

1 Bureau of Real Estate
2 320 West Fourth Street, #350
3 Los Angeles, California 90013

FILED

AUG 29 2014

BUREAU OF REAL ESTATE

By *Spiller*

7 BEFORE THE BUREAU OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of)

) CalBRE No. H-02833 FR
) OAH No. 2014020124
)

11)
12 DAN THOMAS SHANYFELT and
SETH ELLIOT JOHNSON,

) STIPULATION AND
) AGREEMENT
)

13)
14)
15 Respondents.)

16 It is hereby stipulated by and between Respondent DAN
17 THOMAS SHANYFELT, represented by Frank M. Buda, Esq., and the
18 Complainant, acting by and through Lissete Garcia, Counsel for the
19 Bureau of Real Estate, as follows for the purpose of settling and
20 disposing of the Accusation in this matter, filed on September 16,
21 2013:

22 1. All issues which were to be contested and all
23 evidence which was to be presented by Complainant and Respondent
24 DAN THOMAS SHANYFELT at a formal hearing on the Accusation, which

1 hearing was to be held in accordance with the provisions of the
2 Administrative Procedure Act (APA), shall instead and in place
3 thereof be submitted solely on the basis of the provisions of this
4 Stipulation and Agreement (Stipulation).

5 2. Respondent SETH ELLIOT JOHNSON has received, read
6 and understands the Statement to Respondent, the Discovery
7 Provisions of the APA and the Accusation filed by the Bureau of
8 Real Estate in this proceeding.

9 3. Respondent DAN THOMAS SHANYFELT filed a Notice of
10 Defense pursuant to Section 11506 of the Government Code for the
11 purpose of requesting a hearing on the allegations in the
12 Accusation. Respondent hereby freely and voluntarily withdraws
13 said Notice of Defense. Respondent acknowledges that he
14 understands that by withdrawing said Notice of Defense, he thereby
15 waives his right to require the Commissioner to prove the
16 allegations in the Accusation at a contested hearing held in
17 accordance with the provisions of the APA and that he will waive
18 other rights afforded to him in connection with the hearing such
19 as the right to present evidence in his defense and the right to
20 cross-examine witnesses.

21 4. This Stipulation is based on the factual allegations
22 contained in the Accusation. In the interest of expedience and
23 economy, Respondent DAN THOMAS SHANYFELT chooses not to contest
24 these allegations, but to remain silent and understands that, as a

1 result thereof, these factual allegations, without being admitted
2 or denied, will serve as a prima facie basis for the disciplinary
3 action stipulated to herein. The Real Estate Commissioner shall
4 not be required to provide further evidence to prove said factual
5 allegations.

6 5. This Stipulation and Respondent's decision not to
7 contest the Accusation are made for the purpose of reaching an
8 agreed disposition of this proceeding and are expressly limited to
9 this proceeding and any other proceeding or case in which the
10 Bureau of Real Estate, or another licensing agency of this state,
11 another state or if the federal government is involved and
12 otherwise shall not be admissible in any other criminal or civil
13 proceedings.

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

23 7. The Order or any subsequent Order of the Real
24 Estate Commissioner made pursuant to this Stipulation shall not

1 constitute an estoppel, merger or bar to any further
2 administrative or civil proceedings by the Bureau of Real Estate
3 with respect to any conduct which was not specifically alleged to
4 be causes for accusation in this proceeding.

5 DETERMINATION OF ISSUES

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

10 The conduct of DAN THOMAS SHANYFELT, as described in
11 Paragraph 4, above, is a basis for discipline of DAN THOMAS
12 SHANYFELT's license and license rights pursuant to Section 10177.5
13 of the Business and Professions Code ("Code").

14 ORDER

15 WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT TO THE
16 WRITTEN STIPULATION OF THE PARTIES:

17 I.

18 All licenses and licensing rights of Respondent DAN
19 THOMAS SHANYFELT under the Real Estate Law are suspended for a
20 period of thirty (30) days from the effective date of this
21 Decision; provided, however, that if Respondent petitions, said
22 thirty (30) day suspension shall be stayed upon condition that:

23 1. Respondent pays a monetary penalty pursuant to
24 Section 10175.2 of the Code at the rate of \$250 for each day of

1 the suspension along with an additional monetary penalty of
2 \$2,500, for a total monetary penalty of \$10,000.

3 2. Said payment shall be in the form of a cashier's
4 check or certified check made payable to the Recovery Account of
5 the Real Estate Fund. Said check must be received by the Bureau
6 prior to the effective date of the Decision in this matter.

7 3. No further cause for disciplinary action against the
8 real estate license of Respondent occurs within two years from the
9 effective date of the Decision in this matter.

10 4. If Respondent fails to pay the monetary penalty in
11 accordance with the terms and conditions of the Decision, the
12 Commissioner may, without a hearing, order the immediate execution
13 of all or any part of the stayed suspension in which event the
14 Respondent shall not be entitled to any repayment nor credit,
15 prorated or otherwise, for money paid to the Bureau under the
16 terms of this Decision.

