

FILED

DEC 16 2013

BUREAU OF REAL ESTATE

By 

1 Bureau of Real Estate
2 320 West Fourth Street, #350
3 Los Angeles, California 90013
4
5
6
7

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

DRE No. H-38302 LA

OAH No. 2012110860

12)
13 N A NATIONWIDE MORTGAGE,)
14 NOELLE TIWANA WHEELER,)
15 individually and as designated)
16 officer of NA Nationwide)
Mortgage, and)
EDWARD BOGART,)

STIPULATION AND
AGREEMENT

17 Respondents.)
18

18 It is hereby stipulated by and between N A NATIONWIDE
19 MORTGAGE and NOELLE TIWANA WHEELER (collectively "Respondents"),
20 who are represented by Nathan Fransen, Esq., in this matter, and
21 the Complainant, acting by and through Lissete Garcia, Counsel
22 for the Bureau (formerly Department) of Real Estate ("Bureau"),
23 as follows for the purpose of settling and disposing of the
24 Accusation in this matter, filed on July 27, 2012:

- 25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and Respondents
27

1 at a formal hearing on the Accusation, which hearing was to be
2 held in accordance with the provisions of the Administrative
3 Procedure Act ("APA"), shall instead and in place thereof be
4 submitted solely on the basis of the provisions of this
5 Stipulation and Agreement ("Stipulation").

6 2. Respondents have received, read and understand the
7 Statement to Respondent, the Discovery Provisions of the APA and
8 the Accusation filed by the Bureau of Real Estate in this
9 proceeding.

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

22 4. This Stipulation is based on the factual
23 allegations contained in the Accusation. In the interest of
24 expedience and economy, Respondents choose not to contest these
25 allegations, but to remain silent and understand that, as a
26 result thereof, these factual allegations, without being admitted
27 or denied, will serve as a prima facie basis for the disciplinary

1 action stipulated to herein. The Real Estate Commissioner shall
2 not be required to provide further evidence to prove said factual
3 allegations.

4 5. This Stipulation is based on Respondents' decision
5 not to contest the allegations set forth in the Accusation as a
6 result of the agreement negotiated between the parties. This
7 Stipulation is expressly limited to this proceeding and any
8 further proceeding initiated by or brought before the Bureau of
9 Real Estate based upon the factual allegations in the Accusation
10 and is made for the sole purpose of reaching an agreed
11 disposition of this proceeding. The decision of Respondents not
12 to contest the allegations contained in the "Order" herein below,
13 is made solely for the purpose of effectuating this Stipulation.
14 It is the intent and understanding of the parties that this
15 Stipulation shall not be binding or admissible against
16 Respondents in any action against Respondents by third parties.

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

27

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 matters which were not specifically alleged
6 to be causes for accusation in this proceeding.

7 DETERMINATION OF ISSUES

8 By reason of the foregoing stipulations and solely for
9 the purpose of settlement of the Accusation without a hearing, it
10 is stipulated and agreed that the following determination of
11 issues shall be made:

12 I.

13 The conduct of Respondent N A NATIONWIDE MORTGAGE, as
14 described in Paragraph 4, above, is a basis for discipline of N A
15 NATIONWIDE MORTGAGE's license and license rights pursuant to
16 Sections 10137, 10161.8, and 10177(d) of the Business and
17 Professions Code ("Code").

18 II.

19 The conduct of Respondent NOELLE TIWANA WHEELER, as
20 described in Paragraph 4, above, is a basis for discipline of
21 NOELLE TIWANA WHEELER's license and license rights pursuant to
22 Section 10177(h) of the Code.

23 ORDER

24 WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT TO THE
25 WRITTEN STIPULATION OF THE PARTIES:

26 I.

27 All licenses and licensing rights of Respondents

1 N A NATIONWIDE MORTGAGE and NOELLE TIWANA WHEELER under the
2 Real Estate Law are suspended for a period of fifteen (15)
3 days from the effective date of this Decision; provided,
4 however, that said suspension, shall be stayed for one (1)
5 year upon the following terms and conditions:

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

9 2. That no final subsequent determination be made,
10 after hearing or upon stipulation that cause for disciplinary
11 action occurred within one (1) year of the effective date of
12 this Decision. Should such a determination be made, the
13 Commissioner may, in his discretion, vacate and set aside the
14 stay order and reimpose all or a portion of the stayed
15 suspension. Should no such determination be made, the stay
16 imposed herein shall become permanent.

