

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

FILED
APR - 3 2013
DEPARTMENT OF REAL ESTATE

James B. Demus

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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In the Matter of the Accusation of)
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)
THE ST JAMES REAL ESTATE SERVICES)
CORPORATION and WILLIAM ARTHUR)
ROSSWORN, individually, as)
designated officer of The St)
James Real Estate Services)
Corporation and STEPHEN MARK)
POWELL and ROBERT LEWIS FIRTH,)
individually, and as former)
designated officers of The St)
James Real Estate Services)
Corporation,)
)
Respondents.)

DRE No: H-38516 LA
STIPULATION AND
AGREEMENT

It is hereby stipulated by and between Respondent
STEPHEN MARK POWELL, represented by Paul D. Bojic, Esq., and the
Complainant, acting by and through James A. Demus, Counsel for
the Department of Real Estate, as follows for the purpose of
settling and disposing of the Accusation filed on November 1,
2012, in this matter:

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

8 2. Respondent has received, read and understands the
9 Statement to Respondent, the Discovery Provisions of the APA and
10 the Accusation filed by the Department of Real Estate in this
11 proceeding.

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

24 4. This Stipulation is based on the factual
25 allegations contained in the Accusation. In the interest of
26 expedience and economy, Respondent chooses not to contest these
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1 allegations, but to remain silent and understands that, as a
2 result thereof, these factual allegations, without being admitted
3 or denied, will serve as a prima facie basis for the disciplinary
4 action stipulated to herein. The Real Estate Commissioner shall
5 not be required to provide further evidence to prove said factual
6 allegations.

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

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

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

5 8. Respondent understands that by agreeing to this
6 Stipulation, Respondent agrees to pay, pursuant to Business and
7 Professions Code Section 10148, one-third of cost of the audit
8 which led to this disciplinary action. One-third of said cost is
9 \$3,893.52.

10 9. Respondent has received, read, and understands the
11 "Notice Concerning Costs of Subsequent Audit." Respondent
12 further understands that by agreeing to this Stipulation, the
13 findings set forth below in the Determination of Issues become
14 final, and the Commissioner may charge Respondents for the cost
15 of any subsequent audit conducted pursuant to Business and
16 Professions Code Section 10148 to determine if the violations
17 have been corrected. The maximum cost of the subsequent audit
18 will not exceed \$3,893.52.

19 DETERMINATION OF ISSUES

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

22 The conduct of STEPHEN MARK POWELL, as described in
23 Paragraph 4, hereinabove, is in violation of Business and
24 Professions Code Section 10145 and 10159.2 and provides a basis
25 for discipline of his license and license rights pursuant to
26 Business and Professions Code Sections 10177(d) and 10177(h).

1 Determination of Issues. In calculating the amount of the
2 Commissioner's reasonable cost, the Commissioner may use the
3 estimated average hourly salary for all persons performing
4 audits of real estate brokers, and shall include an allocation
5 for travel costs, including mileage, time to and from the
6 auditor's place of work and per diem. Respondent shall pay such
7 costs within 60 days of receiving an invoice from the
8 Commissioner detailing the activities performed during the audit
9 and the amount of time spent performing those activities. The
10 Commissioner may, in his discretion, vacate and set aside the
11 stay order, if payment is not timely made as provided for
12 herein, or as provided for in a subsequent agreement between the
13 Respondent and the Commissioner. The vacation and the set aside
14 of the stay shall remain in effect until payment is made in
15 full, or until Respondent enters into an agreement satisfactory
16 to the Commissioner to provide for payment.

17 IV.

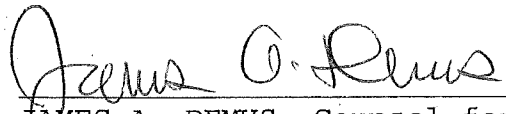
18 All licenses and licensing rights of Respondent STEPHEN
19 MARK POWELL are indefinitely suspended unless or until Respondent
20 provides proof satisfactory to the Commissioner, of having taken
21 and successfully completed the continuing education course on
22 trust fund accounting and handling specified in paragraph (3) of
23 subdivision (a) of Section 10170.5 of the Business and
24 Professions Code. Proof of satisfaction of this requirement
25 includes evidence that respondent has successfully completed the
26 trust fund account and handling continuing education course
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1 within 120 days prior to the effective date of the Decision in
2 this matter.

3 V.

4 All proof of payment and completed coursework shall be
5 submitted to Department Counsel James A. Demus, Attention: Legal
6 Section, Department of Real Estate, 320 W. Fourth St., Suite 350,
7 Los Angeles, California 90013-1105, on or before the dates set
8 forth above.

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11 DATED: 2/20/13


12 JAMES A. DEMUS, Counsel for
13 the Department of Real Estate

14 EXECUTION OF THE STIPULATION

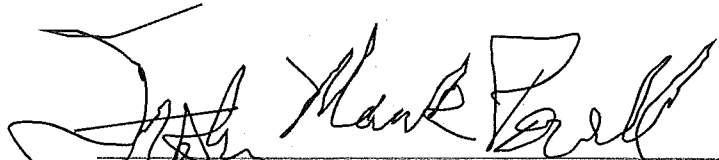
15 I have read the Stipulation and discussed it with my
16 counsel. Its terms are understood by me and are agreeable and
17 acceptable to me. I understand that I am waiving rights given to
18 me by the California Administrative Procedure Act (including but
19 not limited to Sections 11506, 11508, 11509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

26 Respondent can signify acceptance and approval of the
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1 terms and conditions of this Stipulation by faxing a copy of its
2 signature page, as actually signed by Respondent, to the
3 Department at the following telephone/fax number: James A. Demus
4 at (213) 576-6917. Respondents agree, acknowledge and understand
5 that by electronically sending to the Department a fax copy of
6 Respondent's actual signature as it appears on the Stipulation,
7 that receipt of the faxed copy by the Department shall be as
8 binding on Respondent as if the Department had received the
9 original signed Stipulation.

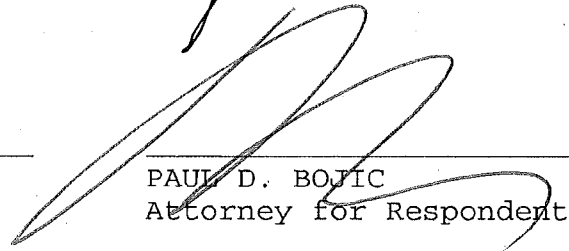
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12 DATED:

2/6/13


STEPHEN MARK POWELL, Respondent

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15 DATED:

2/6/13


PAUL D. BOJIC
Attorney for Respondent

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19 The foregoing Stipulation and Agreement is hereby
20 adopted as my Decision as to Respondent STEPHEN MARK POWELL and
21 shall become effective at 12 o'clock noon on

22 MAY - 3 2013, 2013.

23 IT IS SO ORDERED

3/21/2013

24 WAYNE S. BELL
25 Real Estate Commissioner

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