

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

4 Telephone: (213) 576-6982

FILED

OCT 27 2016

BUREAU OF REAL ESTATE

By 

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9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of

13 WESTAR LOAN SERVICING, INC.;

14 BRADLEY SCOTT HUGHES,

15 individually, and as former designated

16 SERVANDO ORNELAS, individually,

17 and as former designated officer for

18 Westar Loan Servicing, Inc.,

Respondents.

) No. H-39946 LA
) OAH No. 2015090345

STIPULATION AND
AGREEMENT

19 It is hereby stipulated by and between Respondent SERVANDO ORNELAS
20 ("ORNELAS"), and his attorney of record, Mary Work, Esq., and the Complainant, acting by
21 and through Cheryl Keily, Counsel for the Bureau of Real Estate, as follows for the purpose of
22 settling and disposing of the Accusation filed on August 21, 2015, in this matter.

23 1. All issues which were to be contested and all evidence which was to be
24 presented by Complainant and Respondent at a formal hearing on the Accusation, which
25 hearing was to be held in accordance with the provisions of the Administrative Procedure Act
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1 (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of
2 this Stipulation and Agreement.
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4 2. Respondent has received, read and understands the Statement to Respondent,
5 the Discovery Provisions of the APA and the Accusation filed by the Bureau of Real Estate
6 ("Bureau") in this proceeding.

7 3. On September 3, 2015, ORNELAS filed a Notice of Defense, pursuant to
8 Section 11506 of the Government Code for the purpose of requesting a hearing on the
9 allegations in the Accusation. ORNELAS hereby freely and voluntarily withdraws said Notice
10 of Defense. ORNELAS acknowledge that he understands that by withdrawing said Notice of
11 Defense he will thereby waive his right to require the Commissioner to prove the allegations in
12 the Accusation at a contested hearing held in accordance with the provisions of the APA and
13 that he will waive other rights afforded to him in connection with the hearing, such as the right
14 to present evidence in defense of the allegations in the Accusation and the right to cross-
15 examine witnesses.

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

22 5. This Stipulation is made for the purpose of reaching an agreed disposition of
23 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
24 which the Bureau, the state or federal government, or any agency of this state, another state or
25 federal government is involved, and otherwise shall not be admissible in any other criminal or
26 civil proceedings.
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6. It is understood by the parties that the 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 admission or waiver made herein.

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

8. Respondent understands that by agreeing to this Stipulation, Respondent agrees to pay, pursuant to Business and Professions Code ("Code") Section 10148, one-half the cost of the original audit which led to this disciplinary action. The amount of said cost is \$5,570.22 (50% x \$11,140.43).

9. Respondent has received, read, and understands the "Notice Concerning Costs of Subsequent Audit." Respondent further understands that by agreeing to this Stipulation, the findings set forth below in the Determination of Issues become final, and the Commissioner may charge Respondent for the cost of any subsequent audit conducted pursuant to Code Section 10148 to determine if the violations have been corrected. The maximum cost of the subsequent audit shall not exceed \$13,925.54.

10. Respondent understands that by agreeing to this Stipulation, Respondent agrees to pay, pursuant to Code Section 10106, one-half (1/2) the cost of the investigation and enforcement of this matter. The amount of the investigation costs is \$1,846.00; the amount of the enforcement costs is \$2,269.50. The total amount of the costs payable by Respondent is

1 \$2,057.75 (50% of \$4,115.50).

2 DETERMINATION OF ISSUES

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4 1. The conduct, acts or omissions of Respondent SERVANDO ORNELAS, as
5 set forth in the Accusation, is in violation of Code Sections 10145 and 10177(h) and Sections
6 2832 and 2834 of Chapter 6 of the California Code of Regulations ("Regulations") which
7 constitutes cause to suspend or revoke the real estate licenses and license rights of Respondent
8 ORNELAS under the provisions of Code Section 10177(g).

9 ORDER

10 WHEREFORE, THE FOLLOWING ORDER is hereby made:

11 I. ALL licenses and licensing rights of Respondent SERVANDO ORNELAS
12 under the Real Estate Law are suspended for a period of sixty (60) days from the effective date
13 of this Decision;

14 A. Provided, however, that if Respondent requests, the initial thirty (30) days of
15 the period of said suspension (or a portion thereof) shall be stayed for two (2) years upon
16 condition that:

17 1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the Code
18 at the rate of \$100.00 per day for each day of the suspension for a total monetary penalty of
19 \$3,000.00.

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

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

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

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

8 B. The remaining thirty (30) days of the sixty (60) day suspension shall be
9 stayed for two (2) years upon the following terms and conditions:

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

12 2. That no final subsequent determination be made, after hearing or upon
13 stipulation, that cause for disciplinary action occurred within two (2) years of the effective date
14 of this Decision. Should such a determination be made, the Commissioner may, in his
15 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
16 suspension. Should no such determination be made, the stay imposed herein shall become
17 permanent.

