondents shall obey all laws, rules and
2 regulations governing the rights, duties and responsibilities of
3 a real estate licensee in the State of California; and

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

12 3. Provided, however, that if Respondents petition,
13 the remaining thirty (30) days of said sixty (60) day suspension
14 shall be stayed upon condition that:

15 a. Respondent pays a monetary penalty pursuant to
16 Section 10175.2 of the Business and Professions Code at the rate
17 of \$50 for each day of the suspension for a total monetary
18 penalty of \$1,500 or \$3,000 for both Respondents.

19 b. Said payment shall be in the form of a cashier's
20 check or certified check made payable to the Bureau of Real
21 Estate. Said check must be received by the Bureau prior to the
22 effective date of the Decision in this matter.

23 c. No further cause for disciplinary action against
24 the real estate licenses of Respondent occurs within two (2)
25 years from the effective date of the Decision in this matter.
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1 d. If Respondent fails to pay the monetary penalty in
2 accordance with the terms and conditions of the Decision, the
3 Commissioner may, without a hearing, order the immediate
4 execution of all or any part of the stayed suspension in which
5 event the Respondent shall not be entitled to any repayment nor
6 credit, prorated or otherwise, for the money paid to the Bureau
7 under the terms of this Decision.

8 e. If Respondent pays the monetary penalty and if no
9 further cause for disciplinary against the real estate license
10 of Respondent occurs within two (2) years from the effective
11 date of the Decision, the stay hereby granted shall become
12 permanent.

13 4. Respondent MC MINN shall, within six months from
14 the effective date of this Decision, take and pass the
15 Professional Responsibility Examination administered by the
16 Bureau including the payment of the appropriate examination fee.
17 If Respondent fails to satisfy this condition, the Commissioner
18 may order suspension of Respondent's license until Respondent
19 passes the examination.
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21 5. All licenses and licensing rights of Respondent MC
22 MINN are indefinitely suspended unless or until Respondent
23 provides proof satisfactory to the Commissioner, of having taken
24 and successfully completed the continuing education course on
25 trust fund accounting and handling specified in paragraph (3) of
26 subdivision (a) of Section 10170.5 of the Business and
27 Professions Code. Proof of satisfaction of this requirement

1 includes that Respondent has successfully completed the trust
2 fund account and handling continuing education course within 120
3 days prior to the effective date of the Decision in this matter.

4 6. Pursuant to Section 10148 of the Business and
5 Professions Code, Respondents LOMA LINDA PROPERTIES, INC. and MC
6 MINN shall pay the Commissioner's reasonable cost for: a) the
7 audit which led to this disciplinary action in the amount of
8 \$6,821 and b) a subsequent audit to determine if Respondent has
9 corrected the trust fund violations found in paragraphs 1 of the
10 Determination of Issues. In calculating the amount of the
11 Commissioner's reasonable cost, the Commissioner may use the
12 estimated average hourly salary for all persons performing
13 audits of real estate brokers, and shall include an allocation
14 for travel costs, including mileage, time to and from the
15 auditor's place of work and per diem. Respondent shall pay such
16 cost within 60 days of receiving an invoice from the
17 Commissioner detailing the activities performed during the audit
18 and the amount of time spent performing those activities. The
19 Commissioner may, in his discretion, vacate and set aside the
20 stay order if payment is not timely made as provided for herein,
21 or as provided for in a subsequent agreement between the
22 Respondent and the Commissioner. The vacation and the set aside
23 of the stay shall remain in effect until payment is made in
24 full, or until Respondent enters into an agreement satisfactory
25 to the Commissioner to provide for payment. Should no order
26 vacating the stay be issued, either in accordance with this
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1 condition or condition "2" above, the stay imposed herein shall
2 become permanent.

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4 DATED:

January 3, 2014

James R. Peel
JAMES R. PEEL, Counsel for the
Bureau of Real Estate

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6 * * *

7 We have read the Stipulation and Agreement, discussed
8 it with counsel, and its terms are understood by us and are
9 agreeable and acceptable to us. We understand that we are
10 waiving rights given to us by the California Administrative
11 Procedure Act (including but not limited to Sections 11506,
12 11508, 11509 and 11513 of the Government Code), and we
13 willingly, intelligently and voluntarily waive those rights,
14 including the right of requiring the Commissioner to prove the
15 allegations in the Accusation at a hearing at which we would
16 have the right to cross-examine witnesses against us and to
17 present evidence in defense and mitigation of the charges.

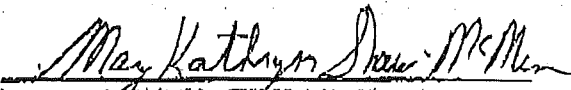
18 Respondent can signify acceptance and approval of the
19 terms and conditions of this Stipulation and Agreement by faxing
20 a copy of the signature page, as actually signed by Respondent,
21 to the Bureau at the following telephone/fax number:
22 (213) 576-6917. Respondent agrees, acknowledges and understands
23 that by electronically sending to the Bureau a fax copy of his
24 or her actual signature as it appears on the Stipulation and
25 Agreement, that receipt of the faxed copy by the Bureau shall be
26 as binding on Respondents as if the Bureau had received the
27 original signed Stipulation and Agreement.

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

DATED: 12-31-13


LOMA LINDA PROPERTIES, INC.
Respondent

DATED: 12-31-13


MARY KATHRYN SHAW-MC MINN
Respondent

DATED: 1-2-14


Frank M. Buda
Respondents' Counsel
Approved as to Form
and Content
* * *

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

IT IS SO ORDERED _____.

Real Estate Commissioner

WAYNE S. BELL

1 Further, if the Respondent is represented, the
2 Respondent's counsel can signify his or her agreement to the
3 terms and conditions of the Stipulation and Agreement by
4 submitting that signature via fax.

5
6 DATED: _____

LOMA LINDA PROPERTIES, INC.
Respondent

8
9 DATED: _____

MARY KATHRYN SHAW-MC MINN
Respondent

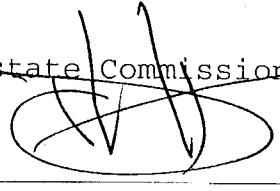
11 DATED: _____

12 Frank M. Buda
13 Respondents' Counsel
14 Approved as to Form
and Content
* * *

15 The foregoing Stipulation and Agreement is hereby
16 adopted as my Decision and Order in this matter, and shall
17 become effective at 12 o'clock noon on MAR 03 2014

18 IT IS SO ORDERED FEB 04 2014

19
20 Real Estate Commissioner

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22 
23 By: JEFFREY MASON
24 Chief Deputy Commissioner
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