

FILED

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

4 MAR 28 2014

5 BUREAU OF REAL ESTATE

6 By John

7

8 BEFORE THE BUREAU<sup>1</sup> OF REAL ESTATE  
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2. Respondent has received, read and understands the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate (“Department”) in this proceeding.

3. On or about September 23, 2013, Respondent 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. In order to effectuate this settlement, Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent acknowledges that she understands that by withdrawing said Notice of Defense, she will thereby waive her 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 she will waive other rights afforded to her in connection with the hearing such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

4. Respondent, pursuant to the limitations set forth below, although not admitting or denying the truth of the allegations, will not contest the factual allegations contained in the Accusation filed in this proceeding and the Real Estate Commissioner shall not be required to provide further evidence of such allegations.

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

6. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further administrative proceedings by the Department with respect to any matters which were not specifically alleged to be causes for accusation in this proceeding.

1                   7. This Stipulation and Respondent's decision not to contest the Accusation are  
2 made for the purpose of reaching an agreed disposition of this proceeding, and are expressly  
3 limited to this proceeding and any other proceeding or case in which the Department, or  
4 another licensing agency of this state, another state, or of the federal government is involved,  
5 and otherwise shall not be admissible in any other criminal or civil proceedings.

6                   DETERMINATION OF ISSUES

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

10                  The conduct, acts or omissions of Respondent JANET FAYE MC KINZIE-  
11 HARRIMAN, as set forth in the Accusation constitute cause to suspend or revoke the real  
12 estate license and licensing rights of Respondent JANET FAYE MC KINZIE-HARRIMAN  
13 pursuant to Business and Professions Code Sections 10177(h), 10177(g) and 10177(d).

14                  ORDER

15                  WHEREFORE, THE FOLLOWING ORDER is hereby made:

16                  All licenses and licensing rights of Respondent JANET FAYE MC KINZIE-  
17 HARRIMAN under the Real Estate Law are suspended for a period of sixty (60) days from the  
18 effective date of this Decision; provided, however, that if Respondent petitions, said suspension  
19 shall be stayed upon condition that :

20                  1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the  
21 Business and professions Code at the rate of \$50.00 for each day of the suspension, for a total  
22 monetary penalty of \$3,000.00.

23                  2. Said payment shall be in the form of a cashier's check or certified check made  
24 payable to the Recovery Account of the Real Estate Fund. Said check must be received by the  
25 Bureau prior to the effective date of the Decision in this matter.

26                  3. No further cause for disciplinary action against the real estate license of  
27 Respondent occurs within one year from the effective date of the Decision in this matter.

1                   4. If Respondent fails to pay the monetary penalty in accordance with the terms  
2 and conditions of the Decision, the Commissioner may, without a hearing, order the immediate  
3 execution of all or any part of the stayed suspension in which event the Respondent shall not be  
4 entitled to any repayment nor credit, prorated or otherwise, for money paid to the Bureau under  
5 the terms of this Decision.

6                   5. If Respondent pays the monetary penalty and if no further cause for  
7 disciplinary action against the real estate license of Respondent occurs within one year from the  
8 effective date of the Decision, the stay hereby granted shall become permanent.

9                   4. Respondent shall, within six (6) months from the effective date of this  
10 Decision, take and pass the Professional Responsibility Examination administered by the  
11 Department including the payment of the appropriate examination fee. If Respondent fails to  
12 satisfy this condition, the Commissioner may order suspension of Respondent's license until  
13 Respondent passes the examination.

14  
15 DATED: 1/31/14

  
16                   MARTHA J. ROSETT  
17                   Counsel for Complainant

18                   \* \* \*

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

26                   ///

1                    Respondent may signify acceptance and approval of the terms and conditions of  
2 this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by  
3 Respondent, to the Department at the following fax number (213) 576-6917. Respondent agrees,  
4 acknowledges and understands that by electronically sending to the Department a fax copy of his  
5 actual signature as it appears on the Stipulation that receipt of the faxed copy by the Department  
6 shall be as binding on Respondent as if the Department had received the original signed  
7 Stipulation and Agreement.

