

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 137007
3 Sacramento, CA 95813-7007

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FILED

JUN 12 2020

DEPARTMENT OF REAL ESTATE
By R. Kropp

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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12 In the Matter of the Accusation of) DRE No. H-3238 FR
13) H-3248 FR
14 K4 MANAGEMENT, A CALIFORNIA)
15 CORPORATION and)
16 JOHN EDWARD KASHIAN,)
17 Respondents.)
18) STIPULATION AND AGREEMENT
19) IN SETTLEMENT AND ORDER
20 In the Matter of the Order to Desist and Refrain)
21)
22 Against K4 MANAGEMENT, A CALIFORNIA)
23 CORPORATION, JOHN EDWARD KASHIAN)
24 and JENNIFER SCHUH)
25)

26 It is hereby stipulated by and between K4 MANAGEMENT (K4), and JOHN
27 EDWARD KASHIAN (KASHIAN), collectively Respondents, and their counsel Michael
Wilhelm, and the Complainant, acting by and through Richard K. Uno, Counsel for the
Department of Real Estate; as follows for the purpose of settling and disposing of the
Accusation and Order to Desist and Refrain, filed on July 29, 2019.

1. All issues which were to be contested and all evidence which was to be
presented by Complainant and Respondents at a formal hearing on the Accusation, which
hearing was to be held in accordance with the provisions of the Administrative Procedure Act

1 ("APA"), shall instead and in place thereof be submitted solely on the basis of the provisions of
2 this Stipulation and Agreement In Settlement and Order.

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

6 3. Respondents filed a Notice of Defense pursuant to Section 11505 of the
7 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
8 Respondents hereby freely and voluntarily withdraw said Notices of Defense. Respondents
9 acknowledge that they understand that by withdrawing said Notices of Defense they will thereby
10 waive their right to require the Commissioner to prove the allegations in the Accusation at a
11 contested hearing held in accordance with the provisions of the APA and that they will waive
12 other rights afforded to them in connection with the hearing such as the right to present
13 evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

14 4. This Stipulation and Agreement is based on the factual allegations
15 contained in the Accusation. In the interest of expediency and economy, Respondents choose not
16 to contest these factual allegations, but to remain silent and understand that, as a result thereof,
17 these factual statements will serve as a prima facie basis for the "Determination of Issues" and
18 "Order" set forth below. The Commissioner shall not be required to provide further evidence to
19 prove such allegations.

20 5. Respondents filed a Notice for the purpose of requesting a hearing on the
21 allegations in the D&R. Respondents hereby freely and voluntarily withdraw said Notice upon
22 the condition that this Stipulation and Agreement, is adopted by the Commissioner. Respondents
23 acknowledge that they understand that by withdrawing said Notice they will thereby waive their
24 rights to require the Commissioner to prove the allegations in the D&R at a contested hearing
25 held in accordance with the provisions of the APA, and that they will waive other rights afforded
26 to them in connection with the hearing such as the right to present evidence in defense of the
27 allegations in the D&R and the right to cross-examine witnesses.

1 6. In the event that the Commissioner in her discretion does not adopt this
2 Stipulation and Agreement, this Stipulation and Agreement regarding the D & R, shall be void
3 and of no effect, and Respondent shall retain the right to a hearing and proceeding on the D&R
4 under all the provisions of the APA and shall not be bound by any admission or waiver made
5 herein.

6 7. It is understood by the parties that the Real Estate Commissioner may adopt
7 the Stipulation and Agreement In Settlement and Order as her Decision in this matter, thereby
8 imposing the penalty and sanctions on Respondents' real estate licenses and license rights as set
9 forth in the below "Order". In the event that the Commissioner in her discretion does not adopt
10 the Stipulation and Agreement In Settlement and Order, it shall be void and of no effect, and
11 Respondents shall retain the rights to a hearing and proceeding on the Accusation under all the
12 provisions of the APA and shall not be bound by any admission or waiver made herein.

