

1 Bureau of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6982

FILED

AUG 31 2015

BUREAU OF REAL ESTATE

By *Angela Martin*

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	BRE No. H-39498 LA
)	OAH no. 2014071204
12 <u>IRVINE PROPERTY MANAGEMENT, INC.;</u>)	
)	
13 JEFFREY VERLYN JENSEN, individually and)	STIPULATION AND
14 as a designated officer of Irvine Property)	AGREEMENT
15 Management, Inc.;)	
)	
16 <u>GARY FRANK SULLY,</u>)	
)	
17 Respondents.)	

18
19 It is hereby stipulated by and between Respondents IRVINE PROPERTY
20 MANAGEMENT, INC. ("IPMI") and GARY FRANK SULLY ("SULLY") (collectively
21 "Respondents"), represented by Scott J. Harris, Esq. and the Complainant, acting by and through
22 Diane Lee, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and
23 disposing of the Accusation ("Accusation") filed on June 20, 2014, in this matter:

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

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

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

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

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

20 5. This Stipulation is made for the purpose of reaching an agreed disposition of
21 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
22 which the Bureau of Real Estate, the state or federal government, or any agency of this state, or
23 another state or federal government is involved.

24 6. It is understood by the parties that the Real Estate Commissioner may adopt
25 this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on
26 Respondents’ real estate licenses and license rights as set forth in the below “Order.” In the
27 event that the Commissioner in his discretion does not adopt this Stipulation, it shall be void and

1 of no effect, and Respondents shall retain the right to a hearing and proceeding on the Accusation
2 under the provisions of the APA and shall not be bound by this Stipulation herein.

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

9 8. Respondents understand that by agreeing to this Stipulation, Respondents agree
10 to pay, pursuant to California Business and Professions Code section 10148, the cost of the
11 audits which led to this disciplinary action. The amount of said cost for the original audits
12 (LA130059 and LA130073) is \$5,685.14.

13 9. Respondents understand that by agreeing to this Stipulation, the findings set
14 forth below in the Determination of Issues become final, and the Commissioner may charge
15 Respondents for the cost of any subsequent audit conducted pursuant to California Business and
16 Professions Code section 10148 to determine if the violations have been corrected. The
17 maximum cost of the subsequent audit will not exceed \$5,685.14.

18 10. Respondents understand that by agreeing to this Stipulation, Respondents
19 agree to pay, pursuant to California Business and Professions Code section 10106, the cost of the
20 investigation and enforcement. The amount of investigation and enforcement cost is \$7,791.46.

21
22 DETERMINATION OF ISSUES

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

25 ///

26 ///

27 ///

I.

The conduct, acts, or omissions of Respondent IPMI, as described in the Accusation and Paragraph 4, above, are in violation of California Business and Professions Code sections 10145, 10159.2, 10176(a), 10176(e), 10176(g), 10176(i), 10177(g), 10177(j), and 10177(h), and California Code of Regulations, Title 10, Chapter 6, Sections 2725, 2831, 2832(a), 2832.1, 2834, and 2835, and are a basis for discipline of Respondent IPMI's license and license rights as violations of the Real Estate Law as listed herein.

II.

The conduct, acts or omissions of Respondent SULLY, as described in the Accusation and Paragraph 4, above, are in violation of California Business and Professions Code sections 10130, 10145, 10176(a), 10176(g), 10176(i), and 10177(g), and are a basis for discipline of Respondent SULLY's license and license rights as violations of the Real Estate Law as violations of the Real Estate Law as listed herein.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

(IPMI: REVOCATION AND RESTRICTED LICENSE)

I.

All licenses and licensing rights of Respondent IPMI under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent IPMI pursuant to California Business and Professions Code section 10156.5 if Respondent IPMI makes application therefor and pays to the Bureau of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision.

The restricted license issued to Respondent IPMI shall be subject to all of the provisions of California Business and Professions Code section 10156.7 and to the following limitations, conditions, and restrictions imposed under authority of California Business and Professions Code

1 section 10156.6:

2 1. The restricted license issued to Respondent IPMI may be suspended prior
3 to hearing by Order of the Real Estate Commissioner in the event of
4 Respondent IPMI's conviction or plea of nolo contendere to a crime which
5 is substantially related to Respondent IPMI's fitness or capacity as a real
6 estate licensee.

7 2. The restricted license issued to Respondent IPMI may be suspended prior
8 to hearing by Order of the Real Estate Commissioner on evidence
9 satisfactory to the Commissioner that Respondent has violated provisions
10 of the California Real Estate Law, the Subdivided Lands Law, Regulations
11 of the Real Estate Commissioner, or conditions attaching to the restricted
12 license.