DATED: 1-31-2014

JANET FAYE MC KINZIE-HARRIMAN  
Respondent

DATED: 1-31-2014

Mark Overland  
Attorney for Respondent  
\* \* \*

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on

IT IS SO ORDERED.

## REAL ESTATE COMMISSIONER

Wayne S. Bell

Respondent may 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 fax number (213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

DATED: \_\_\_\_\_

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JANET FAYE MC KINZIE-HARRIMAN  
Respondent

DATED: \_\_\_\_\_

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Mark Overland  
Attorney for Respondent

The foregoing Stipulation and Agreement is hereby adopted as my Decision in  
this matter and shall become effective at 12 o'clock noon on **APR 18 2014**

IT IS SO ORDERED

## REAL ESTATE COMMISSIONER



Wayne S. Bell

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

FILED

MAR 28 2014

4 BUREAU OF REAL ESTATE

5 By J. Annob

7 BEFORE THE BUREAU<sup>1</sup> OF REAL ESTATE  
8 STATE OF CALIFORNIA

9 \* \* \*

10 In the Matter of the Accusation of ) CalBRE Case No. H-38964 LA  
11 ) OAH Case No. L-2013091003  
12 PACIFIC SOUTHWEST PROPERTIES, INC.,)  
13 a corporate real estate broker; and ) STIPULATION AND  
14 JANET FAYE MC KINZIE-HARRIMAN, ) AGREEMENT  
15 individually and as designated broker-officer of )  
Pacific Southwest Properties, Inc., )  
16 Respondents.)

17 It is hereby stipulated by and between PACIFIC SOUTHWEST  
18 PROPERTIES, INC., by and through Janet Faye McKinzie-Harriman, designated broker  
19 officer, represented by Mark Overland, attorney at law, in this matter, and the Complainant,  
20 acting by and through Martha J. Rosett, Counsel for the Bureau of Real Estate, as follows for  
the purpose of settling and disposing of the Accusation filed on July 18, 2013:

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

26  
27 <sup>1</sup> Effective July 1, 2013, the Department of Real Estate became the Bureau of Real Estate ("Bureau"). All  
further references to the agency are to the successor Bureau.

2. Respondent has received, read and understands the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate (“Department”) in this proceeding.

4                   3. On or about September 23, 2013, Respondent filed a Notice of Defense  
5 pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on  
6 the allegations in the Accusation. In order to effectuate this settlement, Respondent hereby  
7 freely and voluntarily withdraws said Notice of Defense. Respondent acknowledges that she  
8 understands that by withdrawing said Notice of Defense, she will thereby waive her right to  
9 require the Commissioner to prove the allegations in the Accusation at a contested hearing held  
10 in accordance with the provisions of the APA and that she will waive other rights afforded to  
11 her in connection with the hearing such as the right to present evidence in defense of the  
12 allegations in the Accusation and the right to cross-examine witnesses.

13                   4. Respondent, pursuant to the limitations set forth below, although not  
14 admitting or denying the truth of the allegations, will not contest the factual allegations  
15 contained in the Accusation filed in this proceeding and the Real Estate Commissioner shall  
16 not be required to provide further evidence of such allegations.

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

24           6. The Order or any subsequent Order of the Real Estate Commissioner made  
25 pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to  
26 any further administrative proceedings by the Department with respect to any matters which  
27 were not specifically alleged to be causes for accusation in this proceeding.

1                   7. This Stipulation and Respondent's decision not to contest the Accusation are  
2 made for the purpose of reaching an agreed disposition of this proceeding, and are expressly  
3 limited to this proceeding and any other proceeding or case in which the Department, or  
4 another licensing agency of this state, another state, or of the federal government is involved,  
5 and otherwise shall not be admissible in any other criminal or civil proceedings.

