

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

3 (213) 576-6982

FILED

FEB 17 2017

BUREAU OF REAL ESTATE

By *[Signature]*

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-04807 SD

12)
13 **VERTICAL REAL ESTATE**
14 **SERVICES, INC.;**

STIPULATION AND AGREEMENT

15 ROSSANA PESTANA, individually and
16 as former designated officer of Vertical
Real Estate Services, Inc.; and

17 **JOHNATHAN MICHAEL PURDY,**
18 individually and as designated officer of
19 Vertical Real Estate Services, Inc.,

20 Respondents.

21
22 It is hereby stipulated by and between VERTICAL REAL ESTATE SERVICES,
23 INC. ("VRESI") and JOHNATHAN MICHAEL PURDY ("PURDY"), both represented by
24 Frank M. Buda, Esq. and the Complainant, acting by and through Julie L. To, Counsel for the
25 Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation
26
27

1 ("Accusation") filed on June 28, 2016 in Case No. H-04807 SD, in this matter:

2 1. All issues which were to be contested and all evidence which was to be
3 presented by Complainant and Respondents at a formal hearing on the Accusation, which
4 hearing was to be held in accordance with the provisions of the Administrative Procedure Act
5 ("APA"), shall instead and in place thereof be submitted solely on the basis of the provisions of
6 this Stipulation and Agreement ("Stipulation").

7 2. Respondents have received, read and understand the Statement to Respondent,
8 the Discovery Provisions of the APA and the Accusation filed by the Bureau of Real Estate in
9 this proceeding.

10 3. On July 14, 2016, Respondent VRESI filed a Notice of Defense pursuant to
11 Section 11506 of the Government Code for the purpose of requesting a hearing on the
12 allegations in the Accusation. On July 14, 2016, Respondent PURDY also filed a Notice of
13 Defense pursuant to Section 11506 of the Government Code for the purpose of requesting a
14 hearing on the allegations in the Accusation. Respondents VRESI and PURDY hereby freely
15 and voluntarily withdraw their respective Notices of Defense. Respondents acknowledge that
16 they understand that by withdrawing said Notices of Defense they thereby waive their right to
17 require the Commissioner to prove the allegations in the Accusation at a contested hearing held
18 in accordance with the provisions of the APA and that they will waive other rights afforded to
19 them in connection with the hearing such as the right to present evidence in defense of the
20 allegations in the Accusation and the right to cross-examine witnesses.

21 4. This Stipulation is based on the factual allegations contained in the
22 Accusation. In the interest of expedience and economy, Respondents choose not to contest
23 these allegations, but to remain silent and understand that, as a result thereof, these factual
24 allegations, without being admitted or denied, will serve as a prima facie basis for the
25 disciplinary action stipulated to herein. The Real Estate Commissioner shall not be required to
26

1 provide further evidence to prove said factual allegations.

2 5. This Stipulation is made for the purpose of reaching an agreed disposition of
3 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
4 which the Bureau of Real Estate ("Bureau") or another licensing agency of this state, another
5 state or if the federal government is involved, and otherwise shall not be admissible in any other
6 criminal or civil proceeding.

7 6. It is understood by the parties that the Real Estate Commissioner may adopt
8 this Stipulation and Agreement as his Decision in this matter, thereby imposing the penalty and
9 sanctions on Respondents' real estate licenses and license rights as set forth in the below
10 "Order." In the event that the Commissioner in his discretion does not adopt the Stipulation
11 and Agreement, the Stipulation shall be void and of no effect, and Respondents shall retain the
12 right to a hearing and proceeding on the Accusation under all the provisions of the APA and
13 shall not be bound by any admission or waiver made herein.

14 7. The Order or any subsequent Order of the Real Estate Commissioner made
15 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
16 administrative or civil proceedings by the Bureau of Real Estate with respect to any matters
17 which were not specifically alleged to be causes for accusation in this proceeding.

18 8. Respondents understand that by agreeing to this Stipulation and Agreement,
19 Respondents agree to pay, pursuant to Section 10148 of the Code, the cost of the audit which
20 resulted in the determination that Respondents committed the violations found in the
21 Determination of Issues. The amount of said costs for the original audit (SD150007) is
22 \$9,576.30. Respondents agree to pay, pursuant to Section 10148 of the Code, \$9,576.30 for the
23 cost of Audit SD150007.

24 9. Respondents have received, read, and understand the "Notice Concerning
25 Costs of Subsequent Audit." Respondents further understand that by agreeing to this Stipulation,
26

1 The conduct, acts or omissions of Respondent PURDY, as described in Paragraph
2 4, herein above, are in violation of Business and Professions Code ("Code") Section 10159.2 and
3 is the basis for the suspension or revocation of Respondent's licenses and license rights as a
4 violation of the Real Estate Law pursuant to Code Sections 10177(d) and 10177(g).

