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FEB 27 2018

BUREAU OF REAL ESTATE

By Cal Salinas

Bureau of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013

Telephone: (213) 576-6982

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

TOUCHSTONE PROPERTIES, INC.; and
KEVIN BRENT SAUNDERS, individually
and as designated officer of Touchstone
Properties, Inc.,

Respondents.

No. H-40709 LA

STIPULATION AND AGREEMENT
RE: TOUCHSTONE PROPERTIES,
INC.

It is hereby stipulated by and between TOUCHSTONE PROPERTIES, INC.
("TPI") (license no. 01320469), who is represented by Barry M. Weisz, Esq., and the
Complainant, acting by and through Diane Lee, Esq., Counsel for the Bureau of Real Estate, as
follows for the purpose of settling and disposing of the Accusation filed on or about July 13,
2017 in this matter:

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

1 Stipulation and Agreement.

2 2. Respondent TPI has received and read and understands the Statement to
3 Respondent, the Discovery Provisions of the APA, and the Accusation filed by the Bureau of
4 Real Estate in this proceeding.

5 3. On or about August 2, 2017, Respondent TPI filed a Notice of Defense
6 pursuant to California Government Code section 11506 for the purpose of requesting a hearing
7 on the allegations in the Accusation. Respondent TPI hereby freely and voluntarily withdraws
8 said Notice of Defense. Respondent TPI acknowledges that it understands that by withdrawing
9 said Notice of Defense, Respondent TPI will thereby waive its right to require the Commissioner
10 to prove the allegations in the Accusation at a contested hearing held in accordance with the
11 provisions of the APA and that it will waive other rights afforded to it in connection with the
12 hearing, such as the right to present evidence in defense of the allegations in the Accusation and
13 the right to cross-examine witnesses.

14 4. This Stipulation is based on the factual allegations contained in the Accusation
15 filed in this proceeding. In the interest of expedience and economy, Respondent TPI chooses not
16 to contest these factual allegations, but to remain silent and understands that, as a result thereof,
17 these factual statements, will serve as a prima facie basis for the disciplinary action stipulated to
18 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove
19 such factual 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 any other proceeding or case in
22 which the Bureau of Real Estate ("Bureau"), or another licensing agency of this state or another
23 state, or if the federal government is involved, and otherwise shall not be admissible in any other
24 criminal or civil proceedings.

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

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

11 8. Respondent TPI understands that by agreeing to this Stipulation and
12 Agreement, Respondent TPI agrees to pay, pursuant to California Business and Professions Code
13 section 10106, the cost of the investigation and enforcement. The amount of total investigation
14 and enforcement cost is \$3,725.00.

15 9. Respondent TPI understands that by agreeing to this Stipulation and
16 Agreement, Respondent TPI agrees to pay, pursuant to California Business and Professions Code
17 section 10148, the cost of the audits which led to this disciplinary action. The amount of said
18 cost for the original audit (LA150115) is \$6,072.00.

19 10. Respondent TPI understands that by agreeing to this Stipulation and
20 Agreement, the findings set forth below in the Determination of Issues become final, and the
21 Commissioner may charge Respondent TPI for the cost of any subsequent audit conducted
22 pursuant to California Business and Professions Code section 10148. The maximum cost of the
23 subsequent audit will not exceed \$7,590.00.

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1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions, and waivers, it is stipulated
3 and agreed that the following determination of issues shall be made:

4 The conduct, acts, and/or omissions of Respondent TPI, as set forth in the
5 Accusation, is grounds for the suspension or revocation of all of the real estate licenses and
6 license rights of Respondent TPI under the provisions of California Business and Professions
7 Code sections 10130, 10131, 10145, 10140.6(b), 10159.2, 10159.5, and 10177(h), and California
8 Code of Regulations, title 10, chapter 6, sections 2832, 2834, 2731, 2773, and 2725,
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10 ORDER

11 WHEREFORE, THE FOLLOWING ORDER is hereby made:

12
13 (SUSPENSION)

14 I.

15 All licenses and licensing rights of Respondent TOUCHSTONE PROPERTIES,
16 INC. under the Real Estate Law are suspended for a period of forty-five (45) days from the
17 effective date of this Decision:

18 A. Provided, however, that the initial fifteen (15) days of said suspension shall be
19 stayed upon condition that:

20 1. Respondent TPI pays a monetary penalty pursuant to California Business and
21 Professions Code section 10175.2 at the rate of \$100.00 per day for a monetary penalty of
22 \$1,500.00 total.

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

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

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

9 5. If Respondent TPI pays the monetary penalty and if no further cause for
10 disciplinary action against the real estate license of Respondent TPI occurs within three (3) years
11 from the effective date of the Decision, the stay hereby granted shall become permanent.

