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FILED

AUG 04 2016

BUREAU OF REAL ESTATE

By R. P. [Signature]

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BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of

SALIM KABIR,

Respondent.

No. H-37824 LA

ORDER GRANTING REMOVAL OF RESTRICTIONS ON LICENSE

On June 21, 2012, in case No. H-37824 LA, a Decision was rendered herein revoking the real estate broker license of Respondent effective July 27, 2012, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on July 27, 2012, and Respondent has held a restricted license since that time.

On October 24, 2014, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate broker license.

I have considered Respondent's petition and the evidence submitted in support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate broker license and that it would not be against the public interest to issue said license to Respondent.

1 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for the
2 removal of restrictions attaching to Respondent's real estate broker license is granted and that a
3 real estate broker license be issued to Respondent if Respondent satisfies the following
4 requirements:

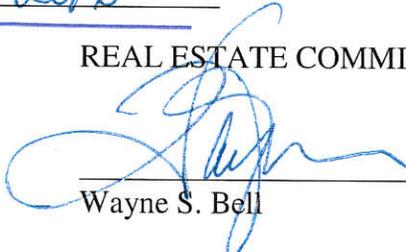
5 1. Submits a completed application and pays the fee for a real estate broker
6 license within the 12 month period following the date of this Order; and

7 2. Submits proof that Respondent has completed the continuing education
8 requirements for renewal of the license sought. The continuing education courses must be
9 completed either (i) within the 12 month period preceding the filing of the completed
10 application, or (ii) within the 12 month period following the date of this Order.

11 This Order shall become effective immediately.

12 DATED: 7/29/2016

13 REAL ESTATE COMMISSIONER

14 
15 _____
16 Wayne S. Bell

1 ELLIOTT MAC LENNAN, Counsel (SBN 66674)
2 Department of Real Estate
3 320 W. 4TH Street, Suite 350
4 Los Angeles, CA 90013-1105

5 Telephone: (213) 576-6982 (Office)
6 -or- (213) 576-6911 (Direct)

FILED

JUN 28 2012

DEPARTMENT OF REAL ESTATE
BY: [Signature]

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

10 * * *

11 In the Matter of the Accusation of)	No. H-37824 LA
)	
12 EINSTEIN MORTGAGE AND REALTY INC.)	<u>STIPULATION</u>
13 doing business as Einstein Realty; and)	<u>AND</u>
14 SALIM KABIR, individually and as designated)	<u>AGREEMENT</u>
15 officer of Einstein Mortgage and Realty Inc.,)	
)	
16 Respondents.)	

17 It is hereby stipulated by and between Respondents EINSTEIN MORTGAGE
18 AND REALTY INC. and SALIM KABIR, individually and as designated officer of Einstein
19 Mortgage and Realty Inc., (sometimes collectively referred to as "Respondents"), represented by
20 Steve Vondran, Esq. and the Complainant, acting by and through Elliott Mac Lennan, Counsel
21 for the Department of Real Estate, as follows for the purpose of settling and disposing of the
22 Accusation filed on February 1, 2012, in this matter:

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

1 2. Respondents have received, read and understand 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. Respondents timely filed a Notice of Defense pursuant to Section 11506 of the
5 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
6 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents
7 acknowledge that they understand that by withdrawing said Notice of Defense they thereby waive
8 their right to require the Commissioner to prove the allegations in the Accusation at a contested
9 hearing held in accordance with the provisions of the APA and that they will waive other rights
10 afforded to them in connection with the hearing such as the right to present evidence in their
11 defense 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,
14 but to remain silent and understand that, as a result thereof, these factual allegations, without
15 being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to
16 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove
17 said factual allegations.