5 ORDER

6 WHEREFORE, THE FOLLOWING ORDER is hereby made:

7 All licenses and licensing rights of Respondents VERTICAL REAL ESTATE
8 SERVICES, INC. and JOHNATHAN MICHAEL PURDY under the Real Estate Law are
9 suspended for a period of ninety (90) days from the effective date of this Decision and Order;
10 provided, however, that:

11 1. Thirty (30) days of said suspension shall be stayed, upon the condition that
12 each Respondent petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty
13 pursuant to Section 10175.2 of the Code at a rate of \$50.00 for each day of the suspension for a
14 total monetary penalty of \$1,500.00 per Respondent.

15 a) Said payment shall be in the form of a cashier's check made payable to the
16 Bureau of Real Estate. Separate checks for each Respondent must be delivered to the Bureau of
17 Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the
18 effective date of this Decision and Order.

19 b) No further cause for disciplinary action against the Real Estate licenses of
20 Respondents occurs within two (2) years from the effective date of the Decision and Order in
21 this matter.

22 c) If a Respondent fails to pay the monetary penalty in accordance with the
23 terms and conditions of this Decision and Order, the suspension shall go into effect
24 automatically as to that Respondent, and that Respondent shall not be entitled to any repayment
25

1 nor credit, prorated or otherwise, for money paid to the Bureau under the terms of this Decision
2 and Order.

3 d) If a Respondent pays the monetary penalty and any other moneys due
4 under this Stipulation and Agreement and if no further cause for disciplinary action against the
5 real estate license of that Respondent occurs within two (2) years form the effective date of this
6 Decision and Order, the entire stay hereby granted pursuant to this Decision and Order shall
7 become permanent as to that Respondent.

8 2. Sixty (60) days of said suspension shall be stayed for two (2) years upon the
9 following terms and conditions:

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

12 b) That no final subsequent determination be made, after hearing or upon
13 stipulation, that cause of disciplinary action occurred within two (2) years from the effective
14 date of this Decision and Order. Should such a determination be made, the Commissioner may,
15 in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
16 suspension. Should no such determination be made, the stay imposed herein shall become
17 permanent.

18 3. All licenses and licensing rights of Respondent PURDY are indefinitely
19 suspended unless or until Respondent PURDY provides proof satisfactory to the Commissioner,
20 of having taken and successfully completed the continuing education course on trust fund
21 accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the
22 Business and Professions Code. Proof of satisfaction of these requirements includes evidence
23 that Respondent PURDY has successfully completed the trust fund accounting courses, no
24 earlier than one hundred and twenty (120) days prior to the effective date of the Decision and
25 Order in this matter. Proof of completion of the trust fund accounting and handling courses
26

1 must be delivered to the Bureau of Real Estate, Flag Section, at P.O. Box 137013, Sacramento,
2 CA 95813-7013 or by fax at 916-263-8758, prior to the effective date of this Decision and
3 Order.

4 4. Respondent PURDY shall, within six (6) months from the effective date of
5 this Decision and Order, take and pass the Professional Responsibility Examination
6 administered by the Bureau including the payment of the appropriate examination fee. If
7 Respondent PURDY fails to satisfy this condition, Respondent PURDY's real estate license
8 shall automatically be suspended until Respondent PURDY passes the examination.

9 5. Respondent PURDY shall, within nine (9) months from the effective date of
10 this Decision and Order, present evidence satisfactory to the Commissioner that Respondent
11 PURDY has, since the most recent issuance of an original or renewal real estate license, taken
12 and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of
13 the Real Estate Law for renewal of a real estate license. If Respondent PURDY fails to satisfy
14 this condition, Respondent PURDY's real estate license shall automatically be suspended until
15 Respondent PURDY presents evidence satisfactory to the Commissioner of having taken and
16 successfully completed the continuing education requirements. Proof of completion of the
17 continuing education courses must be delivered to the Bureau of Real Estate, Flag Section at P.O.
18 Box 137013, Sacramento, CA 95813-7013.

19 6. All licenses and licensing rights of Respondents VRESI and PURDY are
20 indefinitely suspended unless or until Respondents VRESI and PURDY jointly and severally pay
21 the sum of \$2,417.30 for the Commissioner's reasonable cost of the investigation and
22 enforcement which led to this disciplinary action. Said payment shall be in the form of a
23 cashier's check or certified check made payable to the Bureau of Real Estate. The investigation
24 and enforcement costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box
25 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.

