

1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6982

FILED

FEB 19 2021

DEPT. OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-41568 LA

12 DANA COSETTE BARNES,)

STIPULATION

) AND

) AGREEMENT

13)
14)
15 Respondent.)

16 It is hereby stipulated by and between Respondent DANA COSETTE BARNES
17 ("BARNES"), represented by Frank M. Buda, Esq./Law Offices of Frank Buda, and the
18 Complainant, acting by and through Julie L. To, Counsel for the Department of Real Estate
19 ("Department" or "DRE"), as follows for the purpose of settling and disposing of the Accusation
20 of DANA COSETTE BARNES ("Accusation") filed on December 30, 2019, in Case No. H-
21 41568 LA, in this matter.

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27 DRE Stipulation & Agreement – DANA COSETTE BARNES

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

7 2. Respondent has received, read and understands the Statement to Respondent,
8 the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate
9 ("Department") in this proceeding.

10 3. On January 7, 2070 Respondent timely filed her Notice of Defense pursuant to
11 Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations
12 in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
13 Respondent acknowledges that she understands that by withdrawing said Notice of Defense she
14 thereby waives her right to require the Commissioner to prove the allegations in the Accusation
15 at a contested hearing held in accordance with the provisions of the APA and that she will waive
16 other rights afforded to her in connection with the hearing such as the right to present evidence in
17 her defense and the right to cross-examine witnesses.

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

24 5. This Stipulation is made for the purpose of reaching an agreed disposition of
25 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
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1 which the Department of Real Estate ("Department") or another licensing agency of this state,
2 another state, or if the federal government is involved, and otherwise shall not be admissible in
3 any other criminal or civil proceeding.

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

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

17 8. Respondent understands that by agreeing to this Stipulation, Respondent agrees
18 to pay for the cost of the audit which resulted in the determination that Respondent committed
19 the violations found in the Determination of Issues, pursuant to Business and Professions Code
20 ("Code") Section 10148. The amount of said costs for the audit (SD 180001) is \$8,428.33.
21 Respondent agrees to pay \$8,428.33, pursuant to Code Section 10148, for the cost of Audit No.
22 SD180001.

23 9. Respondent understands that by agreeing to this Stipulation, Respondent agrees
24 to pay the Commissioner's cost of the investigation and enforcement which resulted in the
25 determination that Respondent committed the violations found in the Determination of Issues,
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1 pursuant to Code Section 10106. The amount of said investigation and enforcement costs is
2 \$3,270.20 (comprised of \$1,935.20 in investigation costs and \$1,335.00 in enforcement costs);
3 therefore, Respondent agrees to pay, pursuant to Code Section 10106, the amount \$3,270.20.

4 DETERMINATION OF ISSUES

5 By reason of the foregoing stipulations, admissions and waivers, and solely for the
6 purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed
7 that the following determination of issues shall be made:

8 The conduct, acts and/or omissions of Respondent DANA COSETTE BARNES,
9 as described in Paragraph 4, herein above, are in violation of: Code Section 10145 and
10 Regulation 2832.1; Code Section 10145 and Regulation 2831; Code Section 10145 and
11 Regulation 2831.1; Code Section 10145 and Regulation 2831.2; Code Section 10177(h); and
12 10177(g), and are grounds for the suspension or revocation of the license and license rights of
13 Respondent BARNES as a violation of the Real Estate Law.

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent DANA COSETTE BARNES under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within ninety (90) days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of *nolo contendere* to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

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

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

4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing broker on a form approved by the Department of Real Estate which shall

1 certify:

2 (a) That the employing broker has read the Decision of the Commissioner which
3 granted the right to a restricted license; and

4 (b) That the employing broker will exercise close supervision over the
5 performance by the restricted licensee relating to activities for which a real estate
6 license is required.

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

17 6. All licenses and licensing rights of Respondent are indefinitely suspended
18 unless or until Respondent pays the sum of \$3,270.20 for the Commissioner's reasonable cost of
19 the investigation and enforcement which led to this disciplinary action. Said payment shall be in
20 the form of a cashier's check or certified check made payable to the Department of Real Estate.
21 The investigation and enforcement costs must be delivered to the Department of Real Estate,
22 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
23 Decision and Order.

24 7. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
25 \$8,428.33 for the Commissioner's cost of the audit which led to this disciplinary action.

1 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the
2 Commissioner. Payment of audit costs should not be made until Respondent receives the
3 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
4 Respondent's real estate license shall automatically be suspended until payment is made in full,
5 or until a decision providing otherwise is adopted following a hearing held pursuant to this
6 condition.

7 DATED: 12-8-20



Julie L. To, Counsel for Complainant

10 EXECUTION OF THE STIPULATION

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

19 MAILING AND E-MAIL

20 Respondent shall send a hard copy of the original signed Stipulation and
21 Agreement to: Julie L. To, Department of Real Estate, 320 West Fourth Street, Suite 350, Los
22 Angeles, CA 90013. In the event of time constraints before an administrative hearing,
23 Respondent can signify acceptance and approval of the terms and conditions of this Stipulation
24 and Agreement by emailing a scanned copy of the signature page, as actually signed by
25 Respondent, to the Department of Real Estate counsel assigned to this case. Respondent agrees,
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1 acknowledges and understands that by electronically sending the Department of Real Estate a
2 scan of Respondent's actual signature as it appears on the Stipulation and Agreement, that
3 receipt of the scan by the Department of Real Estate shall be binding on Respondent as if the
4 Department of Real Estate had received the original signed Stipulation and Agreement.

5 DATED: 12/5/2020

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DANA COSETTE BARNES, Respondent

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

10 DATED: 12-8-2020

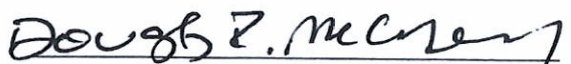
11 
Frank M. Buda, Esq.
12 Attorney for Respondent DANA COSETTE BARNES

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14 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
15 this matter and shall become effective at 12 o'clock noon on MAR 22 2021.

16 IT IS SO ORDERED 2.12.21

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19 REAL ESTATE COMMISSIONER

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22 DOUGLAS R. McCAULEY