

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

FILED

OCT 22 2024

DEPT. OF REAL ESTATE

By _____

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

11 * * *

11 In the Matter of the Accusation of) No. H-42808 LA
12)
13 JAMES W NARDI,) STIPULATION
14) AND
15 Respondent.) AGREEMENT

16 It is hereby stipulated by and between Respondent JAMES W NARDI (NARDI),
17 representing himself, and the Complainant, acting by and through Julie L. To, Counsel for the
18 Department of Real Estate (“Department” or “DRE”), as follows for the purpose of settling and
19 disposing of the Accusation filed on February 21, 2024, in Case No. H-42808, in this matter.

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

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

4 3. On March 5, 2024, Respondent timely filed his Notice of Defense pursuant to
5 Section 11506 of the Government Code for the purpose of requesting a hearing on the
6 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice
7 of Defense. Respondent acknowledges that he understands that by withdrawing said Notice of
8 Defense he thereby waives his right 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 he
10 will waive other rights afforded to him in connection with the hearing such as the right to
11 present evidence in his defense and the right to cross-examine witnesses.

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

18 5. This Stipulation and Respondent's decision not to contest the Accusation are
19 made for the purpose of reaching an agreed disposition of this proceeding and are expressly
20 limited to this proceeding and any other proceeding or case in which the Department, the state or
21 federal government, an agency of this state, or an agency of another state is involved, and shall
22 not be otherwise admissible in any other criminal or civil proceeding. Respondent further
23 understands that the sustained violation(s) may be considered in any future administrative or
24 disciplinary matters by the Department

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

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

14 8. Respondent understands that by agreeing to this Stipulation, Respondent
15 agrees to pay, pursuant to Business and Professions Code (Code) Section 10148, the cost of the
16 audit, Audit SD230015 which resulted in the determination that Respondent committed the
17 violations found in the Determination of Issues. The amount of said costs for the original audit
18 of JAMES W NARDI (SD230015) is \$11,171.63.

19 9. Respondent has received, read, and understands the "Notice Concerning Costs
20 of Subsequent Audit." Respondent further understands that by agreeing to this Stipulation, the
21 findings set forth below in the Determination of Issues become final, and the Commissioner may
22 charge Respondents for the cost of any subsequent audits conducted pursuant to Code Section
23 10148 to determine if the violations have been corrected. The maximum cost of the follow-up
24 audits will not exceed one-hundred twenty-five percent (125%) of the cost of the original
audit. In the instant case, the cost of the original audit (SD230015) is \$11,171.63. The

1 maximum cost of the follow-up audit will not exceed 125% of the cost of the original audit, or
2 \$13,964.54. Therefore, Respondent may be charged a maximum of \$13,964.54 in the event of a
3 subsequent audit.

4 10. Respondent understands that by agreeing to this Stipulation, Respondent
5 agrees to pay, pursuant to Code Section 10106, the Commissioner's cost of the investigation and
6 enforcement which resulted in the determination that Respondent committed the violations
7 found in the Determination of Issues. The amount of said investigation and enforcement costs
8 pursuant to Code Section 10106 is \$1,269.50 (comprised of \$213.50 in investigation costs and
9 \$1,056.00 in enforcement costs); therefore, Respondent agrees to pay, pursuant to Code Section
10 10106, the amount \$1,269.50.

11 11. Respondent understands that by agreeing to this Stipulation, Respondent
12 agrees to cure the shortages identified in the bank accounts described as T/A 1 and B/A 1 in
13 Audit SD230015 dated January 4, 2024. Respondent is aware that the Department determined
14 T/A 1 to have a minimum shortage of \$198,900.39 as of June 30, 2023. Respondent is aware
15 that the Department determined B/A 1 to have a minimum shortage of \$25,976.00 as of June 30,
16 2023. Therefore, Respondent agrees to pay the sum of \$224,876.39 for the minimum shortages
17 in the bank accounts identified as T/A 1 and B/A 1.

18 DETERMINATION OF ISSUES

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

22 The conduct, acts or omissions of Respondent, as described in Paragraph 4,
23 herein above, are in violation of: Code Section 10145 and Title 10, Chapter 6, California Code
24 of Regulations (Regulation) 2832.1; Code Sections 10145, 10176(e), 10176(i) and Regulation
2832; Code Sections 10145 and 10176(e) and Regulation 2832; Code Section 10145 and

1 Regulation 2831; Code Section 10145 and Regulation 2831.1; Code Section 10145 and
2 Regulation 2831.2; Code Section 10145(a) and Regulation 2832; and Regulation 2725, and are
3 bases for the suspension or revocation of the licenses and license rights of Respondent as
4 violations of the Real Estate Law pursuant to Code Sections 10177(d) and 10177(h).

5 ORDER

6 WHEREFORE, THE FOLLOWING ORDER is hereby made:

7 I.

8 All licenses and licensing rights of Respondent JAMES W NARDI under the
9 Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall
10 be issued to Respondent, to be issued pursuant to Section 10156.5 of the Code if Respondent
11 makes application therefore and pays to the Department the appropriate fee for his restricted real
12 estate salesperson license within ninety (90) days from the effective date of this Decision and
13 Order. The restricted license issued to Respondent shall be subject to all of the provisions of
14 Section 10156.7 of the Code and to the following limitations, conditions and restrictions
imposed under authority of Section 10156.6 of the Code:

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

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

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

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

- 9 (a) That the employing broker has read the Decision of the
10 Commissioner which granted the right to a restricted license; and
11 (b) That the employing broker will exercise close supervision over the
12 performance by the restricted licensee relating to activities for which a
13 real estate license is required.

14 5. Respondent shall, within nine (9) months from the effective date of this
15 Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has,
16 since the most recent issuance of an original or renewal real estate license, taken and
17 successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the
18 Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this
19 condition, the Commissioner may order the suspension of the restricted license until the
20 Respondent presents such evidence. The Commissioner shall afford Respondent the
21 opportunity for a hearing pursuant to the Administrative Procedure Act to present such
22 evidence.

23 6. All licenses and licensing rights of Respondent are indefinitely suspended
24 unless or until Respondent presents evidence satisfactory to the Real Estate Commissioner that
Respondent has cured the shortages identified in the bank accounts described as T/A 1 and

1 B/A 1 in Audit SD230015. All licenses and licensing rights of Respondent are indefinitely
2 suspended unless or until Respondent presents proof of payment of the sum of \$224,876.39 for
3 the minimum shortages in the bank accounts identified as T/A 1 and B/A 1. Proof of payment to
4 said accounts must be delivered to the Department of Real Estate, Flag Section at 651 Bannon
5 Street, Suite 504, Sacramento, CA 95811, prior to the effective date of this Decision and Order.

6 7. All licenses and licensing rights of Respondent are indefinitely suspended
7 unless or until Respondent pays the sum of \$1,269.50 for the Commissioner's reasonable cost
8 of the investigation and enforcement which led to this disciplinary action. Said payment shall
9 be in the form of a cashier's check or certified check made payable to the Department of Real
10 Estate. The investigation and enforcement costs must be delivered to the Department of Real
11 Estate, Flag Section at 651 Bannon Street, Suite 504, Sacramento, CA 95811, prior to the
12 effective date of this Decision and Order.

13 8. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
14 \$11,171.63 for the Commissioner's cost of the audit (SD230015) which led to this disciplinary
15 action. Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore
16 from the Commissioner. Payment of audit costs should not be made until Respondent receives
17 the invoice. If Respondent fails to satisfy this condition in a timely manner as provided for
18 herein, Respondent's real estate licenses shall automatically be suspended until payment is made
19 in full, or until a decision providing otherwise is adopted following a hearing held pursuant to
20 this condition. The Commissioner has determined that Respondent has already paid, pursuant to
21 Code Section 10148, \$11,171.63, for the cost of Audit SD230015.

22 9. Pursuant to Section 10148 of the Code, Respondent shall pay the
23 Commissioner's reasonable cost, not to exceed \$13,964.54 [or, 125% of the original audit cost
24 for audit SD230015], for a subsequent audit to determine if Respondent has corrected the
violations found in the Determination of Issues. In calculating the amount of the

1 Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary
2 for all persons performing audits of real estate brokers, and shall include an allocation for travel
3 time to and from the auditor's place of work. Respondent shall pay such cost within sixty (60)
4 days of receiving an invoice therefore from the Commissioner. Payment of the audit costs [of
5 the subsequent audit] should not be made until Respondent receives the invoice. If Respondent
6 fails to satisfy this condition in a timely manner as provided for herein, Respondent's real estate
7 licenses shall automatically be suspended until payment is made in full, or until a decision
8 providing otherwise is adopted following a hearing held pursuant to this condition.

9 DATED: 09-13-24

10 
11 Julie L. To, Counsel for
12 Department of Real Estate

13 * * *

14 II.

15 EXECUTION OF THE STIPULATION

16 I have read the Stipulation and Agreement. Its terms are understood by me and
17 are agreeable and acceptable to me. I understand that I am waiving rights given to me by the
18 California Administrative Procedure Act (including but not limited to Sections 11506, 11508,
19 11509 and 11513 of the Government Code), and I willingly, intelligently and voluntarily waive
20 those rights, including the right of requiring the Commissioner to prove the allegations in the
21 Accusation at a hearing at which I would have the right to cross-examine witnesses against me
22 and to present evidence in defense and mitigation of the charges.

23 III.

24 MAILING AND FACSIMILE

Respondent can signify acceptance and approval of the terms and conditions of
this Stipulation and Agreement by sending a hard copy of the original signed signature page of

1 the Stipulation herein to Julie L. To, Legal Section, Department of Real Estate, 320 W. Fourth
2 St., Suite 350, Los Angeles, California 90013-1105. In the event of time constraints before an
3 administrative hearing, Respondent can signify acceptance and approval of the terms and
4 conditions of this Stipulation and Agreement by e-mailing a scanned copy of the signature page,
5 as actually signed by Respondent, to the Department counsel assigned to this case. Respondent
6 agrees, acknowledges, and understands that by electronically sending to the Department a scan
7 of Respondent's actual signature as it appears on the Stipulation and Agreement, that receipt of
8 the scan by the Department shall be binding on Respondent as if the Department had received
9 the original signed Stipulation and Agreement.

10 DATED: 9/12/2024



11 JAMES W NARDI, Respondent

12 * * *

13 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
14 Respondent JAMES W NARDI, and shall become effective at 12 o'clock noon on
15 NOV 21 2024, 2024.

16 IT IS SO ORDERED 10/15, 2024.

17 CHIKA SUNQUIST
18 REAL ESTATE COMMISSIONER

19 
20 _____
21 By: Marcus L. McCarther
22 Deputy Real Estate Commissioner
23