

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

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

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

21 4. This Stipulation is based on the factual
22 allegations contained in the First Amended Accusation filed in
23 this proceeding. In the interest of expedience and economy,
24 Respondents choose not to contest these factual allegations, but
25 to remain silent and understand that, as a result thereof, these
26 factual statements, will serve as a prima facie basis for the
27 disciplinary action stipulated to herein. The Real Estate

1 Commissioner shall not be required to provide further evidence
2 to prove such allegations.

3 5. This Stipulation and Respondents' decision not to
4 contest the First Amended Accusation are made for the purpose of
5 reaching an agreed disposition of this proceeding and are
6 expressly limited to this proceeding and any other proceeding or
7 case in which the Department, or another licensing agency of
8 this state, another state or if the federal government is
9 involved and otherwise shall not be admissible in any other
10 criminal or civil proceedings.

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

21 7. The Order or any subsequent Order of the Real
22 Estate Commissioner made pursuant to this Stipulation shall not
23 constitute an estoppel, merger or bar to any further
24 administrative or civil proceedings by the Department with
25 respect to any conduct which was not specifically alleged to be
26 causes for accusation in this proceeding.

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I

All licenses and licensing rights of Respondent PLAYAS DEL PACIFICO 201-A, INC. under the Real Estate Law are suspended for a period of thirty (30) days from the effective date of this Decision; provided, however, that if Respondent petitions, the last fifteen (15) days of said suspension shall be stayed upon condition that:

1. Respondent PLAYAS DEL PACIFICO 201-A, INC. pays a monetary penalty pursuant to Section 10175.2 of the Code at the rate of \$250 for each day of the suspension for a total monetary penalty of \$3,750.

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

3. No further cause for disciplinary action against the real estate license of Respondent PLAYAS DEL PACIFICO 201-A, INC. occurs within one year from the effective date of the Decision in this matter.

4. If Respondent PLAYAS DEL PACIFICO 201-A, INC. fails to pay the monetary penalty in accordance with the terms and conditions of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event the Respondent shall not be

1 entitled to any repayment nor credit, prorated or otherwise, for
2 money paid to the Department under the terms of this Decision.

3 5. If Respondent PLAYAS DEL PACIFICO 201-A, INC. pays
4 the monetary penalty and if no further cause for disciplinary
5 action against the real estate license of Respondent occurs
6 within one year from the effective date of the Decision, the stay
7 hereby granted shall become permanent.

8 II

9 All licenses, mortgage loan originator endorsements,
10 and licensing rights of Respondent MICHAEL EDWARD HARRISON under
11 the Real Estate Law are suspended for a period of thirty (30)
12 days from the effective date of this Decision; provided,
13 however, that if Respondent petitions, the last fifteen (15)
14 days of said suspension shall be stayed upon condition that:

15 1. Respondent MICHAEL EDWARD HARRISON pays a monetary
16 penalty pursuant to Section 10175.2 of the Code at the rate of
17 \$250 for each day of the suspension for a total monetary penalty
18 of \$3,750.

19 2. Said payment shall be in the form of a cashier's
20 check or certified check made payable to the Recovery Account of
21 the Real Estate Fund. Said check must be received by the
22 Department prior to the effective date of the Decision in this
23 matter.

24 3. No further cause for disciplinary action against
25 the real estate license of Respondent MICHAEL EDWARD HARRISON
26 occurs within one year from the effective date of the Decision in
27 this matter.

1 the continuing education requirements of Article 2.5 of Chapter
2 3 of the Real Estate Law for renewal of a real estate license.
3 If Respondent fails to satisfy this condition, the Commissioner
4 may order the suspension of the restricted license until the
5 Respondent presents such evidence. The Commissioner shall
6 afford Respondent the opportunity for a hearing pursuant to the
7 Administrative Procedures Act to present such evidence.

8 V

9 All licenses and licensing rights of Respondent MICHAEL
10 EDWARD HARRISON are suspended unless or until Respondent MICHAEL
11 EDWARD HARRISON provides proof satisfactory to the Commissioner
12 of having taken and successfully completed the continuing
13 education course on trust fund accounting and handling specified
14 in paragraph (3) of subdivision (a) of Section 10170.5 of the
15 Business and Professions Code. Proof of satisfaction of this
16 requirement includes evidence that the respondent has
17 successfully completed the trust fund account and handling
18 continuing education course within 120 days prior to the
19 effective date of the Decision in this matter.

20 VII

21 Respondents PLAYAS DEL PACIFICO 201-A, INC. and MICHAEL
22 EDWARD HARRISON, shall jointly or severally, by the effective of
23 the Decision herein, provide proof of paying restitution of
24 \$999.99 to Roy and Peggy Barnard as follows:

25 (a) Respondents shall deliver or mail the restitution
26 payment, by certified mail, return receipt requested, to Roy and
27

1 Peggy Barnards' last address on file with or known to
2 Respondents.

3 (b) If the payment is returned by the Post Office marked
4 "unable to deliver," Respondents shall employ a locator service
5 (that may include or be limited to the Internet or other database
6 retrieval search) to try and locate Roy and Peggy Barnard.
7 Repayment shall then be made to the addresses recommended by the
8 locator service.