17 II.

18 Respondents N A NATIONWIDE MORTGAGE and NOELLE TIWANA
19 WHEELER are jointly and severally liable along with Respondent
20 EDWARD BOGART, to provide proof of restitution to Frank and Mary
21 S. Respondents shall, by the effective of the Decision herein,
22 provide proof satisfactory to the Commissioner of payment of
23 restitution in the amount of \$360.00 to Frank and Mary S. as
24 follows:

25 (a) Respondent(s) shall deliver or mail the restitution
26 payment, by certified mail, return receipt requested, to Frank
27

1 and Mary S.'s last address on file with or known to
2 Respondent(s).

3 (b) If the payment is returned by the Post Office marked
4 "unable to deliver," Respondents shall employ a locator service
5 (that may include or be limited to the Internet or other database
6 retrieval search) to try and locate Frank and Mary S. Repayment
7 shall then be made to the addresses recommended by the locator
8 service.

9 (c) If unable to effect repayment after using a locator
10 service, Respondents shall provide reasonable proof satisfactory
11 to the Commissioner of their efforts to comply with the
12 provisions of this Paragraph.

13 (d) If the Commissioner determines that proof to be
14 unsatisfactory, he shall so advise Respondents, and indicate what
15 additional reasonable efforts should be made to make repayment to
16 Frank and Mary S.

17 (e) If Respondents fail to satisfy this condition, the
18 Commissioner may order suspension of Respondents' license until
19 Respondents effect compliance herein; and

20 (f) Restitution payments not made to Frank and Mary S. shall
21 escheat to the State of California.

22 IV.

23 Pursuant to California Business and Professions Code
24 Section 10106, Respondents N A NATIONWIDE MORTGAGE and NOELLE
25 TIWANA WHEELER are jointly and severally liable along with
26 Respondent EDWART BOGART, to pay the Commissioner's reasonable
27 costs for investigation and enforcement of the matter. The


1 investigation and enforcement costs which led to this
2 disciplinary action total \$3,839.02. Said payment shall be made
3 by the effective date of this Decision.

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

14 V.

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

20
21
22 DATED: Oct. 17, 2013



LISSETE GARCIA, Counsel for the
Bureau of Real Estate

23
24 ///

25 ///

26 ///

27

EXECUTION OF THE STIPULATION

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

We have read the Stipulation and discussed it with our counsel. 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 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.

Respondents can signify acceptance and approval of the terms and conditions of this Stipulation by faxing a copy of the signature page, as actually signed by Respondents, to the Bureau at the following telephone/fax number: Lisette Garcia at (213) 576-6917. Respondents agree, acknowledge, and understand that by electronically sending to the Bureau a fax copy of Respondents' actual signatures 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: 9.23.2013

Respondent N A NATIONWIDE MORTGAGE


By: NOELLE WHEELER / PRESIDENT
(Printed Name / Title)

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: 9-24-2013

Respondent NOELLE TIWANA WHEELER

DATED: 9-24-2013


NATHAN FRANSEN, ESQ.
Attorney for Respondents
N A NATIONWIDE MORTGAGE and
NOELLE TIWANA WHEELER

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents N A NATIONWIDE MORTGAGE
and NOELLE TIWANA WHEELER and shall become effective at 12
o'clock noon on _____, 2013.

IT IS SO ORDERED _____, 2013.

REAL ESTATE COMMISSIONER

Wayne S. Bell

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

EXECUTION OF THE STIPULATION

We have read the Stipulation and discussed it with our counsel. 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 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.

Respondents can signify acceptance and approval of the terms and conditions of this Stipulation by faxing a copy of the signature page, as actually signed by Respondents, to the Bureau at the following telephone/fax number: Lissete Garcia at (213) 576-6917. Respondents agree, acknowledge, and understand that by electronically sending to the Bureau a fax copy of Respondents' actual signatures 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: _____

Respondent N A NATIONWIDE MORTGAGE

By: _____
(Printed Name / Title)

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: _____

Respondent NOELLE TIWANA WHEELER

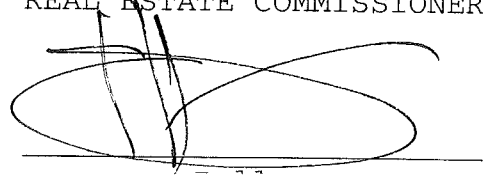
DATED: _____

NATHAN FRANSEN, ESQ.
Attorney for Respondents
N A NATIONWIDE MORTGAGE and
NOELLE TIWANA WHEELER

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents N A NATIONWIDE MORTGAGE and NOELLE TIWANA WHEELER and shall become effective at 12 o'clock noon on JAN - 6 2014, 2013.

IT IS SO ORDERED NOVEMBER 8, 2013.

REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner