

1 DEPARTMENT OF REAL ESTATE
2 320 West 4th Street, Suite 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 620-2072

FILED

FEB - 6 2020

DEPT. OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation against

DRE No. H-05069 SD
OAH No. 2019080490

12 SOS MANAGEMENT AND PROPERTY
13 SERVICES, INC.,

14 MICHAEL ALAN KOOTCHICK, individually
and as designated officer for SOS Management
15 and Property Services, Inc.,

16 ROBERT SOLOWEY SHAPIRO, as licensed
officer for SOS Management and Property
17 Services, Inc.,

18 Respondents.

**STIPULATION AND
AGREEMENT IN SETTLEMENT
AND ORDER**

19 It is hereby stipulated by and between Respondents SOS MANAGEMENT AND
20 PROPERTY SERVICES, INC., MICHAEL ALAN KOOTCHICK, individually, and as
21 designated officer for SOS Management and Property Services, Inc., and ROBERT SOLOWEY
22 SHAPIRO, as licensed officer for SOS Management and Property Services, Inc., (collectively
23 “Respondents”), all represented by Jozef G. Magyar, Esq. and the Complainant, acting by and
24 through Lissete Garcia, Counsel for the Department of Real Estate (“Department”), as follows

Stipulation and Agreement
H-05069 SD

1 for the purpose of settling and disposing the Accusation filed on June 17, 2019, with Department
2 Case No. H-05069 SD ("Accusation") in this matter:

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

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

10 3. Respondents filed a Notice of Defense pursuant to Section 11506 of the Government
11 Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents
12 hereby freely and voluntarily withdraw said Notice of Defense. Respondents acknowledge and
13 understand that by withdrawing said Notice of Defense, Respondents will thereby waive
14 Respondents' rights to require the Real Estate Commissioner ("Commissioner") to prove the
15 allegations in the Accusation at a contested hearing held in accordance with the provisions of the
16 APA and that Respondents will waive other rights afforded to Respondents in connection with
17 the hearing such as the right to present evidence in defense of the allegations in the Accusation
18 and the right to cross-examine witnesses.

19 4. Respondents, pursuant to the limitations set forth below, hereby admit that the factual
20 allegations in the Accusation filed in this proceeding are true and correct and the Real Estate
21 Commissioner shall not be required to provide further evidence of such allegations.

22 5. It is understood by the parties that the Real Estate Commissioner may adopt the
23 Stipulation and Agreement as his Decision in this matter, thereby imposing the penalty and
24 sanctions on Respondents' real estate licenses and license rights as set forth in the below

1 "Order." In the event that the Commissioner in his discretion does not adopt the Stipulation and
2 Agreement, it shall be void and of no effect, and Respondents shall retain the right to a hearing
3 and proceeding on the Accusation under all the provisions of the APA and shall not be bound by
4 any admission or waiver made herein.

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

9 7. Respondents understand that by agreeing to this Stipulation, Respondents agree to pay
10 the Department's investigative and enforcement costs of \$2,301.80 which led to this disciplinary
11 action, pursuant to California Business and Professions Code ("Code") section 10106(a).

12 8. Respondents understand that by agreeing to this Stipulation, Respondents agree to
13 pay, pursuant to Code section 10148, the cost of the audit which resulted in the determination
14 that Respondent committed the violations found in the "Determination of Issues" below. The
15 audit cost is \$9,189.14.

16 9. Respondents further understand that by agreeing to this Stipulation, the findings set
17 forth below in the Determination of Issues become final, and the Commissioner may charge
18 Respondents for the cost of any subsequent audit conducted pursuant to Code section 10148 to
19 determine if the violations have been corrected. The maximum cost of the follow-up audit will
20 not exceed one-hundred twenty-five percent (125%) of the cost of the original audit; in the
21 instant case, the cost of the original audit is \$9,189.14, and the maximum cost of the follow-up
22 audit will not exceed \$11,486.43. Therefore, Respondents may be charged a maximum of
23 \$11,486.43 in the event of a subsequent audit.

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DETERMINATION OF ISSUES

By reason of the foregoing stipulation and agreement and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the following determination of issues shall be made:

I.

The conduct, acts and/or omissions of Respondent SOS MANAGEMENT AND PROPERTY SERVICES, INC. as set forth herein above in Paragraph 4, constitute cause for the suspension or revocation of all real estate licenses and license rights of Respondent SOS MANAGEMENT AND PROPERTY SERVICES, INC. pursuant to the provisions of Code sections 10176(g) and 10177(d) for violation of Code section 10145 and Regulations of the Real Estate Commissioner, Title 10, Chapter 6, California Code of Regulations ("Regulations") 2832.1, 2831, 2831.1, and 2831.2.

