

1 BUREAU OF REAL ESTATE
2 320 West 4th Street, Suite 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6982

FILED

AUG 24 2017

BUREAU OF REAL ESTATE

By *Sydney Garcia*

8 BEFORE THE BUREAU OF REAL ESTATE

9 DEPARTMENT OF CONSUMER AFFAIRS

10 STATE OF CALIFORNIA

11 * * *

12
13 In the Matter of the Accusation against) CalBRE No. H-40555 LA
14 THE REAL ESTATE TRADING COMPANY and) OAH No. 2017040862
15 JOE DAMIAN MELENDEZ, individually and as) STIPULATION AND AGREEMENT
16 designated officer of The Real Estate Trading) IN SETTLEMENT AND ORDER
17 Company,)
Respondents.)

18 It is hereby stipulated by and between Respondents THE REAL ESTATE TRADING
19 COMPANY and JOE DAMIAN MELENDEZ (collectively "Respondents") and Complainant,
20 acting by and through Lissete Garcia, Counsel for the Bureau of Real Estate ("Bureau"), as
21 follows for the purpose of settling and disposing the Accusation filed on February 23, 2017, with
22 Bureau Case No. H-40555 LA ("Accusation") in this matter:

23 1. All issues which were to be contested and all evidence which was to be presented by
24 Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be

Stipulation and Agreement
H-40555 LA

1 held in accordance with the provisions of the Administrative Procedure Act (herein "APA"),
2 shall instead and in place thereof be submitted on the basis of the provisions of this Stipulation
3 and Agreement in Settlement and Order ("Stipulation").

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

6 3. Notices of Defense were filed by Respondents 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 Notices of Defense. Respondents
9 acknowledge and understand that by withdrawing said Notices of Defense they will thereby
10 waive their rights to require the Real Estate Commissioner ("Commissioner") to prove the
11 allegations in the Accusation at a contested hearing held in accordance with the provisions of the
12 APA and that they will waive other rights afforded to them in connection with the hearing such
13 as the right to present evidence in defense of the allegations in the Accusation and the right to
14 cross-examine witnesses.

15 4. This Stipulation is based on the factual allegations contained in the Accusation filed in
16 this proceeding. In the interest of expedience and economy, Respondents choose not to contest
17 these factual allegations, but to remain silent and understand that, as a result thereof, these
18 factual statements, will serve as a prima facie basis for the disciplinary action stipulated to
19 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove
20 such allegations.

21 5. This Stipulation and Respondents' decision not to contest the Accusation are made for
22 the purpose of reaching an agreed disposition of this proceeding and are expressly limited to this
23 proceeding and any other proceeding or case in which the Bureau of Real Estate, or another
24

1 licensing agency of this state, another state or if the federal government is involved and
2 otherwise shall not be admissible in any other criminal or civil proceedings.

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

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

14 8. Respondents understand that by agreeing to this Stipulation, Respondents agree to
15 pay, pursuant to Section 10148 of the California Business and Professions Code ("Code"), the
16 cost of the audit which resulted in the determination that Respondent committed the violations
17 found in the "Determination of Issues" below. The amount of said cost is \$3,337.48.

18 9. Respondents further understand that by agreeing to this Stipulation, Respondents
19 agree to pay, pursuant to Section 10106(a) of the Code, investigative and enforcement costs of
20 \$1,038.20 which led to this disciplinary action.

21 ///

22 ///

23 ///

1 DETERMINATION OF ISSUES

2 I.

3 The conduct, acts and/or omissions of Respondent THE REAL ESTATE TRADING
4 COMPANY ("TRET"), as set forth in Paragraphs 11(a) and 11(b) of the Accusation, constitute
5 cause for the suspension or revocation of all real estate licenses and license rights of Respondent
6 TRET pursuant to Business and Profession Code ("Code") section 10177(d) for violation of
7 Code section 10140.6 and Regulation 2742(c) of the Regulations of the Real Estate
8 Commissioner, Title 10, Chapter 6, California Code of Regulations ("Regulations").

9 II.

10 The conduct, acts and/or omissions of Respondent JOE DAMIAN MELENDEZ
11 ("MELENDEZ"), as set forth in Paragraphs 11(a), 11(b), and 14 of the Accusation, constitute
12 cause for the suspension or revocation of all real estate licenses and license rights of Respondent
13 MELENDEZ pursuant to Code section 10177, subdivisions (h) and (d) for violation of Code
14 section 10159.5 and Regulation 2731.

15 ORDER

16 I.

17 On June 6, 2017, Respondent THE REAL ESTATE TRADING COMPANY petitioned
18 to voluntarily surrender its real estate corporation license. The Order accepting the voluntary
19 surrender of THE REAL ESTATE TRADING COMPANY'S license is incorporated herein.