13 3. Respondent IPMI shall not be eligible to apply for the issuance of an
14 unrestricted real estate license nor for the removal of any of the conditions,
15 limitations, or restrictions of a restricted license until two (2) years have
16 elapsed from the effective date of this Decision.

17 4. Any restricted real estate license issued to Respondent IPMI pursuant to
18 this Decision shall be suspended as described below in Section II. The
19 restricted license and suspension, if any, shall run concurrently.

20
21 (IPMI: SUSPENSION)

22 II.

23 All licenses and licensing rights of Respondent IPMI under the Real Estate Law
24 are suspended for a period of ninety (90) days from the effective date of this Decision:

25 A. Provided, however, that if Respondent IPMI petitions, the initial thirty (30)
26 days of said suspension (or a portion thereof) shall be stayed upon condition that:

27 1. Respondent IPMI pays a monetary penalty pursuant to California Business and

1 Professions Code section 10175.2 at the rate of \$250.00 for each day of the suspension for a total
2 monetary penalty of \$7,500.00.

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

6 3. No further cause for disciplinary action against the real estate license of
7 Respondent IPMI occurs within two (2) years from the effective date of the Decision in this
8 matter.

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

14 5. If Respondent IPMI pays the monetary penalty and if no further cause for
15 disciplinary action against the real estate license of Respondent IPMI occurs within two (2) years
16 from the effective date of the Decision, the stay hereby granted shall become permanent.

17 6. Address: Payment shall be mailed to the Bureau of Real Estate at: Bureau of
18 Real Estate, Flag Section, P.O. Box 137013, Sacramento, CA 95813-7013.

19 B. The remaining sixty (60) days of the ninety (90) day suspension shall be stayed
20 for two (2) years upon the following terms and conditions:

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

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

1 permanent.

2
3 (SULLY: REVOCATION AND RESTRICTED LICENSE)

4 III.

5 All licenses and licensing rights of Respondent SULLY under the Real Estate Law
6 are revoked; provided, however, a restricted real estate salesperson license shall be issued to
7 Respondent SULLY pursuant to California Business and Professions Code section 10156.5 if
8 Respondent SULLY makes application therefor and pays to the Bureau of Real Estate the
9 appropriate fee for the restricted license within ninety (90) days from the effective date of this
10 Decision. The restricted license issued to Respondent SULLY shall be subject to all of the
11 provisions of California Business and Professions Code section 10156.7 and to the following
12 limitations, conditions, and restrictions imposed under authority of California Business and
13 Professions Code section 10156.6:

- 14 1. The restricted license issued to Respondent may be suspended prior to
15 hearing by Order of the Real Estate Commissioner in the event of
16 Respondent SULLY's conviction or plea of nolo contendere to a crime
17 which is substantially related to Respondent SULLY's fitness or capacity
18 as a real estate licensee.
- 19 2. The restricted license issued to Respondent SULLY may be suspended
20 prior to hearing by Order of the Real Estate Commissioner on evidence
21 satisfactory to the Commissioner that Respondent SULLY has violated
22 provisions of the California Real Estate Law, the Subdivided Lands Law,
23 Regulations of the Real Estate Commissioner, or conditions attaching to
24 the restricted license.
- 25 3. Respondent SULLY shall not be eligible to apply for the issuance of an
26 unrestricted real estate license nor for the removal of any of the conditions,
27 limitations, or restrictions of a restricted license until two (2) years have

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

elapsed from the effective date of this Decision.

- 4. Respondent SULLY shall submit with any application for license under an
employing broker, or any application for transfer to a new employing
broker, a statement signed by the prospective employing real estate broker
on a form approved by the Bureau of Real Estate which shall certify:
 - a. That the employing broker has read the Decision of the
Commissioner which granted the right to a restricted license; and
 - b. That the employing broker will exercise close supervision over the
performance by the restricted licensee relating to activities for
which a real estate license is required.

- 5. Respondent SULLY shall, within nine (9) months from the effective date
of this Decision, present evidence satisfactory to the Real Estate
Commissioner that Respondent SULLY has, since the most recent
issuance of an original or renewal real estate license, taken, and
successfully completed the continuing education requirements of Article
2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license.
If Respondent SULLY fails to satisfy this condition, the restricted license
of Respondent SULLY shall be suspended until Respondent SULLY
presents such evidence. The Commissioner shall afford Respondent
SULLY the opportunity for a hearing pursuant to the APA to present such
evidence.

- 6. Any restricted real estate license issued to Respondent SULLY pursuant to
this Decision shall be suspended as described below in Section IV. The
restricted license and suspension, if any, shall run concurrently.

