

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

**FILED**

3  
4 (213) 576-6910

DEC 11 2013

BUREAU OF REAL ESTATE

By 

8 BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \* \*

11  
12 In the Matter of the Accusation of )  
13 CAKE REALTY INC and DOROTHY LOUISE )  
14 CAKE, individually, and as )  
15 designated officer of Cake Realty )  
16 Inc, )  
Respondents. )

DRE No: H-39008 LA  
OAH No: 2013090244

STIPULATION AND  
AGREEMENT

17 It is hereby stipulated by and between Respondents  
18 CAKE REALTY INC and DOROTHY LOUISE CAKE, represented by John V.  
19 Giardinelli, Esq., and the Complainant, acting by and through  
20 James A. Demus, Counsel for the Bureau of Real Estate, as follows  
21 for the purpose of settling and disposing of the Accusation filed  
22 on August 21, 2013, in this matter:

23  
24 1. All issues which were to be contested and all  
25 evidence which was to be presented by Complainant and Respondents  
26 at a formal hearing on the Accusation, which hearing was to be  
27 held in accordance with the provisions of the Administrative

1 Procedure Act ("APA"), shall instead and in place thereof be  
2 submitted solely on the basis of the provisions of this  
3 Stipulation and Agreement ("Stipulation").

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

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

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

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

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

19           7. The Order or any subsequent Order of the Real  
20 Estate Commissioner made pursuant to this Stipulation shall not  
21 constitute an estoppel, merger or bar to any further  
22 administrative or civil proceedings by the Bureau of Real Estate  
23 with respect to any matters which were not specifically alleged  
24 to be causes for Accusation in this proceeding but do constitute  
25 a bar, estoppel and merger as to any allegations actually  
26 contained in the Accusation against Respondents herein.  
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1           8. Respondents understand that by agreeing to this  
2 Stipulation, Respondents agree to pay, pursuant to Business and  
3 Professions Code Section 10148, the cost of the audits which led  
4 to this disciplinary action. The amount of said cost is  
5 \$7,693.38.

6           9. Respondents have received, read, and understand the  
7 "Notice Concerning Costs of Subsequent Audit." Respondents  
8 further understand that by agreeing to this Stipulation, the  
9 findings set forth below in the Determination of Issues become  
10 final, and the Commissioner may charge Respondents for the cost  
11 of any subsequent audit conducted to determine if the violations  
12 have been corrected. The maximum cost of the subsequent audit  
13 will not exceed \$7,693.38.

14                           DETERMINATION OF ISSUES

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

17                           I.

18           The conduct of CAKE REALTY INC and DOROTHY LOUISE CAKE,  
19 as described in Paragraph 4, hereinabove, is in violation of  
20 Business and Professions Code Section 10145, pursuant to Title  
21 10, California Code of Regulations, Sections 2831.1, 2831.2, 2832  
22 and 2834 and provides a basis for discipline of its licenses and  
23 license rights pursuant to Business and Professions Code Section  
24 10177(g).

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1 In calculating the amount of the Commissioner's reasonable cost,  
2 the Commissioner may use the estimated average hourly salary for  
3 all persons performing audits of real estate brokers, and shall  
4 include an allocation for travel costs, including mileage, time  
5 to and from the auditor's place of work and per diem.

6 Respondent shall pay such costs within 60 days of receiving an  
7 invoice from the Commissioner detailing the activities performed  
8 during the audit and the amount of time spent performing those  
9 activities, unless Respondent provides proof that such costs  
10 have already been paid. The Commissioner may, in his  
11 discretion, vacate and set aside the stay order, if payment is  
12 not timely made as provided for herein, or as provided for in a  
13 subsequent agreement between the Respondent and the  
14 Commissioner. The vacation and the set aside of the stay shall  
15 remain in effect until payment is made in full, or until  
16 Respondent enters into an agreement satisfactory to the  
17 Commissioner to provide for payment.

18 II.

19 A.

20 All licenses and licensing rights of Respondent  
21 DOROTHY LOUISE CAKE under the Real Estate Law are suspended for  
22 a period of thirty (30) days from the effective date of this  
23 Decision; provided, however, that thirty (30) days of said  
24 suspension, shall be stayed for two (2) years upon the following  
25 terms and conditions:  
26  
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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

1 discretion, vacate and set aside the stay order, if payment is  
2 not timely made as provided for herein, or as provided for in a  
3 subsequent agreement between the Respondent and the  
4 Commissioner. The vacation and the set aside of the stay shall  
5 remain in effect until payment is made in full, or until  
6 Respondent enters into an agreement satisfactory to the  
7 Commissioner to provide for payment.

8 C.

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

20  
21 DATED: 11/13/2013

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

23 **EXECUTION OF THE STIPULATION**

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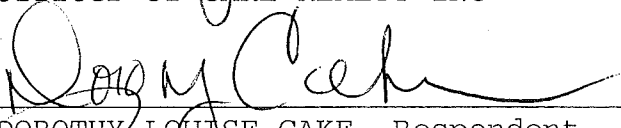
1 me by the California Administrative Procedure Act (including but  
2 not limited to Sections 11506, 11508, 11509 and 11513 of the  
3 Government Code), and I willingly, intelligently and voluntarily  
4 waive those rights, including the right of requiring the  
5 Commissioner to prove the allegations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

9 Respondents can signify acceptance and approval of the  
10 terms and conditions of this Stipulation by faxing a copy of its  
11 signature page, as actually signed by Respondents, to the Bureau  
12 at the following telephone/fax number: James A. Demus at (213)  
13 576-6917. Respondents agree, acknowledge and understand that by  
14 electronically sending to the Bureau a fax copy of Respondent's  
15 actual signature as it appears on the Stipulation, that receipt  
16 of the faxed copy by the Bureau shall be as binding on Respondent  
17 as if the Bureau had received the original signed Stipulation.  
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19  
20 DATED: November 5, 2013

  
DOROTHY LOUISE CAKE, as Designated  
Officer of CAKE REALTY INC

21  
22  
23 DATED: November 5, 2013

  
DOROTHY LOUISE CAKE, Respondent

24  
25 DATED: November 5, 2013

  
JOHN V. GIARDINELLI  
Attorney for Respondents

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2 The foregoing Stipulation and Agreement is hereby  
3 adopted as my Decision as to Respondents CAKE REALTY INC and  
4 DOROTHY LOUISE CAKE and shall become effective at 12 o'clock noon  
5 on JAN 02 2014, NOV 27 2013

6 IT IS SO ORDERED \_\_\_\_\_

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8 Real Estate Commissioner

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11 By: 

12 By: JEFFREY MASON  
13 Chief Deputy Commissioner  
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