

FILED

1 Department of Real Estate
320 West 4th Street, Suite 350
2 Los Angeles, California 90013-1105

FEB 13 2013

DEPARTMENT OF REAL ESTATE

BY: Jana B. Khan

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

11
12 In the Matter of the Accusation of)

DRE No: H-37914 LA
OAH No: 2012031325

13 ALLIANCE PROPERTY AND ASSET)
14 MANAGEMENT INC and JEROME A.)
15 CYGAN, individually, and as)
16 designated officer of Alliance)
17 Property and Asset Management Inc)
18 and JOSEPH SAMUEL PUGLISE,)
19 individually, and as former)
20 designated officer of Alliance)
21 Property and Asset Management Inc,)

STIPULATION AND
AGREEMENT

22 Respondents.)

23 It is hereby stipulated by and between Respondents
24 ALLIANCE PROPERTY AND ASSET MANAGEMENT INC and JEROME A. CYGAN,
25 represented by Frank M. Buda, Esq., and the Complainant, acting
26 by and through James A. Demus, Counsel for the Department of Real
27 Estate, as follows for the purpose of settling and disposing of
the Accusation filed on February 24, 2012, in this matter:

///
///

1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and Respondents
3 at a formal hearing on the Accusation, which hearing was 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. Respondents have received, read and understand the
9 Statement to Respondent, the Discovery Provisions of the APA and
10 the Accusation filed by the Department of Real Estate in this
11 proceeding.

12 3. Respondents timely filed a Notice of Defense
13 pursuant to Section 11506 of the Government Code for the purpose
14 of requesting a hearing on the allegations in the Accusation.
15 Respondents hereby freely and voluntarily withdraw said Notice of
16 Defense. Respondents acknowledge that they understand that by
17 withdrawing said Notice of Defense they thereby waive the right
18 to require the Commissioner to prove the allegations in the
19 Accusation at a contested hearing held in accordance with the
20 provisions of the APA and that they will waive other rights
21 afforded to them in connection with the hearing such as the right
22 to present evidence in their defense of the allegations in the
23 Accusation and the right to cross-examine witnesses.

24 4. This Stipulation is based on the factual
25 allegations contained in the Accusation. In the interest of
26 expedience and economy, Respondents choose not to contest these
27

1 allegations, but to remain silent and understand that, as a
2 result thereof, these factual allegations, without being admitted
3 or denied, will serve as a prima facie basis for the disciplinary
4 action stipulated to herein. The Real Estate Commissioner shall
5 not be required to provide further evidence to prove said factual
6 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 any agency of this state, another
12 state or federal government is a party.

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

23 7. The Order or any subsequent Order of the Real
24 Estate Commissioner made pursuant to this Stipulation shall not
25 constitute an estoppel, merger or bar to any further
26 administrative or civil proceedings by the Department of Real
27

1 Estate with respect to any matters which were not specifically
2 alleged to be causes for Accusation in this proceeding but do
3 constitute a bar, estoppel and merger as to any allegations
4 actually contained in the Accusation against Respondents herein.

5 8. Respondents understand that by agreeing to this
6 Stipulation, Respondents agree to pay, pursuant to Business and
7 Professions Code Section 10148, the cost of the audits which led
8 to this disciplinary action. The amount of said cost is
9 \$6,675.40.

10 9. Respondents have received, read, and understand the
11 "Notice Concerning Costs of Subsequent Audit." Respondents
12 further understand that by agreeing to this Stipulation, the
13 findings set forth below in the Determination of Issues become
14 final, and the Commissioner may charge Respondents for the cost
15 of any subsequent audit conducted pursuant to Business and
16 Professions Code Section 10148 to determine if the violations
17 have been corrected. The maximum cost of the subsequent audit
18 will not exceed \$6,675.40

19 DETERMINATION OF ISSUES

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

22 I.

23 The conduct of ALLIANCE PROPERTY AND ASSET MANAGEMENT
24 INC as described in Paragraph 4, hereinabove, is in violation of
25 Business and Professions Code Section 10145 and provides a basis
26 for discipline of its license and license rights pursuant to
27

1 Business and Professions Code Section 10177(d).

2 II.

3 The conduct of JEROME A. CYGAN, as described in
4 Paragraph 4, hereinabove, is in violation of Business and
5 Professions Code Section 10145 and provides a basis for
6 discipline of his license and license rights pursuant to Business
7 and Professions Code Section 10177(d).