///
///
///

1 (SULLY: SUSPENSION)

2 IV.

3 All licenses and licensing rights of Respondent SULLY under the Real Estate Law
4 are suspended for a period of ninety (90) days from the effective date of this Decision:

5 A. Provided, however, that if Respondent SULLY petitions, the initial thirty (30)
6 days of said suspension (or a portion thereof) shall be stayed upon condition that:

7 1. Respondent SULLY pays a monetary penalty pursuant to California Business
8 and Professions Code section 10175.2 at the rate of \$250.00 for each day of the suspension for a
9 total monetary penalty of \$7,500.00.

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

13 3. No further cause for disciplinary action against the real estate license of
14 Respondent SULLY occurs within two (2) years from the effective date of the Decision in this
15 matter.

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

21 5. If Respondent SULLY pays the monetary penalty and if no further cause for
22 disciplinary action against the real estate license of Respondent SULLY occurs within two (2)
23 years from the effective date of the Decision, the stay hereby granted shall become permanent.

24 6. Address: Payment shall be mailed to the Bureau of Real Estate at: Bureau of
25 Real Estate, Flag Section, P.O. Box 137013, Sacramento, CA 95813-7013.

26 B. The remaining sixty (60) days of the ninety (90) day suspension shall be stayed
27 for two (2) years upon the following terms and conditions:

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

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

9 C. Respondent SULLY shall, within six (6) months from the effective date of the
10 Decision, take and pass the Professional Responsibility Examination administered by the Bureau
11 of Real Estate, including the payment of the appropriate examination fee. If Respondent SULLY
12 fails to satisfy this condition, Respondent SULLY's license shall be suspended until Respondent
13 SULLY passes the examination. The Commissioner shall afford Respondent SULLY the
14 opportunity for a hearing pursuant to the APA to present such evidence.

15
16 (IPMI: AUDIT COSTS)

17 V.

18 Pursuant to California Business and Professions Code section 10148, Respondent
19 IPMI shall pay the Commissioner's reasonable cost for the audits which led to this disciplinary
20 action. The cost of the original audits which led to this disciplinary action is \$5,685.14. In
21 calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the
22 estimated average hourly salary for all persons performing audits of real estate brokers, and shall
23 include an allocation for travel time to and from the auditors' place of work.

24 Respondent IPMI has received and read, and understands the "Notice Concerning
25 Costs of Subsequent Audit." Respondent IPMI further understands that by agreeing to this
26 Stipulation, the findings set forth below in the Determination of Issues become final, and the
27 Commissioner may charge Respondent IPMI for the cost of any subsequent audit conducted

1 pursuant to California Business and Professions Code section 10148 to determine if the
2 violations have been corrected. The maximum cost of the subsequent audit will not exceed
3 \$5,685.14.

4 Respondent IPMI shall pay audit costs within 60 days of receiving an invoice
5 from the Commissioner detailing the activities performed during the audit and the amount of
6 time spent performing those activities.

7 Said payment shall be in the form of a cashier's check or certified check made
8 payable to the Bureau of Real Estate with "Case No. H-39498 LA" noted on the check. Said
9 check shall be mailed to the Bureau of Real Estate at: Bureau of Real Estate, Attn. Fiscal Section,
10 1651 Exposition Blvd., Sacramento, CA 95815.

11 The Commissioner may suspend the license of Respondent IPMI pending a
12 hearing held in accordance with California Government Code section 11500, et seq., if payment
13 is not timely made as provided for herein, or as provided for in a subsequent agreement between
14 the Respondent IPMI and the Commissioner. The suspension shall remain in effect until
15 payment is made in full or until Respondent IPMI enters into an agreement satisfactory to the
16 Commissioner to provide for payment, or until a decision providing otherwise is adopted
17 following a hearing held pursuant to this condition.

18
19 (IPMI AND SULLY: INVESTIGATION AND ENFORCEMENT COSTS)

20 VI.

21 Pursuant to California Business and Professions Code section 10106,
22 Respondents IPMI and SULLY shall pay the Commissioner's reasonable cost for investigation
23 and enforcement of the matter. The investigation and enforcement cost which led to this
24 disciplinary action is \$7,791.46. Said payment shall be made within sixty (60) days after the
25 effective date of this Decision. Said payment shall be in the form of a cashier's check or certified
26 check made payable to the Bureau of Real Estate at: Bureau of Real Estate, Flag Section, P.O.
27 Box 137013, Sacramento, CA 95813-7013.


1 The Commissioner shall suspend the licenses if payment is not timely made as
2 provided for herein, or as provided for in a subsequent agreement between the Respondents and
3 the Commissioner. The suspension shall remain in effect until payment is made in full or until
4 Respondents enter into an agreement satisfactory to the Commissioner to provide for payment, or
5 until a decision providing otherwise is adopted following a hearing held pursuant to this
6 condition.

