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Bureau of Real Estate
320 W. 4TH Street, Suite 350
Los Angeles, CA 90013-1105

Telephone: (213) 576-6982

FILED

FEB 01 2016

BUREAU OF REAL ESTATE

By *[Signature]*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

MAXIM PROPERTIES; POLLY
ELLEN WATTS, individually and as
Designated Officer of Maxim
Properties; and DAVID RANDALL
WEHRLY, individually and as former
Designated Officer of Maxim
Properties,

Respondents.

No. H-39736 LA

STIPULATION
AND
AGREEMENT

It is hereby stipulated by and between Respondents MAXIM PROPERTIES (“MAXIM”), POLLY ELLEN WATTS (“WATTS”), and DAVID RANDALL WEHRLY (“WEHRLY”) (collectively, “Respondents”), acting by and through Jeffrey W. Kramer, an attorney at TroyGould PC, and the Complainant, acting by and through Amelia V. Vetrone, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation (“Accusation”) filed on February 5, 2015, in this matter:

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

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
4 Respondents, the Discovery Provisions of the APA and the Accusation filed by the Bureau of
5 Real Estate in this proceeding.

6 3. Respondents filed a Notice of Defense pursuant to Section 11506 of the
7 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
8 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents
9 acknowledge that they understand that by withdrawing said Notice 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 allegations contained in the Accusation. In the
15 interest of expedience and economy, Respondents choose not to contest these allegations. These
16 allegations, without being admitted or denied, will serve as a prima facie basis for the
17 disciplinary action stipulated to herein. Respondents do not admit the allegations of the
18 Accusation. The Real Estate Commissioner shall not be required to provide evidence to prove
19 said 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 not any other proceeding or case
22 in which the Bureau of Real Estate (“Bureau”), or another licensing agency of this state, another
23 state or the federal government is involved, and otherwise shall not be admissible in any other
24 criminal or civil proceeding.

25 6. It is understood by the parties that the Real Estate Commissioner may adopt
26 this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on
27 Respondents’ real estate licenses and license rights as set forth in the below “Order”. In the

1 event that the Commissioner in his discretion does not adopt the Stipulation, the Stipulation shall
2 be void and of no effect and Respondents shall retain the right to a hearing and proceeding on the
3 Accusation under the provisions of the APA and shall not be bound by any stipulation or waiver
4 made herein.

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

9 8. Respondents understand that by agreeing to this Stipulation, Respondents
10 agree to pay, pursuant to Business and Professions Code Section 10148, the cost of the audit
11 which led to this disciplinary action. The amount of said cost is \$11,185.10.

12 9. Respondents have received, read, and understand the "Notice Concerning
13 Costs of Subsequent Audit". Respondents further understand that by agreeing to this Stipulation,
14 the findings set forth below in the Determination of Issues become final, and the Commissioner
15 may charge Respondents for the cost of any subsequent audit conducted pursuant to Business
16 and Professions Code Section 10148 to determine if the violations have been corrected. The
17 maximum cost of the subsequent audit will not exceed \$11,185.10.

18 10. Respondents understand that by agreeing to this Stipulation, Respondents
19 agree to pay, pursuant to Business and Professions Code Section 10106, the cost of the
20 investigation of this matter. The amount of said cost is \$2,691.45.

21 DETERMINATION OF ISSUES

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

24 The Commissioner has determined that the conduct of Respondents MAXIM
25 PROPERTIES, POLLY ELLEN WATTS, and DAVID RANDALL WEHRLY as described in
26 Paragraph 4, herein above, violates Sections 10145 and 10177(d) of the Business and Professions
27 Code ("Code") and is a basis for discipline of Respondents' licenses and license rights pursuant

1 to Code Sections 10177(d), and 10177(g).