8 ORDER

9 WHEREFORE, THE FOLLOWING ORDER is hereby made:

10 I.

11 A.

12 All licenses and licensing rights of Respondent
13 ALLIANCE PROPERTY AND ASSET MANAGEMENT INC under the Real Estate
14 Law are suspended for a period of one hundred twenty (120) days
15 from the effective date of this Decision; provided, however, that
16 sixty (60) days of said suspension, shall be stayed for two (2)
17 years upon the following terms and conditions:

18 1. Respondent shall obey all laws, rules and
19 regulations governing the rights, duties and responsibilities of
20 a real estate licensee in the State of California; and

21 2. That no final subsequent determination be made,
22 after hearing or upon stipulation that cause for disciplinary
23 action occurred within two (2) years of the effective date of
24 this Decision. Should such a determination be made, the
25 Commissioner may, in his discretion, vacate and set aside the
26 stay order and reimpose all or a portion of the stayed
27

1 suspension. Should no such determination be made, the stay
2 imposed herein shall become permanent.

3 B.

4 If Respondent ALLIANCE PROPERTY AND ASSET MANAGEMENT
5 INC petitions, an additional 60 days shall be stayed upon
6 condition that:

7 1. Respondent pays a monetary penalty pursuant to
8 Section 10175.2 of the Code at the rate of \$75 for each day of
9 the suspension for a total monetary penalty of \$4,500.

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

15 3. No further cause for disciplinary action against
16 the real estate license of Respondent occurs within two years
17 from the effective date of the Decision in this matter.

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

25 5. If Respondent pays the monetary penalty and if no
26 further cause for disciplinary action against the real estate
27

1 license of Respondent occurs within two years from the effective
2 date of the Decision, the stay hereby granted shall become
3 permanent.

4 C.

5 Pursuant to Section 10148 of the Business and
6 Professions Code, Respondent shall pay the Commissioner's
7 reasonable cost for: a) the audit which led to this disciplinary
8 action and b) a subsequent audit to determine if Respondent has
9 corrected the trust fund violations found in the Determination
10 of Issues. In calculating the amount of the Commissioner's
11 reasonable cost, the Commissioner may use the estimated average
12 hourly salary for all persons performing audits of real estate
13 brokers, and shall include an allocation for travel costs,
14 including mileage, time to and from the auditor's place of work
15 and per diem. Respondent shall pay such costs within 60 days of
16 receiving an invoice from the Commissioner detailing the
17 activities performed during the audit and the amount of time
18 spent performing those activities. The Commissioner may, in his
19 discretion, vacate and set aside the stay order, if payment is
20 not timely made as provided for herein, or as provided for in a
21 subsequent agreement between the Respondent and the
22 Commissioner. The vacation and the set aside of the stay shall
23 remain in effect until payment is made in full, or until
24 Respondent enters into an agreement satisfactory to the
25 Commissioner to provide for payment.

26 ///

27

1 II.

2 A.

3 All licenses and licensing rights of Respondent JEROME

4 A. CYGAN under the Real Estate Law are suspended for a period of
5 one hundred twenty (120) days from the effective date of this
6 Decision; provided, however, that sixty (60) days of said
7 suspension, shall be stayed for two (2) years upon the following
8 terms and conditions:

9 1. Respondent shall obey all laws, rules and
10 regulations governing the rights, duties and responsibilities of
11 a real estate licensee in the State of California; and

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

20 B.

21 If Respondent JEROME A. CYGAN petitions, an additional
22 60 days shall be stayed upon condition that:

23 1. Respondent pays a monetary penalty pursuant to
24 Section 10175.2 of the Code at the rate of \$75 for each day of
25 the suspension for a total monetary penalty of \$4,500.
26

27

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

6 3. No further cause for disciplinary action against the
7 real estate license of Respondent occurs within two years from
8 the effective date of the Decision in this matter.