12 B. The remaining thirty (30) days of the forty-five (45) day suspension shall be
13 stayed for three (3) years upon the following terms and conditions:

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

16 2. That no final subsequent determination be made after hearing or upon
17 stipulation, that cause for disciplinary action occurred within three (3) years from the effective
18 date of this Decision. Should such a determination be made, the Commissioner may, in his
19 discretion, vacate, and set aside the stay order and re-impose all or a portion of the stayed
20 suspension. Should no such determination be made, the stay imposed herein shall become
21 permanent.

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1 (INVESTIGATION AND ENFORCEMENT COSTS)

2 II.

3 Respondent TPI shall, within three (3) months from the effective date of this
4 Decision, pay the sum of \$3,725.00 for the Commissioner's reasonable cost for investigation and
5 enforcement which led to this disciplinary action. Said payment shall be in the form of a
6 cashier's check made payable to the Bureau of Real Estate. The investigative and enforcement
7 costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box 137013,
8 Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order. If
9 Respondent TPI fails to satisfy this condition, the Commissioner shall order suspension of
10 Respondent TPI's license until Respondent TPI pays restitution and provides proof thereof.

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12 (AUDIT COSTS)

13 III.

14 Pursuant to California Business and Professions Code section 10148, Respondent
15 TPI shall pay \$6,072.00 for the Commissioner's cost of the audit which led to this disciplinary
16 action. Respondent TPI shall pay this \$6,072.00 within sixty (60) days of receiving an invoice
17 therefore from the Commissioner. Payment of audit costs should not be made until Respondent
18 TPI receives the invoice. If Respondent TPI fails to satisfy this condition in a timely manner as
19 provided for herein, the real estate license of Respondent TPI shall automatically be suspended
20 until payment is made in full, or until a decision providing otherwise is adopted following a
21 hearing held pursuant to this condition.

22 Pursuant to California Business and Professions Code section 10148, Respondent
23 TPI shall pay the Commissioner's reasonable cost, not to exceed \$7,590.00, for an audit to
24 determine if Respondent TPI has corrected the violations found in the Determination of Issues.
25 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the

1 estimated average hourly salary for all persons performing audits of real estate broker(s), and
2 shall include an allocation for travel time to and from the auditor's place of work. Respondent
3 TPI shall pay such cost within sixty (60) days of receiving an invoice therefor from the
4 Commissioner. Payment of the audit costs should not be made until Respondent TPI receives the
5 invoice. If Respondent TPI fails to satisfy this condition in a timely manner as provided for
6 herein, the real estate licenses of Respondent TPI shall automatically be suspended until payment
7 is made in full, or until a decision providing otherwise is adopted following a hearing held
8 pursuant to this condition.

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10 DATED: 02/02/2018



DIANE LEE
Counsel for Complainant

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

21 Respondent TPI shall mail the original signed signature page of the stipulation
22 herein to Bureau of Real Estate, 320 W. 4th St., Suite 350, Los Angeles, California 90013-1105,
23 Attention: Diane Lee, Esq. (Legal Section).

24 Respondent TPI's signature below constitutes acceptance and approval of the
25 terms and conditions of this Stipulation and Agreement. Respondent TPI agrees, acknowledges,
26

1 and understands that by signing this Stipulation and Agreement, Respondent TPI is bound by its
2 terms as of the date of such signature and that this agreement is not subject to rescission or
3 amendment at a later date except by a separate Decision and Order of the Real Estate
4 Commissioner.

5 In the event of time constraints before an administrative hearing, Respondent TPI
6 can signify acceptance and approval of the terms and conditions of this Stipulation and
7 Agreement by emailing a scanned copy of the signature page, as actually signed by Respondent
8 TPI, to the Bureau counsel assigned to this case. Respondent TPI agrees, acknowledges, and
9 understands that by electronically sending the Bureau a scan of Respondent TPI's actual
10 signature as it appears on the Stipulation and Agreement, that receipt of the scan by the Bureau
11 shall be binding on Respondent TPI as if the Bureau had received the original signed Stipulation
12 and Agreement.

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14 DATED: 1-31-18


TOUCHSTONE PROPERTIES, INC., Respondent
By: Pat Anthony Zicarelli, Designated
Officer (license no. 00559382)¹

17 I have reviewed the Stipulation and Agreement as to form and ~~content~~^{form}, and have
18 advised my client accordingly.

19
20 DATED: 1/31/18

Thompson Coburn LLP
By: Barry M. Weisz
BARRY M. WEISZ, ESQ.
TOUCHSTONE PROPERTIES, INC.'s Counsel

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24 ¹ Pat Anthony Zicarelli ("Zicarelli") became the designated officer of TPI on November 24,
25 2017. Zicarelli was not the designated officer of TPI at the time of the underlying facts in the
26 Accusation.

1 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
2 Respondent TOUCHSTONE PROPERTIES, INC. in this matter and shall become effective at 12
3 o'clock noon on 3/19/18.

4 IT IS SO ORDERED February 22, 2018.

6 WAYNE S. BELL
7 REAL ESTATE COMMISSIONER

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10 By: DANIEL J. SANDRI
11 Chief Deputy Commissioner