

1 Department of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, California 90013

4 Telephone: (213) 576-6982

FILED

FEB 24 2021

DEPT. OF REAL ESTATE

By _____

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8 **BEFORE THE DEPARTMENT OF REAL ESTATE**
9 **STATE OF CALIFORNIA**

10 * * *

11 In the Matter of the Accusation of)	No. H-41675 LA
)	
12 WINDFALL SPRINGS, INC.;)	STIPULATION
13 BARBARA BAKER, individually and)	AND
designated officer of Windfall Springs, Inc.;)	AGREEMENT
)	
14 Respondents.)	
)	

15
16 It is hereby stipulated by and between Respondents WINDFALL SPRINGS, INC.
17 (“WSI”) and BARBARA BAKER (“BAKER”), individually and as designated officer of
18 Windfall Springs, Inc., both represented by Mary Work, Esq., and the Complainant, acting by
19 and through Diane Lee, Counsel for the Department of Real Estate, as follows for the purpose of
20 settling and disposing of the Accusation (“Accusation”) filed on May 18, 2020, in this matter:

21 1. All issues which were to be contested and all evidence which were to be
22 presented by Complainant and Respondents WSI and BAKER at a formal hearing on the
23 Accusation, which hearing was to be held in accordance with the provisions of the California
24 Administrative Procedure Act (“APA”), shall instead and in place thereof be submitted solely on
25 the basis of the provisions of this Stipulation and Agreement (“Stipulation”).

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

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

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

19 5. It is understood by the parties that the Real Estate Commissioner may adopt
20 this Stipulation as his Decision in this matter thereby imposing the penalties and sanctions on
21 the real estate licenses and license rights of Respondents WSI and BAKER as set forth in the
22 below "Order." In the event that the Commissioner in his discretion does not adopt this
23 Stipulation, it shall be void and of no effect, and Respondents WSI and BAKER shall retain the
24 right to a hearing and proceeding on the Accusation under the provisions of the APA and shall
25 not be bound by this Stipulation herein.

26 6. The Order or any subsequent Order of the Real Estate Commissioner made
27 pursuant to this Stipulation herein shall not constitute an estoppel, merger, or bar to any further

1 administrative or civil proceedings by the Department of Real Estate with respect to any matters
2 which were not specifically alleged to be causes for Accusation in this proceeding, but do
3 constitute a bar, estoppel, and merger as to any allegations specifically and actually contained in
4 the Accusation against Respondents WSI and BAKER herein.

5 7. Respondents WSI and BAKER understand that by agreeing to this Stipulation,
6 Respondents WSI and BAKER agree to pay, pursuant to California Business and Professions
7 Code section 10106, the cost of the investigation and enforcement. The amount of investigation
8 and enforcement cost is \$1,355.30.

9 8. Respondents WSI and BAKER understand that by agreeing to this
10 Stipulation, Respondents WSI and BAKER agree to pay, pursuant to California Business and
11 Professions Code section 10148, the cost of the audits which led to this disciplinary action. The
12 amount of said cost for the original audits (SD 190006/SD 190010; SD190007) is \$16,205.68.

13 9. Respondents WSI and BAKER understand that by agreeing to this Stipulation
14 and Agreement, the findings set forth below in the Determination of Issues become final, and the
15 Commissioner may charge Respondents WSI and BAKER, with joint and several liability, for
16 the cost of any subsequent audit(s) conducted pursuant to California Business and Professions
17 Code section 10148. The maximum cost of the subsequent audit will not exceed \$20,257.10.

18
19 DETERMINATION OF ISSUES

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

22 The conduct, acts, or omissions of Respondents WINDFALL SPRINGS, INC.
23 and BARBARA BAKER, as described in the Accusation and Paragraph 4, above, are a basis for
24 discipline of Respondent WSI's and BAKER's licenses and license rights pursuant to California
25 Business and Professions Code sections 10141.6, 10145, 10159.2, and 10176(e) and Title 10,
26 Chapter 6 of the California Code of Regulations, sections 2725, 2831, 2832.1, 2835(b), and
27 2950(g).

1 ORDER

2 WHEREFORE, THE FOLLOWING ORDER is hereby made:

3
4 (WINDFALL SPRINGS, INC.: SUSPENSION)

5 I.

6 All licenses and licensing rights of Respondent WSI under the Real Estate Law
7 are suspended for a period of ninety (90) days from the effective date of this Decision:

8 A. Provided, however, that the initial thirty (30) days of said suspension shall be
9 stayed upon condition that:

10 1. Respondent WSI pays a monetary penalty pursuant to California Business and
11 Professions Code section 10175.2 at the rate of \$75.00 per day for a monetary penalty of
12 \$2,250.00 total.

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

16 3. No further cause for disciplinary action against the real estate license of
17 Respondent WSI occurs within three (3) years from the effective date of the Decision in this
18 matter.

19 4. If Respondent WSI fails to pay the monetary penalty in accordance with the
20 terms of the Decision, the Commissioner may, without a hearing, order the immediate execution
21 of all or any part of the stayed suspension, in which event Respondent WSI shall not be entitled
22 to any repayment nor credit, prorated or otherwise, for money paid to the Department of Real
23 Estate under the terms of this Decision.

24 5. If Respondent WSI pays the monetary penalty and if no further cause for
25 disciplinary action against the real estate license of Respondent WSI occurs within three (3)
26 years from the effective date of the Decision, the stay hereby granted shall become permanent.

27 B. The remaining sixty (60) days of the ninety (90) day suspension shall be

1 stayed for three (3) years upon the following terms and conditions:

2 i. Respondent WSI shall obey all laws, rules, and regulations governing the
3 rights, duties, and responsibilities of a real estate licensee in the State of California; and

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

10
11 (BARBARA BAKER: SUSPENSION)

12 II.

13 All licenses and licensing rights of Respondent BAKER under the Real Estate
14 Law are suspended for a period of ninety (90) days from the effective date of this Decision:

15 A. Provided, however, that the initial thirty (30) days of said suspension shall be
16 stayed upon condition that:

17 1. Respondent BAKER pays a monetary penalty pursuant to California Business
18 and Professions Code section 10175.2 at the rate of \$75.00 per day for a monetary penalty of
19 \$2,250.00 total.

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

23 3. No further cause for disciplinary action against the real estate license of
24 Respondent BAKER occurs within three (3) years from the effective date of the Decision in this
25 matter.

26 4. If Respondent BAKER fails to pay the monetary penalty in accordance with
27 the terms of the Decision, the Commissioner may, without a hearing, order the immediate

1 execution of all or any part of the stayed suspension, in which event Respondent BAKER shall
2 not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the
3 Department of Real Estate under the terms of this Decision.

4 5. If Respondent BAKER pays the monetary penalty and if no further cause for
5 disciplinary action against the real estate license of Respondent BAKER occurs within three (3)
6 years from the effective date of the Decision, the stay hereby granted shall become permanent.

7 B. The remaining sixty (60) days of the ninety (90) day suspension shall be
8 stayed for three (3) years upon the following terms and conditions:

9 i. Respondent BAKER shall obey all laws, rules, and regulations governing the
10 rights, duties, and responsibilities of a real estate licensee in the State of California; and

11 ii. That no final subsequent determination be made after hearing or upon
12 stipulation, that cause for disciplinary action occurred within three (3) years from the effective
13 date of this Decision. Should such a determination be made, the Commissioner may, in his
14 discretion, vacate, and set aside the stay order and re-impose all or a portion of the stayed
15 suspension. Should no such determination be made, the stay imposed herein shall become
16 permanent.

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18 (WSI AND BAKER: INVESTIGATION AND ENFORCEMENT COSTS)

19 III.

20 Respondents WSI and BAKER shall, within thirty (30) days from the effective
21 date of this Decision and Order, pay the sum of \$1,355.30 with joint and several liability for the
22 Commissioner's reasonable cost for investigation and enforcement which led to this disciplinary
23 action. Said payment shall be in the form of a cashier's check made payable to the Department
24 of Real Estate. The investigative and enforcement costs must be delivered to the Department of
25 Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, within thirty (30)
26 days from the effective date of this Decision and Order. If the costs of investigation and
27 enforcement are not paid within thirty (30) days from the effective date of this Decision and

1 Order, the licenses and license rights of Respondents WSI and BAKER shall automatically be
2 suspended until full payment is made.

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4 (WSI and BAKER: AUDIT COSTS)

5 IV.

6 1. Pursuant to California Business and Professions Code section 10148,
7 Respondents WSI and BAKER owed \$16,205.68 with joint and several liability for the
8 Commissioner's cost of the audit which led to this disciplinary action. Respondents WSI and
9 BAKER have already paid \$12,317.62, and therefore shall pay the balance of \$3,888.06
10 within thirty (30) days of receiving an invoice therefore from the Commissioner. Payment of the
11 audit cost balance should not be made until Respondents WSI and/or BAKER receive the
12 invoice. If Respondents fail to satisfy this condition in a timely manner as provided for herein,
13 the real estate licenses of Respondents shall automatically be suspended until payment is made in
14 full, or until a decision providing otherwise is adopted following a hearing.

15 2. Pursuant to California Business and Professions Code section 10148,
16 Respondents WSI and BAKER shall pay the Commissioner's reasonable cost, not to exceed
17 \$20,257.10, with joint and several liability, for audit(s) to determine if Respondents WSI and/or
18 BAKER have corrected the violations found in the Determination of Issues. In calculating the
19 amount of the Commissioner's reasonable cost, the Commissioner may use the estimated
20 average hourly salary for all persons performing audits of real estate broker(s), and shall include
21 an allocation for travel time to and from the auditor's place of work. Respondents WSI and
22 BAKER shall pay such cost within thirty (30) days of receiving an invoice therefor from the
23 Commissioner. Payment of the audit costs should not be made until Respondents WSI and/or
24 BAKER receives the invoice. If Respondents WSI and BAKER fail to satisfy this condition in a
25 timely manner as provided for herein, the real estate license of Respondents WSI and BAKER
26 shall automatically be suspended until payment is made in full, or until a decision providing
27 otherwise is adopted following a hearing held pursuant to this condition.

1 (BAKER: TRUST FUND COURSE)

2 V.

3 Respondent BAKER shall each, within three (3) months from the effective date of
4 this Decision and Order, provide proof satisfactory to the Commissioner, of having taken and
5 successfully completed the continuing education course on trust fund accounting and handling
6 specified in California Business and Professions Code section 10170.5(a)(3). Proof of
7 satisfaction of this requirements includes evidence that each Respondent has successfully
8 completed the trust fund account and handling continuing education courses, no earlier than 120
9 days prior to the effective date of the Decision and Order in this matter. Proof of completion of
10 the trust fund accounting and handling course must be delivered to the Department of Real
11 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at (916) 263-
12 8758, within six (6) months from the effective date of this Decision and Order.

13
14 DATED: 12/16/2020


15 _____
16 DIANE LEE,
17 Counsel for Department of Real Estate

18 * * *

19 EXECUTION OF THE STIPULATION

20 I, BARBARA BAKER, individually and as designated officer of Windfall
21 Springs, Inc., have read the Stipulation and discussed it with our attorney, Mary Work, Esq. Its
22 terms are understood by me and Windfall Springs, Inc., and are agreeable and acceptable to me
23 and Windfall Springs, Inc. I understand that I am waiving rights given to me and Windfall
24 Springs, Inc. by the California APA (including, but not limited to, California Government
25 Code sections 11506, 11508, 11509, and 11513), and I, individually and as designated officer
26 of Windfall Springs, Inc., willingly, intelligently, and voluntarily waive those rights,
27 including, but not limited to, the right of requiring the Commissioner to prove the allegations in
the Accusation at a hearing at which Windfall Springs, Inc. and I would have the right to cross-

1 examine witnesses against me and Windfall Springs, Inc. and to present evidence in defense and
2 mitigation of the charges.

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4 MAILING AND E-MAIL

5 Respondents WSI and BAKER shall mail the original signed signature page of
6 this Stipulation herein to Department of Real Estate, Attention: Legal Section – Diane Lee, 320
7 West Fourth Street, Suite 350, Los Angeles, California 90013-1105.

8 In the event of time constraints before an administrative hearing, Respondents
9 WSI and BAKER can signify acceptance and approval of the terms and conditions of this
10 Stipulation and Agreement by emailing a scanned copy of the signature page, as actually signed
11 by Respondents WSI and BAKER, to the Department counsel assigned to this case.

12 Respondents WSI and BAKER agree, acknowledge, and understand that by electronically
13 sending the Department a scan of Respondents WSI's and BAKER's actual signatures
14 as they appear on the Stipulation and Agreement that receipt of the scan by the Department shall
15 be binding on Respondents WSI and BAKER as if the Department had received the original
16 signed Stipulation.

17 Respondents WSI's and BAKER's signatures below constitute acceptance and
18 approval of the terms and conditions of this Stipulation. Respondents WSI and BAKER agree,
19 acknowledge, and understand that by signing this Stipulation, Respondents WSI and BAKER
20 are bound by its terms as of the date of such signatures and that this agreement is not subject to
21 rescission or amendment at a later date except by a separate Decision and Order of the Real
22 Estate Commissioner.

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DATED: 12-16-2020

Barbara Baker
WINDFALL SPRINGS, INC., by Barbara Baker,
designated officer of Windfall Springs, Inc.

DATED: 12-16-2020

Barbara Baker
BARBARA BAKER, individually and as designated
officer of Windfall Springs, Inc.

DATED: 12/16/2020

Mary Work
MARY WORK, ESQ.
Attorney for Respondents WINDFALL SPRINGS, INC.
and BARBARA BAKER

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
Respondents WINDFALL SPRINGS, INC. and BARBARA BAKER, and shall become
effective at 12 o'clock noon on March 26, 2021.

IT IS SO ORDERED 2-12-21, 2021.

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley