

1 DEPARTMENT OF REAL ESTATE
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3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
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FILED
JUN - 9 1994
DEPARTMENT OF REAL ESTATE

By Lucille G. Zarin

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 NETWORK REAL ESTATE OF) NO. H-2978 SAC
13 CENTRAL CALIFORNIA, INC.,) STIPULATION AND
14 WILLIAM PAPOLA, JR.,) AGREEMENT IN
15 Respondents.) SETTLEMENT AND ORDER

16 It is hereby stipulated by and between NETWORK REAL
17 ESTATE OF CENTRAL CALIFORNIA, INC. (hereinafter "respondent
18 NETWORK") and WILLIAM PAPOLA, JR. (hereinafter "respondent
19 PAPOLA") and their attorney of record, Frank M. Buda, and the
20 Complainant, acting by and through David A. Peters, Counsel for
21 the Department of Real Estate, as follows for the purpose of
22 settling and disposing of the Accusation filed on January 19, 1994
23 in this matter:

24 1. All issues which were to be contested and all
25 evidence which was to be presented by Complainant and Respondents
26 at a formal hearing on the Accusation, which hearing was to be
27 held in accordance with the provisions of the Administrative

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NETWORK REAL ESTATE OF
CENTRAL CALIFORNIA, INC.,
WILLIAM PAPOLA, JR.

1 Procedure Act (APA), shall instead and in place thereof be
2 submitted solely on the basis of the provisions of this
3 Stipulation and Agreement in Settlement.

4 2. Respondents have received, read and understand the
5 Statement to Respondents, the Discovery Provisions of the APA and
6 the Accusation filed by the Department of Real Estate in this
7 proceeding.

8 3. On January 28, 1994, Respondents filed Notices of
9 Defense pursuant to Section 11505 of the Government Code for the
10 purpose of requesting a hearing on the allegations in the
11 Accusation. Respondents hereby freely and voluntarily withdraw
12 said Notices of Defense. Respondents acknowledge that they
13 understand that by withdrawing said Notices of Defense they will
14 thereby waive their right to require the Commissioner to prove the
15 allegations in the Accusation at a contested hearing held in
16 accordance with the provisions of the APA and that they will waive
17 other rights afforded to them in connection with the hearing such
18 as the right to present evidence in defense of the allegations in
19 the Accusation and the right to cross-examine witnesses.

20 4. This Stipulation and Agreement in Settlement and
21 Order relates to the factual allegations contained in Paragraphs I
22 through X, in the Accusation filed in this proceeding.
23 Respondents choose not to contest these factual allegations and to
24 remain silent and understand that, as a result thereof, these
25 factual allegations, without being admitted or denied, will serve
26 as a basis for the discipline stipulated to herein. This
27 Stipulation and Agreement in Settlement and Order and the findings

1 based on Respondents' decision not to contest the Accusation are
2 hereby expressly limited to this proceeding and made for the sole
3 purpose of reaching an agreed disposition of this proceeding,
4 only. Respondents' decision not to contest the factual
5 allegations is made solely for the purpose of effectuating this
6 Stipulation and is intended by Complainant and Respondents to be
7 non-binding upon them in any actions against Respondents by third
8 parties and shall not be deemed, used, or accepted as an
9 acknowledgment or admission. However, the results of this
10 Stipulation may provide the basis for establishing prior
11 discipline, and the basis thereof, in any subsequent proceeding by
12 Complainant. The Real Estate Commissioner shall not be required
13 to provide further evidence to prove such allegations.

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

24 6. The Order and any subsequent Order of the Real
25 Estate Commissioner made pursuant to this Stipulation and
26 Agreement in Settlement shall not constitute an estoppel, merger
27 or bar to any further administrative or civil proceedings by the

1 Department of Real Estate with respect to any matters which were
2 not specifically alleged to be causes for accusation in this
3 proceeding.

4 DETERMINATION OF ISSUES

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

9 I

10 The conduct of the Respondents, as described in the
11 Accusation, is grounds for the suspension or revocation of all the
12 real estate licenses and license rights of Respondents under the
13 provisions of Section 10177(d) of the Business and Professions
14 Code in conjunction with Section 10145 of the Business and
15 Professions Code and Sections 2830 and 2832.1 of Title 10,
16 California Code of Regulations.