17 5. If Respondent pays the monetary penalty and if no
18 further cause for disciplinary action against the real estate
19 license of Respondent occurs within two years from the effective
20 date of the Decision, the stay hereby granted shall become
21 permanent.

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1 II.

2 Respondent DAN THOMAS SHANYFELT shall be jointly and
3 severally liable with Respondent Seth Elliot Johnson for payment
4 of \$3,490.51 for the Commissioner's reasonable costs of the
5 investigation and enforcement which led to this disciplinary
6 action. Respondent DAN THOMAS SHANYFELT shall also be severally
7 liable for payment of \$1,335.00 for the Commissioner's reasonable
8 costs of enforcement incurred after July 28, 2014. The
9 Commissioner's investigation and enforcement costs total
10 \$4,825.51.

11 Said payments totaling shall be in the form of a
12 cashier's check made payable to the Real Estate Fund and delivered
13 to the Bureau of Real Estate, Legal & Recovery Account Mail, at
14 P.O. Box 137007, Sacramento, CA 95813-7007, prior to the effective
15 date of this Order.

16 If Respondent DAN THOMAS SHANYFELT fails to satisfy this
17 condition, the Commissioner shall order the suspension of the
18 Respondent's license until the Respondent presents evidence of
19 payment. The Commissioner shall afford Respondent the opportunity
20 for a hearing pursuant to the Administrative Procedure Act to
21 present such evidence that payment was timely made. The
22 suspension shall remain in effect until payment is made in full or
23 until a decision providing otherwise is adopted following a
24 hearing held pursuant to this condition.

1 III.

2 Respondent DAN THOMAS SHANYFELT shall, within six (6)
3 months from the effective date of the Decision herein, take and
4 pass the Professional Responsibility Examination administered by
5 the Bureau including the payment of the appropriate examination
6 fee. If Respondent fails to satisfy this condition, the
7 Commissioner shall order the suspension of Respondent's license
8 until Respondent passes the examination.

9 IV.

10 Respondent DAN THOMAS SHANYFELT shall, within nine (9)
11 months from the effective date of the Decision herein, present
12 evidence satisfactory to the Real Estate Commissioner that
13 Respondent has, since the most recent issuance of an original or
14 renewal real estate license, taken and successfully completed the
15 continuing education requirement of Article 2.5 of Chapter 3 of
16 the Real Estate Law for renewal of a real estate license. If
17 Respondent fails to satisfy this condition, the Commissioner shall
18 order the suspension of Respondent's license until Respondent
19 presents such evidence. The Commissioner shall afford Respondent
20 the opportunity for a hearing pursuant to the Administrative
21 Procedure Act to present such evidence.

22 VI.

23 A copy of all proofs of payment and completed coursework
24 shall be submitted to Bureau Counsel Lissete Garcia, Attention:

1 Legal Section, Bureau of Real Estate, 320 W. Fourth St., Suite
2 350, Los Angeles, California 90013-1105, on or before the dates
3 set forth above.

4 DATED: 8/5/2014


LISSETE GARCIA, Counsel for the
Bureau of Real Estate

6 EXECUTION OF THE STIPULATION

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

17 Respondent can signify acceptance and approval of the
18 terms and conditions of this Stipulation by faxing a copy of the
19 signature page, as actually signed by Respondent, to the Bureau at
20 the following telephone/fax number: Lissete Garcia at (213) 576-
21 6917. Respondent agrees, acknowledges and understands that by
22 electronically sending to the Bureau a fax copy of Respondent's
23 actual signature, as it appears on the Stipulation, that receipt
of the faxed copy by the Bureau shall be as binding on Respondent

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08/05/2014 TUE 10:46 FAX -- Frank Buda

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as if the Bureau had received the original signed Stipulation.

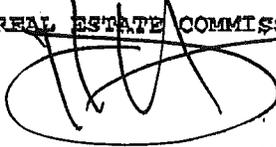
DATED: 8/5/2014 
DAN THOMAS SHANYFELT, Respondent

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

DATED: 8-5-2014 
FRANK M. BUDA, ESQ.
Attorney for Respondent
Dan Thomas Shanyfelt

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent DAN THOMAS SHANYFELT and shall become effective at 12 o'clock noon on SEP 18 2014

IT IS SO ORDERED AUG 19 2014

REAL ESTATE COMMISSIONER


By: JEFFREY MASON
Chief Deputy Commissioner

1 as if the Bureau had received the original signed Stipulation.

2
3 DATED: _____
4 DAN THOMAS SHANYFELT, Respondent

5
6 *I have reviewed the Stipulation and Agreement as to*
7 *form and content and have advised my client accordingly.*

8
9 DATED: _____
10 FRANK M. BUDA, ESQ.
11 Attorney for Respondent
12 Dan Thomas Shanyfelt

13 ***

14 The foregoing Stipulation and Agreement is hereby
15 adopted as my Decision as to Respondent DAN THOMAS SHANYFELT and
16 shall become effective at 12 o'clock noon on _____,

17 IT IS SO ORDERED _____,

18
19 REAL ESTATE COMMISSIONER

20
21 _____
22 By: JEFFREY MASON
23 Chief Deputy Commissioner
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