

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

FILED

APR 05 2016

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

11 In the Matter of the Accusation

No. H-39859 LA

No. L-2015080521

12 DAYMARK PROPERTIES REALTY,)
13 INC.; TODD ANTHONY MIKLES,)
14 designated officer for Daymark)
15 Properties Realty, Inc.; and)
16 RICHARD G. BURNETT, former)
17 designated officer for Daymark)
18 Properties Realty, Inc.,)
19 Respondents.)

STIPULATION AND AGREEMENT

20 It is hereby stipulated by and between Respondent RICHARD G. BURNETT
21 ("Respondent"), former designated officer of Daymark Properties Realty, Inc., and the
22 Complainant, acting by and through Cheryl Keily, Counsel for the Bureau of Real Estate, as
23 follows for the purpose of settling and disposing of the Accusation filed on June 9, 2015, in this
24 matter.

25 1. All issues which were to be contested and all evidence which was to be
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1 presented by Complainant and Respondent at a formal hearing on the Accusation, which
2 hearing was to be held in accordance with the provisions of the Administrative Procedure Act
3 (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of
4 this Stipulation and Agreement.
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6 2. Respondent has received, read and understands 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. On August 5, 2015, Respondent filed a Notice of Defense, pursuant to Section
10 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the
11 Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
12 Respondent acknowledges that he understands that by withdrawing said Notice of Defense he
13 will thereby waive his right to require the Commissioner of Real Estate (“Commissioner”) to
14 prove the allegations in the Accusation at a contested hearing held in accordance with the
15 provisions of the APA and that he will waive other rights afforded to him in connection with the
16 hearing, such as the right to present evidence in defense of the allegations in the Accusation and
17 the right to cross-examine witnesses.

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

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

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

11 7. The Order or any subsequent Order of the Commissioner made pursuant to
12 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any
13 further administrative or civil proceedings by the Bureau with respect to any matters which
14 were not specifically alleged to be causes for accusation in this proceeding.

15 8. Respondent understands that by agreeing to this Stipulation, Respondent
16 agrees to be jointly and severally liable, along with the other respondents herein, to pay,
17 pursuant to Code Section 10106, the cost of the investigation and enforcement of this matter.
18 The amount of the investigation costs is \$605.50; the amount of the enforcement costs is
19 \$2,291.75. Respondent may pay the investigation and enforcement costs by credit card using the
20 Bureau's Credit Card Payment form (RE 909).

21 DETERMINATION OF ISSUES

22 1. The conduct, acts or omissions of Respondent RICHARD G. BURNETT, as
23 set forth in the Accusation, is in violation of Code Section 10159.2 and constitutes cause to
24 suspend or revoke the real estate licenses and license rights of Respondent RICHARD G.
25 BURNETT under the provisions of Code Section 10177(g).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:


I. ALL licenses and licensing rights of Respondent RICHARD G. BURNETT
under the Real Estate Law are suspended for a period of thirty (30) days from the effective date
of this Decision and Order; provided however, that the entire period of said suspension shall be
stayed for two (2) years upon the following terms and conditions:

A. 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

B. 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.

II. All licenses and licensing rights of Respondent are indefinitely suspended
unless or until the sum of \$2,897.25 is paid for the Commissioner's reasonable costs of the
investigation and enforcement which lead to the disciplinary action. Said payment shall be in
the form of a cashier's check made payable to the Bureau of Real Estate. The investigative and
enforcement costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box
137013, Sacramento, California 95813-7013, prior to the effective date of this Decision and
Order. Respondent may pay the costs of investigation and enforcement by credit card using the
Bureau's Credit Card Payment form (RE 909).

DATED: March 11, 2016


Cheryl D. Kelly, Counsel
BUREAU OF REAL ESTATE

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I have read the Stipulation and Agreement, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the APA (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.

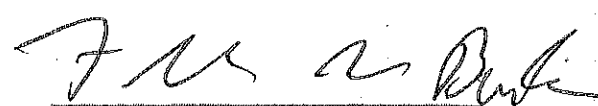
Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondent, to the Bureau at the following telephone/fax number (213) 576-6917. Respondent agrees, acknowledges, and understands that by electronically sending to the Bureau a fax copy of his actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Bureau shall be as binding on Respondent as if the Bureau had received the original signed Stipulation and Agreement.

DATED: 3-4-2016


RICHARD G. BURNETT
Respondent

I have reviewed the Stipulation and Agreement as to form and content and have advised my client accordingly.

DATED: 3-7-2016

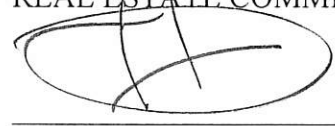

Frank Buda, Esq.
Attorney for Respondent
RICHARD G. BURNETT

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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 25 2016,

IT IS SO ORDERED MARCH 25, 2016

WAYNE S. BELL
REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner