

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

FILED
JUL 19 2022
DEPT. OF REAL ESTATE
By 

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7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation Against) DRE No. H-42116 LA
12) OAH No. 2022020333
13 GALLERY REAL ESTATE SERVICES;)
14 DONNA KAY HINSHAW, individually and as)
15 Designated Officer of Gallery Real Estate)
16 Services,)
17 Respondents.) STIPULATION AND AGREEMENT
18) IN SETTLEMENT AND ORDER

19 It is hereby stipulated by and between Respondents GALLERY REAL ESTATE
20 SERVICES and DONNA KAY HINSHAW, individually and as Designated Officer of Gallery
21 Real Estate Services, (sometimes collectively referred to as "Respondents"), acting by and
22 through their attorney Joshua A. Rosenthal, of Hargrave Rosenthal, P.C., and the Complainant,
23 acting by and through Judith B. Vasan, Counsel for the Department of Real Estate, as follows for
24 the purpose of settling and disposing of the Accusation ("Accusation") filed on September 29,
25 2021, in this matter:

26 1. All issues which were to be contested and all evidence which was to be
27 presented by Complainant and Respondents 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

STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

1 this Stipulation and Agreement ("Stipulation").

2 2. Respondents have received, read and understand the Statement to Respondent,
3 the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate
4 ("Department") in this proceeding.

5 3. Respondents filed a Notice of Defense pursuant to Section 11506 of the
6 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
7 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents
8 acknowledge that they understand that by withdrawing said Notice of Defense they thereby
9 waive their 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 they will waive
11 other rights afforded to them in connection with the hearing such as the right to present evidence
12 in their defense, and the right to cross-examine witnesses.

13 4 Respondents hereby admit that the factual allegations of the Accusation filed in
14 this proceeding are true and correct and the Real Estate Commissioner shall not be required to
15 provide further evidence of such allegations.

16 5. It is understood by the parties that the Real Estate Commissioner may adopt
17 this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on
18 Respondents' real estate licenses and license rights as set forth in the below "Order." In the event
19 that the Commissioner in his discretion does not adopt the Stipulation, the Stipulation shall be
20 void and of no effect and Respondents shall retain the right to a hearing and proceed on the
21 Accusation under the provisions of the APA and shall not be bound by any stipulation or waiver
22 made herein.

23 6. The Order or any subsequent Order of the Real Estate Commissioner made
24 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
25 administrative or civil proceedings by the Department with respect to any matters which were
26 not specifically alleged to be causes for accusation in this proceeding.

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1 DETERMINATION OF ISSUES

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

4 The conduct, acts or omissions of Respondents, as set forth in the Accusation, are
5 in violation of Code section 10145, 10159.2 and 10159.5 and Sections 2725, 2731, 2831, 2831.1,
6 2831.2, 2832.1, and 2832 of Title 10, Chapter 6 of the California Code of Regulations
7 ("Regulation") and are a basis for discipline of Respondents' licenses and licensing rights
8 pursuant to Code sections 10177(d), and/or 10177(g).

9 ORDER

10 WHEREFORE, THE FOLLOWING ORDER is hereby made:

11 (GALLERY REAL ESTATE SERVICES)

12 I.

13 All license(s) and license rights of Respondent GALLERY REAL ESTATE
14 SERVICES under the Real Estate Law are suspended for a period of sixty (60) days from the
15 effective date of this Decision;

16 A. Provided, however, that the initial thirty (30) days of said suspension shall be
17 stayed for one (1) year upon the following terms and conditions:

18 1. Respondent shall pay a monetary penalty pursuant to Code section
19 10175.2 at the rate of \$50.00 per day for each of the thirty (30) days of suspension for a total
20 monetary penalty of \$1,500.00.

21 2. Said payment shall be in the form of a cashier's check made payable to
22 the Department of Real Estate. Said check must be delivered to the Department of Real Estate,
23 Flag Section, P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
24 Decision and Order.

25 3. No further cause for disciplinary action against the real estate license of
26 Respondent occurs within one (1) year from the effective date of the Decision in this matter.

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1 4. If Respondent fails to pay the monetary penalty in accordance with the
2 terms and conditions of the Decision, the suspension shall go into effect automatically with
3 regard to said Respondent. Respondent shall not be entitled to any repayment nor credit, prorated
4 or otherwise, for money paid to the Department under the terms of this Decision and Order.

5 5. If Respondent pays the monetary penalty and if no further cause for
6 disciplinary action against the real estate license of Respondent occurs within one (1) year from
7 the effective date of the Decision, the stay hereby granted shall become permanent.

8 B. The remaining thirty (30) days of the sixty (60) day suspension shall be stayed
9 for one (1) year upon the following terms and conditions:

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

12 2. That no final subsequent determination be made after hearing or upon
13 stipulation, that cause for disciplinary action occurred within one (1) year from the effective date
14 of this Decision. Should such a determination be made, the Commissioner may, in his discretion,
15 vacate and set aside the stay order and re-impose all or a portion of the stayed suspension.

16 Should no such determination be made under this section, the stay imposed herein shall become
17 permanent.

18 (DONNA KAY HINSHAW)

19 II.

20 All license(s) and license rights of Respondent DONNA KAY HINSHAW under
21 the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this
22 Decision;

23 A. Provided, however, that the initial thirty (30) days of said suspension shall be
24 stayed for one (1) year upon the following terms and conditions:

25 1. Respondent shall pay a monetary penalty pursuant to Code section
26 10175.2 at the rate of \$50.00 per day for each of the thirty (30) days of suspension for a total
27 monetary penalty of \$1,500.00.

1 2. Said payment shall be in the form of a cashier's check made payable to
2 the Department of Real Estate. Said check must be delivered to the Department of Real Estate,
3 Flag Section, P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
4 Decision and Order.

5 3. No further cause for disciplinary action against the real estate license of
6 Respondent occurs within one (1) year from the effective date of the Decision in this matter.

7 4. If Respondent fails to pay the monetary penalty in accordance with the
8 terms and conditions of the Decision, the suspension shall go into effect automatically with
9 regard to said Respondent. Respondent shall not be entitled to any repayment nor credit, prorated
10 or otherwise, for money paid to the Department under the terms of this Decision and Order.

11 5. If Respondent pays the monetary penalty and if no further cause for
12 disciplinary action against the real estate license of Respondent occurs within one (1) year from
13 the effective date of the Decision, the stay hereby granted shall become permanent.

14 B. The remaining thirty (30) days of the sixty (60) day suspension shall be stayed
15 for one (1) year upon the following terms and conditions:

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

18 2. That no final subsequent determination be made after hearing or upon
19 stipulation, that cause for disciplinary action occurred within one (1) year from the effective date
20 of this Decision. Should such a determination be made, the Commissioner may, in his discretion,
21 vacate and set aside the stay order and re-impose all or a portion of the stayed suspension.
22 Should no such determination be made under this section, the stay imposed herein shall become
23 permanent.

24 III.

25 Respondent DONNA KAY HINSHAW further agrees to provide proof
26 satisfactory to the Commissioner of having taken and successfully completed the continuing
27 education course on trust fund accounting and handling as specified in Paragraph (3) of

1 subdivision (a) of Section 10170.5 of the Business and Professions Code. Proof of satisfaction of
2 this requirement includes evidence that Respondent has successfully completed the trust fund
3 accounting and handling continuing education course within one hundred and twenty days (120)
4 days prior to the effective date of the Decision and Order in this matter. Proof of completion of
5 the trust fund accounting and handling course must be delivered to the Department of Real Estate,
6 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, within thirty (30) days from the
7 effective date of this Decision and Order.

8 (AUDIT COSTS)

9 IV.

10 Pursuant to Code section 10148, Respondents GALLERY REAL ESTATE
11 SERVICES and DONNA KAY HINSHAW shall, jointly and severally, pay the Commissioner's
12 reasonable costs for the audit which led to this disciplinary action in the amount of \$13,218.50.
13 Respondents shall pay such costs within sixty (60) days of receiving an invoice therefore from
14 the Commissioner. Payment of the audit costs should not be made until Respondents receive the
15 invoice. If Respondents fail to satisfy this condition in a timely manner as provided for herein,
16 Respondents' real estate licenses shall automatically be suspended until payment is made in full,
17 or until a decision providing otherwise is adopted following a hearing held pursuant to this
18 condition.