9 (c) If unable to effect repayment after using a locator
10 service, Respondents shall provide reasonable proof satisfactory
11 to the Commissioner of their efforts to comply with the
12 provisions of this Paragraph.

13 (d) If the Commissioner determines that proof to be
14 unsatisfactory, he shall so advise Respondents, and indicate what
15 additional reasonable efforts should be made to make repayment to
16 Roy and Peggy Barnard.

17 (e) If Respondents fail to satisfy this condition, the
18 Commissioner may order suspension of Respondents' licenses and/or
19 mortgage loan originator endorsements until Respondents effect
20 compliance herein; and

21 (f) Restitution payments not made to Roy and Peggy Barnard
22 shall escheat to the State of California.

23 VIII

24 Pursuant to California Business and Professions Code
25 Section 10106, Respondents PLAYAS DEL PACIFICO 201-A, INC. and
26 MICHAEL EDWARD HARRISON, shall jointly or severally, pay the
27 Commissioner's reasonable cost for investigation and enforcement

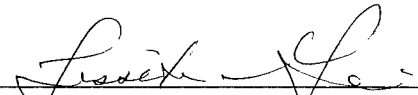
1 of the matter. The investigation and enforcement cost which led
2 to this disciplinary action is \$778.75. Said payment shall be
3 made within sixty (60) days after the effective date of this
4 Decision.

5 The Commissioner may suspend the licenses and/or
6 mortgage loan originator endorsements of Respondents pending a
7 hearing held in accordance with California Government Code
8 Section 11500, et seq., if payment is not timely made as provided
9 for herein, or as provided for in a subsequent agreement between
10 the Respondents and the Commissioner. The suspension shall
11 remain in effect until payment is made in full or until
12 Respondents enters into an agreement satisfactory to the
13 Commissioner to provide for payment, or until a decision
14 providing otherwise is adopted following a hearing held pursuant
15 to this condition.

16 IX

17 All proofs of payment shall be submitted to Department
18 Counsel Lissete Garcia, Attention: Legal Section, Department of
19 Real Estate, 320 W. Fourth St., Suite 350, Los Angeles,
20 California 90013-1105, on or before the dates set forth above.

21
22 DATED: May 21, 2013

23 
24 LISSETE GARCIA, Counsel for
the Department of Real Estate

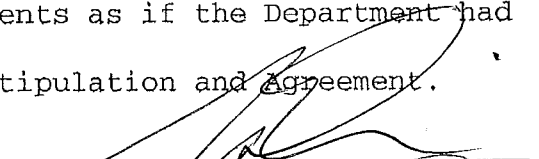
25 * * *

26 We have read the Stipulation and Agreement, have
27 discussed it with our counsel, and its terms are understood by

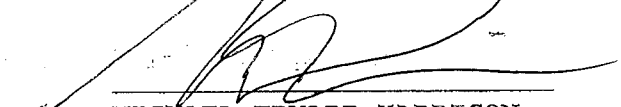
1 us and are agreeable and acceptable to us. We understand that
2 we are waiving rights given to us by the California
3 Administrative Procedure Act (including but not limited to
4 Sections 11506, 11508, 11509 and 11513 of the Government Code),
5 and we willingly, intelligently and voluntarily waive those
6 rights, including the right of requiring the Commissioner to
7 prove the allegations in the First Amended Accusation at a
8 hearing at which we would have the right to cross-examine
9 witnesses against us and to present evidence in defense and
10 mitigation of the charges.
11

12 Respondents can signify acceptance and approval of the
13 terms and conditions of this Stipulation and Agreement by faxing
14 a copy of the signature page, as actually signed by Respondents,
15 to the Department at the following telephone/fax number:
16 (213) 576-6917. Respondents agree, acknowledge and understand
17 that by electronically sending to the Department a fax copy of
18 their actual signature as they appear on the Stipulation and
19 Agreement, that receipt of the faxed copy by the Department
20 shall be as binding on Respondents as if the Department had
21 received the original signed Stipulation and Agreement.
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23 DATED: 5/15/13


For Respondent PLAYAS DEL
PACIFICO 201-A, INC.


25
26 DATED: 5/15/13


MICHAEL EDWARD HARRISON
Respondent

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

DATED: 5/10/13

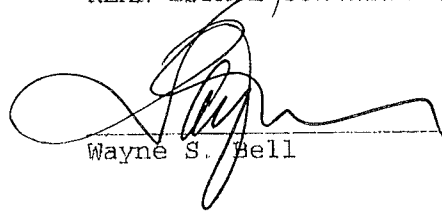

Steven C. Vondran, Attorney for
Respondents Playas Del Pacifico 201-A,
Inc. and Michael Edward Harrison

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision in this matter, and shall become
effective at 12 o'clock noon on August 8, 2013.

IT IS SO ORDERED 7/13/2013

REAL ESTATE COMMISSIONER


Wayne S. Bell