17 ORDER

18 I

19 All licenses and licensing rights of respondents NETWORK
20 REAL ESTATE OF CENTRAL CALIFORNIA, INC. and WILLIAM PAPOLA, JR.
21 under the Real Estate Law are suspended for a period of ten (10)
22 days from the effective date of this Decision; provided, however,
23 that said suspension shall be stayed upon the following terms and
24 conditions:

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NETWORK REAL ESTATE OF
CENTRAL CALIFORNIA, INC.,
WILLIAM PAPOLA, JR.

1 1. Respondents prior to the effective date of the
2 Decision in this matter shall pay the Commissioner the reasonable
3 cost for an audit in the amount of \$1,378.87 to determine if
4 Respondents have corrected the trust fund violations found in
5 Paragraph I of the Determination of Issues.

6 2. Respondents shall pay a monetary penalty pursuant to
7 Section 10175.2 of the Business and Professions Code at the rate
8 of \$100.00 for each day of Respondents suspension for a total
9 monetary penalty of \$1,000.00 for both Respondents.

10 3. Said payment shall be in the form of a cashier's
11 check or certified check made payable to the Recovery Account of
12 the Real Estate Fund. Said check must be delivered to the
13 Department prior to the effective date of the Decision in this
14 matter.

15 4. No further cause for disciplinary action against the
16 real estate license of Respondents occurs within one (1) year from
17 the effective date of the Decision in this matter.

18 5. If Respondents fail to pay the monetary penalty in
19 accordance with the terms and conditions of the Decision, the
20 Commissioner may, without a hearing, order the immediate execution
21 of all or any part of the stayed suspension in which event the
22 Respondents shall not be entitled to any repayment nor credit,
23 prorated or otherwise, for money paid to the Department under the
24 terms of this Decision.

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NETWORK REAL ESTATE OF
CENTRAL CALIFORNIA, INC.,
WILLIAM PAPOLA, JR.

1 6. If Respondents pay the monetary penalty and the cost
2 of the audit and if no further cause for disciplinary action
3 against the real estate licenses of Respondents occurs within one
4 (1) year from the effective date of the Decision, the stay hereby
5 granted shall become permanent.

6 5/4/94

7 _____
8 DATED

9 *David A. Peters*

10 _____
11 DAVID A. PETERS, Counsel
12 DEPARTMENT OF REAL ESTATE

13 * * *

14 I have read the Stipulation and Agreement, have
15 discussed it with my counsel, and its terms are understood by me
16 and are agreeable and acceptable to me. I understand that I am
17 waiving rights given to me by the California Administrative
18 Procedure Act (including but not limited to Sections 11506,
19 11508, 11509, and 11513 of the Government Code), and I willingly,
20 intelligently, and voluntarily waive those rights, including the
21 right of requiring the Commissioner to prove the allegations in
22 the Accusation at a hearing at which I would have the right to
23 cross-examine witnesses against me and to present evidence in
24 defense and mitigation of the charges.

25 5/13/94

26 _____
27 DATED

28 *Network Real Estate of
29 Central Calif. Inc. By
30 William Papola, Jr. president.*

31 NETWORK REAL ESTATE OF
32 CENTRAL CALIFORNIA, INC.
33 By: William Papola, Jr.

34 5/13/94

35 _____
36 DATED

37 *William Papola, Jr.*

38 WILLIAM PAPOLA, JR.
39 Respondent

1 I have reviewed the Stipulation and Agreement as to
2 form and content and have advised my clients accordingly.

3
4 May 9 1994
5 DATED

Frank M. Buda
6 FRANK M. BUDA
7 Attorney for Respondents

8 * * *

9 The foregoing Stipulation and Agreement for Settlement
10 is hereby adopted by the Real Estate Commissioner as Decision and
11 Order and shall become effective at 12 o'clock noon on
12 June 30, 1994.

13 IT IS SO ORDERED 5 1, 1994.

14 CLARK WALLACE
15 Real Estate Commissioner
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