

1 BUREAU OF REAL ESTATE
2 320 W. 4TH Street, Suite 350
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

FILED

FEB 23 2017

BUREAU OF REAL ESTATE

By *[Signature]*

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of

No. H-40263 LA

12 STATEWIDE PROPERTY
13 SERVICES INC.; and DAVID
14 RUSSELL DANIEL, individually
15 and as Designated Officer of
16 Statewide Property Services, Inc.,

STIPULATION
AND
AGREEMENT

Respondent.

17
18 It is hereby stipulated by and between Respondents STATEWIDE PROPERTY
19 SERVICES, INC. and DAVID RUSSELL DANIEL ("Respondents"), acting by and through
20 Frank M. Buda, Attorney at Law, and the Complainant, acting by and through Amelia V.
21 Vetrone, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and
22 disposing of the Accusation ("Accusation") filed on May 24, 2016, in this matter:

23 1. All issues which were to be contested and all evidence which was to be
24 presented by Complainant and Respondents at a formal hearing on the Accusation, which
25 hearing was to be held in accordance with the provisions of the Administrative Procedure Act
26 ("APA"), shall instead and in place thereof be submitted solely on the basis of the provisions of
27 this Stipulation and Agreement ("Stipulation").

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

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

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

18 5. This Stipulation is made for the purpose of reaching an agreed disposition of
19 this proceeding and is expressly limited to this proceeding and not any other proceeding or case
20 in which the Bureau of Real Estate ("Bureau"), or another licensing agency of this state, another
21 state or the federal government is involved, and otherwise shall not be admissible in any other
22 criminal or civil proceeding.

23 6. It is understood by the parties that the Real Estate Commissioner may adopt
24 this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on
25 Respondents' real estate licenses and license rights as set forth in the below "Order". In the
26 event that the Commissioner in his discretion does not adopt the Stipulation, the Stipulation shall
27 be void and of no effect and Respondents shall retain the right to a hearing and proceeding on the

1 Accusation under the provisions of the APA and shall not be bound by any stipulation or waiver
2 made herein.

3 7. The Order or any subsequent Order of the Real Estate Commissioner made
4 pursuant to this Stipulation 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.

7 8. Respondents understand that by agreeing to this Stipulation, Respondents
8 agree to pay, pursuant to Business and Professions Code Section 10148, the cost of the audit
9 which led to this disciplinary action. The amount of said cost is \$5,791.80.

10 9. Respondents understand that by agreeing to this Stipulation, Respondents
11 agree to pay, pursuant to Business and Professions Code Section 10106, the cost of the
12 investigation of this matter. The amount of said cost is \$298.20.

13 DETERMINATION OF ISSUES

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

16 The Commissioner has determined that the conduct of Respondents
17 STATEWIDE PROPERTY SERVICES, INC. and DAVID RUSSELL DANIEL, as described in
18 Paragraph 4, herein above, is a basis for the discipline of Respondents' licenses and license
19 rights pursuant to Code Sections 10177(d), 10177(h), and 10177(g).

20 ORDER

21 WHEREFORE, THE FOLLOWING ORDER is hereby made:

22 All licenses and licensed rights of Respondents STATEWIDE PROPERTY
23 SERVICES, INC. and DAVID RUSSELL DANIEL under the Real Estate Law are revoked;
24 provided, however, a restricted real estate corporate broker license shall be issued to Respondent
25 STATEWIDE PROPERTY SERVICES, INC., and a restricted real estate broker license shall be
26 issued to Respondent DAVID RUSSELL DANIEL ("DANIEL") pursuant to Section 10156.5 of
27 the Business and Professions Code if Respondents make application therefor and pay to the

1 Bureau of Real Estate the appropriate fee for the restricted licenses within 90 days from the
2 effective date of this Decision. The restricted licenses issued to Respondents shall be subject to
3 all of the provisions of Section 10156.7 of the Business and Professions Code and to the
4 following limitations, conditions and restrictions imposed under authority of Section 10156.6 of
5 that Code:

6 1. The restricted licenses issued to Respondents may be suspended prior to
7 hearing by Order of the Real Estate Commissioner in the event of Respondents' conviction or
8 plea of nolo contendere to a crime which is substantially related to Respondents' fitness or
9 capacity as a real estate licensee.

10 2. The restricted license issued to Respondents may be suspended prior to hearing
11 by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that
12 Respondents have violated provisions of the California Real Estate Law, the Subdivided Lands
13 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted
14 license.

15 3. Respondents shall not be eligible to petition for the issuance of any
16 unrestricted real estate licenses nor for removal of any of the conditions, limitations or
17 restrictions of a restricted license until two (2) years have elapsed from the effective date of this
18 Decision and Order. Respondents shall not be eligible to apply for any unrestricted licenses until
19 all restrictions attaching to the license have been removed.

