

1 Department of Real Estate  
2 320 West 4th Street, Ste. 350  
3 Los Angeles, California 90013-1105  
4 Telephone: (213) 576-6982

5 **FILED**  
6 **MAR 13 2019**  
7 **DEPT. OF REAL ESTATE**  
8 *By: [Signature]*

9 **BEFORE THE DEPARTMENT OF REAL ESTATE**

10 **STATE OF CALIFORNIA**

11 \* \* \*

12 In the Matter of the Accusation of	)	No. H-41056 LA
	)	
13 LILLIAN KATHY ARMSBY	)	<u>STIPULATION</u>
	)	<u>AND</u>
14 Respondent.	)	<u>AGREEMENT</u>
	)	
	)	
	)	

16 It is hereby stipulated by and between Respondent LILLIAN KATHY ARMSBY  
17 (“ARMSBY”), represented by Frank M. Buda, Esq., and the Complainant, acting by and through  
18 Julie L. To, Counsel for the Department of Real Estate (“Department” or “DRE”), as follows for  
19 the purpose of settling and disposing of the Accusation (“Accusation”) filed on May 29, 2018, in  
20 Case No. H-41056 LA, in this matter.

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

4                   3. On June 8, 2018, Respondent timely filed her Notice of Defense pursuant to  
5 Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations  
6 in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.  
7 Respondent acknowledges that she understands that by withdrawing said Notice of Defense she  
8 thereby waives her right to require the Commissioner to prove the allegations in the Accusation  
9 at a contested hearing held in accordance with the provisions of the APA and that she will waive  
10 other rights afforded to her in connection with the hearing such as the right to present evidence in  
11 her 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, Respondent chooses not to contest these allegations,  
14 but to remain silent, and understands that, as a result thereof, these factual allegations, without  
15 being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to  
16 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove  
17 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 ("Department") or another licensing agency of this state,  
21 another state, or if the federal government is involved, and otherwise shall not be admissible in  
22 any other criminal or civil proceeding.

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

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

11           8. Respondent understand that by agreeing to this Stipulation, Respondent agrees  
12 to pay, pursuant to Business and Professions Code ("Code") Section 10148, the cost of the audit  
13 which resulted in the determination that Respondent committed the violations found in the  
14 Determination of Issues. The amount of said costs for the original audit (LA 150130) is  
15 \$5,658.07. Respondent agrees to pay, pursuant to Code Section 10148, \$5,658.07 for the cost of  
16 Audit No. LA 150130.

17           9. Respondent has received, read, and understands the "Notice Concerning Costs  
18 of Subsequent Audit." Respondent further understands that by agreeing to this Stipulation, the  
19 findings set forth below in the Determination of Issues become final, and the Commissioner may  
20 charge Respondent for the cost of any subsequent audits conducted pursuant to Code Section  
21 10148 to determine if the violations have been corrected. The maximum cost of the follow-up  
22 audits will not exceed one-hundred twenty-five percent (125%) of the cost of the original audit;  
23 in the instant case, the cost of the original audit is \$5,658.07, and the maximum cost of the  
24 follow-up audit will not exceed \$7,072.59. Therefore, Respondent may be charged a maximum  
25 of \$7,072.59 in the event of a subsequent audit.

1                    10. Respondent understands that by agreeing to this Stipulation, Respondent  
2 agrees to pay, pursuant to Code Section 10106, the Commissioner's cost of the investigation and  
3 enforcement which resulted in the determination that Respondent committed the violations found  
4 in the Determination of Issues. The amount of said costs is \$1,142.70; therefore, Respondent  
5 agree to pay, pursuant to Code Section 10106, the amount \$1,142.70.