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

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

1 II.

2 The conduct of SALIM KABIR, as described in Paragraph 4, above, constitutes a
3 failure to keep Einstein Mortgage and Realty Inc. in compliance with the Real Estate Law during
4 the time that he was the officer designated by a corporate broker licensee in violation of Section
5 10159.2 of the Code. This conduct is a basis for the suspension or revocation of Respondent's
6 license pursuant to Code Sections 10177(d), 10177(g) and 10177(h).

7
8 ORDER

9 WHEREFORE, THE FOLLOWING ORDER is hereby made:

10 I.

11 All licenses and licensing rights of Respondents EINSTEIN MORTGAGE AND
12 REALTY INC. and SALIM KABIR, under the Real Estate Law are revoked; provided, however,
13 restricted real estate broker licenses shall be issued to said Respondents, pursuant to Section
14 10156.5 of the Business and Professions Code if Respondents:

15 (A) Make application thereof and pays to the Department of Real Estate the
16 appropriate fee for the restricted license within ninety (90) days from the effective date of this

17 Decision.

18 (B) Respondent SALIM KABIR shall, prior to and as a condition of the issuance
19 of the restricted license, submit proof satisfactory to the Commissioner of having taken and
20 successfully completed the continuing education course on trust fund accounting and handling
21 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions
22 Code. Proof of satisfaction of this requirement includes evidence that Respondent has
23 successfully completed the trust fund account and handling continuing education course within
24 120 days prior to the effective date of the Decision in this matter.

25 The restricted licenses issued to Respondents shall be subject to all of the
26 provisions of Section 10156.7 of the Business and Professions Code and to the followings
27 limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

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

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

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

13 4. Respondent SALIM KABIR shall within six (6) months from the effective date
14 of the restricted license, take and pass the Professional Responsibility Examination administered
15 by the Department including the payment of the appropriate examination fee. If Respondent fails
16 to satisfy this condition, the Commissioner may order suspension of the restricted license until
17 respondent passes the examination.

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

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27 ////

1 The Commissioner may suspend the license of Respondents pending a hearing
2 held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely
3 made as provided for herein, or as provided for in a subsequent agreement between the
4 Respondents and the Commissioner. The suspension shall remain in effect until payment is
5 made in full or until a Respondent enters into an agreement satisfactory to the Commissioner to
6 provide for payment, or until a decision providing otherwise is adopted following a hearing held
7 pursuant to this condition.

8
9
10 DATED: 4-10-12

ELM
11 ELLIOTT MAC LENNAN, Counsel for
12 the Department of Real Estate

13 * * *

14 EXECUTION OF THE STIPULATION

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

23 FACSIMILE

24 Respondents can signify acceptance and approval of the terms and conditions of
25 this Stipulation by faxing a copy of its signature page, as actually signed by Respondents, to the
26 Department at the following facsimile number: Elliott Mac Lennan at (213) 576-6917.
27 Respondents agree, acknowledge and understand that by electronically sending to the Department

1 a fax copy of Respondents' actual signature as they appear on the Stipulation, that receipt of the
2 faxed copy by the Department shall be as binding on Respondents as if the Department had
3 received the original signed Stipulation.
4

5
6 DATED: 5/14/12
7

Salim Kabir
EINSTEIN MORTGAGE AND REALTY INC.,
BY: SALIM KABIR,
Respondent
8
9

10
11 DATED: 5/14/12
12

Salim Kabir
SALIM KABIR, individually and as designated
officer of Einstein Mortgage and Realty Inc.,
Respondent
13
14

15
16 DATED: 5/25/12
17

Steve Vondran
STEVE VONDRAN, ESQ.
Attorney for Respondents
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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
Respondents EINSTEIN MORTGAGE AND REALTY INC. and SALIM KABIR, individually
and as designated officer of Einstein Mortgage and Realty Inc. and shall become effective at 12
o'clock noon on July 27, 2012.

IT IS SO ORDERED June 21, 2012.