II.

The conduct, acts and/or omissions of Respondents MICHAEL ALAN KOOTCHICK and ROBERT SOLOWEY SHAPIRO as set forth herein above in Paragraph 4, constitute cause for the suspension or revocation of all real estate licenses and license rights of Respondents MICHAEL ALAN KOOTCHICK and ROBERT SOLOWEY SHAPIRO pursuant to Code section 10177(h).

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1 a timely manner as provided for herein, Respondents' real estate licenses shall
2 automatically be suspended until payment is made in full, or until a decision
3 providing otherwise is adopted following a hearing held pursuant to this
4 condition.

5 5. Pursuant to Section 10148 of the Code, Respondents shall pay, jointly or
6 severally, the sum of \$9,189.14 for the Commissioner's cost of the audit which
7 led to this disciplinary action. **Respondents shall pay such cost within sixty**
8 **(60) days of receiving an invoice therefore from the Commissioner. Payment**
9 **of audit costs should not be made until Respondents receive the invoice.** If
10 Respondents fail to satisfy this condition in a timely manner as provided for
11 herein, Respondents' real estate licenses shall automatically be suspended until
12 payment is made in full, or until a decision providing otherwise is adopted
13 following a hearing held pursuant to this condition.

14 6. Pursuant to Section 10148 of the Code, Respondents shall pay, jointly or
15 severally, the Commissioner's reasonable costs for any subsequent audit (said
16 costs may not to exceed a maximum of \$11,486.43) to determine if Respondents
17 have corrected the violations found in the Determination of Issues. In calculating
18 the amount of the Commissioner's reasonable cost, the Commissioner may use
19 the estimated average hourly salary for all persons performing audits of real estate
20 brokers, and shall include an allocation for travel time to and from the auditor's
21 place of work. **Respondents shall pay such cost within sixty (60) days of**
22 **receiving an invoice therefore from the Commissioner. Payment of the audit**
23 **costs should not be made until Respondent receives the invoice.** If
24 Respondents fail to satisfy this condition in a timely manner as provided for

1 herein, Respondents' real estate license shall automatically be suspended until
2 payment is made in full, or until a decision providing otherwise is adopted
3 following a hearing held pursuant to this condition.

4 II.

5 All licenses and licensing rights of Respondent MICHAEL ALAN KOOTCHICK
6 ("KOOTCHICK") under the Real Estate Law are suspended for a period of 15 days from the
7 effective date of this Decision and Order; provided, however, that:

- 8 1. 15 days of said suspension shall be stayed for two (2) years upon the following
9 terms and conditions:
- 10 2. Respondent shall obey all laws, rules and regulations governing the rights, duties
11 and responsibilities of a real estate licensee in the State of California; and,
- 12 3. That no final subsequent determination be made, after hearing or upon stipulation,
13 that cause for disciplinary action occurred within two (2) years from the effective
14 date of this Decision and Order. Should such a determination be made, the
15 Commissioner may, in his discretion, vacate and set aside the stay order and
16 reimpose all or a portion of the stayed suspension. Should no such determination
17 be made, the stay imposed herein shall become permanent.
- 18 4. All licenses and licensing rights of Respondent KOOTCHICK are indefinitely
19 suspended unless or until Respondent provides proof satisfactory to the
20 Commissioner, of having taken and successfully completed the continuing
21 education course on trust fund accounting and handling specified in paragraph (3)
22 of subdivision (a) of Section 10170.5 of the Business and Professions Code.
23 Proof of satisfaction of this requirement includes evidence that Respondent has
24 successfully completed the trust fund account and handling continuing education

1 course, no earlier than 120 days prior to the effective date of the Decision and
2 Order in this matter. **Proof of completion of the trust fund accounting and**
3 **handling course must be delivered to the Department of Real Estate, Flag**
4 **Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-**
5 **263-8758, prior to the effective date of this Decision and Order.**

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

12 6. Respondents shall pay, jointly or severally, the sum of \$2,301.80 for the
13 Commissioner's reasonable cost of the investigation and enforcement which led
14 to this disciplinary action. Said payment shall be in the form of a cashier's check
15 made payable to the Department of Real Estate. **The investigative and**
16 **enforcement costs must be delivered to the Department of Real Estate, Flag**
17 **Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the**
18 **effective date of this Decision and Order. Payment of investigation and**
19 **enforcement costs should not be made until the Stipulation has been**
20 **approved by the Commissioner.** If Respondents fail to satisfy this condition in
21 a timely manner as provided for herein, Respondents' real estate licenses shall
22 automatically be suspended until payment is made in full, or until a decision
23 providing otherwise is adopted following a hearing held pursuant to this
24 condition.

