

1 Bureau of Real Estate
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3 Los Angeles, CA 90013-1105

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FILED

AUG 05 2014

BUREAU OF REAL ESTATE

By J. Blum

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9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation

No. H-38887 LA

13 ALWAYZZ INC.; and ANTONIA)
14 HENRIETTA PAPADATOS,)
15 individually, and as)
16 designated officer for)
17 Alwayszz Inc.,)
18 Respondents.)

STIPULATION & AGREEMENT

19
20 It is hereby stipulated by and between Respondent
21 ALWAYZZ INC., ("ALWAYZZ"), Respondent ANTONIA HENRIETTA
22 PAPADATOS ("PAPADATOS") (sometimes referred to as "Respondents")
23 and Respondents' attorney; Jozef Magyar, Esq., and the
24 Complainant, acting by and through Cheryl Keily, Counsel for the
25 Bureau of Real Estate, as follows for the purpose of settling
26 and disposing of the Accusation filed on May 23, 2013, in this
27 matter.

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

9 2. Respondents have received, read and understand the
10 Statement to Respondent, the Discovery Provisions of the APA and
11 the Accusation filed by the Bureau of Real Estate ("Bureau") in
12 this proceeding.

13 3. On May 31, 2013, Respondents filed a Notice of
14 Defense, pursuant to Section 11506 of the Government Code for
15 the purpose of requesting a hearing on the allegations in the
16 Accusation. Respondents hereby freely and voluntarily withdraw
17 said Notice of Defense. Respondents acknowledge that they
18 understand that by withdrawing said Notice of Defense they will
19 thereby waive their right to require the Commissioner to prove
20 the allegations in the Accusation at a contested hearing held in
21 accordance with the provisions of the APA and that they will
22 waive other rights afforded to them in connection with the
23 hearing, such as the right to present evidence in defense of the
24 allegations in the Accusation and the right to cross-examine
25 witnesses.

26 4. This Stipulation is based on the factual
27 allegations contained in the Accusation. In the interest of

1 expedience and economy, Respondents choose not to contest these
2 allegations, but to remain silent and understand that, as a
3 result thereof, these factual allegations, without being
4 admitted or denied, will serve as a prima facie basis for the
5 disciplinary action stipulated to herein. The Real Estate
6 Commissioner shall not be required to provide further evidence
7 to prove said factual allegations.
8

9 5. This Stipulation is made for the purpose of
10 reaching an agreed disposition of this proceeding and is
11 expressly limited to this proceeding and any other proceeding or
12 case in which the Bureau of Real Estate ("Bureau"), the state or
13 federal government, or any agency of this state, another state
14 or federal government is involved, and otherwise shall not be
15 admissible in any other criminal or civil proceedings.

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

27 7. The Order or any subsequent Order of the Real

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

8 DETERMINATION OF ISSUES

9 By reason of the foregoing stipulations, admissions
10 and waivers and solely for the purpose of settlement of the
11 pending Accusation without a hearing, it is stipulated and
12 agreed that the following determination of issues shall be
13 made:

14 1. The conduct, acts or omissions of Respondent
15 ALWAYZZ, as set forth in the Accusation, constitute cause to
16 suspend or revoke the real estate license and license rights of
17 Respondent ALWAYZZ under the provisions of Code Section
18 10177(d) for violation of Sections 10140.6, 10145 and 10159.5
19 of the Code in conjunction with Title 10, Chapter 6 of the
20 California Code of Regulations ("Regulations"), Sections
21 2832.1, 2834, 2840, 2773 and 2731.

22 2. The conduct, acts or omissions of Respondent
23 PAPADATOS, as set forth in the Accusation, constitute cause to
24 suspend or revoke the real estate license and license rights of
25 Respondent PAPADATOS under the provisions of Code Sections
26 10177(d) for violation of Code Section 10159.5, and Section
27 2725 of the Regulations.

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2 ORDER

3 WHEREFORE, THE FOLLOWING ORDER is hereby made:

4 I. ALL licenses and licensing rights of Respondent
5 ALWAYZZ under the Real Estate Law are suspended for a period of
6 ninety (90) days from the effective date of this Decision.

7 A. Provided, however, that if Respondent ALWAYZZ
8 requests, the initial thirty (30) days of said suspension (or a
9 portion thereof) shall be stayed for two (2) years upon
10 condition that:

11 1. Respondent ALWAYZZ pays a monetary penalty
12 pursuant to Section 10175.2 of the Business and Professions
13 Code at the rate of \$100 per day for each day of the suspension
14 for a total monetary penalty of \$3,000.

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

20 3. No further cause for disciplinary action against
21 the real estate license of Respondent ALWAYZZ occurs within two
22 (2) years from the effective date of the Decision in this
23 matter.