7
8 (MAILING OF PROOF)

9 VII.

10 All proof required by this Decision shall be submitted to the Bureau of Real Estate
11 at: Bureau of Real Estate, Attn.: Legal Section – Counsel Diane Lee, 320 West Fourth Street,
12 Suite 350, Los Angeles, California 90013-1105.

13 DATED: 08/06/2015

14 
15 _____
16 DIANE LEE, Counsel for
17 Bureau of Real Estate

18 * * *

19 EXECUTION OF THE STIPULATION

20 We have read the Stipulation and discussed it with our attorney, Scott J. Harris,
21 Esq. Its terms are understood by us, and are agreeable and acceptable to us. We understand that
22 we are waiving rights given to us by the California APA (including, but not limited to, California
23 Government Code sections 11506, 11508, 11509, and 11513), and we willingly, intelligently,
24 and voluntarily waive those rights, including, but not limited to, the right of requiring the
25 Commissioner to prove the allegations in the Accusation at a hearing at which we would have the
26 right to cross-examine witnesses against us and to present evidence in defense and mitigation of
27 the charges.

///

///

MAILING AND FACSIMILE

1
2 Respondents (1) shall mail the original signed signature page of the Stipulation
3 herein to Bureau of Real Estate, Attention: Legal Section – Diane Lee, 320 West Fourth Street,
4 Suite 350, Los Angeles, California 90013-1105. Respondents shall also (2) facsimile a copy of
5 signed signature page, to the Bureau of Real Estate at the following telephone/fax number: (213)
6 576-6917, Attention: Diane Lee.

7 ///

8 ///

9 ///

10 ///

11 ///

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

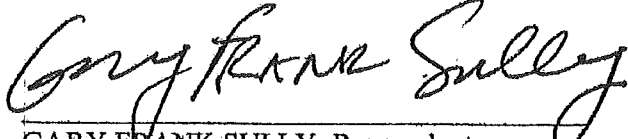
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

A facsimile constitutes acceptance and approval of the terms and conditions of this Stipulation. Respondents agree, acknowledge, and understand that by electronically sending to the Bureau of Real Estate a facsimile copy of Respondents' actual signatures as they appear on the Stipulation that receipt of the facsimile copy by the Bureau of Real Estate shall be as binding on Respondents as if the Bureau of Real Estate had received the original signed Stipulation.

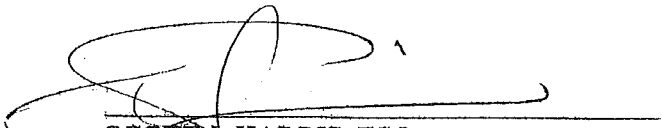
DATED: 8/5/15


IRVINE PROPERTY MANAGEMENT, INC.,
Respondent
By: GARY FRANK SULLY

DATED: 8/5/15


GARY FRANK SULLY, Respondent

DATED: 8/5/15


SCOTT J. HARRIS, ESQ.
Attorney for Respondents Irvine Property
Management, Inc. and Gary Frank Sully

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents IRVINE PROPERTY MANAGEMENT, INC. and GARY FRANK SULLY, and shall become effective at 12 o'clock noon on _____, 2015.

IT IS SO ORDERED _____, 2015.

REAL ESTATE COMMISSIONER

1 A facsimile constitutes acceptance and approval of the terms and conditions of
2 this Stipulation. Respondents agree, acknowledge, and understand that by electronically sending
3 to the Bureau of Real Estate a facsimile copy of Respondents' actual signatures as they appear on
4 the Stipulation that receipt of the facsimile copy by the Bureau of Real Estate shall be as binding
5 on Respondents as if the Bureau of Real Estate had received the original signed Stipulation.

6
7 DATED: _____

IRVINE PROPERTY MANAGEMENT, INC.,
Respondent
By: GARY FRANK SULLY

8
9
10
11 DATED: _____

GARY FRANK SULLY, Respondent

12
13
14 DATED: _____

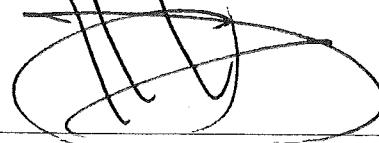
SCOTT J. HARRIS, ESQ.
Attorney for Respondents Irvine Property
Management, Inc. and Gary Frank Sully

15
16
17 * * *

18 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
19 Respondents IRVINE PROPERTY MANAGEMENT, INC. and GARY FRANK SULLY, and
20 shall become effective at 12 o'clock noon on SEP 20 2015, 2015.

21
22 IT IS SO ORDERED August 26, 2015.

23 REAL ESTATE COMMISSIONER

24 

25 By: JEFFREY MASON
26 Chief Deputy Commissioner
27