1 7. Pursuant to Section 10148 of the Code, Respondents shall pay, jointly or
2 severally, the sum of \$9,189.14 for the Commissioner's cost of the audit which
3 led to this disciplinary action. **Respondents shall pay such cost within sixty**
4 **(60) days of receiving an invoice therefore from the Commissioner. Payment**
5 **of audit costs should not be made until Respondents receive the invoice.** If
6 Respondents fail to satisfy this condition in a timely manner as provided for
7 herein, Respondents' real estate licenses shall automatically be suspended until
8 payment is made in full, or until a decision providing otherwise is adopted
9 following a hearing held pursuant to this condition.

10 8. Pursuant to Section 10148 of the Code, Respondents shall pay, jointly or
11 severally, the Commissioner's reasonable costs for any subsequent audit (said
12 costs may not to exceed a maximum of \$11,486.43) to determine if Respondents
13 have corrected the violations found in the Determination of Issues. In calculating
14 the amount of the Commissioner's reasonable cost, the Commissioner may use
15 the estimated average hourly salary for all persons performing audits of real estate
16 brokers, and shall include an allocation for travel time to and from the auditor's
17 place of work. **Respondents shall pay such cost within sixty (60) days of**
18 **receiving an invoice therefore from the Commissioner. Payment of the audit**
19 **costs should not be made until Respondent receives the invoice.** If
20 Respondents fail to satisfy this condition in a timely manner as provided for
21 herein, Respondents' real estate license shall automatically be suspended until
22 payment is made in full, or until a decision providing otherwise is adopted
23 following a hearing held pursuant to this condition.
24

1 III.

2 All licenses and licensing rights of Respondent ROBERT SOLOWEY SHAPIRO
3 (“SHAPIRO”) under the Real Estate Law are suspended for a period of 15 days from the
4 effective date of this Decision and Order; provided, however, that:

- 5 1. 15 days of said suspension shall be stayed for two (2) years upon the following
6 terms and conditions:
- 7 2. Respondent shall obey all laws, rules and regulations governing the rights, duties
8 and responsibilities of a real estate licensee in the State of California; and,
- 9 3. That no final subsequent determination be made, after hearing or upon stipulation,
10 that cause for disciplinary action occurred within two (2) years from the effective
11 date of this Decision and Order. Should such a determination be made, the
12 Commissioner may, in his discretion, vacate and set aside the stay order and
13 reimpose all or a portion of the stayed suspension. Should no such determination
14 be made, the stay imposed herein shall become permanent.
- 15 4. All licenses and licensing rights of Respondent SHAPIRO are indefinitely
16 suspended unless or until Respondent provides proof satisfactory to the
17 Commissioner, of having taken and successfully completed the continuing
18 education course on trust fund accounting and handling specified in paragraph (3)
19 of subdivision (a) of Section 10170.5 of the Business and Professions Code.
20 Proof of satisfaction of this requirement includes evidence that Respondent has
21 successfully completed the trust fund account and handling continuing education
22 course, no earlier than 120 days prior to the effective date of the Decision and
23 Order in this matter. **Proof of completion of the trust fund accounting and**
24 **handling course must be delivered to the Department of Real Estate, Flag**

1 **Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-**
2 **263-8758, prior to the effective date of this Decision and Order.**

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

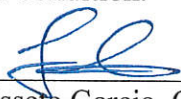
9 6. Respondents shall pay, jointly or severally, the sum of \$2,301.80 for the
10 Commissioner's reasonable cost of the investigation and enforcement which led
11 to this disciplinary action. Said payment shall be in the form of a cashier's check
12 made payable to the Department of Real Estate. **The investigative and**
13 **enforcement costs must be delivered to the Department of Real Estate, Flag**
14 **Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the**
15 **effective date of this Decision and Order. Payment of investigation and**
16 **enforcement costs should not be made until the Stipulation has been**
17 **approved by the Commissioner.** If Respondents fail to satisfy this condition in
18 a timely manner as provided for herein, Respondents' real estate licenses shall
19 automatically be suspended until payment is made in full, or until a decision
20 providing otherwise is adopted following a hearing held pursuant to this
21 condition.