9 3. If Respondent fails to pay the monetary penalty in
10 accordance with the terms and conditions of the Decision, the
11 Commissioner may, without a hearing, order the immediate
12 execution of all or any part of the stayed suspension in which
13 event the Respondent shall not be entitled to any repayment nor
14 credit, prorated or otherwise, for money paid to the Department
15 under the terms of this Decision.

16 4. If Respondent pays the monetary penalty and if no
17 further cause for disciplinary action against the real estate
18 license of Respondent occurs within two years from the effective
19 date of the Decision, the stay hereby granted shall become
20 permanent.

21 C.

22 Pursuant to Section 10148 of the Business and
23 Professions Code, Respondent shall pay the Commissioner's
24 reasonable cost for: a) the audit which led to this disciplinary
25 action and b) a subsequent audit to determine if Respondent has
26 corrected the trust fund violations found in the Determination
27

1 of Issues. In calculating the amount of the Commissioner's
2 reasonable cost, the Commissioner may use the estimated average
3 hourly salary for all persons performing audits of real estate
4 brokers, and shall include an allocation for travel costs,
5 including mileage, time to and from the auditor's place of work
6 and per diem. Respondent shall pay such costs within 60 days of
7 receiving an invoice from the Commissioner detailing the
8 activities performed during the audit and the amount of time
9 spent performing those activities. The Commissioner may, in his
10 discretion, vacate and set aside the stay order, if payment is
11 not timely made as provided for herein, or as provided for in a
12 subsequent agreement between the Respondent and the
13 Commissioner. The vacation and the set aside of the stay shall
14 remain in effect until payment is made in full, or until
15 Respondent enters into an agreement satisfactory to the
16 Commissioner to provide for payment.

17 D.

18 All licenses and licensing rights of Respondent JEROME

19 A. CYGAN are indefinitely suspended unless or until Respondent
20 provides proof satisfactory to the Commissioner, of having taken
21 and successfully completed the continuing education course on
22 trust fund accounting and handling specified in paragraph (3) of
23 subdivision (a) of Section 10170.5 of the Business and
24 Professions Code. Proof of satisfaction of this requirement
25 includes evidence that respondent has successfully completed the
26 trust fund account and handling continuing education course

27

1 within 120 days prior to the effective date of the Decision in
2 this matter.

3 E.

4 Respondent JEROME A. CYGAN shall within six (6) months
5 from the effective date of the Decision herein, take and pass the
6 Professional Responsibility Examination administered by the
7 Department including the payment of the appropriate examination
8 fee. If Respondent JEROME A. CYGAN fails to satisfy this
9 condition, the Commissioner may order suspension of Respondent
10 JEROME A. CYGAN's license until Respondent passes the
11 examination.
12

13 III.

14 All proof of payment and completed coursework shall be
15 submitted to Department Counsel James A. Demus, Attention: Legal
16 Section, Department of Real Estate, 320 W. Fourth St., Suite 350,
17 Los Angeles, California 90013-1105, on or before the dates set
18 forth above.
19

20
21 DATED: 1/4/13

James A. Demus
22 JAMES A. DEMUS, Counsel for
the Department of Real Estate
23

24 EXECUTION OF THE STIPULATION

25 I have read the Stipulation and discussed it with my
26 counsel. Its terms are understood by me and are agreeable and
27

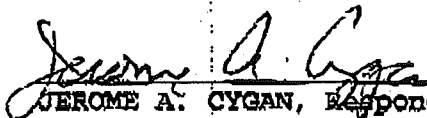
1 acceptable to me. I understand that I am waiving rights given to
2 me by the California Administrative Procedure Act (including but
3 not limited to Sections 11506, 11508, 11509 and 11513 of the
4 Government Code), and I willingly, intelligently and voluntarily
5 waive those rights, including the right of requiring the
6 Commissioner to prove the allegations in the Accusation at a
7 hearing at which I would have the right to cross-examine
8 witnesses against me and to present evidence in defense and
9 mitigation of the charges.

10 Respondents can signify acceptance and approval of the
11 terms and conditions of this Stipulation by faxing a copy of its
12 signature page, as actually signed by Respondents, to the
13 Department at the following telephone/fax number: James A. Demus
14 at (213) 576-6917. Respondents agree, acknowledge and understand
15 that by electronically sending to the Department a fax copy of
16 Respondent's actual signature as it appears on the Stipulation,
17 that receipt of the faxed copy by the Department shall be as
18 binding on Respondent as if the Department had received the
19 original signed Stipulation.
20
21

22 DATED: _____

~~JEROME A. CYGAN~~, as Designated
Officer of ALLIANCE PROPERTY AND
ASSET MANAGEMENT INC

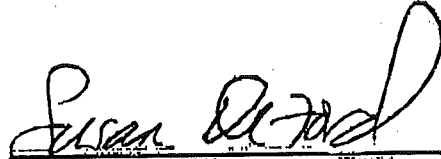
23
24
25
26 DATED: 1/4/13


JEROME A. CYGAN, Respondent

1 acceptable to me. I understand that I am waiving rights given to
 2 me by the California Administrative Procedure Act (including but
 3 not limited to Sections 11506, 11508, 11509 and 11513 of the
 4 Government Code), and I willingly, intelligently and voluntarily
 5 waive those rights, including the right of requiring the
 6 Commissioner to prove the allegations in the Accusation at a
 7 hearing at which I would have the right to cross-examine
 8 witnesses against me and to present evidence in defense and
 9 mitigation of the charges.

10 Respondents can signify acceptance and approval of the
 11 terms and conditions of this Stipulation by faxing a copy of its
 12 signature page, as actually signed by Respondents, to the
 13 Department at the following telephone/fax number: James A. Demus
 14 at (213) 576-6917. Respondents agree, acknowledge and understand
 15 that by electronically sending to the Department a fax copy of
 16 Respondent's actual signature as it appears on the stipulation,
 17 that receipt of the faxed copy by the Department shall be as
 18 binding on Respondent as if the Department had received the
 19 original signed Stipulation.
 20

21
 22 DATED: 1/4/13


 23 JEROME A. CYGAN, as Designated
 24 Officer of ALLIANCE PROPERTY AND
 25 ASSET MANAGEMENT INC
 26 SUSAN DE FORD, SECRETARY

27 DATED: _____

JEROME A. CYGAN, Respondent

1 acceptable to me. I understand that I am waiving rights given to
2 me by the California Administrative Procedure Act (including but
3 not limited to Sections 11506, 11508, 11509 and 11513 of the
4 Government Code), and I willingly, intelligently and voluntarily
5 waive those rights, including the right of requiring the
6 Commissioner to prove the allegations in the Accusation at a
7 hearing at which I would have the right to cross-examine
8 witnesses against me and to present evidence in defense and
9 mitigation of the charges.

10 Respondents can signify acceptance and approval of the
11 terms and conditions of this Stipulation by faxing a copy of its
12 signature page, as actually signed by Respondents, to the
13 Department at the following telephone/fax number: James A. Demus
14 at (213) 576-6917. Respondents agree, acknowledge and understand
15 that by electronically sending to the Department a fax copy of
16 Respondent's actual signature as it appears on the Stipulation,
17 that receipt of the faxed copy by the Department shall be as
18 binding on Respondent as if the Department had received the
19 original signed Stipulation.
20
21

22 DATED: _____
23 JEROME A. CYGAN, as Designated
24 Officer of ALLIANCE PROPERTY AND
ASSET MANAGEMENT INC

25
26 DATED: _____
27 JEROME A. CYGAN, Respondent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

DATED: 1-14-2013

Frank M. Buda

FRANK M. BUDA
Attorney for Respondents

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents ALLIANCE PROPERTY AND
ASSET MANAGEMENT INC and JEROME A. CYGAN and shall become
effective at 12 o'clock noon on MAR 15 2013,

IT IS SO ORDERED 2/5/13,

Real Estate Commissioner

Awet P. Kidane

By AWET P. KIDANE
Chief Deputy Commissioner