REAL ESTATE COMMISSIONER

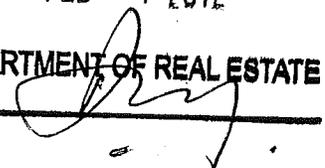

By WAYNE S. BELL
Chief Counsel

1 ELLIOTT MACLENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

FILED

FEB - 1 2012

DEPARTMENT OF REAL ESTATE
BY: 

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

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11
12 In the Matter of the Accusation of)
13)
14 EINSTEIN MORTGAGE AND REALTY INC.) No. H- 37824 LA
15 doing business as Einstein Realty; and)
16 SALIM KABIR, individually and as designated)
17 officer of Einstein Mortgage and Realty Inc.) ACCUSATION
18 Respondents.)

19 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State
20 of California, for cause of Accusation against EINSTEIN MORTGAGE AND REALTY INC.
21 doing business as Einstein Realty, and SALIM KABIR, alleges as follows:

22 1.

23 The Complainant, Maria Suarez, acting in her official capacity, makes this
24 Accusation.

25 2.

26 All references to the "Code" are to the California Business and Professions Code
27 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

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3.

License Status

A. EINSTEIN MORTGAGE AND REALTY INC. (EMRI). At all times mentioned, Respondent EMRI was licensed or had license rights issued by the Department of Real Estate ("Department") as a real estate broker. On July 26, 2005, EMRI was originally licensed as a corporate real estate broker. Respondent EMRI was authorized to act by and through Respondent SALIM KABIR as EMRI's broker designated pursuant to Code Sections 10159.2 and 10211 to be responsible for ensuring compliance with the Real Estate Law.

B. SALIM KABIR. At all times mentioned, Respondent SALIM KABIR was licensed or had license rights issued by the Department as a real estate broker. On May 24, 2005, KABIR was originally licensed as a real estate broker. On July 26, 2005, became the designated officer of EMRI.

Brokerage

4.

At all times mentioned, in the City of Corona, County of Los Angeles, EMRI and KABIR acted as real estate brokers conducting licensed activities within the meaning of Code Section 10131(a). Respondents engaged in the business of a residential resale brokerage. Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker, including the solicitation for listings of and the negotiation of the sale of real property as the agent of others.

FIRST CAUSE OF ACCUSATION

(Audit)

5.

On August 17, 2011, the Department completed an audit examination of the books and records of EMRI pertaining to the residential resale and property management activities described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on January 1, 2009 and ending on April 30, 2011.

1 (b)(1)Used the fictitious names of "Coast Property Management", "Coast Property
2 Management Group and "Coast Property Management Group LLC" to conduct licensed activities
3 including a property management brokerage, without first obtaining from the Department a
4 license bearing said fictitious business name, in violation of Code Section 10159.5 and
5 Regulation 2731.

6 (b)(2) Conducted property management activities at 2601 Del Rosa Ave., #200,
7 San Bernardino, California, prior to obtaining branch office licenses from the Department, in
8 violation of Code Section 10163 and Regulation 2715.

9 (c) Failed to maintain an accurate and complete control record in the form of a
10 columnar record in chronological order of all trusts funds received and disbursed by the property
11 management activity, in violation of Code Section 10145 and Regulation 2831.
12

13 (d) Failed to perform a monthly reconciliation of the balance of all separate
14 beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all
15 trust funds received and disbursed by the escrow trust account, in violation of Code Section
16 10145 and Regulation 2831.2.
17

18 (e) T/A 1 and T/A 2 were not in the name of the broker as trustee at a bank or
19 other financial institution, nor designated as a trust account, in violation of Code Section 10145
20 of the Code and Regulation 2832(a).
21

22 (f)(1) Permitted four unlicensed and unbonded persons, to wit, Vickie Oppelt,
23 Scott Oppelt, Karrie Daugherty and Erika Flores to be an authorized signatories on trust accounts
24 T/A 1 and T/A 1, into which were deposited trust funds for buyers and sellers, in violation of
25 Code Section 10145 and Regulation 2834(a); and
26

27 ///

1 - (f)(2) KABIR was neither a signatory on T/A 1 nor T/A 2, in violation of Code
2 Section 2834(b).