24 4. If Respondent ALWAYZZ fails to pay the monetary
25 penalty in accordance with the terms of the Decision, the
26 Commissioner may, without a hearing, order the immediate
27 execution of all or any part of the stayed suspension, in which

1 event the Respondent shall not be entitled to any repayment nor
2 credit, prorated or otherwise, for money paid to the Bureau
3 under the terms of this Decision.
4

5 5. If Respondent ALWAYZZ pays the monetary penalty
6 and if no further cause for disciplinary action against the
7 real estate license of Respondent occurs within two (2) years
8 from the effective date of the Decision, the stay hereby
9 granted shall become permanent.

10 B. The remaining sixty (60) days of the ninety (90)
11 day suspension shall be stayed for two (2) years upon the
12 following terms and conditions:

13 1. Respondent ALWAYZZ shall obey all laws, rules and
14 regulations governing the rights, duties and responsibilities
15 of a real estate licensee in the State of California; and

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

24 II. Pursuant to Section 10148 of the Business and
25 Professions Code, Respondent ALWAYZZ shall pay the
26 Commissioner's reasonable cost for (a) the audit which led to
27 this disciplinary action (b) a subsequent audit to determine if

1 Respondent is now in compliance with the Real Estate Law.

2 Respondents ALWAYZZ and PAPADATOS shall be jointly and severally
3 liable for the cost of the audit. The cost of the audit which
4 led to this disciplinary action is \$7,068.00. In calculating
5 the amount of the Commissioner's reasonable cost, the
6 Commissioner may use the estimated average hourly salary for all
7 persons performing audits of real estate brokers, and shall
8 include an allocation for travel time to and from the auditor's
9 place of work. Said amount for the prior and subsequent audits
10 shall not exceed \$14,136.00.

11 A. Respondent ALWAYZZ shall pay such cost within 60
12 days of receiving an invoice from the Commissioner detailing the
13 activities performed during the audit and the amount of time
14 spent performing those activities.

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

25 III. Respondent shall pay the Commissioner's
26 reasonable costs for investigation and enforcement of the
27

1 matter. Respondent ALWAYZZ and Respondent PAPADATOS shall be
2 jointly and severally liable for the costs for investigation
3 and enforcement. The investigation, and enforcement costs which
4 led to this disciplinary action total \$3,212. Said payment
5 shall be made within ninety (90) days from the effective date
6 of this Decision.
7

8 A. The Commissioner shall suspend the license of
9 Respondent ALWAYZZ pending a hearing held in accordance with
10 California Government Code Section 11500, et seq., if payment
11 is not timely made as provided for herein. The suspension
12 shall remain in effect until payment is made in full, or until
13 a decision providing otherwise is adopted following a hearing
14 held pursuant to this condition.

15 IV. ALL licenses and licensing rights of Respondent
16 PAPADATOS under the Real Estate Law are suspended for a period
17 of ninety (90) days from the effective date of this Decision.

18 A. Provided, however, that if Respondent PAPADATOS
19 requests, the initial thirty (30) days of said suspension (or a
20 portion thereof) shall be stayed for two (2) years upon
21 condition that:

22 1. Respondent PAPADATOS pays a monetary penalty
23 pursuant to Section 10175.2 of the Business and Professions
24 Code at the rate of \$100 per day for each day of the suspension
25 for a total monetary penalty of \$3,000.

26 2. Said payment shall be in the form of a cashier's
27 check or certified check made payable to the Recovery Account

1 of the Real Estate Fund. Said check must be received by the
2 Bureau prior to the effective date of the Decision in this
3 matter.
4

5 3. No further cause for disciplinary action against
6 the real estate license of Respondent PAPADATOS occurs within
7 two (2) years from the effective date of the Decision in this
8 matter.

9 4. If Respondent PAPADATOS fails to pay the monetary
10 penalty in accordance with the terms of the Decision, the
11 Commissioner may, without a hearing, order the immediate
12 execution of all or any part of the stayed suspension, in which
13 event the Respondent shall not be entitled to any repayment nor
14 credit, prorated or otherwise, for money paid to the Bureau
15 under the terms of this Decision.

16 5. If Respondent PAPADATOS pays the monetary
17 penalty, and if no further cause for disciplinary action
18 against the real estate license of Respondent occurs within two
19 (2) years from the effective date of the Decision, the stay
20 hereby granted shall become permanent.

21 B. The remaining sixty (60) days of the ninety (90)
22 day suspension shall be stayed for two (2) years upon the
23 following terms and conditions:

24 1. Respondent PAPADATOS shall obey all laws, rules
25 and regulations governing the rights, duties and
26 responsibilities of a real estate licensee in the State of
27 California; and

1
2 2. That no final subsequent determination be made
3 after hearing or upon stipulation that cause for disciplinary
4 action occurred within two (2) years from the effective date of
5 this Decision. Should such a determination be made, the
6 Commissioner may, in his discretion, vacate and set aside the
7 stay order and reimpose all or a portion of the stayed
8 suspension. Should no such determination be made, the stay
9 imposed herein shall become permanent.

10 V. Pursuant to Section 10148 of the Business and
11 Professions Code, Respondent PAPADATOS shall pay the
12 Commissioner's reasonable cost for (a) the audit which led to
13 this disciplinary action (b) a subsequent audit to determine if
14 Respondent is now in compliance with the Real Estate Law.
15 Respondents ALWAYZZ and PAPADATOS shall be jointly and severally
16 liable for the cost of the audit. The cost of the audit which
17 led to this disciplinary action is \$7,068.00. In calculating
18 the amount of the Commissioner's reasonable cost, the
19 Commissioner may use the estimated average hourly salary for all
20 persons performing audits of real estate brokers, and shall
21 include an allocation for travel time to and from the auditor's
22 place of work. Said amount for the prior and subsequent audits
23 shall not exceed \$14,136.00.

24 A. Respondent PAPADATOS shall pay such cost within 60
25 days of receiving an invoice from the Commissioner detailing the
26 activities performed during the audit and the amount of time
27 spent performing those activities.

1
2 B. The Commissioner may suspend the license of
3 Respondent PAPADATOS pending a hearing held in accordance with
4 Section 11500, et seq., of the Government Code, if payment is
5 not timely made as provided for herein, or as provided for in a
6 subsequent agreement between the Respondent PAPADATOS and the
7 Commissioner. The suspension shall remain in effect until
8 payment is made in full or until Respondent PAPADATOS enters
9 into an agreement satisfactory to the Commissioner to provide
10 for payment, or until a decision providing otherwise is adopted
11 following a hearing held pursuant to this condition.

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

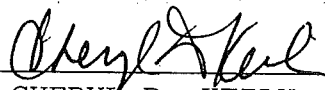
23 VII. Respondent PAPADATOS shall, within six months
24 from the effective date of this Decision, take and pass the
25 Professional Responsibility Examination administered by the
26 Bureau including the payment of the appropriate examination fee.
27 If Respondent fails to satisfy this condition, the Commissioner

1 shall order suspension of Respondent's license until Respondent
2 passes the examination.

3
4 VIII. Respondent PAPADATOS shall pay the
5 Commissioner's reasonable costs for investigation and
6 enforcement of the matter. Respondent ALWAYZZ and Respondent
7 PAPADATOS shall be jointly and severally liable for the costs
8 for investigation and enforcement. The investigation and
9 enforcement costs which led to this disciplinary action total
10 \$3,212. Said payment shall be made within ninety (90) days
11 from the effective date of this Decision.

12 A. The Commissioner shall suspend the license of
13 Respondent PAPADATOS pending a hearing held in accordance with
14 California Government Code Section 11500, et seq., if payment
15 is not timely made as provided for herein. The suspension
16 shall remain in effect until payment is made in full, or until
17 a decision providing otherwise is adopted following a hearing
18 held pursuant to this condition.

19
20 DATED: June 19, 2014


21 CHERYL D. KEILY, Counsel
22 BUREAU OF REAL ESTATE

23 * * *

24 I have read the Stipulation and Agreement, and its
25 terms are understood by me and are agreeable and acceptable to
26 me. I understand that I am waiving rights given to me by the
27 California Administrative Procedure Act (including but not
limited to Sections 11506, 11508, 11509 and 11513 of the

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Government Code), and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondent, to the Bureau at the following telephone/fax number (213) 576-6917. Respondent agrees, acknowledges, and understands that by electronically sending to the Bureau a fax copy of his actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Bureau shall be as binding on Respondent as if the Bureau had received the original signed Stipulation and Agreement.

DATED: 6/16/14

Antonia Papadatos
By: Antonia Henrietta Papadatos
for Respondent ALWAYSZ INC.

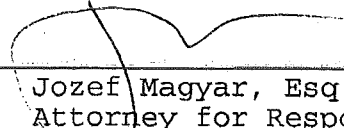
DATED: 6/16/14

Antonia Papadatos
ANTONIA HENRIETTA PAPADATOS
Respondent

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1 I have reviewed the Stipulation and Agreement as to
2 form and content and have advised my client accordingly.

3 DATED: 6/17/14



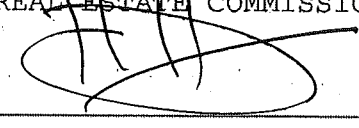
Jozef Magyar, Esq.
Attorney for Respondents
ALWAYZZ INC. and ANTONIA
HENRIETTA PAPADATOS

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8 The foregoing Stipulation and Agreement is hereby
9 adopted as my Decision in this matter and shall become
10 effective at 12 o'clock noon on **AUG 26 2014**, 2014.

11 IT IS SO ORDERED August 4, 2014.

12
13 REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner