

Bureau of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105
Telephone: (213) 576-6982

FILED

MAY 10 2016

BUREAU OF REAL ESTATE

By *Angela Danner*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-38947 LA
)	
GENA INC.; and)	
)	
GEORGE A. MAIRENA, individually)	<u>STIPULATION</u>
and as designated officer of Gena Inc.,)	<u>AND</u>
)	<u>AGREEMENT</u>
Respondents.)	

It is hereby stipulated by and between Respondents GENA INC. ("GENA" or "Respondent GENA"), GEORGE A. MAIRENA ("MAIRENA" or "Respondent MAIRENA"), both represented by Mary E. Work, Esq., and the Complainant, acting by and through Julie L. To, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the First Amended Accusation ("Accusation") filed on July 13, 2013.

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STIPULATION AND AGREEMENT – H-38947 LA

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

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

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

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

23 5. This Stipulation is made for the purpose of reaching an agreed disposition of
24 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
25 which the Bureau of Real Estate, the state or federal government, or any agency of this state,
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1 another state or federal government is involved, and otherwise shall not be admissible in any
2 other criminal or civil proceeding.

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

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

16 8. Respondents understand that by agreeing to this Stipulation, Respondents agree
17 to pay, pursuant to Business and Professions Code Section 10148, the cost of the audit. The
18 amount of said cost for the original audit (LA120024) is \$4,456.02

19 9. Respondents have received, read, and understand the "Notice Concerning
20 Costs of Subsequent Audit." Respondents further understand that by agreeing to this Stipulation,
21 the findings set forth below in the Determination of Issues become final, and the Commissioner
22 may charge Respondent for the cost of any subsequent audits conducted pursuant to Business and
23 Professions Code Section 10148 to determine if the violations have been corrected. The
24 maximum cost of the follow-up audits will not exceed \$4,456.02.

10. Respondents understand that by agreeing to this Stipulation, Respondents agree to pay, pursuant to Business and Professions Code Section 10106, the Commissioner's cost of the investigation and enforcement. The amount of said costs is \$2,145.80.

DETERMINATION OF ISSUES

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

The conduct, acts or omissions of Respondents, as described in Paragraph 4, herein above, are in violation of Business and Professions Code ("Code") Section 10145 and Regulations 2831, 2831.1, 2831.2, 2832, 2832.1, and 2834 (GENA and MAIRENA); Code Section 10176(e) (GENA and MAIRENA); Code Section 10176(g) (GENA and MAIRENA); and Code Section 10159.2 and 10177(h) and Regulation 2725 (MAIRENA only), and are bases for the suspension or revocation of Respondents' license and license rights as a violation of the Real Estate Law pursuant to Code Sections 10176(e), 10177(d), and 10177(g), and 10177(h) as to Respondent MAIRENA.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondents GENA INC. and GEORGE A. MAIRENA under the Real Estate Law are suspended for a period of thirty (30) days from the effective date of this Decision: provided, however, that the suspension shall be stayed for two (2) years upon the following terms and conditions:

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

1 2. The Commissioner may, if a final subsequent determination is made, after
2 hearing or upon stipulation, that cause for disciplinary action occurred during the term of the
3 suspension provided for in this stipulation, vacate and set aside the stay order, and re-impose all
4 or a portion of the stayed suspension. Should no such determination be made, the stay imposed
5 herein shall become permanent.
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7 3. Pursuant to Section 10148 of the Code, Respondents shall pay the sum of
8 \$4,456.02 for the Commissioner's cost of the audit which led to this disciplinary action.
9 Respondents shall pay such cost within sixty (60) days of receiving an invoice therefore from the
10 Commissioner. Payment of audit costs should not be made until Respondents receive the
11 invoice. If Respondents fail to satisfy this condition in a timely manner as provided for herein,
12 Respondents' real estate licenses shall automatically be suspended until payment is made in full,
13 or until a decision providing otherwise is adopted following a hearing held pursuant to this
14 condition.

15 4. Pursuant to Section 10148 of the Code, Respondents shall pay the
16 Commissioner's reasonable cost, not to exceed \$4,456.02, for an audit to determine if
17 Respondents have corrected the violations found in the Determination of Issues. In calculating
18 the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated
19 average hourly salary for all persons performing audits of real estate brokers, and shall include an
20 allocation for travel time to and from the auditor's place of work. Respondents shall pay such
21 cost within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of
22 the audit costs should not be made until Respondents receive the invoice. If Respondents fail to
23 satisfy this condition in a timely manner as provided for herein, Respondents' real estate licenses
24 shall automatically be suspended until payment is made in full, or until a decision providing
25 otherwise is adopted following a hearing held pursuant to this condition.
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1 II.

2 All licenses and licensing rights of Respondents are indefinitely suspended unless
3 or until Respondents pay the sum of \$2,145.80 for the Commissioner's reasonable costs of
4 investigation and enforcement which led to this disciplinary action. Said payment shall be in the
5 form of a cashier's check or certified check made payable to the Bureau of Real Estate. The
6 investigative and enforcement costs must be delivered to the Bureau of Real Estate, Flag Section,
7 P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this order.

8 III.

9 All licenses and licensing rights of GEORGE A. MAIRENA, are indefinitely
10 suspended unless or until Respondent MAIRENA provides proof satisfactory to the
11 Commissioner, of having taken and successfully completed the continuing education course on
12 trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section
13 10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement includes
14 evidence that respondent has successfully completed the trust fund account and handling
15 continuing education course within 120 days prior to the effective date of the Decision in this
16 matter.

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IV.

Respondent GEORGE A. MAIRENA shall, within six (6) months from the
effective date of this Order, take and pass the Professional Responsibility Examination
administered by the Bureau including the payment of the appropriate examination fee. If
Respondent MAIRENA fails to satisfy this condition, Respondent's real estate license shall
automatically be suspended until Respondent passes the examination.

DATED: 4-18-16


Julie L. To, Counsel for
Bureau of Real Estate

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EXECUTION OF THE STIPULATION

I have read the Stipulation and Agreement and discussed it with my attorney. Its
terms are understood by me and are agreeable and acceptable to me. I understand that I am
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 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.


MAILING AND FACSIMILE

Respondent (1) shall mail the original signed signature page of the stipulation
herein to Julie L. To, Legal Section, Bureau of Real Estate, 320 W. Fourth St., Suite 350, Los
Angeles, California 90013-1105. Respondent shall also (2) transmit via facsimile a copy of


signed signature page, to the Department at the following telephone/fax number: (213) 576-6917.
Attention: Julie L. To:

A facsimile constitutes acceptance and approval of the terms and conditions of this stipulation. Respondent agrees, acknowledges and understands that by electronically sending to the Bureau a facsimile copy of Respondent's actual signature as it appears on the stipulation that receipt of the facsimile copy by the Bureau shall be as binding on Respondents as if the Bureau had received the original signed stipulation.

DATED: 4/14/16


GEORGE A. MAIRENA, Respondent,
individually and as designated officer of
GENA INC.

DATED: 4/14/16


Mary E. Work, Esq.
Attorney for Respondents
Approved as to form

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents GENA INC. and GEORGE A. MAIRENA, individually and as designated officer of GENA INC. and shall become effective at 12 o'clock noon on _____, 2016.

IT IS SO ORDERED _____, 2016.

REAL ESTATE COMMISSIONER

WAYNE S. BELL

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signed signature page, to the Department at the following telephone/fax number: (213) 576-6917,
Attention: Julie L. To.

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this stipulation. Respondent agrees, acknowledges and understands that by electronically sending
to the Bureau a facsimile copy of Respondent's actual signature as it appears on the stipulation
that receipt of the facsimile copy by the Bureau shall be as binding on Respondents as if the
Bureau had received the original signed stipulation.

DATED: _____

GEORGE A. MAIRENA, Respondent,
individually and as designated officer of
GENA INC.

DATED: _____

Mary E. Work, Esq.
Attorney for Respondents
Approved as to form

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
Respondents GENA INC. and GEORGE A. MAIRENA, individually and as designated officer
of GENA INC. and shall become effective at 12 o'clock noon on MAY 3, 2016,

IT IS SO ORDERED MAY 3, 2016.

REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner

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