6                   DETERMINATION OF ISSUES

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

10                  The conduct, acts or omissions of Respondent PACIFIC SOUTHWEST  
11 PROPERTIES INC., as set forth in the Accusation constitute cause to suspend or revoke the  
12 real estate license and licensing rights of Respondent JANET FAYE MC KINZIE-  
13 HARRIMAN pursuant to Business and Professions Code Sections 10130, 10177(d) and  
14 10177(g).

15                  ORDER

16                  WHEREFORE, THE FOLLOWING ORDER is hereby made:

17                  All licenses and licensing rights of Respondent PACIFIC SOUTHWEST  
18 PROPERTIES, INC. under the Real Estate Law are suspended for a period of sixty (60) days  
19 from the effective date of this Decision; provided, however, that if Respondent petitions, said  
20 suspension shall be stayed upon condition that :

21                  1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the  
22 Business and professions Code at the rate of \$50.00 for each day of the suspension, for a total  
23 monetary penalty of \$3,000.00.

24                  2. Said payment shall be in the form of a cashier's check or certified check made  
25 payable to the Recovery Account of the Real Estate Fund. Said check must be received by the  
26 Bureau prior to the effective date of the Decision in this matter.

1                   3. No further cause for disciplinary action against the real estate license of  
2 Respondent occurs within one year from the effective date of the Decision in this matter.

3                   4. If Respondent fails to pay the monetary penalty in accordance with the terms  
4 and conditions of the Decision, the Commissioner may, without a hearing, order the immediate  
5 execution of all or any part of the stayed suspension in which event the Respondent shall not be  
6 entitled to any repayment nor credit, prorated or otherwise, for money paid to the Bureau under  
7 the terms of this Decision.

8                   5. If Respondent pays the monetary penalty and if no further cause for  
9 disciplinary action against the real estate license of Respondent occurs within one year from the  
10 effective date of the Decision, the stay hereby granted shall become permanent.

11  
12 DATED: 7/31/14

  
\_\_\_\_\_  
MARTHA J. ROSETT

Counsel for Complainant

14                   \* \* \*

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

23                   ///

24                   Respondent may signify acceptance and approval of the terms and conditions of  
25 this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by  
26 Respondent, to the Department at the following fax number (213) 576-6917. Respondent agrees,  
27

1 acknowledges and understands that by electronically sending to the Department a fax copy of his  
2 actual signature as it appears on the Stipulation that receipt of the faxed copy by the Department  
3 shall be as binding on Respondent as if the Department had received the original signed  
4 Stipulation and Agreement.

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6 DATED: 1-31-2014

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9 DATED: 1-31-2014

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JANET RAYE MC KINZIE-HARRIMAN  
Respondent

Mark E. Overland  
Mark Overland  
Attorney for Respondent  
\* \* \*

The foregoing Stipulation and Agreement is hereby adopted as my Decision in  
this matter and shall become effective at 12 o'clock noon on \_\_\_\_\_

IT IS SO ORDERED.

REAL ESTATE COMMISSIONER

Wayne S. Bell

1 acknowledges and understands that by electronically sending to the Department a fax copy of his  
2 actual signature as it appears on the Stipulation that receipt of the faxed copy by the Department  
3 shall be as binding on Respondent as if the Department had received the original signed  
4 Stipulation and Agreement.

5

6

DATED: \_\_\_\_\_

7

JANET FAYE MC KINZIE-HARRIMAN  
Respondent

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9

DATED: \_\_\_\_\_

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Mark Overland  
Attorney for Respondent

\* \* \*

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The foregoing Stipulation and Agreement is hereby adopted as my Decision in  
this matter and shall become effective at 12 o'clock noon on APR 18 2014.

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16

IT IS SO ORDERED

3/6/2014

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REAL ESTATE COMMISSIONER

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Wayne S. Bell

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