

FILED

SEP 21 2018

BUREAU OF REAL ESTATE

By [Signature]

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

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

11	In the Matter of the Accusation of)	No. H-40874 LA
12)	
13	<u>TNC, INC.; CYNTHIA JANNETTE GOMEZ,</u>)	
14	individually and as designated officer of)	STIPULATION AND
15	TNC, Inc.; and MINERVA CLAY,)	AGREEMENT FOR
16)	TNC, INC. AND
)	CYNTHIA JANNETTE
	Respondents.)	GOMEZ

17 It is hereby stipulated by and between Respondents TNC, INC. ("TNCI") AND
18 CYNTHIA JANNETTE GOMEZ, both represented by Frank Buda, Esq., and the Complainant,
19 acting by and through Diane Lee, Counsel for the Department of Real Estate, as follows for the
20 purpose of settling and disposing of the Accusation ("Accusation") filed on or about November
21 29, 2017, in this matter:

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

27 2. Respondents TNCI and GOMEZ have received and read, and understand the

1 Statement to Respondent, the Discovery Provisions of the APA, and the Accusation filed by the
2 Department of Real Estate in this proceeding.

3 3. Respondents TNCI and GOMEZ each filed a Notice of Defense pursuant to
4 California Government Code section 11506 for the purpose of requesting a hearing on the
5 allegations in the Accusation. Respondents TNCI and GOMEZ hereby freely and voluntarily
6 withdraw said Notices of Defense. Respondents TNCI and GOMEZ acknowledge that they
7 understand that by withdrawing said Notices of Defense, they thereby waive their right to require
8 the Commissioner to prove the allegations in the Accusation at a contested hearing held in
9 accordance with the provisions of the APA and that Respondents TNCI and GOMEZ 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 Accusation.
13 In the interest of expedience and economy, Respondents TNCI and GOMEZ choose not to
14 contest these allegations, but to remain silent and understand that, as a result thereof, these
15 factual 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 any other proceeding or case in
20 which the Department of Real Estate, the state or federal government, or any agency of this state,
21 or another state or federal government is involved.

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

1 bound by this Stipulation herein.

2 7. The Order or any subsequent Order of the Real Estate Commissioner made
3 pursuant to this Stipulation herein shall not constitute an estoppel, merger, or bar to any further
4 administrative or civil proceedings by the Department of Real Estate with respect to any matters
5 which were not specifically alleged to be causes for Accusation in this proceeding, but do
6 constitute a bar, estoppel, and merger as to any allegations specifically and actually contained in
7 the Accusation against Respondents TNCI and GOMEZ herein.

8 8. Respondents TNCI and GOMEZ understand that by agreeing to this
9 Stipulation, Respondents TNCI and GOMEZ agree to pay, pursuant to California Business and
10 Professions Code section 10106, the cost of the investigation and enforcement. The amount of
11 investigation and enforcement cost is \$3,148.10.

12 9. Respondents TNCI and GOMEZ understand that by agreeing to this
13 Stipulation and Agreement, Respondents TNCI and GOMEZ agree to pay, pursuant to California
14 Business and Professions Code section 10148, the cost of the audits which led to this disciplinary
15 action. The amount of said cost for the original audit (LA150033) is \$5,633.70.

16 10. Respondent TNCI understands that by agreeing to this Stipulation and
17 Agreement, the findings set forth below in the Determination of Issues become final, and the
18 Commissioner may charge Respondent TNCI for the cost of any subsequent audit conducted
19 pursuant to California Business and Professions Code section 10148. The maximum cost of the
20 subsequent audit will not exceed \$7,042.12.

21
22 DETERMINATION OF ISSUES

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

25 The conduct, acts, or omissions of Respondent TNCI, as described in the
26 Accusation and Paragraph 4, above, are a basis for discipline of Respondent TNCI's license and
27 license rights as violation of the Real Estate Law pursuant to California Business and Professions

1 Code sections 10140.6, 10145, 10159.2, 10163, 10176(e), 10176(g), 10177(d), and 10177(g) and
2 Title 10, Chapter 6, California Code of Regulations sections 2715, 2725, 2830, 2831, 2831.1,
3 2835(b), 2931.2, 2832.1, 2950(d), 2950(g), 2950(d), 2950(g), 2950(h), and 2951.

4 The conduct, acts, or omissions of Respondent GOMEZ, as described in the
5 Accusation and Paragraph 4, above, are a basis for discipline of Respondent GOMEZ's license
6 and license rights as violation of the Real Estate Law pursuant to California Business and
7 Professions Code sections 10159.2 and 10177(h) and Title 10, Chapter 6, California Code of
8 Regulations section 2725.

9
10 ORDER

11 WHEREFORE, THE FOLLOWING ORDER is hereby made:

12 (TNCI: RESTRICTED BROKER LICENSE)

13 I.

14 All license and licensing rights of Respondent TNCI, under the Real Estate Law
15 are revoked; provided, however, a restricted real estate broker license shall be issued to
16 Respondent TNCI pursuant to California Business and Professions Code section 10156.5 if
17 Respondent TNCI makes application therefor and pays to the Department of Real Estate the
18 appropriate fee for the restricted license within ninety (90) days from the effective date of this
19 Decision. The restricted license issued to Respondent TNCI shall be subject to all of the
20 provisions of California Business and Professions Code section 10156.7 and to the following
21 limitations, conditions, and restrictions imposed under authority of the California Business and
22 Professions Code:

23 1. The restricted license issued to Respondent TNCI may be suspended prior to
24 hearing by Order of the Real Estate Commissioner in the event of Respondent TNCI's
25 conviction or plea of nolo contendere to a crime which is substantially related to Respondent's
26 fitness or capacity as a real estate licensee.

1 2. The restricted license issued to Respondent TNCI may be suspended prior to
2 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner
3 that Respondent TNCI has violated provisions of the California Real Estate Law, the
4 Subdivided Lands Law, Regulations of the Real Estate Commissioner, or conditions attaching to
5 this restricted license.

6 3. Respondent TNCI shall not be eligible to apply for the issuance of an
7 unrestricted real estate license nor for the removal of any of the conditions, limitations, or
8 restrictions of a restricted license until three (3) years have elapsed from the date of issuance of
9 the restricted license to Respondent TNCI.

10 4. Respondent TNCI shall not serve as the sponsoring broker and/or employer of
11 Respondent Minerva Clay ("Clay").

12
13 (GOMEZ: STAYED SUSPENSION)

14 II.

15 All licenses and licensing rights of Respondent GOMEZ under the Real Estate
16 Law are suspended for a period of one hundred twenty (120) days from the effective date of this
17 Decision:

18 A. Provided, however, that the initial thirty (30) days of said suspension shall be
19 stayed upon condition that:

20 1. Respondent GOMEZ pays a monetary penalty pursuant to California Business
21 and Professions Code section 10175.2 at the rate of \$100.00 per day for a monetary penalty of
22 \$3,000.00 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 Department of Real Estate prior to the effective date of the Decision in this matter.

26 3. No further cause for disciplinary action against the real estate license of
27 Respondent GOMEZ occurs within three (3) years from the effective date of the Decision in this

1 matter.

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

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

10 B. The remaining ninety (90) days of the one hundred twenty (120) day
11 suspension shall be stayed for three (3) years upon the following terms and conditions:

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

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

20 3. Respondent GOMEZ shall notify the Commissioner in writing within 72
21 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real
22 Estate, P.O. Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the date of
23 Respondent GOMEZ's arrest, the crime for which Respondent GOMEZ was arrested, and the
24 name and address of the arresting law enforcement agency. Respondent GOMEZ's failure to
25 timely file written notice shall constitute an independent violation of the terms of the restricted
26 license and shall be grounds for the suspension or revocation of that license.