1 7. Pursuant to Section 10148 of the Code, Respondents VRESI and PURDY shall
2 jointly and severally pay the sum of \$9,576.30 for the Commissioner's cost of the audit which led
3 to this disciplinary action. Respondents shall pay such cost within sixty (60) days of receiving an
4 invoice therefore from the Commissioner. Payment of audit costs should not be made until
5 Respondents receive the invoice. If Respondents fail to satisfy this condition in a timely manner
6 as provided for herein, Respondents' real estate licenses shall automatically be suspended until
7 payment is made in full, or until a decision providing otherwise is adopted following a hearing
8 held pursuant to this condition.

9
10 DATED: 1-10-17


11 _____
12 Julie L. To, Counsel for Complainant

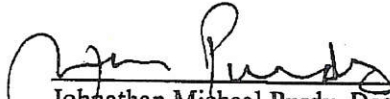
13 * * *

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


22 Respondents shall send a hard copy of the original signed Stipulation and
23 Agreement to: Julie To, Bureau of Real Estate, 320 West Fourth Street, Suite 350, Los Angeles,
24 CA 90013. In the event of time constraints before an administrative hearing, Respondents can
25 signify acceptance and approval of the terms and conditions of this Stipulation and Agreement
26 by emailing a scanned copy of the signature page, as actually signed by Respondents, to the
27

1 Bureau counsel assigned to this case. Respondents agree, acknowledge and understand that by
2 electronically sending the Bureau a scan of Respondents' actual signatures as they appear on the
3 Stipulation and Agreement, that receipt of the scan by the Bureau shall be binding on
4 Respondents as if the Bureau had received the original signed Stipulation and Agreement.

5 DATED: 12/22/16

6 
7 Johnathan Michael Purdy, Designated Officer for
8 Respondent VERTICAL REAL ESTATE
SERVICES, INC.


9 DATED: 12/22/16

10 
11 JOHNATHAN MICHAEL PURDY, Respondent

12 * * *

13 *I have reviewed the Stipulation and Agreement as to form and content and have*
14 *advised my clients accordingly.*

15 DATED: 12-22-16

16 
17 Frank M. Buda, Attorney for Respondents
18 VERTICAL REAL ESTATE SERVICES, INC.
and JOHNATHAN MICHAEL PURDY

19 * * *

20 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
21 this matter and shall become effective at 12 o'clock noon on _____.


22 IT IS SO ORDERED _____.

23 REAL ESTATE COMMISSIONER

24 _____
25 WAYNE S. BELL
26

1 Bureau counsel assigned to this case. Respondents agree, acknowledge and understand that by
2 electronically sending the Bureau a scan of Respondents' actual signatures as they appear on the
3 Stipulation and Agreement, that receipt of the scan by the Bureau shall be binding on
4 Respondents as if the Bureau had received the original signed Stipulation and Agreement.

5
6 DATED: 12/22/16


Johnathan Michael Purdy, Designated Officer for
Respondent VERTICAL REAL ESTATE
SERVICES, INC.


7
8
9 DATED: 12/22/16


JOHNATHAN MICHAEL PURDY, Respondent

10
11
12 * * *

13 *I have reviewed the Stipulation and Agreement as to form and content and have*
14 *advised my clients accordingly.*

15 DATED: 1-6-17


Frank M. Buda, Attorney for Respondents
VERTICAL REAL ESTATE SERVICES, INC.
and JOHNATHAN MICHAEL PURDY

16
17
18 * * *

19 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
20 this matter and shall become effective at 12 o'clock noon on _____.

21 IT IS SO ORDERED _____.

22 REAL ESTATE COMMISSIONER

23
24 _____
25 WAYNE S. BELL

1 Bureau counsel assigned to this case. Respondents agree, acknowledge and understand that by
2 electronically sending the Bureau a scan of Respondents' actual signatures as they appear on the
3 Stipulation and Agreement, that receipt of the scan by the Bureau shall be binding on
4 Respondents as if the Bureau had received the original signed Stipulation and Agreement.

5
6 DATED: _____

Johnathan Michael Purdy, Designated Officer for
Respondent VERTICAL REAL ESTATE
SERVICES, INC.

7
8
9 DATED: _____

JOHNATHAN MICHAEL PURDY, Respondent

10
11
12 * * *

13 *I have reviewed the Stipulation and Agreement as to form and content and have*
14 *advised my clients accordingly.*

15 DATED: _____

Frank M. Buda, Attorney for Respondents
VERTICAL REAL ESTATE SERVICES, INC.
and JOHNATHAN MICHAEL PURDY

16
17
18 * * *

19 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
20 this matter and shall become effective at 12 o'clock noon on MAR 09 2017.

21 IT IS SO ORDERED 2/12/2017

22 REAL ESTATE COMMISSIONER

23
24 

WAYNE S. BELL