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Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105
Telephone: (213) 576-6982

JUL 30 2013

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
)
LANDVIEW PROPERTIES INC.;)
and MARVIN HERSHEL BATT,)
individually and as designated officer)
of Landview Properties Inc.;)
Respondents.)
)
)
)
)

No. H-38627 LA
L-2013020395

STIPULATION
AND
AGREEMENT

It is hereby stipulated by and between Respondents LANDVIEW PROPERTIES INC. and MARVIN HERSHEL BATT, individually and as designated officer of California Landview Properties Inc. (sometimes collectively referred to as "Respondents"), and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on December 27, 2012, in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act ("APA"),

1 shall instead and in place thereof be submitted solely on the basis of the provisions of this
2 Stipulation and Agreement ("Stipulation").

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

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

14 4. This Stipulation is based on the factual allegations contained in the Accusation.
15 In the interest of expedience and economy, Respondents choose not to contest these allegations,
16 but to remain silent and understand that, as a result thereof, these factual allegations, without
17 being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to
18 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove
19 said factual allegations.

20 5. This Stipulation is made for the purpose of reaching an agreed disposition of
21 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
22 which the Department of Real Estate ("Department"), the state or federal government, or any
23 agency of this state, another state or federal government is involved.

24 6. It is understood by the parties that the Real Estate Commissioner may adopt
25 this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on
26 Respondents' real estate licenses and license rights as set forth in the "Order" herein below. In
27 the event that the Commissioner in her discretion does not adopt the Stipulation, it shall be void

1 and of no effect and Respondents shall retain the right to a hearing and proceeding on the
2 Accusation under the provisions of the APA and shall not be bound by any stipulation or waiver
3 made herein.

4 7. The Order or any subsequent Order of the Real Estate Commissioner made
5 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
6 administrative or civil proceedings by the Department of Real Estate with respect to any matters
7 which were not specifically alleged to be causes for Accusation in this proceeding but do
8 constitute a bar, estoppel and merger as to any allegations actually contained in the Accusations
9 against Respondent herein.

10 8. Respondents understand that by agreeing to this Stipulation, Respondents agree
11 to pay, pursuant to Business and Professions Code Section 10148, the cost of the audit. The
12 amount of said cost for the original audit (LA 100142) is \$11,623.92.

13 9. Respondents have received, read, and understand the "Notice Concerning
14 Costs of Subsequent Audit". Respondents further understand that by agreeing to this Stipulation,
15 the findings set forth below in the Determination of Issues become final, and the Commissioner
16 may charge Respondents for the cost of any subsequent audit conducted pursuant to Business and
17 Professions Code Section 10148 to determine if the violations have been corrected. The
18 maximum cost of the follow-up audit will not exceed \$11,623.92.

19 10. Respondent understands that by agreeing to this Stipulation, Respondent
20 agrees to pay, pursuant to Business and Professions Code Section 10106, the cost of the
21 investigation and enforcement of this matter. The amount of said cost is \$2,880.00.

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1 DETERMINATION OF ISSUES

2 By reason of the foregoing, it is stipulated and agreed that the following
3 determination of issues shall be made:

4 I.

5 The conduct, acts or omissions of LANDVIEW PROPERTIES INC., as described
6 in Paragraph 4, herein above, are in violation of Section 10145 of the Business and Professions
7 Code ("Code") and Section 2831 of Title 10, Chapter 6 of the California Code of Regulations
8 ("Regulations"), and is a basis for discipline of Respondent's license and license rights as a
9 violation of the Real Estate Law pursuant to Code Section 10177(d).

10 II.

11 The conduct, acts or omissions of MARVIN HERSHEL BATT, as described in
12 Paragraph 4, herein above, are in violation of Code Section 10159.2 and Regulation 2725, and is
13 a basis for discipline of Respondent's license and license rights as violation of the Real Estate
14 Law pursuant to Code Section 10177(h).

15 ORDER

16 WHEREFORE, THE FOLLOWING ORDER is hereby made:

17 I.

18 All licenses and licensing rights of Respondents LANDVIEW PROPERTIES
19 INC. and MARVIN HERSHEL BATT, under the Real Estate Law are suspended for a period of
20 thirty (30) days from the effective date of this Decision, provided however; said suspension shall
21 be stayed for two (2) years upon the following terms and conditions:

- 22 1. Respondents shall obey all laws, rules and regulations governing the rights,
23 duties and responsibilities of a real estate licensee in the State of California; and
24 2. That no final subsequent determination be made after hearing or upon
25 stipulation that cause for disciplinary action occurred within two (2) years from the effective date
26 of this Decision. Should such a determination be made, the Commissioner may, in his discretion,
27 vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should

1 no such determination be made, the stay imposed herein shall become permanent.

2 II.

3 Pursuant to Section 10148 of the Business and Professions Code, Respondents

4 LANDVIEW PROPERTIES INC. and MARVIN HERSHEL BATT, shall pay the
5 Commissioner's reasonable cost for (a) the audit which led to this disciplinary action and (b) a
6 subsequent audit to determine if Respondents are now in compliance with the Real Estate Law.
7 The cost of the audit which led to this disciplinary action is \$11,623.92. In calculating the
8 amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average
9 hourly salary for all persons performing audits of real estate brokers, and shall include an
10 allocation for travel time to and from the auditor's place of work. Said amount for the prior and
11 subsequent audits shall not exceed \$23,247.84. Respondents shall pay such cost within 60 days
12 of receiving an invoice from the Commissioner detailing the activities performed during the audit
13 and the amount of time spent performing those activities.

14 The Commissioner may suspend the license of Respondent pending a hearing held
15 in accordance with Section 11500, et seq., of the Government Code, if payment is not timely
16 made as provided for herein, or as provided for in a subsequent agreement between the
17 Respondents and the Commissioner. The suspension shall remain in effect until payment is
18 made in full or until Respondent enters into an agreement satisfactory to the Commissioner to
19 provide for payment, or until a decision providing otherwise is adopted following a hearing held
20 pursuant to this condition.

21 III.

22 All licenses and licensing rights of Respondent are indefinitely suspended from
23 the effective date of the Decision unless or until Respondent pays the sum of \$2,308.00 for the
24 Commissioner's reasonable cost of the investigation and enforcement which led to this
25 disciplinary action. Said payment shall be in the form of a cashier's check or certified check
26 made payable to the Department of Real Estate, Real Estate Fund.
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IV.

All licenses and licensing rights of Respondent MARVIN HERSHEL BATT, are
indefinitely suspended unless or until Respondent provides proof satisfactory to the
Commissioner, of having taken and successfully completed the continuing education course on
trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section
10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement includes
evidence that respondent has successfully completed the trust fund account and handling
continuing education course within 120 days prior to the effective date of the Decision in this
matter.

V.

All licenses and licensing rights of Respondent are indefinitely suspended unless
or until Respondent provides proof satisfactory to the Commissioner that the trust fund deficit of
\$2,780 set forth in the Accusation has been restored, including the identification of the source of
funds used to cure the remaining deficit.

VI.

All proof required by this Order, shall be sent to the attention of Elliott Mac
Lennan, Counsel, Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350, Los
Angeles, California 90013-1105.

DATED: 6-26-13

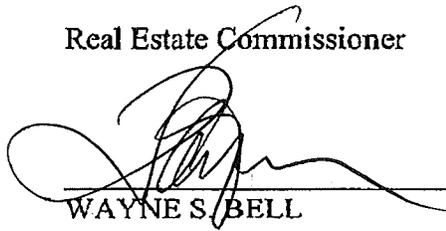
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ELLIOTT MAC LENNAN, Counsel for
Department of Real Estate

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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents LANDVIEW PROPERTIES INC. and MARVIN HERSHEL BATT, and shall become effective at 12 o'clock noon on August 29, 2013.

IT IS SO ORDERED 7/13, 2013.

Real Estate Commissioner



WAYNE S. BELL