1 4. Respondent GOMEZ shall not be the designated officer of any corporation
2 that she is not the one-hundred (100) percent owner of.

3 5. Respondent GOMEZ shall not serve as the sponsoring broker, employer,
4 and/or designated officer of the sponsoring broker of Respondent Clay.

5
6 (TNCI AND GOMEZ: INVESTIGATION AND ENFORCEMENT COSTS)

7 III.

8 Respondents TNCI and GOMEZ shall, within (6) months from the effective date
9 of this Decision and Order, pay the sum of \$3,148.10 for the Commissioner's reasonable cost for
10 investigation and enforcement which led to this disciplinary action with joint and several liability
11 with Respondent Clay. Said payment shall be in the form of a cashier's check made payable to
12 the Department of Real Estate. The investigative and enforcement costs must be delivered to the
13 Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013,
14 within six (6) months from the effective date of this Decision and Order. If the costs of
15 investigation and enforcement are not paid within six (6) months from the effective date of this
16 Decision and Order, the licenses and license rights of Respondents TNCI and GOMEZ shall
17 automatically be suspended until full payment is made.

18
19 (TNCI AND GOMEZ: AUDIT COSTS)

20 IV.

21 1. Pursuant to California Business and Professions Code section 10148,
22 Respondents TNCI and GOMEZ, jointly and severally, shall pay \$5,633.70 for the
23 Commissioner's cost of the audit which led to this disciplinary action. Respondents TNCI and
24 GOMEZ shall pay this \$5,364.20 within thirty (30) days of receiving an invoice therefore from
25 the Commissioner. Payment of audit costs should not be made until Respondent PERRY
26 receives the invoice. If Respondents TNCI and GOMEZ fail to satisfy this condition in a timely
27 manner as provided for herein, the real estate license of Respondents TNCI and GOMEZ shall

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

3 2a. Pursuant to California Business and Professions Code section 10148,

4 Respondent TNCI shall pay the Commissioner's reasonable cost, not to exceed \$7,042.12, for an
5 audit to determine if Respondent TNCI has corrected the violations found in the Determination
6 of Issues. In calculating the amount of the Commissioner's reasonable cost, the Commissioner
7 may use the estimated average hourly salary for all persons performing audits of real estate
8 broker(s), and shall include an allocation for travel time to and from the auditor's place of work.
9 Respondent TNCI shall pay such cost within thirty (30) days of receiving an invoice therefor
10 from the Commissioner. Payment of the audit costs should not be made until Respondent TNCI
11 receives the invoice. If Respondent TNCI fails to satisfy this condition in a timely manner as
12 provided for herein, the real estate license of Respondent TNCI shall automatically be suspended
13 until payment is made in full, or until a decision providing otherwise is adopted following a
14 hearing held pursuant to this condition.

15 2b. Respondent GOMEZ shall pay the Commissioner's reasonable cost, not to

16 exceed \$7,042.12, for an audit of any corporation that Respondent GOMEZ is the designated
17 officer of during the three (3) year period that starts at the effective date of this Decision. In
18 calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the
19 estimated average hourly salary for all persons performing audits of real estate broker(s), and
20 shall include an allocation for travel time to and from the auditor's place of work. Respondent
21 GOMEZ shall pay such cost within thirty (30) days of receiving an invoice therefor from the
22 Commissioner. Payment of the audit costs should not be made until Respondent GOMEZ
23 receives the invoice. If Respondent GOMEZ fails to satisfy this condition in a timely manner as
24 provided for herein, the real estate license of Respondent GOMEZ shall automatically be
25 suspended until payment is made in full, or until a decision providing otherwise is adopted
26 following a hearing held pursuant to this condition.


