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FILED

OCT 12 2018

DEPARTMENT OF REAL ESTATE

By B. Nicholas

**BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA**

* * *

In the Matter of the Accusation of:)	No. H-6575 SAC
)	
BRIAN SCOTT TRIVETT,)	<u>STIPULATION AND</u>
)	<u>AGREEMENT</u>
Respondent.)	

It is hereby stipulated by and between BRIAN SCOTT TRIVETT (“Respondent”) and his attorney, Frank M. Buda, and the Complainant, acting by and through Kyle T. Jones, Counsel for the Bureau of Real Estate (“Bureau”), as follows for the purpose of settling and disposing of the Accusation filed on September 1, 2017, 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.
2. Respondent has received, read, and understands the Statement to Respondent, the Discovery Provisions of the APA, and the Accusation filed by the Bureau in this proceeding.
3. Respondent filed a Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation.

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

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

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

17 6. This Decision and Order or any subsequent Order of the Commissioner
18 made pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar
19 to any further administrative or civil proceedings by the Bureau with respect to any matters
20 which were not specifically alleged in Accusation H-6575 SAC.

21 7. Respondent further understands that by agreeing to this Stipulation and
22 Agreement, the findings set forth below in the Determination of Issues become final, and that the
23 Commissioner may charge said Respondent for the costs of the investigation and enforcement
24 herein. The amount of said costs is \$453.20.

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2 DETERMINATION OF ISSUES

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

6 The acts and/or omissions of Respondent as described in the Accusation violate
7 Sections 490 and 10177(b) of the Business and Professions Code (“Code”).

8 ORDER

9 All real estate licenses(s) and licensing rights of Respondent are revoked;
10 provided, however, a restricted real estate salesperson license shall be issued to Respondent
11 pursuant to Section 10156.5 of the Code if Respondent makes application thereof and pays to the
12 Bureau the appropriate fee for the restricted license within ninety (90) days from the effective
13 date of this Order. The restricted license issued to Respondent shall be subject to all of the
14 provisions of Section 10156.7 of the Code and to the following limitations, conditions, and
15 restrictions imposed under authority of Section 10156.6 of the Code:

16 1. The restricted license issued to Respondent may be suspended prior to
17 hearing by order of the Real Estate Commissioner in the event of Respondent’s conviction or
18 plea of nolo contendere to a crime that is substantially related to Respondent’s fitness or capacity
19 as a real estate licensee.

20 2. The restricted license issued to Respondent may be suspended prior to
21 hearing by order of the Real Estate Commissioner on evidence satisfactory to the Commissioner
22 that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
23 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted
24 license.

25 3. Respondent shall not be eligible to apply for the issuance of an
26 unrestricted real estate license nor the removal of any of the conditions, limitations, or
27 restrictions attaching to the restricted license until two (2) years have elapsed from the date of

1 issuance of the restricted license to Respondent.

2 4. With the application for license, or with the application for transfer to a
3 new employing broker, Respondent shall submit a statement signed by the prospective employing
4 real estate broker on a form approved by the Bureau which shall certify as follows:

5 (a) That the employing broker has read the Decision which is the basis
6 for the issuance of the restricted license; and

7 (b) That the employing broker will carefully review all transaction
8 documents prepared by the restricted licensee and otherwise
9 exercise close supervision over the licensee's performance of acts
10 for which a license is required.

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

20 6. Respondent shall notify the Commissioner in writing within seventy-two
21 (72) hours of any arrest by sending a certified letter to the Commissioner at the Bureau of Real
22 Estate, P.O. Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of
23 Respondent's arrest, the crime for which Respondent was arrested and the name and address of
24 the arresting law enforcement agency. Respondent's failure to timely file written notice shall
25 constitute an independent violation of the terms of the restricted license and shall be grounds for
26 the suspension or revocation of that license.

27 7. Respondent shall pay \$453.20 to the Bureau for the costs of investigation

1 and enforcement of this matter. Respondent's failure to pay the Bureau shall constitute an
2 independent violation of the terms of the restricted license and shall be grounds for the
3 immediate suspension or revocation of that license. Said payment shall be in the form of a
4 cashier's check or certified check made payable to the Real Estate Fund. Said check must be
5 received by the Bureau prior to the effective date of the order in this matter at the following
6 address

7
8 Bureau of Real Estate
9 Post office Box 137013
10 Sacramento CA 95813-7013

11 9/10/18

12 DATED

13 
14 KYLE T. JONES, Counsel
15 BUREAU OF REAL ESTATE

16 * * *

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

24 Respondent can signify acceptance and approval of the terms and conditions of
25 this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by
26 Respondent, to the Bureau at fax number (916) 263-3767 or by e-mail to
27 kyle.jones@DRE.ca.gov. Respondent agrees, acknowledges, and understands that by
electronically sending to the Bureau a fax copy of Respondent's actual signature as it appears
on the Stipulation and Agreement, that receipt of the faxed copy by the Bureau shall be as

1 binding on Respondent as if the Bureau had received the original signed Stipulation and
2 Agreement.

3
4 3/13/18
5 DATED

Brian Scott Trivett
6 BRIAN SCOTT TRIVETT
7 Respondent

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

10 3-26-18
11 DATED

Frank M. Buda
12 FRANK M. BUDA
13 Attorney for Respondent

14 * * *

15 The foregoing Stipulation and Agreement is hereby adopted by the Real Estate
16 Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on
17 NOV 02 2018

18 IT IS SO ORDERED October 8, 2018

19 DANIEL J. SANDRI
20 ACTING REAL ESTATE COMMISSIONER
21 Daniel J. Sandri