18 II. All licenses and licensing rights of Respondent ORNELAS are indefinitely
19 suspended unless or until Respondent provides proof satisfactory to the Commissioner, of
20 having taken and successfully completed the continuing education course on trust fund
21 accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the
22 Code. Proof of satisfaction of this requirement includes evidence that Respondent has
23 successfully completed the trust fund accounting and handling continuing education course
24 within 120 days prior to the effective date of the Decision in this matter.

25 III. Pursuant to Section 10148 of the Code, Respondent ORNELAS shall pay
26 one-half the sum of \$11,140.43, or the sum of \$5,5702.22, for the Commissioner's cost of the
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1 audit which led to this disciplinary action. Respondent shall pay such cost within sixty (60)
2 days of receiving an invoice therefor from the Commissioner. Payment of audit costs should
3 not be made until Respondent receives the invoice. If Respondent fails to satisfy this condition
4 in a timely manner as provided for herein, Respondent's real estate license shall automatically
5 be suspended until payment is made in full, or until a decision providing otherwise is adopted
6 following a hearing held pursuant to this condition.
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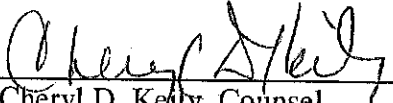
8 Pursuant to Section 10148 of the Code, Respondent shall pay the
9 Commissioner's reasonable cost, not to exceed \$13,925.54, for an audit to determine if
10 Respondent has corrected the violation(s) found in the Determination of Issues. In calculating
11 the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated
12 average hourly salary for all persons performing audits of real estate brokers, and shall include
13 an allocation for travel time to and from the auditor's place of work. Respondent shall pay such
14 cost within sixty (60) days of receiving an invoice therefor from the Commissioner. Payment of
15 the audit costs shall not be made until Respondent receives the invoice. If Respondent fails to
16 satisfy this condition in a timely manner as provided for herein, Respondent's real estate
17 license shall automatically be suspended until payment is made in full, or until a decision
18 providing otherwise is adopted following a hearing held pursuant to this condition.

19 IV. Respondent shall pay one-half (1/2) pay the Commissioner's reasonable
20 costs for investigation and enforcement of the matter. One half the investigation and
21 enforcement costs which led to this disciplinary action totals \$2,057.75 (50% x \$4,115.50). The
22 investigation and enforcement costs must be delivered to the Bureau of Real Estate, Flag
23 Section at P.O. Box 137013, Sacramento, California 95813-7013, prior to the effective date of
24 this Decision and Order.

25 The Commissioner shall suspend the license of Respondent pending a hearing
26 held in accordance with California Government Code Section 11500, et seq., if payment is not
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1 timely made as provided for herein. The suspension shall remain in effect until payment is
2 made in full, or until a decision providing otherwise is adopted following a hearing held
3 pursuant to this condition.
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5 DATED: 8/19/16
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7 Cheryl D. Kelly, Counsel
8 BUREAU OF REAL ESTATE


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

17 Respondent can signify acceptance and approval of the terms and conditions of
18 this Stipulation and Agreement by sending a hard copy of the original signed Stipulation and
19 Agreement to Cheryl Keily at the Bureau of Real Estate, 320 W. 4th Street, Ste. 350, Los
20 Angeles, California 90013. In the event of time constraints before an administrative hearing,
21 Respondent may signify acceptance and approval of the terms and conditions of this Stipulation
22 and Agreement by e-mailing a scanned copy of the signature page, as actually signed by
23 Respondent, to Cheryl Keily whose e-mail address is cheryl.keily@dre.ca.gov. Respondent
24 agrees, acknowledges and understands that by electronically sending the Bureau a scan of
25 Respondent's actual signature as it appears on the Stipulation and Agreement that receipt of the
26 scan by the Bureau shall be binding on Respondent as if the Bureau had received the original
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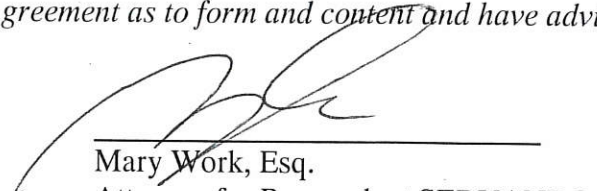
1 signed Stipulation and Agreement.

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3 DATED: 19, Aug 2016


SERVANDO ORNELAS
Respondent

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

7 DATED: 8/19/16



Mary Work, Esq.
Attorney for Respondent SERVANDO
ORNELAS

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11 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
12 this matter and shall become effective at 12 o'clock noon on **NOV 17 2016**.

13 IT IS SO ORDERED Oct. 24, 2016.

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15 REAL ESTATE COMMISSIONER


WAYNE S. BELL