

**FILED**

APR 26 2019

DEPT. OF REAL ESTATE

By 

1 Department of Real Estate  
2 320 West 4th Street, Suite 350  
3 Los Angeles, California 90013

4 Telephone: (213) 576-6982  
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8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of

No. H-41066 LA

12  
13 DONALD JOHN SUTCLIFFE;  
14 FATHOM REALTY GROUP, INC.;  
15 WILLIAM A. THOMAN, individually and as  
16 designated officer of TLQ Realty, Inc.; and  
17 TLQ REALTY, INC.,

STIPULATION AND  
AGREEMENT FOR FATHOM  
REALTY GROUP, INC.

Respondents.

18 It is hereby stipulated by and between Respondents FATHOM REALTY GROUP,  
19 INC. ("FRGI"), represented by Patrick A. Craig, Esq., and the Complainant, acting by and  
20 through Diane Lee, Counsel for the Department of Real Estate, as follows for the purpose of  
21 settling and disposing of the Accusation ("Accusation") filed on or about June 4, 2018, in this  
22 matter:

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

1 provisions of this Stipulation and Agreement ("Stipulation").

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

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

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

19           5. It is understood by the parties that the Real Estate Commissioner may adopt  
20 this Stipulation as his Decision in this matter thereby imposing the penalties and sanctions on the  
21 real estate license and license rights of Respondent FRGI as set forth in the below "Order." In  
22 the event that the Commissioner in his discretion does not adopt this Stipulation, it shall be void  
23 and of no effect, and Respondent FRGI shall retain the right to a hearing and proceeding on the  
24 Accusation under the provisions of the APA and shall not be bound by this Stipulation herein.

25           6. The Order or any subsequent Order of the Real Estate Commissioner made  
26 pursuant to this Stipulation herein shall not constitute an estoppel, merger, or bar to any further  
27 administrative or civil proceedings by the Department of Real Estate with respect to any matters

1 which were not specifically alleged to be causes for Accusation in this proceeding, but do  
2 constitute a bar, estoppel, and merger as to any allegations specifically and actually contained in  
3 the Accusation against Respondent FRGI herein.

4 7. Respondent FRGI understands that by agreeing to this Stipulation, Respondent  
5 FRGI agrees to pay, pursuant to California Business and Professions Code section 10106, the  
6 cost of the investigation and enforcement. The amount of investigation and enforcement cost is  
7 \$2,037.40.

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9 DETERMINATION OF ISSUES

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

12 The conduct, acts, or omissions of Respondent FRGI, as described in the  
13 Accusation and Paragraph 4, above, are a basis for discipline of Respondent FRGI's license and  
14 license rights as violation of the Real Estate Law pursuant to California Business and Professions  
15 Code sections 10145 and 10177(g) and Title 10, Chapter 6, California Code of Regulations  
16 sections 2831.1, 2831.2, 2832, and 2834.

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18 ORDER

19 WHEREFORE, THE FOLLOWING ORDER is hereby made:

20  
21 (SUSPENSION)

22 I.

23 All licenses and licensing rights of Respondent FRGI under the Real Estate Law  
24 are suspended for a period of thirty (30) days from the effective date of this Decision; provided,  
25 however, these thirty (30) days shall be stayed for two (2) years upon the following terms and  
26 conditions:

27 1. Respondent FRGI shall obey all laws, rules, and regulations governing the

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

8 3. Respondent FRGI shall not serve as the broker of Respondent Donald John  
9 Sutcliffe or otherwise employ him in a licensed capacity with respect to real estate.

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11 (INVESTIGATION AND ENFORCEMENT COSTS)

12 III.

13 Respondent FRGI shall, within thirty (30) days from the effective date of this  
14 Decision and Order, pay the sum of \$2,037.40 for the Commissioner's reasonable cost for  
15 investigation and enforcement which led to this disciplinary action with joint and several  
16 liability. Said payment shall be in the form of a cashier's check made payable to the Department  
17 of Real Estate. The investigative and enforcement costs must be delivered to the Department of  
18 Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, within thirty (30)  
19 days from the effective date of this Decision and Order. If the costs of investigation and  
20 enforcement are not paid within thirty (30) days from the effective date of this Decision and  
21 Order, the licenses and license rights of Respondent FRGI shall automatically be suspended until  
22 full payment is made.

23 DATED: 4/9/19

24 *Diane Lee* for D.L.  
DIANE LEE, Counsel for  
Department of Real Estate

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