


1 Department of Real Estate
2 320 W. 4th Street, Suite 350
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

FILED

DEC 21 2022

DEPT. OF REAL ESTATE

By 

8 **DEPARTMENT OF REAL ESTATE**

9 **STATE OF CALIFORNIA**

10 ***

11 In the Matter of the Accusation of

DRE No. H-42135 LA

12 SILVER BAY FUNDING CORP., and
13 JOHN RUSSELL HARRIS, individually and as
14 designated officer of Silver Bay Funding Corp.,

**STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER**

15 Respondents.

16
17 It is hereby stipulated by and between Respondents SILVER BAY FUNDING
18 CORP. and JOHN RUSSELL HARRIS (collectively "Respondents") and their attorney of record,
19 Law Office of Frank M. Buda, and the Complainant, acting by and through Kevin H. Sun, Counsel
20 for the Department of Real Estate, as follows for the purpose of settling and disposing of the
21 Accusation filed on October 21, 2021, in this matter (Case No. H-42135 LA):

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

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

4 3. On November 3, 2021, Respondents filed Notices of Defense pursuant to Section
5 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the
6 Accusation. Respondents hereby freely and voluntarily withdraw said Notices of Defense.
7 Respondents acknowledge that they understand that by withdrawing said Notices of Defense they
8 will thereby waive their rights to require the Commissioner to prove the allegations in the
9 Accusation at a contested hearing held in accordance with the provisions of the APA and that they
10 will waive other rights afforded to them in connection with the hearing such as the right to present
11 evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

18 5. This Stipulation is made for the purpose of reaching an agreed disposition of this
19 proceeding and is expressly limited to this proceeding and any other proceeding or case in which
20 the Department or another licensing agency of this state, another state, or if the federal government
21 is involved, and otherwise shall not be admissible in any other criminal or civil proceeding.

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

1 made herein.

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

6 **DETERMINATION OF ISSUES**

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

10 The conduct of Respondents, as described in the Accusation, are in violation of
11 California Financial Code Sections 17006(a)(4). In addition, the conduct of Respondent JOHN
12 RUSSELL HARRIS , as described in the Accusation, are in violation of California Business and
13 Professions Code (“Code”) 10159.2 and are grounds for the suspension or revocation of all of the
14 real estate license and license rights of Respondent JOHN RUSSELL HARRIS under the provision
15 of Code Section 10177(h).

16 **ORDER**

17 WHEREFORE, THE FOLLOWING ORDER is hereby made:

18 I.

19 (SILVER BAY FUNDING CORP.)

20 All licenses and license rights of Respondent SILVER BAY FUNDING CORP.
21 under the Real Estate Law are revoked; provided, however: a restricted real estate corporation
22 license shall be issued to Respondent, to be issued pursuant to Code Section 10156.5 if Respondent
23 makes application therefore and pays to the Department the appropriate fee for its restricted real
24 estate corporation license within ninety (90) days from the effective date of this Decision and
25 Order. The restricted license issued to Respondent shall be subject to all of the provisions of
26 Section 10156.7 of the Code and to the following limitations, conditions and restrictions imposed
27 under authority of Section 10156.6 of the Code:

1 A. The restricted license issued to Respondent SILVER BAY FUNDING CORP.
2 may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence
3 satisfactory to the Commissioner that Respondent has violated provisions of the California Real
4 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions
5 attaching to the restricted licenses.

6 B. Respondent SILVER BAY FUNDING CORP. shall not be eligible to apply for
7 the issuance of unrestricted real estate licenses nor for removal of any of the conditions, limitations
8 or restrictions of a restricted license until two (2) years have elapsed from the effective date of this
9 Decision and Order.

10 C. Respondent SILVER BAY FUNDING CORP.'s Mortgage Loan Originator
11 ("MLO") endorsement is hereby revoked; provided, however, a restricted MLO license
12 endorsement shall be issued to Respondent and shall be subject to all of the provisions of Section
13 10156.7 of the Code and to the following limitations, conditions and restrictions imposed under
14 authority of Section 10156.6 of the Code:

15 1. Respondent SILVER BAY FUNDING CORP. shall not be eligible to
16 petition for the issuance of an unrestricted MLO license endorsement, nor the removal of any of the
17 conditions, limitations, or restrictions attaching to the restricted MLO license endorsement until
18 two (2) years have elapsed from the date of issuance of the restricted MLO license endorsement to
19 Respondent. Respondent shall not be eligible to apply for any unrestricted MLO license
20 endorsements until all restrictions attaching to the MLO license endorsement have been removed.

21 II.

22 (JOHN RUSSELL HARRIS)

23 All licenses and licensing rights of Respondent JOHN RUSSELL HARRIS under
24 the Real Estate Law are revoked; provided, however: a restricted real estate broker license shall be
25 issued to Respondent, to be issued pursuant to Code Section 10156.5 if Respondent makes
26 application therefore and pays to the Department the appropriate fee for his restricted real estate
27 broker license within ninety (90) days from the effective date of this Decision and Order. The

1 restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7
2 of the Code and to the following limitations, conditions and restrictions imposed under authority of
3 Section 10156.6 of the Code:

4 A. The restricted license issued to Respondent JOHN RUSSELL HARRIS
5 may be suspended prior to hearing by Order of the Commissioner in the event of Respondent's
6 conviction or plea of nolo contendere to a crime which is substantially related to Respondent's
7 fitness or capacity as a real estate licensee.

8 B. The restricted license issued to Respondent JOHN RUSSELL HARRIS may
9 be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory
10 to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the
11 Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the
12 restricted licenses.

13 C. Respondent JOHN RUSSELL HARRIS shall not be eligible to apply for
14 the issuance of unrestricted real estate licenses nor for removal of any of the conditions, limitations
15 or restrictions of a restricted license until two (2) years have elapsed from the effective date of this
16 Decision and Order.

17 D. Respondent JOHN RUSSELL HARRIS shall notify the Commissioner in
18 writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the
19 Department of Real Estate, Post Office Box 137000, Sacramento, CA 95813-7000. The letter shall
20 set forth the date of Respondent's arrest, the crime for which Respondent was arrested and the name
21 and address of the arresting law enforcement agency. Respondent's failure to timely file written
22 notice shall constitute an independent violation of the terms of the restricted license and shall be
23 grounds for the suspension or revocation of that license.

24 E. Respondent JOHN RUSSELL HARRIS shall, within nine (9) months from
25 the effective date of this Order, present evidence satisfactory to the Commissioner that Respondent
26 has, since the most recent issuance of an original or renewal real estate license, taken and
27 successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the

1 Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition,
2 Respondent's real estate license shall automatically be suspended until Respondent presents
3 evidence satisfactory to the Commissioner of having taken and successfully completed the
4 continuing education requirements. Proof of completion of the continuing education courses must
5 be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA
6 95813-7013.

7 F. Respondent JOHN RUSSELL HARRIS' Mortgage Loan Originator ("MLO")
8 endorsement is hereby revoked; provided, however, a restricted MLO license endorsement shall be
9 issued to Respondent and shall be subject to all of the provisions of Section 10156.7 of the Code
10 and to the following limitations, conditions and restrictions imposed under authority of Section
11 10156.6 of the Code:

12 1. The restricted MLO license endorsement shall not confer any property right
13 in the privileges to be exercised including the right of renewal, and the Commissioner may by
14 appropriate order suspend the right to exercise any privileges granted under the restricted license in
15 the event of:

16 i. Respondent JOHN RUSSELL HARRIS' conviction (including a
17 plea of nolo contendere) of a crime that bears a substantial relationship to Respondent's fitness or
18 capacity as a real estate licensee; or

19 ii. The receipt of evidence that Respondent JOHN RUSSELL
20 HARRIS' has violated provisions of the California Real Estate Law, the Subdivided Lands Law,
21 Regulations of the Commissioner, or conditions attaching to the restricted license.

22 G. Respondent JOHN RUSSELL HARRIS shall not be eligible to petition for the
23 issuance of an unrestricted MLO license endorsement, nor the removal of any of the conditions,
24 limitations, or restrictions attaching to the restricted MLO license endorsement until two (2) years
25 have elapsed from the date of issuance of the restricted MLO license endorsement to Respondent.
26 Respondent shall not be eligible to apply for any unrestricted MLO license endorsements until all
27 restrictions attaching to the MLO license endorsement have been removed.

1 III.

2 (SILVER BAY FUNDING CORP. and JOHN RUSSELL HARRIS)

3 A. All licenses and licensing rights of Respondents are indefinitely suspended unless
4 or until Respondents pay the sum of \$7,886.40 for the Commissioner’s reasonable costs of the
5 investigation and enforcement which led to this disciplinary action. Said payment shall be in the
6 form of a cashier’s check made payable to the Department of Real Estate. **The payment for the**
7 **investigative and enforcement costs must be delivered to the Department of Real Estate, Flag**
8 **Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this**
9 **Decision and Order.** If Respondents fail to satisfy this condition, the Commissioner shall order
10 suspension of Respondents’ licenses and license rights until the sum is paid.

11
12 DATED: 9/13/2022

13 
14 Kevin H. Sun, Counsel for
15 Department of Real Estate

16 * * *

17 **EXECUTION OF THE STIPULATION**

18 We have read the Stipulation, have discussed it with our counsel, and its terms are
19 understood by us and are agreeable and acceptable to us. We understand that we are waiving rights
20 given to us by the California Administrative Procedure Act (including but not limited to Sections
21 11506, 11508, 11509 and 11513 of the Government Code), and we willingly, intelligently and
22 voluntarily waive those rights, including the right of requiring the Commissioner to prove the
23 allegations in the Accusation at a hearing at which we would have the right to cross-examine
24 witnesses against us and to present evidence in defense and mitigation of the charges.

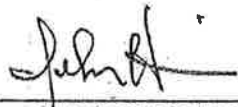
25 Respondents shall mail the original signed signature page of the stipulation herein to
26 Kevin H. Sun, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350,
27 Los Angeles, California 90013-1105.

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In the event of time constraints before an administrative hearing, Respondents can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by emailing a scanned copy of the signature page, as actually signed by Respondents, to the Department counsel assigned to this case. Respondents agree, acknowledge and understand that by electronically sending the Department a scan of Respondents' actual signature as it appears on the Stipulation and Agreement that receipt of the scan by the Department shall be binding on Respondents as if the Department had received the original signed Stipulation. Respondents shall also mail the original signed signature-page of this Stipulation to the Department counsel.

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

DATED: 9-8-22

SILVER BAY FUNDING CORP.
Respondent
By: John Harris

DATED: 9-8-22

JOHN RUSSELL HARRIS
Respondent

DATED: 9/8/2022

Alex Sawchak, Esq.
Law Office of Frank M. Buda
Counsel for Respondents
Approved as to Form

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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents SILVER BAY FUNDING CORP. and JOHN RUSSELL HARRIS in this matter and shall become effective at 12 o'clock noon on JAN 20 2023, 2022.

IT IS SO ORDERED 12.16.22, 2022.

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

