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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of
ERNESTO JIMENEZ,
Respondent.

DRE Case No. H-42615-LA
STIPULATION AND AGREEMENT

It is hereby stipulated and agreed by and between Respondent ERNESTO JIMENEZ (“Respondent” or “JIMENEZ”) and the Complainant, acting by and through Laurence Haveson, Counsel for the Department of Real Estate (“Department”), as follows for the purpose of settling and disposing of the Accusation filed on July 12, 2023 (“Accusation”) 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”).

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

3. On July 31, 2023, Respondent filed a Notice of Defense pursuant to section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation.

1 Respondent hereby freely and voluntarily withdraws his Notice of Defense. Respondent
2 acknowledges that he understands that by withdrawing his Notice of Defense, Respondent will
3 thereby waive his right to require the Real Estate Commissioner ("Commissioner") to prove the
4 allegations in the Accusation at a contested hearing held in accordance with the provisions of the
5 APA and that Respondent will waive other rights afforded to him in connection with the hearing such
6 as the right to present evidence in defense of the allegations in the Accusation and the right to cross-
7 examine witnesses.

8 4. Respondent, pursuant to the limitations set forth below, hereby admits that the factual
9 allegations in the Accusation filed in this proceeding are true and correct and the Commissioner shall
10 not be required to provide further evidence to prove such allegations.

11 5. It is understood by the parties that the Commissioner may adopt the Stipulation as her
12 Decision in this matter, thereby imposing the penalty and sanctions on Respondent's real estate
13 license and license rights as set forth in the below Order. In the event that the Commissioner in her
14 discretion does not adopt the Stipulation, it shall be void and of no effect, and Respondent shall retain
15 the right to a hearing and proceeding on the Accusation under all the provisions of the APA and shall
16 not be bound by any admission or waiver made herein.

17 6. The Order or any subsequent Order of the Commissioner made pursuant to this
18 Stipulation shall not constitute an estoppel, merger, or bar to any further administrative or civil
19 proceedings by the Department with respect to any matters which were not specifically alleged to be
20 causes for the Accusation in this proceeding.

21 7. Respondent understands that by agreeing to this Stipulation, that he agrees to pay
22 pursuant to Business and Professions Code Section 10148, the cost of the original audit which led to
23 this disciplinary action. The amount of said cost is \$7,467.56.

24 8. Respondent has received, read, and understand the "Notice Concerning Costs of
25 Subsequent Audit." Respondent further understands that by agreeing to this Stipulation, the findings
26 set forth below in the Determination of Issues become final, and the Commissioner may charge
27 Respondent for the cost of any subsequent audit conducted pursuant to Business and Professions

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1 Code Section 10148 to determine if the violations have been corrected. The maximum cost of the
2 subsequent audit shall not exceed 125% of cost of the original audit, or \$9,334.45.

3 9. Respondent has received, read, and understands that by agreeing to this Stipulation,
4 Respondent agrees to pay pursuant to Business and Professions Code Section 10106, the cost of the
5 investigation and enforcement of this matter. As of December 8, 2023, the amount of the enforcement
6 costs is \$720.00.

7 DETERMINATION OF ISSUES

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

11 The conduct, acts, and/or omissions of Respondent as alleged in the Accusation, constitute
12 are in violation of California Business and Professions Code ("Code") sections 10086(a), 10141.6,
13 10145, 10176(e), 10176(g), California Financial Code section 17006(a)(4), and California Code of
14 Regulations ("Regulation(s)"), title 10, sections 2830, 2831, 2831.1 2831.2, 2832.1, 2835(b),
15 2950(d), 2950(g), and 2951, and are a basis for discipline of Respondent's licenses and license rights
16 pursuant to Code sections 10176(e), 10176(g), 10177(d) and/or 10177(g).

17 ORDER

18 WHEREFORE, THE FOLLOWING ORDER is hereby made:

- 19 1. Respondent ERNESTO JIMENEZ is publicly reprovved.
- 20 2. Respondent shall pay the sum of \$720.00 for the Commissioner's reasonable cost of
21 the investigation and enforcement which led to this disciplinary action **within one-hundred and**
22 **eighty (180) days from the effective date of this Decision and Order.** Said payment shall be in the
23 form of a cashier's check made payable to the Department of Real Estate. **The investigative and**
24 **enforcement costs must be delivered to the Department of Real Estate, Flag Section at P.O. Box**
25 **137013, Sacramento, CA 95813-7013. Payment of investigation and enforcement costs should**
26 **not be made until the Stipulation has been approved by the Commissioner.** If Respondent fails
27 to satisfy this condition in a timely manner as provided for herein, Respondent's real estate license

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

3 3. Pursuant to section 10148 of the Code, Respondent shall pay the sum of \$7,467.56 for
4 the Commissioner's cost of the audit which led to this disciplinary action. **Respondent shall pay**
5 **such cost within one-hundred and eighty (180) days from the effective date of this Decision and**
6 **Order. Payment of audit costs should not be made until Respondent receives the invoice.** If
7 Respondent fails to satisfy this condition in a timely manner as provided for herein, Respondent's
8 real estate license shall automatically be suspended until payment is made in full, or until a decision
9 providing otherwise, is adopted following a hearing held pursuant to this condition.

10 4. Respondent understands that by agreeing to this Stipulation, the findings set forth
11 above in the Determination of Issues become final, and the Commissioner may charge Respondent
12 for the cost of any subsequent audit, if a subsequent audit is conducted, pursuant to Code section
13 10148 to determine if the violations have been corrected and that Respondent is in compliance with
14 trust fund handling requirements of the Real Estate Law. The maximum cost of the follow-up audit
15 will not exceed one-hundred twenty-five percent (125%) of the cost of the original audit; in the
16 instant case, the cost of the original audit is \$7,467.56 and the maximum cost of the follow-up audit
17 will not exceed \$9,334.45. Therefore, Respondent may be charged a maximum of \$9,334.45 in the
18 event of a subsequent audit.

19 5. Pursuant to Section 10148 of the Code, Respondent shall pay the Commissioner's
20 reasonable cost, not to exceed \$9,334.45, for any subsequent audit, if one is performed, to determine
21 if Respondent has corrected the violations found in the Determination of Issues and that Respondent
22 is in compliance with trust fund handling requirements of the Real Estate Law. In calculating the
23 amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average
24 hourly salary for all persons performing audits of real estate brokers and shall include an allocation
25 for travel time to and from the auditor's place of work. Respondent shall pay such cost within sixty
26 (60) days of receiving an invoice therefore from the Commissioner. **Payment of the audit costs**
27 **should not be made until Respondent receives the invoice.** If Respondent fails to satisfy this
28 condition in a timely manner as provided for herein, Respondent's real estate licenses shall

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

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4 DATED: December 11, 2023

Laurence D. Haveson

Laurence D. Haveson
Counsel for Complainant

Digitally signed by Laurence D. Haveson
Date: 2023.12.11 14:48:10 -08'00'

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9 EXECUTION OF THE STIPULATION

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

17 Respondent can signify acceptance and approval of the terms and conditions of this
18 Stipulation by causing the Stipulation to be e-mailed with Respondent's digital signature to Laurence
19 Haveson, Real Estate Counsel at Laurence.Haveson@dre.ca.gov, or by sending a hard copy of the
20 original signed signature page of the Stipulation herein to Laurence D. Haveson, Department of Real
21 Estate, Legal Section, 320 W. Fourth St., Suite 350, Los Angeles, CA 90013-1105. In the event of
22 time constraints before an administrative hearing, Respondent can signify acceptance and approval
23 of the terms and conditions of this Stipulation and Agreement by faxing or e-mailing a scanned copy
24 of the signature page, as actually signed by Respondent, to the Department counsel assigned to this
25 case. Respondent agrees, acknowledges, and understands that by electronically sending the
26 Stipulation and Agreement to the Department with Respondent's digital signature or a scan of
27 Respondent's actual signature as it appears on the Stipulation and Agreement, that receipt of the
28 Stipulation and Agreement with Respondent's digital signature or a scan of his actual signature by

1 the Department shall be as binding on Respondent as if the Department had received the original
2 signed Stipulation and Agreement. By signing this Stipulation and Agreement, Respondent
3 understands and agrees that Respondent may not withdraw his agreement or seek to rescind the
4 Stipulation and Agreement prior to the time the Commissioner considers and acts upon it or prior to
5 the effective date of the Stipulation and Order.

6 MAILING

7 In the event that Respondent declines to digitally sign the Stipulation, Respondent shall,
8 within five (5) business days from signing the Stipulation, mail the original signed signature page(s)
9 of the Stipulation herein to Laurence Haveson, Attention: Legal Section, Department of Real Estate,
10 320 W. Fourth St., Room 350, Los Angeles, California 90013-1105.

11 Respondent's signature below constitutes acceptance and approval of the terms and
12 conditions of this Stipulation. Respondent agrees, acknowledges, and understands that by signing
13 this Stipulation Respondent is bound by its terms as of the date of such signature and that this
14 agreement is not subject to rescission or amendment at a later date except by a separate Decision
15 and Order of the Real Estate Commissioner.

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17 DATED: 12/12/2023 *Ernesto Jimenez*
Ernesto Jimenez (Dec 12, 2023 09:41 PST)
18 Respondent ERNESTO JIMENEZ

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The foregoing Stipulation and Agreement in Settlement and Order is hereby adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on February 27, 2024.

IT IS SO ORDERED 1/30/24.

CHIKA SUNQUIST
REAL ESTATE COMMISSIONER



By Marcus L. McCarther
Chief Deputy Real Estate Commissioner