

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

FILED

MAR 08 2022

DEPT. OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)

No. H-42024 LA

PATRICK EARTHLY,)

STIPULATION

dba Solid Ground Property Management,)

AND

AGREEMENT

Respondent.)

It is hereby stipulated by and between Respondent PATRICK EARTHLY dba Solid Ground Property Management ("Respondent" or "EARTHLY"), represented by Frank M. Buda, Esq./Law Office of Frank M. Buda, and the Complainant, acting by and through Julie L. To, Counsel for the Department of Real Estate ("Department" or "DRE"), as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on June 3, 2021, in Case No. H-42024 LA, 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 Stipulation and Agreement ("Stipulation").

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DRE Stipulation & Agreement: Patrick Earthly, H-42024 LA

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 15, 2021, Respondent timely filed his 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 Notices of Defense.
7 Respondent acknowledges that he understands that by withdrawing said Notice of Defense he
8 thereby waives his 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 he will waive
10 other rights afforded to him in connection with the hearing such as the right to present evidence
11 in his 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 or another licensing agency of this state, another state, or if the federal
21 government is involved, and otherwise shall not be admissible in any other criminal or civil
22 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."
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1 In the event that the Commissioner in his discretion does not adopt the Stipulation and
2 Agreement, the Stipulation shall be void and of no effect and Respondent shall retain the right to
3 a hearing and proceeding on the Accusation under the provisions of the APA and shall not be
4 bound by any 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 understands that by agreeing to this Stipulation, Respondent
12 agrees to pay for the cost of the audit which resulted in the determination that Respondent
13 committed the violations found in the Determination of Issues, pursuant to Business and
14 Professions Code ("Code") Section 10148. The amount of said costs for the original audit
15 (SD190024) is \$5,659.25. Respondent agrees to pay, pursuant to Code Section 10148, the
16 amount \$5,659.25 for the cost of Audit No. SD190024.

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 (follow-up) audit(s) conducted pursuant to
21 Code Section 10148 to determine if the violations found in audit SD190024 have been corrected.
22 The maximum cost of the follow-up audits will not exceed one-hundred twenty-five percent
23 (125%) of the cost of the original audit; in the instant case, the cost of the original audit is
24 \$5,659.25, and the maximum cost of the follow-up audit ($\$5,659.25 \times 125\%$) will not exceed
25 \$7,074.06. Therefore, Respondent may be charged a maximum of \$7,074.06 in the event of a
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1 subsequent audit.

2 10. Respondent understands that by agreeing to this Stipulation, Respondent
3 agree to pay for the Commissioner's cost of the investigation and enforcement which resulted in
4 the determination that Respondent committed the violations found in the Determination of
5 Issues, pursuant to Code Section 10106. The amount of said investigation and enforcement costs
6 is \$1,876.30 (comprised of \$940.30 in investigation costs and \$936.00 in enforcement costs);
7 therefore, Respondent agrees to pay, pursuant to Code Section 10106, the amount \$1,876.30.

8 DETERMINATION OF ISSUES

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

12 The conduct, acts or omissions of Respondent as described in Paragraph 4, herein
13 above, are in violation of: Code Section 10145 and Regulation 2831; Code Section 10145 and
14 Regulation 2831.1; and Code Section 10159.5 and Regulation 2731 and are bases for the
15 suspension or revocation of the license and license rights of Respondent PATRICK EARTHLY
16 as a violation of the Real Estate Law pursuant to Code Section 10177(d).

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27 DRE Stipulation & Agreement: Patrick Earthly, H-42024 LA

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1. All sixty (60) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

2. All licenses and licensing rights of Respondent are indefinitely suspended unless or until Respondent pays the sum of \$1,876.30 for the Commissioner's reasonable cost of the investigation and enforcement which led to this disciplinary action. Said payment shall be in the form of a cashier's check or certified check made payable to the Department of Real Estate. The investigation and enforcement costs must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.

- 5 -

1 3. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
2 \$5,659.25 for the Commissioner's cost of the audit (SD190024) which led to this disciplinary
3 action. Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore
4 from the Commissioner. Payment of audit costs should not be made until Respondent receives
5 the invoice. If Respondent fails to satisfy this condition in a timely manner as provided for
6 herein, Respondent's real estate license(s) shall automatically be suspended until payment is
7 made in full, or until a decision providing otherwise is adopted following a hearing held pursuant
8 to this condition.

9 4. Pursuant to Section 10148 of the Code, Respondent shall pay the
10 Commissioner's reasonable cost, not to exceed \$7,074.06 [or, 125% of the original audit cost],
11 for a subsequent audit to determine if Respondent has corrected the violations found in the
12 Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the
13 Commissioner may use the estimated average hourly salary for all persons performing audits of
14 real estate brokers, and shall include an allocation for travel time to and from the auditor's place
15 of work. Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore
16 from the Commissioner. Payment of the audit costs should not be made until Respondent
17 receives the invoice. If Respondent fails to satisfy this condition in a timely manner as provided
18 for herein, Respondent's real estate licenses shall automatically be suspended until payment is
19 made in full, or until a decision providing otherwise is adopted following a hearing held pursuant
20 to this condition.

21 5. All license and licensing rights of Respondent are indefinitely suspended
22 unless or until Respondent provides evidence satisfactory to the Commissioner or having taken
23 and successfully completed the continuing education course on trust fund accounting and
24 handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and
25 Professions Code. Proof of satisfaction of these requirements includes evidence that
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Respondent has successfully completed the trust fund account and handling continuing education 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 course must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 prior to the effective date of this Decision and Order.

DATED: 12-30-21



Julie L. To, Counsel for
Department of Real Estate

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EXECUTION OF THE STIPULATION

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

MAILING AND FACSIMILE

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by sending a hard copy of the original signed signature page of the Stipulation herein to Julie L. To, Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350, Los Angeles, California 90013-1105. In the event of time constraints before an administrative hearing, Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by e-mailing a scanned copy of the signature page, as actually signed by Respondent to the Department counsel assigned to this case. Respondent

1 agrees, acknowledges, and understands that by electronically sending to the Department a scan
2 of Respondent's actual signature as it appears on the Stipulation and Agreement, that receipt of
3 the scan by the Department shall be binding on Respondent as if the Department had received
4 the original signed Stipulation and Agreement.

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7 DATED: 12/9/2021


PATRICK EARTHLY, Respondent

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9 *I have reviewed the Stipulation and Agreement as to form and have advised my*
10 *client accordingly.*

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12 DATED: 12-9-21


Frank M. Buda, Attorney for Respondent

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14 * * *

15 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
16 Respondent PATRICK EARTHLY and shall become effective at 12 o'clock noon on.

17 APR 07 2022

18 IT IS SO ORDERED 2.25.22, 2022

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20 REAL ESTATE COMMISSIONER

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24 DOUGLAS R. McCAULEY

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27 DRE Stipulation & Agreement: Patrick Earthly, H-42024 LA