22 7. Pursuant to Section 10148 of the Code, Respondents shall pay, jointly or
23 severally, the sum of \$9,189.14 for the Commissioner's cost of the audit which
24 led to this disciplinary action. **Respondents shall pay such cost within sixty**

1 **(60) days of receiving an invoice therefore from the Commissioner. Payment**
2 **of audit costs should not be made until Respondents receive the invoice.** If
3 Respondents fail to satisfy this condition in a timely manner as provided for
4 herein, Respondents' real estate licenses shall automatically be suspended until
5 payment is made in full, or until a decision providing otherwise is adopted
6 following a hearing held pursuant to this condition.

7 8. Pursuant to Section 10148 of the Code, Respondents shall pay, jointly or
8 severally, the Commissioner's reasonable costs for any subsequent audit (said
9 costs may not to exceed a maximum of \$11,486.43) to determine if Respondents
10 have corrected the violations found in the Determination of Issues. In calculating
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14 place of work. **Respondents shall pay such cost within sixty (60) days of**
15 **receiving an invoice therefore from the Commissioner. Payment of the audit**
16 **costs should not be made until Respondent receives the invoice.** If
17 Respondents fail to satisfy this condition in a timely manner as provided for
18 herein, Respondents' real estate license shall automatically be suspended until
19 payment is made in full, or until a decision providing otherwise is adopted
20 following a hearing held pursuant to this condition.

21 DATED: 12/20/2019



Lissete Garcia, Counsel
Department of Real Estate

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2 We have read this Stipulation and its terms are understood by us and are agreeable and
3 acceptable to us. We understand that we are waiving rights given to us by the California APA
4 (including, but not limited to, Sections 11506, 11508, 11509, and 11513 of the Government
5 Code), and we willingly, intelligently, and voluntarily waive those rights, including the right of
6 requiring the Commissioner to prove the allegations in the Accusation at a hearing at which we
7 would have the right to cross-examine witnesses against us and to present evidence in defense
8 and mitigation of the charges.

9 Respondents can signify acceptance and approval of the terms and conditions of this
10 Stipulation and Agreement by electronically e-mailing a copy of the signature page, as actually
11 signed by Respondents, to the Department. Respondents agree, acknowledge, and understand
12 that by electronically sending to the Department an electronic copy of Respondents' actual
13 signatures, as they appear on the Stipulation, that receipt of the emailed copy by the Department
14 shall be as binding on Respondents as if the Department had received the original signed
15 Stipulation. By signing this Stipulation, Respondents understand and agree that Respondents
16 may not withdraw Respondents' agreement or seek to rescind the Stipulation prior to the time the
17 Commissioner considers and acts upon it or prior to the effective date of the Stipulation and
18 Order.

19 DATED: December 18, 2019


Respondent SOS MANAGEMENT AND PROPERTY
SERVICES, INC.

21 By (Printed Name): Robert Shapiro

22 Title: President

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1 DATED: _____

Respondent MICHAEL ALAN KOOTCHICK

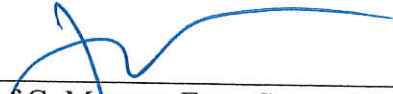
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3 DATED: _____

Respondent ROBERT SOLOWEY SHAPIRO

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5 DATED: 12/18/19



Jozef G. Magyar, Esq., Counsel for Respondents
Approved as to Form

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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

9

10 on _____.

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IT IS SO ORDERED _____.

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ACTING REAL ESTATE COMMISSIONER

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SANDRA KNAU

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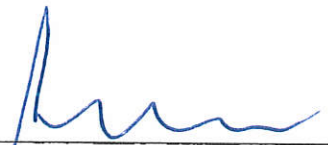
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1 DATED: 12/18/19


Respondent MICHAEL ALAN KOOTCHICK

2
3 DATED: December 18, 2019


Respondent ROBERT SOLOWEY SHAPIRO

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5 DATED: _____

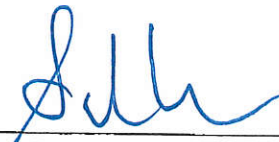
Jozef G. Magyar, Esq., Counsel for Respondents
Approved as to Form

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7 * * *

8 The foregoing Stipulation and Agreement in Settlement and Order is hereby adopted by
9 me as my Decision in this matter and shall become effective at 12 o'clock noon
10 on March 6, 2020.

11 IT IS SO ORDERED 1/29/20

12
13 ACTING REAL ESTATE COMMISSIONER


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15
16 SANDRA KNAU