

1 BUREAU OF REAL ESTATE
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3 Sacramento, CA 95813-7007
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FILED

SEP 28 2015

BUREAU OF REAL ESTATE

By K. Contreras

9 BEFORE THE
10 BUREAU OF REAL ESTATE
11 STATE OF CALIFORNIA

12 * * *

13 In the Matter of the Accusation of)

14 THOMAS KENNETH MOULDING,)

15 Respondent.)
16 _____)

NO. H-2890 FR

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

17 It is hereby stipulated by and between Respondent THOMAS KENNETH
18 MOULDING ("Respondent") and his attorney, James J. Kaufman, and the Complainant, acting
19 by and through John W. Barron, Counsel for the Bureau of Real Estate ("the Bureau"), as follows
20 for the purpose of settling and disposing of the Accusation filed on June 11, 2014, in this matter:

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

26 2. Respondent has received, read and understands the Statement to Respondent,
27 the Discovery Provisions of the APA, and the Accusation filed by the Bureau in this proceeding.

1 3. A Notice of Defense was filed on January 9, 2015, by Respondent, pursuant to
2 Section 11505 of the Government Code for the purpose of requesting a hearing on the
3 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice
4 of Defense. Respondent acknowledges that he understands that by withdrawing said Notice of
5 Defense, he will thereby waive his right to require the Real Estate Commissioner
6 ("Commissioner") to prove the allegations in the Accusation at a contested hearing held in
7 accordance with the provisions of the APA and that he will waive other rights afforded to him
8 in connection with the hearing such as the right to present evidence in defense of the
9 allegations in the Accusation and the right to cross-examine witnesses.

10 4. This Stipulation and Agreement in Settlement and Order is based on the
11 factual allegations contained in the Accusation. In the interests of expedience and economy,
12 Respondent chooses not to contest these allegations at hearing, but rather understands that, as a
13 result thereof, these allegations, without being admitted or denied, will serve as a prima facie
14 basis for the disciplinary action stipulated to herein. The Commissioner shall not be required
15 to provide further evidence to prove said factual allegations.

16 5. This Stipulation and Respondent's decision not to contest the Accusation are
17 made for the purpose of reaching an agreed disposition of this proceeding and are expressly
18 limited to this proceeding and any other proceeding or case in which the Bureau, the state or
19 federal government, an agency of this state, or an agency of another state is involved.

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

1 license of Respondent occurs within two (2) years from the effective date of the decision in this
2 matter.

3 c. If Respondent fails to pay the monetary penalty in accordance with the
4 terms and conditions of the Decision, the Commissioner shall, without a hearing, order the
5 immediate execution of all or any part of the stayed suspension, in which event, Respondent shall
6 not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Bureau
7 under the terms of this decision.

8 d. If Respondent pays the monetary penalty, and if no further cause for
9 disciplinary action against the real estate license of Respondent occurs within two (2) years from
10 the effective date of the Decision herein, then the stay hereby granted shall become permanent.

11 2. The remaining thirty (30) days of said suspension shall be stayed for two
12 (2) years upon the following terms and conditions:

13 a. Respondent shall obey all laws, rules and regulations governing the
14 rights, duties and responsibilities of a real estate licensee in the State of
15 California; and

16 b. That no final subsequent determination be made, after hearing or upon
17 stipulation, that cause for disciplinary action occurred within two (2)
18 years from the effective date of this Order. Should such a
19 determination be made, the Commissioner shall, in his discretion,
20 vacate and set aside the stay order and re-impose all or a portion of the
21 stayed suspension. Should no such determination be made, the stay
22 imposed herein shall become permanent.

23 3. Respondent shall, within six (6) months from the effective date of this
24 Order, take and pass the Professional Responsibility Examination administered by the Bureau,
25 including the payment of the appropriate examination fee. If Respondent fails to satisfy this
26 condition, Respondent's real estate license shall automatically be suspended until Respondent
27 passes the examination.

1 and to present evidence in defense and mitigation of the charges.
2

3 8-27-2015


4 DATED


5 THOMAS KENNETH MOULDING
6 Respondent

7 *I have reviewed the Stipulation and Agreement as to form and content and*
8 *have advised my client accordingly.*

9
10 8-31-2015

11 DATED


12 JAMES J. KAUFMAN
13 Attorney for Respondent

14 * * *

15 The foregoing Stipulation and Agreement in Settlement and Order is hereby
16 adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on

17 OCT 19 2015

18 IT IS SO ORDERED SEPTEMBER 25, 2015

19 REAL ESTATE COMMISSIONER


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22 By: JEFFREY MASON
23 Chief Deputy Commissioner
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