2 ORDER

3 WHEREFORE, THE FOLLOWING ORDER is hereby made:

4 I.

5 Respondents shall satisfy the following terms and conditions, or be subject to the
6 suspension of their real estate licenses as set forth below:

7 1. Respondents MAXIM PROPERTIES, POLLY ELLEN WATTS, and DAVID
8 RANDALL WEHRLY shall each pay a monetary penalty pursuant to Section 10175.2 of the
9 Business and Professions Code of \$3,000.00.

10 2. Said payment shall be in the form of a cashier's check made payable to the
11 Bureau of Real Estate. Said check must be delivered to the Bureau of Real Estate, Flag
12 Section, P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
13 Decision and Order.

14 3. If Respondent MAXIM PROPERTIES, POLLY ELLEN WATTS, or DAVID
15 RANDALL WEHRLY fails to pay the monetary penalty in accordance with the terms and
16 conditions of this Decision and Order, that Respondent's real estate license shall automatically
17 be suspended until payment is made in full, or until a decision providing otherwise is adopted
18 following a hearing held pursuant to this condition. In that event, said Respondent shall not be
19 entitled to any repayment nor credit, prorated or otherwise, for money paid to the Bureau under
20 the terms of this Decision and Order.

21 II.

22 Respondents WATTS and WEHRLY shall, **within nine (9) months from the**
23 **effective date of this Decision and Order**, present evidence satisfactory to the Real Estate
24 Commissioner that Respondents have, since the most recent issuance of an original or renewal
25 real estate license, taken and successfully completed the continuing education requirements of

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1 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. Evidence of
2 continuing education submitted in connection with a real estate license renewal within nine (9)
3 months prior to the effective date of this Decision and Order shall be deemed to satisfy this
4 condition. If either Respondent fails to satisfy this condition, then said Respondent's real estate
5 license shall be automatically suspended until the Respondent presents evidence satisfactory to
6 the Commissioner of having taken and successfully completed the continuing education
7 requirements. **Proof of completion of the continuing education courses must be delivered to**
8 **the Bureau of Real Estate, Flag Section, P.O. Box 137013, Sacramento, CA 95813-7013.**

9 III.

10 Respondents WATTS and WEHRLY shall within six (6) months from the
11 **effective date of the Decision and Order** herein, take and pass the Professional Responsibility
12 Examination administered by the Bureau including the payment of the appropriate examination
13 fee. If either Respondent fails to satisfy this condition, said Respondent's real estate license shall
14 be automatically suspended until the Respondent passes the examination.

15 IV.

16 Respondents WATTS and WEHRLY shall within 120 days from the effective
17 **date of the Decision and Order** herein submit proof satisfactory to the Commissioner of having
18 taken and successfully completed the continuing education course on trust fund accounting and
19 handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. If either
20 Respondent fails to satisfy this condition, said Respondent's real estate license shall be
21 automatically suspended until the Respondent presents evidence satisfactory to the
22 Commissioner of having taken and successfully completed the trust fund accounting and
23 handling course. **Proof of completion of the continuing education courses must be delivered**
24 **to the Bureau of Real Estate, Flag Section, P.O. Box 137013, Sacramento, CA 95813-7013.**

25 V.

26 Pursuant to Section 10148 of the Business and Professions Code, Respondents
27 MAXIM, WATTS and WEHRLY shall pay the Commissioner's reasonable cost for the audits

1 which led to this disciplinary action. **Respondents shall pay such cost within sixty (60) days**
2 **of receiving an invoice therefore from the Commissioner.** Payment of the audit costs should
3 not be made until Respondents receive the invoice. Respondents are jointly and severally liable
4 for the cost of the audit. If Respondents fail to satisfy this condition in a timely manner as
5 provided for herein, Respondents real estate licenses shall automatically be suspended until
6 payment is made in full, or until a decision providing otherwise is adopted following a hearing
7 held pursuant to this condition.