20 II.

21 1. All licenses and license rights of Respondent JOE DAMIAN MELENDEZ are
22 suspended for a period of thirty (30) days from the effective date of this Decision and Order;
23
24

1 provided, however, that The 30-day suspension shall be stayed for two (2) years upon the
2 following terms and conditions:

- 3 a) Respondent shall obey all laws, rules and regulations governing the rights, duties
4 and responsibilities of a real estate licensee in the State of California; and,
5 b) That no final subsequent determination be made, after hearing or upon stipulation,
6 that cause for disciplinary action occurred within two (2) years from the effective
7 date of this Decision and Order. Should such a determination be made, the
8 Commissioner may, in his discretion, vacate and set aside the stay order and
9 reimpose all or a portion of the stayed suspension. Should no such determination
10 be made, the stay imposed herein shall become permanent.

11 2) All licenses and licensing rights of Respondent MELENDEZ are indefinitely
12 suspended unless or until Respondent MELENDEZ pays, jointly or severally with Respondent
13 TRETC, the sum of \$1,038.20 for the Commissioner's reasonable cost of the investigation and
14 enforcement which led to this disciplinary action. Said payment shall be in the form of a
15 cashier's check made payable to the Bureau of Real Estate. **The investigative and enforcement**
16 **costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box 137013,**
17 **Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.**

18 3) Pursuant to Section 10148 of the Code, Respondent MELENDEZ shall pay,
19 jointly or severally with Respondent TRETC, the sum of \$3,337.48 for the Commissioner's cost
20 of the audit which led to this disciplinary action. **Respondents shall pay such cost within sixty**
21 **(60) days of receiving an invoice therefore from the Commissioner.** Payment of audit costs
22 should not be made until Respondents receive the invoice. If Respondents fail to satisfy this
23 condition in a timely manner as provided for herein, Respondent MELENDEZ's real estate
24

1 license shall automatically be suspended until payment is made in full, or until a decision
2 providing otherwise is adopted following a hearing held pursuant to this condition.

3 4) Respondent MELENDEZ shall, within six (6) months from the effective date of
4 **this Decision and Order**, take and pass the Professional Responsibility Examination
5 administered by the Bureau including the payment of the appropriate examination fee. If
6 Respondent MELENDEZ fails to satisfy this condition, Respondent MELENDEZ's real estate
7 license shall automatically be suspended until Respondent MELENDEZ passes the examination.

8 5) Respondent MELENDEZ shall, within nine (9) months of the effective date of
9 **this Decision and Order**, present evidence satisfactory to the Commissioner that Respondent
10 MELENDEZ has, since the most recent issuance of an original or renewal real estate license,
11 taken and successfully completed the continuing education requirements of Article 2.5 of
12 Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent
13 MELENDEZ fails to satisfy this condition, Respondent MELENDEZ's real estate license shall
14 automatically be suspended until Respondent MELENDEZ presents evidence satisfactory to the
15 Commissioner of having taken and successfully completed the continuing education
16 requirements. **Proof of completion of the continuing education courses must be delivered to**
17 **the Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.**

18 DATED: 8/4/2013


Lissete Garcia, Counsel
Bureau of Real Estate

19 * * *

20 ///

21 ///

22 ///

23 ///

24

1 We have read this Stipulation and its terms are understood by us and are agreeable and
2 acceptable to us. We understand that we are waiving rights given to us by the California APA
3 (including, but not limited to, Sections 11506, 11508, 11509, and 11513 of the Government
4 Code), and we willingly, intelligently, and voluntarily waive those rights, including the right of
5 requiring the Commissioner to prove the allegations in the Accusation at a hearing at which we
6 would have the right to cross-examine witnesses against us and to present evidence in defense
7 and mitigation of the charges.

8 Respondents can signify acceptance and approval of the terms and conditions of this
9 Stipulation and Agreement by electronically e-mailing a copy of the signature pages, as actually
10 signed by Respondents, to the Bureau. Respondents agree, acknowledge, and understand that by
11 electronically sending to the Bureau an electronic copy of Respondents' actual signatures, as
12 they appear on the Stipulation, that receipt of the e-mailed copy by the Bureau shall be as
13 binding on Respondents as if the Bureau had received the original signed Stipulation. By signing
14 this Stipulation, Respondents understand and agree that Respondents may not withdraw their
15 agreement or seek to rescind the Stipulation prior to the time the Commissioner considers and
16 acts upon it or prior to the effective date of the Stipulation and Order.

17 DATED: 8.1.17

18 Respondent THE REAL ESTATE
TRADING COMPANY

19 By: _____
(Printed Name)

20 DATED: 8.1.17

21 Respondent JOE DAMIAN MELENDEZ

22 * * *

23 The foregoing Stipulation and Agreement in Settlement and Order is hereby

1 adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on
2 SEP 17 2017, 2017.

3 IT IS SO ORDERED August 18, 2017.

4 WAYNE S. BELL
5 REAL ESTATE COMMISSIONER

6 *Daniel J. Sanchez*
7