3 (g) KABIR had no system in place for regularly monitoring EMRI's compliance
4 with the Real Estate Law especially in regard to establishing policies to review and handle (1)
5 trust funding handling procedures; and (2) unlicensed persons, to wit, Vickie Oppelt and Scott
6 Oppelt performing activities requiring a real estate license, in violation of Code Sections 10159.2
7 and 10177(h) and Regulation 2725.

8 (h) Failed to retain all records of EMRI's activity during the in period requiring a
9 real estate broker license, including the consolidated general ledger of T/A 2, cancelled checks
10 for T/A 2 and the management agreement for the real property located a 1107 E. 35th Street, in
11 violation of Code Section 10148.

12 (i) Failed to retain the salesperson license certificate for Michael Mueting, in
13 violation of Code Section 10160 and Regulation 2753.

14 Disciplinary Statutes and Regulations

15 8.

16 The conduct of Respondents EMRI and KABIR, as alleged and described in
17 Paragraph 7, above, violated the Code and the Regulations as set forth below:

18 PARAGRAPH

19 PROVISIONS VIOLATED

20 7(a)

21 Code Section 10145 and Regulation 2832.1

22 7(b)

23 Code Section 10159.5 and Regulation 2731 and
24 Code Section 10163 and Regulation 2715
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7(c) Code Section 10145 and Regulation 2831

7(d) Code Section 10145 and Regulation 2831.2

7(e) Code Section 10145 and Regulation 2832(a)

7(f) Code Section 10145 and Regulation 2834

7(g) Code Sections 10159.2, 10177(h) and Regulation 2725 (KABIR)

7(h) Code Section 10148

7(i) Code Section 10160 and Regulation 2753

The foregoing violations constitute cause for discipline of the real estate license and license rights of Respondents EMRI and KABIR under the provisions of Code Sections 10177(d), and/or 10177(g).

SECOND CAUSE OF ACCUSATION
(Employment/Compensation of Unlicensed Persons)

9.

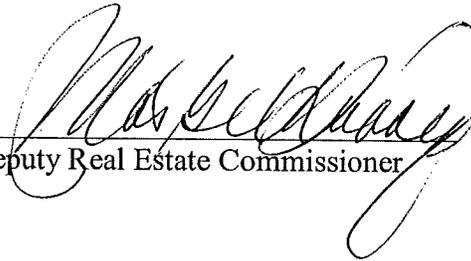
KABIR employed and compensated Vickie Oppelt and Scott Oppelt, as property management agents who KABIR knew were not licensed by the Department as a real estate broker or as a real estate salesperson employed by a real estate broker, for performing acts for which a real estate license is required, including conducting an unlicensed property management brokerage operating under the names of "Coast Property Management", "Coast Property Management Group and "Coast Property Management Group LLC", in violation of Code Section 10137.

1 while Respondent KABIR himself was not a signatory, and is cause for discipline of the real
2 estate license and license right of Respondent KABIR, pursuant to the provisions of Code
3 Sections 10177(d), 10177(g) and 10177(h).

4
5 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
6 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
7 action against the license and license rights of Respondents EINSTEIN MORTGAGE AND
8 REALTY INC. and SALIM KABIR, under the Real Estate Law (Part 1 of vision 4 of the
9 Business and Professions Code) and for such other and further relief as may be proper under
10 other applicable provisions of law including but not limited to costs of audit and restitution.

11 Dated at Los Angeles, California

12
13 this 4 January 2012.

14 
15 Deputy Real Estate Commissioner

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23 cc: Einstein Mortgage and Realty Inc.
24 c/o Salim Kabir D.O.
25 Maria Suarez
26 Sacto
27 Audits – Lisa Kwong