

*Sacto glas*

Department of Real Estate  
320 W. 4<sup>th</sup> St., Room 350  
Los Angeles, California 90013

Telephone: (213) 576-6982

**FILED**

**SEP 18 2013**

**BUREAU OF REAL ESTATE**

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	No. H-38350 LA
)	L-2013 020 891
)	
RATE MODIFICATIONS, INC.; )	
and RICHARD JAMES UNGAR )	<u>STIPULATION AND AGREEMENT</u>
individually and as the former )	
designated officer of )	
Rate Modifications, Inc., )	
)	
)	
)	
)	
Respondents. )	
)	

It is hereby stipulated by and between RICHARD JAMES UNGAR (sometimes referred to as Respondent), and the Complainant, acting by and through James R. Peel, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the First Amended Accusation filed on October 16, 2012, in this matter.

1           1. All issues which were contested and all evidence  
2 which was presented by Complainant and Respondent 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. Respondent has received, read and understands the  
9 Statement to Respondent, the Discovery Provisions of the  
10 Administrative Procedure Act ("APA") and the Accusation filed by  
11 the Department of Real Estate in this proceeding.

12           3. On September 7, 2012, Respondent filed a Notice of  
13 Defense pursuant to Section 11506 of the Government Code for the  
14 purpose of requesting a hearing on the allegations in the  
15 Accusation. Respondent hereby freely and voluntarily withdraws  
16 said Notice of Defense. Respondent acknowledges that he  
17 understands that by withdrawing said Notice of Defense he will  
18 thereby waive his rights 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 he will waive  
21 other rights afforded to him in connection with the hearing such  
22 as the right to present evidence in defense of the allegations  
23 in the Accusation and the right to cross-examine witnesses.  
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2 4. This Stipulation is based on the factual  
3 allegations contained in the Accusation filed in this  
4 proceeding. In the interest of expedience and economy,  
5 Respondent chooses not to contest these factual allegations, but  
6 to remain silent and understands that, as a result thereof,  
7 these factual statements, will serve as a prima facie basis for  
8 the disciplinary action stipulated to herein. The Real Estate  
9 Commissioner shall not be required to provide further evidence  
10 to prove such allegations.

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

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

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 Department of Real  
5 Estate with respect to any conduct which was not specifically  
6 alleged to be causes for accusation in this proceeding.  
7

8                                   DETERMINATION OF ISSUES

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

13   I

14                   The conduct, acts and/or omissions of Respondent  
15 RICHARD JAMES UNGAR as set forth in the Accusation, constitute  
16 cause for the suspension or revocation of all of the real estate  
17 licenses and license rights of Respondent under the provisions  
18 of Section 10177(g) of the Business and Professions Code  
19 ("Code").  
20

21   ORDER

22                   All licenses and licensing rights of Respondent  
23 RICHARD JAMES UNGAR under the Real Estate Law are suspended for  
24 a period of thirty days from the effective date of this  
25 Decision.

26                   ///

27                   ///

1           1. Provided, however, that 30 days of said suspension  
2 shall be stayed for one (1) year, upon the following terms and  
3 conditions:

4           a. Respondent pays a monetary penalty pursuant to  
5 Section 10175.2 of the Business and Professions Code at the rate  
6 of \$75 for each day of the suspension for a total monetary  
7 penalty of \$2,250.

8           b. Said payment shall be in the form of a cashier's  
9 check or certified check made payable to the Department of Real  
10 Estate. Said check must be received by the Department prior to  
11 the effective date of the Decision in this matter.

12           c. No further cause for disciplinary action against  
13 the real estate licenses of Respondent occurs within one (1)  
14 year from the effective date of the Decision in this matter.

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

22           e. If Respondent pays the monetary penalty and if no  
23 further cause for disciplinary action against the real estate  
24 license of Respondent occurs within one (1) year from the  
25 effective date of the Decision, the stay hereby granted shall  
26 become permanent.  
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1                   2. All licenses and licensing rights of Respondent  
2 are indefinitely suspended unless and until he pays \$4,295 to  
3 Bill and Ernestine S., and submits proof to the Department of  
4 Real Estate. All such proof shall be submitted to Real Estate  
5 Counsel James Peel, Department of Real Estate, 320 W. Fourth  
6 St., Room 350, Los Angeles, California 90013.

7                   3. Respondent understands that by agreeing to this  
8 Stipulation and Agreement, Respondent agrees to pay, pursuant to  
9 Section 10106 of the California Business and Professions Code  
10 (Code), the cost of the investigation and enforcement which  
11 resulted in the determination that Respondent committed the  
12 violations found in the Determination of Issues. The amount of  
13 said costs is \$243.

14                   All licenses and licensing rights of Respondent are  
15 indefinitely suspended unless or until Respondent pays the sum  
16 of \$243 for the Commissioner's reasonable cost of the  
17 investigation and enforcement which led to this disciplinary  
18 action. Said payment shall be in the form of a cashier's check  
19 or certified check made payable to the Department of Real  
20 Estate.  
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23 DATED: July 1, 2013

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

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I have read the Stipulation and Agreement, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I 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 I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

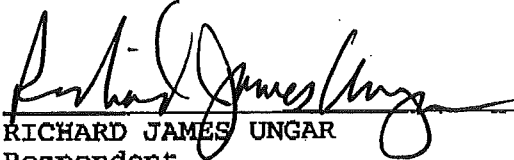
Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by Respondent, to the Department at the following telephone/fax number: (213) 576-6917. Respondent agrees, acknowledges and understands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

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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: 6/24/13

  
RICHARD JAMES UNGAR  
Respondent

\* \* \*

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

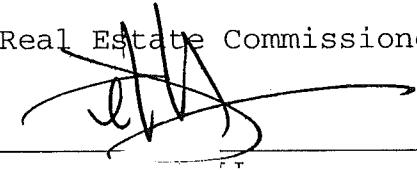
1 Further, if the Respondent is represented, the  
2 Respondent's counsel can signify his or her agreement to the  
3 terms and conditions of the Stipulation and Agreement by  
4 submitting that signature via fax.

5  
6 DATED: \_\_\_\_\_  
7 RICHARD JAMES UNGAR  
8 Respondent

9  
10 \* \* \*

11 The foregoing Stipulation and Agreement is hereby  
12 adopted as my Decision and Order in this matter, and shall  
13 become effective at 12 o'clock noon on October 8, 2013

14 IT IS SO ORDERED SEPTEMBER 17, 2013

15  
16 Real Estate Commissioner  
17   
18 \_\_\_\_\_

19 **By: JEFFREY MASON**  
20 **Chief Deputy Commissioner**