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

(213) 576-6910

FILED

MAR 05 2014

BUREAU OF REAL ESTATE

By

BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of TMC CAPITAL INC and ASHKAN MINAIE, individually, and as designated officer of TMC Capital Inc, Respondents.	DRE No: H-38484 LA OAH No: 2012110864 STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondents TMC CAPITAL INC and ASHKAN MINAIE, represented by Frank M. Buda, Esq., and the Complainant, acting by and through James A. Demus, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on October 18, 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"), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement ("Stipulation").

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

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

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

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

5. This Stipulation is made for the purpose of reaching an agreed disposition of this proceeding and is expressly limited to this proceeding and any other proceeding or case in which the Bureau of Real Estate ("Bureau"), the state or federal government, or any agency of this state, another state or federal government is a party.

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

7. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or civil proceedings by the Bureau of Real Estate with respect to any matters which were not specifically alleged to be causes for Accusation in this proceeding but do constitute a bar, estoppel and merger as to any allegations actually contained in the Accusation against Respondents herein.

8. Respondents understand that by agreeing to this Stipulation, Respondents agree to pay, pursuant to Business and Professions Code Section 10148, the cost of the audits which led to this disciplinary action. The amount of said cost is $9,418.64.

9. Respondents have received, read, and understand the "Notice Concerning Costs of Subsequent Audit." Respondents further understand that by agreeing to this Stipulation, the findings set forth below in the Determination of Issues become final, and the Commissioner may charge Respondents for the cost of any subsequent audit conducted to determine if the violations have been corrected. The maximum cost of the subsequent audit will not exceed $9,418.64.

DETERMINATION OF ISSUES

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

I.

The conduct of TMC CAPITAL INC, as described in Paragraph 4, hereinabove, is in violation of Business and Professions Code Section 10145, pursuant to Title 10, California Code of Regulations, Section 2834 and provides a basis for discipline of its licenses and license rights pursuant to Business and Professions Code Section 10177(d).

II.

The conduct of ASHKAN MINAIE, as described in Paragraph 4, hereinabove, provides a basis for discipline of his licenses

and license rights pursuant to Business and Professions Code Section 10177(h).

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

A.

All licenses and licensing rights of Respondent TMC CAPITAL INC under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Decision; provided, however, that sixty (60) days of said suspension, shall be stayed for two (2) years upon the following terms and conditions:

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

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

B.

Respondent shall pay the Commissioner's reasonable cost for: a) the audit which led to this disciplinary action and

b) a subsequent audit to determine if Respondent has corrected the trust fund violations found in the Determination of Issues. 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 costs, including mileage, time to and from the auditor's place of work and per diem. Respondent shall pay such costs 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, unless Respondent provides proof that such costs have already been paid. The Commissioner may, in his discretion, vacate and set aside the stay order, 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 vacation and the set aside of the stay 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.

II.

A.

All licenses and licensing rights of Respondent ASHKAN MINAIE under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Decision; provided, however, that sixty (60) days of said suspension, shall be stayed for two (2) years upon the following terms and conditions:

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

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

B.

Respondent shall pay the Commissioner's reasonable cost for: a) the audit which led to this disciplinary action and b) a subsequent audit to determine if Respondent has corrected the trust fund violations found in the Determination of Issues. 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 costs, including mileage, time to and from the auditor's place of work and per diem. Respondent shall pay such costs 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, unless Respondent provides proof that such costs have already been paid. The Commissioner may, in his

discretion, vacate and set aside the stay order, 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 vacation and the set aside of the stay 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.

C.

All licenses and licensing rights of Respondent ASHKAN MINAIE 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.

DATED: 1/22/14

JAMES A. DEMUS, Counsel for the Bureau of Real Estate

EXECUTION OF THE STIPULATION

I have read the Stipulation and discussed it with my counsel. 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.

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 telephone/fax number: James A. Demus at (213) 576-6917. Respondents agree, acknowledge and understand that by electronically sending to the Bureau a fax copy of Respondent's actual signature as it appears on the Stipulation, that receipt of the faxed copy by the Bureau shall be as binding on Respondent as if the Bureau had received the original signed Stipulation.

DATED: 1-16-14

ASHKAN MINAIE, as Designated Officer of TMC CAPITAL INC

DATED: 1-16-14

ASHKAN MINAIE, Respondent

DATED: 1-16-14

FRANK M. BUDA
Attorney for Respondents

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents TMC CAPITAL INC. and ASHKAN MINAIE and shall become effective at 12 o'clock noon on MAR 26 2014

IT IS SO ORDERED 3/3/2014.

Real Estate Commissioner

By: WAYNE S. BELL