20 4. Respondent DANIEL shall, within nine (9) months from the effective date
21 **of this Decision and Order**, present evidence satisfactory to the Real Estate Commissioner that
22 he has, since the most recent issuance of an original or renewal real estate license, taken and
23 successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the
24 Real Estate Law for renewal of a real estate license. Evidence of continuing education submitted
25 in connection with a real estate license renewal within nine (9) months prior to the effective date
26 of this Decision and Order shall be deemed to satisfy this condition. If Respondent fails to
27 satisfy this condition, then Respondent's real estate license shall be automatically suspended

1 until he presents evidence satisfactory to the Commissioner of having taken and successfully
2 completed the continuing education requirements. **Proof of completion of the continuing**
3 **education courses must be delivered to the Bureau of Real Estate, Flag Section, P.O. Box**
4 **137013, Sacramento, CA 95813-7013.**

5 5. Respondent DANIEL shall within 120 days from the effective date of the
6 Decision and Order herein submit proof satisfactory to the Commissioner of having taken and
7 successfully completed the continuing education course on trust fund accounting and handling
8 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. If Respondent fails
9 to satisfy this condition, Respondent DANIEL's real estate license shall be automatically
10 suspended until he presents evidence satisfactory to the Commissioner of having taken and
11 successfully completed the trust fund accounting and handling course. Proof of completion of
12 the continuing education course must be delivered to the Bureau of Real Estate, Flag Section,
13 P.O. Box 137013, Sacramento, CA 95813-7013.

14 6. Pursuant to Section 10148 of the Business and Professions Code, Respondents
15 shall pay the Commissioner's reasonable cost for the audit which led to this disciplinary action.
16 Respondents shall pay such cost within sixty (60) days of receiving an invoice therefore from the
17 Commissioner. Payment of the audit costs should not be made until Respondents receive the
18 invoice. Respondents are jointly and severally liable for the cost of the audit. If Respondents fail
19 to satisfy this condition in a timely manner as provided for herein, Respondents' real estate
20 licenses shall automatically be suspended until payment is made in full, or until a decision
21 providing otherwise is adopted following a hearing held pursuant to this condition.

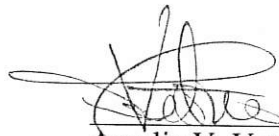
22 Pursuant to Section 10148 of the Code, Respondents shall pay the
23 Commissioner's reasonable cost, not to exceed \$5,791.80, for a subsequent audit to determine if
24 Respondents have corrected the violations found in the Determination of Issues. In calculating
25 the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated
26 average hourly salary for all persons performing audits of real estate brokers, and shall include
27 an allocation for travel time to and from the auditor's place of work. Respondents shall pay such

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

7 7. Prior to the effective date of this Decision, and pursuant to Section 10106 of
8 the Business and Professions Code, Respondents shall pay the Commissioner's reasonable cost
9 for the investigation which led to this disciplinary action in the amount of \$298.20. Respondents
10 are jointly and severally liable for the cost of the investigation. Said payment shall be in the
11 form of a cashier's check made payable to the Bureau of Real Estate. **Said check must be**
12 **delivered to the Bureau of Real Estate, Flag Section, P.O. Box 137013, Sacramento, CA**
13 **95813-7013, prior to the effective date of this Decision and Order.**

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

18
19
20 DATED: 1-19-17



Amelia V. Vetrone, Counsel for
Bureau of Real Estate

21
22
23 ///

24 ///

25 ///

26 ///

* * *

EXECUTION OF THE STIPULATION

I have read the Stipulation. 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 California Administrative Procedure Act (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.

MAILING

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

In the event of time constraints before an administrative hearing, Respondents can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by emailing a scanned copy of the signature page, as actually signed by Respondents, to the Bureau counsel assigned to this case. Respondents agree, acknowledge and understand that by electronically sending the Bureau a scan of Respondents' actual signatures as they appear on the Stipulation and Agreement, that receipt of the scan by the Bureau shall be binding on Respondents as if the Bureau had received the original signed signature page.

///

///

///

///

///

///

///

1 Respondents' signatures below constitute acceptance and approval of the terms
2 and conditions of this Stipulation. Respondents agree, acknowledge and understand that by
3 signing this Stipulation Respondents are bound by its terms as of the date of such signatures and
4 that this agreement is not subject to rescission or amendment at a later date except by a separate
5 Decision and Order of the Real Estate Commissioner.
6

7
8 DATED: 1/19/17

David R. Daniel
STATEWIDE PROPERTY SERVICES, INC.
By: _____

10
11 DATED: 1/19/17

David R. Daniel
DAVID RUSSELL DANIEL
Respondent

13
14
15 DATED: 1-20-17

Frank M. Buda
Frank M. Buda
Counsel for Respondent
Approved as to Form

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

and shall become effective at 12 o'clock noon on MAR 15 2017

IT IS SO ORDERED 2/16/2017

WAYNE S. BELL
Real Estate Commissioner

Real Estate Commissioner