27

1 (GOMEZ: TRUST FUND COURSE)

2 V.

3 All licenses and licensing rights of Respondent GOMEZ are indefinitely
4 suspended unless or until Respondent GOMEZ provides proof satisfactory to the Commissioner,
5 of having taken and successfully completed the continuing education course on trust fund
6 accounting and handling specified in California Business and Professions Code section
7 10170.5(a)(3). Proof of satisfaction of these requirements includes evidence that Respondent
8 GOMEZ has successfully completed the trust fund account and handling continuing education
9 courses, no earlier than 120 days prior to the effective date of the Decision and Order in this
10 matter. Proof of completion of the trust fund accounting and handling course must be delivered
11 to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013
12 or by fax at 916-263-8758, prior to the effective date of this Decision and Order.

13
14 DATED: 09/10/2018

15 
16 DIANE LEE, Counsel for
17 Department of Real Estate

18 * * *

19 EXECUTION OF THE STIPULATION

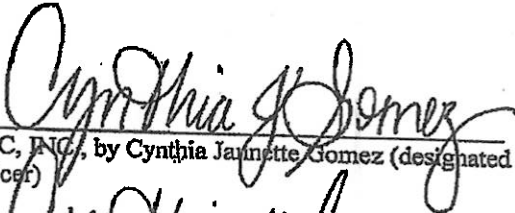
20 I, CYNTHIA JANNETTE GOMEZ, individually and as designated officer of
21 TNC, INC., have read the Stipulation and discussed it with our attorney, Frank Buda, Esq. Its
22 terms are understood by TNCI and me, and are agreeable and acceptable to TNCI and me. I
23 understand that TNCI and I are waiving rights given to TNCI and me by the California APA
24 (including, but not limited to, California Government Code sections 11506, 11508, 11509, and
25 11513), and TNCI and I willingly, intelligently, and voluntarily waive those rights, including, but
26 not limited to, the right of requiring the Commissioner to prove the allegations in the Accusation
27 at a hearing at which TNCI and I would have the right to cross-examine witnesses against TNCI
and me, and to present evidence in defense and mitigation of the charges.

MAILING AND FACSIMILE

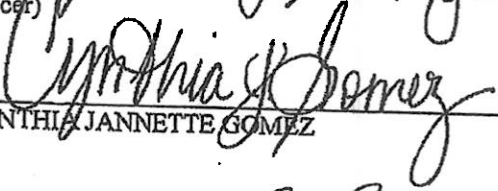
Respondents TNCI and GOMEZ (1) shall mail the original signed signature page of this Stipulation herein to Department of Real Estate, Attention: Legal Section – Diane Lee, 320 West Fourth Street, Suite 350, Los Angeles, California 90013-1105. Respondents TNCI and GOMEZ shall also (2) facsimile a copy of signed signature page, to the Department of Real Estate at the following telephone/fax number: (213) 576-6917, Attention: Diane Lee.

A facsimile constitutes acceptance and approval of the terms and conditions of this Stipulation. Respondents TNCI and GOMEZ agree, acknowledge, and understand that by electronically sending to the Department of Real Estate a facsimile copy of the actual signature of GOMEZ, individually and as designated officer of TNCI, as it appears on the Stipulation that receipt of the facsimile copy by the Department of Real Estate shall be as binding on Respondents TNCI and GOMEZ as if the Department of Real Estate had received the original signed Stipulation.


DATED: 09-07-18


TNC, INC., by Cynthia Jannette Gomez (designated officer)

DATED: 09-07-18


CYNTHIA JANNETTE GOMEZ

DATED: 9-7-18


FRANK BUDA, ESQ.
Attorney for Respondents TNC, INC. and CYNTHIA JANNETTE GOMEZ

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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents TNC, INC. and CYNTHIA JANNETTE GOMEZ, and shall become effective at 12 o'clock noon on OCTOBER 11, 2018.

IT IS SO ORDERED September 17, 2018.

DANIEL J. SANDRI
ACTING REAL ESTATE COMMISSIONER

