

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

FILED

JAN 06 2014

BUREAU OF REAL ESTATE

By J. Garcia

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

) CalBRE 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
17) Mortgage, and
18) EDWARD BOGART,

REVISED STIPULATION
AND AGREEMENT

) Respondents.
)

18 It is hereby stipulated by and between EDWARD BOGART
19 ("Respondent"), who is representing himself in this matter, and
20 the Complainant, acting by and through Lissete Garcia, Counsel
21 for the Bureau (formerly Department) of Real Estate ("Bureau"),
22 as follows for the purpose of settling and disposing of the
23 Accusation in this matter, filed on July 27, 2012:

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

5 2. Respondent has received, read and understands the
6 Statement to Respondent, the Discovery Provisions of the APA and
7 the Accusation filed by the Bureau of Real Estate in this
8 proceeding.

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

21 4. This Stipulation is based on the factual
22 allegations contained in the Accusation. In the interest of
23 expedience and economy, Respondent chooses not to contest these
24 allegations, but to remain silent and understands that, as a
25 result thereof, these factual allegations, without being admitted
26 or denied, will serve as a prima facie basis for the disciplinary
27 action stipulated to herein. The Real Estate Commissioner shall

1 not be required to provide further evidence to prove said factual
2 allegations.

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

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

26 7. The Order or any subsequent Order of the Real
27 Estate Commissioner made pursuant to this Stipulation shall not

1 constitute an estoppel, merger or bar to any further
2 administrative or civil proceedings by the Bureau of Real Estate
3 with respect to any matters which were not specifically alleged
4 to be causes for accusation in this proceeding.

5 DETERMINATION OF ISSUES

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

10 The conduct of EDWARD BOGART, as described in Paragraph
11 4, above, is a basis for discipline of EDWARD BOGART's license
12 and license rights pursuant to Sections 10130, 10177(d), and
13 10176(a) of the Business and Professions Code ("Code").

14 ORDER

15 WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT TO THE
16 WRITTEN STIPULATION OF THE PARTIES:

17 I.

18 All licenses and licensing rights of Respondent EDWARD
19 BOGART under the Real Estate Law are hereby revoked; provided,
20 however, a restricted real estate salesperson license shall be
21 issued to Respondent pursuant to Section 10156.5 of the Business
22 and Professions Code if Respondent makes application therefor and
23 pays to the Bureau of Real Estate the appropriate fee for the
24 restricted license within ninety (90) days from the effective
25 date of this Decision. The restricted license issued to
26 Respondent shall be subject to all of the provisions of Section
27 10156.7 of the Business and Professions Code and to the following

1 limitations, conditions and restrictions imposed under authority
2 of Section 10156.6 of that Code:

3 1. The restricted license issued to Respondent may be
4 suspended prior to hearing by Order of the Real Estate
5 Commissioner in the event of Respondent's conviction or plea of
6 nolo contendere to a crime which is substantially related to
7 Respondent's fitness or capacity as a real estate licensee.

8 2. The restricted license may be suspended prior to
9 hearing by Order of the Real Estate Commissioner on evidence
10 satisfactory to the Commissioner that Respondent has violated
11 provisions of the California Real Estate Law, the Subdivided
12 Lands Law, Regulations of the Real Estate Commissioner or
13 conditions attaching to the restricted license.

14 3. Respondent shall not be eligible for the issuance
15 of an unrestricted real estate license nor for the removal of any
16 of the conditions, limitations or restrictions of a restricted
17 license until at least two (2) years have elapsed from the
18 effective date of this Decision.

19 4. Respondent shall submit with any application for
20 license under an employing broker, or any application for
21 transfer to a new employing broker, a statement signed by the
22 prospective employing real estate broker on a form approved by
23 the Bureau of Real Estate which shall certify:

24 (a) That the employing broker has read the Decision
25 of the Commissioner which granted the right to a restricted
26 license; and
27

1 If Respondent fails to satisfy this condition, the Commissioner
2 may order suspension of Respondent EDWARD BOGART's license until
3 Respondent passes the examination.

4 IV.

5 Pursuant to California Business and Professions Code
6 Section 10106, Respondent EDWARD BOGART shall, be jointly and
7 severally liable with Respondents NA NATIONWIDE MORTGAGE and
8 NOELLE TIWANA WHEELER, to pay the Commissioner's reasonable costs
9 for investigation and enforcement of the matter. The
10 investigation and enforcement costs which led to this
11 disciplinary action total \$3,839.02. Said payment shall be made
12 within thirty (30) days from the effective date of this Decision.

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

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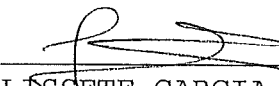
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1 V.

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

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8 DATED: 12/24/13


9 LISSETE GARCIA, Counsel for the
10 Bureau of Real Estate

11 EXECUTION OF THE STIPULATION

12 I have read and considered the Stipulation. Its terms
13 are understood by me and are agreeable and acceptable to me. I
14 understand that I am waiving rights given to me by the California
15 Administrative Procedure Act (including but not limited to
16 Sections 11506, 11508, 11509 and 11513 of the Government Code),
17 and I willingly, intelligently and voluntarily waive those
18 rights, including the right of requiring the Commissioner to
19 prove the allegations in the Accusation at a hearing at which I
20 would have the right to cross-examine witnesses against me and to
21 present evidence in defense and mitigation of the charges.

22 Respondent can signify acceptance and approval of the
23 terms and conditions of this Stipulation by faxing a copy of the
24 signature page, as actually signed by Respondent, to the Bureau
25 at the following telephone/fax number: Lissete Garcia at (213)
26 576-6917. Respondent agrees, acknowledges and understands that
27 by electronically sending to the Bureau a fax copy of

1 Respondent's actual signature, as it appears on the Stipulation,
2 that receipt of the faxed copy by the Bureau shall be as binding
3 on Respondent as if the Bureau had received the original signed
4 Stipulation.

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6 DATED: 12/19/2013


Respondent EDWARD BOGART

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10 The foregoing Stipulation and Agreement is hereby
11 adopted as my Decision as to Respondent EDWARD BOGART and shall
12 become effective at 12 o'clock noon on **JAN 27 2014**

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15 IT IS SO ORDERED **JAN 03 2014**

16 REAL ESTATE COMMISSIONER

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20 By: JEFFREY MASON
21 Chief Deputy Commissioner