

DIVISION OF REAL ESTATE
DEPARTMENT OF COMMERCE
JONATHAN C. STEWART, DIRECTOR
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SALT LAKE CITY, UTAH 84114-6711
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BEFORE THE UTAH REAL ESTATE COMMISSION

In the Matter of the License of **CARL F.
HART** to Act as a Sales Agent

STIPULATION & ORDER

Case No. RE-11-56922

The Division of Real Estate of the Department of Commerce of the State of Utah (the Division), by and through its Director of Licensing and Education Mark Fagergren, and Carl F. Hart (Respondent), a licensed sales agent hereby stipulate and agree as follows:

STIPULATION

1. Respondent is a licensee of the Division, licensed as a sales agent holding license number 5507988-SA00.
2. Respondent admits the jurisdiction of the Utah Real Estate Commission (the Commission) over Respondent and over the subject matter of this action.
3. Respondent specifically waives the right to an adjudicative proceeding under Utah Code Ann. § 61-2f-103(1) (2010) and the rules promulgated thereunder. Respondent and the Division hereby express their intent that this matter be resolved expeditiously through stipulation as contemplated in Utah Code Ann. § 63G-4-102(4) (2008).
4. The Division and Respondent recognize and agree that this stipulation shall not be binding until the Commission and the Director review it and jointly approve it in a public meeting conducted pursuant to Utah Code Ann. § 52-4 *et seq.*

5. Respondent acknowledges that, as part of their review, the Commission and Director may ask the Division investigative staff questions about this stipulation, and the investigative staff may answer such questions and provide factual information in public and on the record.
6. Respondent has the right to be present when the stipulation is presented for consideration and to address the Commission and the Director about this stipulation or the facts underlying it. If Respondent desires to be present to address the Commission and Director, Respondent may contact Renda Christensen at the Division by calling (801) 530-6750 for information about the date, time, and place of the meeting at which this stipulation will be presented for consideration to the Commission and the Director.
7. If either the Commission or the Director does not approve any part of the stipulated agreement proposed herein, this entire stipulation shall be null and void except as to Paragraph 8, and a hearing shall be scheduled for this matter.
8. Should this stipulation be nullified and the matter proceed to hearing, Respondent waives any claim Respondent may have with regard to the Commission and Director by virtue of their:
 - a. having reviewed this stipulation;
 - b. having heard any statement made by investigative staff or any statement made by Respondent; and
 - c. having decided the stipulation shall be null and void.

This waiver shall survive any nullification of this stipulation.

9. Respondent acknowledges that upon approval by the Commission and the Director, this stipulation shall be made a part of the attached final order, and shall be the final compromise and settlement of this matter, and is not subject to reconsideration,

renegotiation, modification, appeal, or rehearing.

10. Respondent affirms that Respondent enters into this stipulation voluntarily.
11. Respondent affirms that the only promises, agreements, or understandings the Respondent has obtained from the Division or from any member, officer, agent, or representative of the Division regarding this stipulation are contained herein.
12. Respondent acknowledges that Respondent has been informed of Respondent's right to be represented by legal counsel and that if Respondent has waived this right, Respondent has either sought the advice of an attorney or has voluntarily chosen not to do so.
13. Respondent admits that, on July 7, 2010, Respondent pleaded guilty in case number 105600367 (North Logan, Utah Justice Court) to two criminal charges as follows:
 - a) Operating vehicle without insurance, a class B misdemeanor.
 - b) Drive on suspension, a class C misdemeanor.
14. Respondent admits that he did not report his convictions to the Division within ten business days of July 7, 2010.
15. Respondent admits that his actions as outlined above constitute a violation of Utah Code Ann. § 61-2f 301(1)(a)(i): "A licensee shall notify the division ... by sending the division a signed statement within 10 business days of a conviction of a felony, class A misdemeanor, or class B misdemeanor[.]"
16. Respondent admits that, in the renewal application he submitted to the Division on September 20, 2011, he did not disclose his July 7, 2010 convictions in response to the application question requiring applicants to disclose any guilty plea to a class B misdemeanor. In fact, he affirmatively stated that the criminal matter for which his license was previously placed on probation had been resolved and that "there are no new charges or offenses".

17. Respondent admits that his failure to disclose his July 7, 2010 convictions constitutes a misrepresentation on an application for renewal, which constitutes unprofessional conduct and grounds for discipline pursuant to Utah Administrative Code § R162-2f-401b(3): "An individual licensee may not make a misrepresentation in an application for license renewal[.]"

18. As full settlement of all of the issues raised in this stipulation, Respondent agrees as follows:

- a) Respondent's license shall be placed on probation for the term of the license.
- b) Respondent shall pay a civil penalty of \$500 to the Division within 60 days of the date on which this stipulated order is approved by the Commission.
- c) If Respondent fails to comply in full with the terms of this stipulated order by the deadline stated, Respondent's license shall immediately and without further notice be suspended pursuant to Utah Code Ann. § 61-2f-404(1)(b) (2010) until such time as Respondent complies in full with the terms of this order.

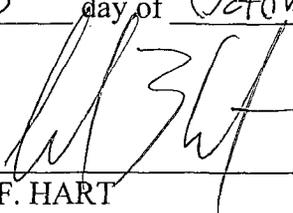
19. This document and all other documents incorporated herein by reference constitute the entire agreement between the parties herein. This stipulated agreement supersedes and cancels any and all prior negotiations, representations, understandings, or agreements between the parties. There are no verbal agreements that modify, interpret, construe, or affect this agreement.

20. Respondent acknowledges that this stipulation does not foreclose the possibility that Respondent may be prosecuted criminally or investigated by other government agencies on the basis of the facts herein admitted.

21. Respondent acknowledges that this stipulation and order, once adopted, will be classified as a public document and will be provided to the public. Respondent acknowledges that

the Division may inform other state and federal agencies of any action taken on the Respondent's license and the terms of this stipulation and order.

Dated this 3 day of October, 2011.



CARL F. HART
RESPONDENT

Dated this 3rd day of October, 2011.



MARK FAGERGREN
DIRECTOR OF LICENSING & EDUCATION
DIVISION OF REAL ESTATE

ORDER

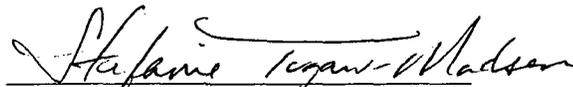
The Commission and the Director approve and adopt the foregoing stipulation of the parties. Based upon the foregoing stipulation and for good cause appearing, the Commission and the Director order that, in lieu of the filing of a complaint and the holding of a hearing:

1. Respondent's license shall be placed on probation for the term of the license.
2. Respondent shall pay a civil penalty of \$500 to the Division within 60 days of the date on which this stipulated order is approved by the Commission.
3. If Respondent fails to comply in full with the terms of this stipulated order by the deadline stated, Respondent's license shall immediately and without further notice be suspended pursuant to Utah Code Ann. § 61-2f-404(1)(b) (2010) until such time as Respondent complies in full with the terms of this order.

This order shall be effective on the signature date below.

Dated this 19 day of October, 2011.

UTAH REAL ESTATE COMMISSION


STEFANIE TUGAW-MADSEN, CHAIR


H. THAYNE HOUSTON, VICE CHAIR


GARY R. HANCOCK


H. BLAINE WALKER


KAY R. ASHTON

The undersigned concurs with the foregoing order this 19 day of October, 2011.


JONATHAN C. STEWART, DIRECTOR
DIVISION OF REAL ESTATE