

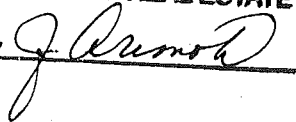
ELLIOTT MAC LENNAN, Counsel (SBN 66674)
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FILED

JAN 02 2014

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	DRE No. H-38225 LA
	)	OAH No. L-2012070801
A REAL ESTATE & MANAGEMENT	)	
COMPANY INC.; and	)	<u>STIPULATION</u>
	)	<u>AND</u>
DREW CAMERON BAKER, individually and as	)	<u>AGREEMENT</u>
designated officer of A Real Estate &	)	
Management Company Inc.,	)	
	)	
Respondents.	)	

It is hereby stipulated by and between Respondents A REAL ESTATE & MANAGEMENT COMPANY INC. and DREW CAMERON BAKER, individually and as designated officer of A Real Estate & Management Company Inc. (sometimes collectively referred to as "Respondents"), represented by Frank M. Buda, Esq. and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the First Amended Accusation filed on June 28, 2012, in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act ("APA"),

1 shall instead and in place thereof be submitted solely on the basis of the provisions of this
2 Stipulation and Agreement ("Stipulation").

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

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

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

20 5. This Stipulation is made for the purpose of reaching an agreed disposition of
21 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
22 which the Bureau of Real Estate ("Bureau"), or another licensing agency of this state, another
23 state or if the federal government is involved, and otherwise shall not be admissible in any other
24 criminal or civil proceeding.

25 6. It is understood by the parties that the Real Estate Commissioner may adopt
26 this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on
27 Respondents' real estate licenses and license rights as set forth in the below "Order". In the event

1 that the Commissioner in the Commissioner's discretion does not adopt the Stipulation, the
2 Stipulation shall be void and of no effect and Respondents shall retain the right to a hearing and
3 proceeding on the Accusation under the provisions of the APA and shall not be bound by any
4 stipulation or waiver made herein.

5 7. The Order or any subsequent Order of the Real Estate Commissioner made
6 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
7 administrative or civil proceedings by the Bureau of Real Estate with respect to any matters
8 which were not specifically alleged to be causes for accusation in this proceeding.

9 8. Respondents understand that by agreeing to this Stipulation, Respondents agree
10 to pay, pursuant to Business and Professions Code Section 10148, the cost of the audit which led
11 to this disciplinary action. The amount of said cost is \$11,695.81.

12 9. Respondents have received, read, and understand the "Notice Concerning
13 Costs of Subsequent Audit". Respondents further understand that by agreeing to this Stipulation,
14 the findings set forth below in the Determination of Issues become final, and the Commissioner
15 may charge Respondents for the cost of any subsequent audit conducted pursuant to Business and
16 Professions Code Section 10148 to determine if the violations have been corrected. The
17 maximum cost of the subsequent audit will not exceed \$11,695.81.

18 10. Respondent understands that by agreeing to this Stipulation, Respondent
19 agrees to pay, pursuant to Business and Professions Code Section 10106, the cost of the
20 investigation and enforcement of this matter. The amount of said cost is \$2,470.

21 DETERMINATION OF ISSUES

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

24 ///

I.

The conduct of A REAL ESTATE & MANAGEMENT COMPANY INC. and DREW CAMERON BAKER as described in Paragraph 4, above, is in violation of Sections 10140.6(b), 10145, and 10159.5, of the Business and Professions Code ("Code") and Sections 2773, 2832.1, 2831, and 2831.1 of Title 10, Chapter 6 of the California Code of Regulations ("Regulations") and is a basis for the suspension or revocation of Respondents' license and license rights as a violation of the Real Estate Law pursuant to Code Sections 10177(d) and 10177(g).

II.

The conduct of DREW CAMERON BAKER, as described in Paragraph 4, above, constitutes a failure to keep A Real Estate & Management Company Inc. in compliance with the Real Estate Law during the time that he was the officer designated by a corporate broker licensee in violation of Code Section 10159.2. This conduct is a basis for the suspension or revocation of Respondent's license pursuant to Code Section 10177(h).

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondents A REAL ESTATE & MANAGEMENT COMPANY INC. and DREW CAMERON BAKER, under the Real Estate Law are suspended for a period of ninety (90) days from the effective date of this Decision:

A. Provided, however, that if a Respondent requests, the initial thirty (30) days of said suspension (or a portion thereof) shall be stayed for two (2) years upon condition that:

1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$166.67 per day for each day of the suspension for a monetary penalty of \$5,000 for each Respondent, or \$10,000 total.

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

4 3. No further cause for disciplinary action against the real estate license of
5 Respondents occur within two (2) years from the effective date of the Decision in this matter.

6 4. If Respondents fail to pay the monetary penalty in accordance with the terms of
7 the Decision, the Commissioner may, without a hearing, order the immediate execution of all or
8 any part of the stayed suspension, in which event the Respondent shall not be entitled to any
9 repayment nor credit, prorated or otherwise, for money paid to the Bureau under the terms of this
10 Decision.

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

14 B. The remaining sixty (60) days of the ninety (90) day suspension shall be stayed
15 for two (2) years upon the following terms and conditions:

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

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

II.

Pursuant to Section 10148 of the Business and Professions Code, Respondents A REAL ESTATE & MANAGEMENT COMPANY INC. and DREW CAMERON BAKER shall pay the Commissioner's reasonable cost for (a) the audit(s) which led to this disciplinary action and (b) a subsequent audit to determine if Respondents are now in compliance with the Real Estate Law. The cost of the audit which led to this disciplinary action is \$11,695.81. 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 time to and from the auditor's place of work. Said amount for the prior and subsequent audits shall not exceed \$23,391.62. Respondents are jointly and severally liable for the cost of the audits.

Respondents shall pay such cost 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 suspend the license of Respondents pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondents and the Commissioner. The suspension shall remain in effect until payment is made in full or until a Respondent enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

III.

Pursuant to Section 10106 of the Business and Professions Code, Respondents A REAL ESTATE & MANAGEMENT COMPANY INC. and DREW CAMERON BAKER, shall pay the Commissioner's reasonable cost for investigation and enforcement of the matter within sixty (60) days after the effective date of this Decision. The investigation and enforcement cost which led to this disciplinary action is \$2,470.

The Commissioner may suspend the license of Respondent pending a hearing held in accordance with Section 11500, et seq., of the Government Code, 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, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

IV.

Respondent DREW CAMERON BAKER shall within six (6) months from the
effective date of the Decision herein, take and pass the Professional Responsibility Examination
administered by the Bureau including the payment of the appropriate examination fee. If
Respondent fails to satisfy this condition, the Commissioner may order suspension of
Respondent's license until Respondent passes the examination.

V.

Respondent DREW CAMERON BAKER shall, within nine (9) 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
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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VI.

All licenses and licensing rights of DREW CAMERON BAKER, are indefinitely
suspended unless or until Respondent provides proof satisfactory to the Commissioner, of having
taken and successfully completed the continuing education course on trust fund accounting and
handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and
Professions Code. Proof of satisfaction of this requirement includes evidence that respondent has
successfully completed the trust fund account and handling continuing education course within
120 days prior to the effective date of the Decision in this matter.

VII.

All proof required by this Order, shall be sent to the attention of Elliott Mac
Lennan, Counsel, Legal Section, Bureau of Real Estate, 320 W. Fourth St., Suite 350, Los
Angeles, California 90013-1105.

DATED: 12/09/13

E. Lennan
ELLIOTT MAC LENNAN,
Counsel for Bureau of Real Estate

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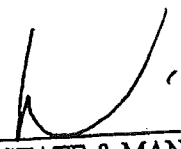
EXECUTION OF THE STIPULATION

We have read the Stipulation and have 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
Sections 11506, 11508, 11509 and 11513 of the Government Code), and we are 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 we would have the
right to cross-examine witnesses against us and to present evidence in defense and mitigation of
the charges.

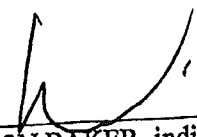
FACSIMILE

Respondents 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 Respondents, to the Bureau at the following facsimile number: Elliott Mac Lennan at (213) 576-6917. Respondents agree, acknowledge and understand that by electronically sending to the Bureau a fax copy of Respondents' actual signature as they appear on the Stipulation, that receipt of the faxed copy by the Bureau shall be as binding on Respondents as if the Bureau had received the original signed Stipulation.

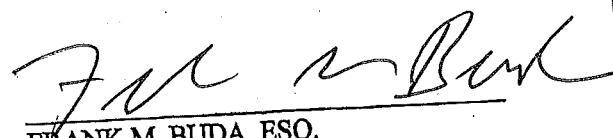
DATED: 9/21/13


A REAL ESTATE & MANAGEMENT
COMPANY INC.
BY: DREW CAMERON BAKER,
Respondent

DATED: 9/21/13


DREW CAMERON BAKER, individually and as
designated officer of A Real Estate & Management
Company Inc., Respondent

DATED: 9-23-13


FRANK M. BUDA, ESQ.
Attorney for Respondents

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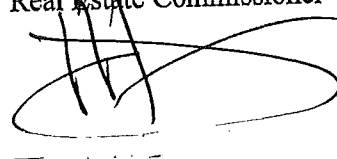
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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents A REAL ESTATE & MANAGEMENT COMPANY INC. and DREW CAMERON BAKER, individually and as designated officer of A Real Estate & Management Company Inc. and shall become effective at 12 o'clock noon on JAN 23 2014

IT IS SO ORDERED DEC 23 2013

Real Estate Commissioner



By: JEFFREY MASON
Chief Deputy Commissioner