19 V.

20 Pursuant to Code section 10148 of the Code, Respondents GALLERY REAL
21 ESTATE SERVICES and DONNA KAY HINSHAW shall, jointly and severally, pay the
22 Commissioner's reasonable costs not to exceed \$16,522.50 for a subsequent audit to determine if
23 Respondents have corrected the violations found in the Determination of Issues. In calculating
24 the amount of the Commissioner's reasonable costs, the Commissioner may use the estimated
25 average hourly salary for all persons performing audits of real estate brokers, and shall include
26 an allocation for travel time to and from the auditor's place of work. Respondents shall pay such
27 costs within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment

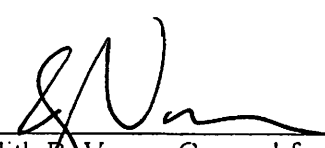
1 of the audit costs should not be made until Respondents receive the invoice. If Respondents fail
2 to satisfy this condition in a timely manner as provided for herein, Respondents' real estate
3 license shall automatically be suspended until payment is made in full, or until a decision
4 providing otherwise is adopted following a hearing held pursuant to this condition.

5 (INVESTIGATION and ENFORCEMENT COSTS)

6 VI.

7 All licenses and license rights of Respondents GALLERY REAL ESTATE
8 SERVICES and DONNA KAY HINSHAW are indefinitely suspended unless or until
9 Respondents pay the sum of \$1,211.12 (\$654.32 investigation costs + \$556.80 enforcement
10 costs) for the Commissioner's reasonable costs of the investigation and enforcement, which led
11 to this disciplinary action. Respondents are jointly and severally liable for the costs of the
12 investigation and enforcement. Said payment shall be in the form of a cashier's check made
13 payable to the Department of Real Estate. The investigative and enforcement costs must be
14 delivered to the Department of Real Estate, Flag Section, at P.O. Box 137013, Sacramento, CA
15 95813-7013, prior to the effective date of this Decision and Order.

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18 DATED: 6-7-2022


Judith B. Vasan, Counsel for
Department of Real Estate

20 EXECUTION OF THE STIPULATION

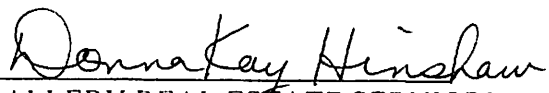
21 We have read the Stipulation and its terms are understood by us and are agreeable
22 and acceptable to us. We understand that we are waiving rights given to us by the California
23 Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and
24 11513 of the Government Code), and we willingly, intelligently and voluntarily waive those
25 rights, including the right of requiring the Commissioner to prove the allegations in the
26 Accusation at a hearing at which we would have the right to cross-examine witnesses against us
27 and to present evidence in defense and mitigation of the charges.

1 Respondents shall mail the original signed signature page of the stipulation herein
2 to Judith B. Vasan, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St.,
3 Suite 350, Los Angeles, California 90013-1105.

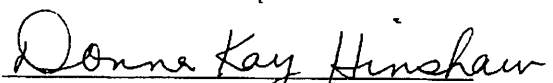
4 In the event of time constraints before an administrative hearing, Respondents can
5 signify acceptance and approval of the terms and conditions of this Stipulation and Agreement
6 by emailing a scanned copy of the signature page, as actually signed by Respondents, to the
7 Department counsel assigned to this case. Respondents agree, acknowledge and understand that
8 by electronically sending the Department a scan of Respondents' actual signature as it appears on
9 the Stipulation and Agreement that receipt of the scan by the Department shall be binding on
10 Respondents as if the Department had received the original signed Stipulation. Respondents shall
11 also mail the original signed signature page of this Stipulation to the Department counsel.

12 Respondents' signatures below constitute acceptance and approval of the terms
13 and conditions of this Stipulation. Respondents agree, acknowledge and understand that by
14 signing this Stipulation, Respondents are bound by its terms as of the date of such signatures and
15 that this agreement is not subject to rescission or amendment at a later date except by a separate
16 Decision and Order of the Real Estate Commissioner.

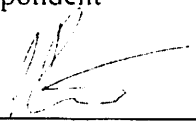
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18 DATED: June 7, 2022


GALLERY REAL ESTATE SERVICES
Respondent
By: Donna Kay Hinshaw

21 DATED: June 7, 2022


DONNA KAY HINSHAW, individually and
as Designated Officer of Gallery Real Estate
Services,
Respondent

25 DATED: 6/7/22


Joshua A. Rosenthal, Esq.
Counsel for Respondent
Approved as to Form

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IT IS SO ORDERED 7.15.22

Douglas R. McCule