6                    DETERMINATION OF ISSUES

7                    By reason of the foregoing stipulations, admissions and waivers, and solely for the  
8 purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed  
9 that the following determination of issues shall be made:

10                    The conduct, acts or omissions of Respondent LILLIAN KATHY ARMSBY, as  
11 described in Paragraph 4, herein above, are in violation of: Code Section 10145 and Title 10,  
12 Chapter 6, California Code of Regulations ("Regulation") 2832.1; Code Section 10145 and  
13 Regulation 2831.1; Code Section 10145 and Regulation 2831.2; Code Section 10145 and  
14 Regulation 2834; and Code Section 10177(h) and Regulation 2725, and are bases for the  
15 suspension or revocation of the licenses and license rights of Respondent ARMSBY as violations  
16 of the Real Estate Law pursuant to Code Sections 10177(d), 10177(g), and 10177(h).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent LILLIAN KATHY ARMSBY under the Real Estate Law are suspended for a period of ninety (90) days from the effective date of this Decision and Order; provided, however, that:

1. Ninety (90) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

a) Respondent ARMSBY shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and,

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

2. All licenses and licensing rights of Respondent ARMSBY are indefinitely suspended unless or until Respondent ARMSBY provides proof satisfactory to the Commissioner of having taken and successfully completed the continuing education course on trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code. Proof of satisfaction of these requirements includes evidence that Respondent has successfully completed the trust fund accounting courses, no earlier than one hundred and twenty (120) days prior to the effective date of the Decision and Order in this matter. Proof of completion of the trust fund accounting and handling courses

1 must be delivered to the Department of Real Estate, Flag Section, at P.O. Box 137013,  
2 Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the effective date of this  
3 Decision and Order.

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

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

19 5. All licenses and licensing rights of Respondent ARMSBY are indefinitely  
20 suspended unless or until Respondent pays the sum of \$1,142.70 for the Commissioner's  
21 reasonable cost of the investigation and enforcement which led to this disciplinary action. Said  
22 payment shall be in the form of a cashier's check or certified check made payable to the  
23 Department of Real Estate. The investigation and enforcement costs must be delivered to the  
24 Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior  
25 to the effective date of this Decision and Order.

1                   6. Pursuant to Section 10148 of the Code, Respondent ARMSBY shall pay the  
2 sum of \$5,658.07 for the Commissioner's cost of the audit which led to this disciplinary action.  
3 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the  
4 Commissioner. Payment of audit costs should not be made until Respondent receives the  
5 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,  
6 Respondent's real estate licenses shall automatically be suspended until payment is made in full,  
7 or until a decision providing otherwise is adopted following a hearing held pursuant to this  
8 condition.

9  
10 DATED: 1-9-19



Julie L. To, Counsel for Complainant

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13                   EXECUTION OF THE STIPULATION

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

22                   MAILING AND E-MAIL

23                   Respondent shall send a hard copy of the original signed Stipulation and  
24 Agreement to: Julie L. To, Department of Real Estate, 320 West Fourth Street, Suite 350, Los  
25 Angeles, CA 90013. In the event of time constraints before an administrative hearing,  
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1 Respondent can signify acceptance and approval of the terms and conditions of this Stipulation  
2 and Agreement by emailing a scanned copy of the signature page, as actually signed by  
3 Respondent, to the DRE counsel assigned to this case. Respondent agrees, acknowledges and  
4 understands that by electronically sending the DRE a scan of Respondent's actual signature as it  
5 appears on the Stipulation and Agreement, that receipt of the scan by the DRE shall be binding  
6 on Respondent as if the DRE had received the original signed Stipulation and Agreement.


7  
8 DATED: 1/8/19

  
LILLIAN KATHY ARMSBY, Respondent

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10 \* \* \*

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

13 DATED: 1-8-19

  
Frank M. Buda, Attorney for Respondent  
LILLIAN KATHY ARMSBY

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15 \* \* \*

16 The foregoing Stipulation and Agreement is hereby adopted as my Decision in  
17 this matter and shall become effective at 12 o'clock noon on APR 01 2019.

18 IT IS SO ORDERED March 7, 2019.

19  
20 DANIEL J. SANDRI  
ACTING REAL ESTATE COMMISSIONER

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