8 Pursuant to Section 10148 of the Code, Respondents MAXIM, WATTS and
9 WEHRLY shall pay the Commissioner's reasonable cost, not to exceed \$11,185.10, for a
10 subsequent audit to determine if Respondents have corrected the violations found in the
11 Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the
12 Commissioner may use the estimated average hourly salary for all persons performing audits of
13 real estate brokers, and shall include an allocation for travel time to and from the auditor's place
14 of work. Respondents shall pay such cost within sixty (60) days of receiving an invoice
15 **therefore from the Commissioner.** Payment of the audit costs should not be made until
16 Respondents receive the invoice. Respondents are jointly and severally liable for the cost of the
17 audit. If Respondents fail to satisfy this condition in a timely manner as provided for herein,
18 Respondents real estate licenses shall automatically be suspended until payment is made in full,
19 or until a decision providing otherwise is adopted following a hearing held pursuant to this
20 condition.

21 VI.

22 Prior to the effective date of this Decision, and pursuant to Section 10106 of the
23 Business and Professions Code, Respondents shall pay the Commissioner's reasonable cost for
24 the investigation which led to this disciplinary action in the amount of \$2,691.45. Respondents
25 are jointly and severally liable for the cost of the investigation. Said payment shall be in the
26 form of a cashier's check made payable to the Bureau of Real Estate. Said check must be
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1 delivered to the Bureau of Real Estate, Flag Section, P.O. Box 137013, Sacramento, CA
2 95813-7013, prior to the effective date of this Decision and Order.

3 If Respondents fail to satisfy this condition in a timely manner as provided for
4 herein, Respondents real estate licenses shall automatically be suspended until payment is made
5 in full, or until a decision providing otherwise is adopted following a hearing held pursuant to
6 this condition.

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9 DATED: 12-22-15


10 Amelia V. Vetrone, Counsel for
11 Bureau of Real Estate

12 * * *

13 EXECUTION OF THE STIPULATION

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


21 MAILING

22 Respondents shall mail or deliver the original signed signature page of the
23 stipulation herein to Amelia V. Vetrone: Attention: Legal Section, Bureau of Real Estate, 320
24 W. Fourth St., Suite 350, Los Angeles, California 90013-1105.

25 Respondents' signatures below constitute acceptance and approval of the terms
26 and conditions of this Stipulation. Respondents agree, acknowledge and understand that by
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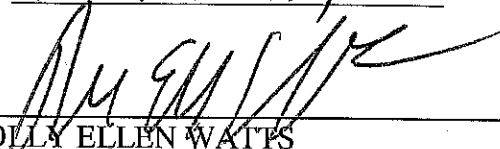
1 signing this Stipulation they are bound by its terms as of the date of such signatures and that such
2 agreement is not subject to rescission or amendment at a later date except by a separate Decision
3 and Order of the Real Estate Commissioner.

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5 DATED: 12-22-15



MAXIM PROPERTIES
By: David Wehrly

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8 DATED: 12-22-15



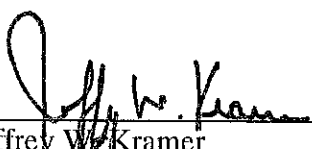
POLLY ELLEN WATTS
Respondents

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10 DATED: 12-22-15



DAVID RANDALL WEHRLY
Respondents

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14 DATED: 12/22/15

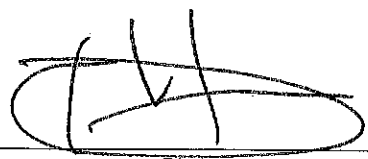


Jeffrey W. Kramer
Counsel for Respondents
Approved as to Form

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19 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
20 Respondents MAXIM PROPERTIES, POLLY ELLEN WATTS, and DAVID RANDALL
21 WEHRLY, and shall become effective at 12 o'clock noon on FEB 22 2016

22 IT IS SO ORDERED January 29 2016

23 Real Estate Commissioner
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26 By: JEFFREY MASON
27 Chief Deputy Commissioner