13 8. The Order or any subsequent Order of the Real Estate Commissioner made
14 pursuant to this Stipulation and Agreement In Settlement and Order shall not constitute an
15 estoppel, merger or bar to any further administrative or civil proceedings by the Department of
16 Real Estate with respect to any matters which were not specifically alleged to be causes for
17 accusation in this proceeding.

18 9. Respondents understand that by agreeing to this Stipulation, Respondents agree
19 to pay, pursuant to Section 10148 of the Code, the cost of the audit which resulted in the
20 violation(s) found in the Determination of Issues. The amount of such costs is \$1,753.13.

21 10. Respondents further understand that by agreeing to this Stipulation, the
22 findings set forth below in the "Determination of Issues" become final, and that the
23 Commissioner may charge said Respondents for the costs of any audit conducted pursuant to
24 Section 10148 of the Code to determine if the violations have been corrected. The maximum
25 cost of said audit shall not exceed \$2,191.41.

26 11. Respondents understand that by agreeing to this Stipulation, Respondents
27 agree to pay, pursuant to Section 10106 of the Business and Professions Code (Code), the cost of

1 the investigation which resulted in the determination that Respondents committed the violations
2 found in the Determination of Issues. The total amount of said costs is \$1,402.50.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations, admissions and waivers, and solely for
5 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and
6 agreed that the acts and/or omissions of Respondents, as described in the Accusation, constitute
7 grounds for the suspension or revocation of the licenses and license rights of K4 under the
8 provisions of Sections 10177(g) of the Business and Professions Code (the Code), and constitute
9 grounds for the suspension or revocation of the licenses and license rights of KASHIAN under
10 the provisions of Section 10177(g) of the Code.

11 ORDER

12 A. K4 MANAGEMENT

13 1. The corporate real estate broker license and license rights of Respondent K4
14 MANAGEMENT (K4), under the Real Estate Law are suspended for a period of sixty (60)
15 days from the effective date of this Order; provided, however, that if K4 petitions, thirty (30)
16 days of said suspension shall be stayed upon condition that:

17 a. K4 pays a monetary penalty pursuant to Section 10175.2 of the Business and
18 Professions Code at the rate of \$100.00 per day for thirty (30) days of the suspension for a total
19 monetary penalty of \$3,000.00.

20 b. Said payment shall be in the form of a cashier's check or certified check made
21 payable to the Department of Real Estate. Said check must be received by the Department of
22 Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the
23 effective date of this Order.

24 c. No further cause for disciplinary action against the real estate license of K4
25 occurs within two (2) years from the effective date of the Decision in this matter.

26 d. If K4 fails to pay the monetary penalty in accordance with the terms and
27 conditions of the Decision, the Commissioner may, without a hearing, order the immediate

1 execution of all or any part of the stayed suspension in which event K4 shall not be entitled to
2 any repayment nor credit, prorated or otherwise, for money paid to the Department under the
3 terms of this Decision.

4 e. If K4 pays the monetary penalty, and if no further cause for disciplinary action
5 against the real estate license of K4 occurs within two (2) years from the effective date of the
6 Decision, the stay hereby granted shall become permanent.

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

9 a. K4 shall obey all laws, rules and regulations governing the rights, duties
10 and responsibilities of a real estate licensee in the State of California and;

11 b. That no final subsequent determination be made, after hearing or upon
12 stipulation, that cause for disciplinary action occurred within two (2) years from the effective
13 date of this Order. Should such a determination be made, the Commissioner may, in her
14 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
15 suspension. Should no such determination be made, the stay imposed herein shall become
16 permanent.

17 B. JOHN EDWARD KASHIAN

18 1. The real estate broker license and license rights of Respondent KASHIAN
19 under the Real Estate Law are suspended for a period of sixty (60) days from the effective date
20 of this Order; provided, however, that if KASHIAN petitions, thirty (30) days of said
21 suspension shall be stayed upon condition that:

22 a. KASHIAN pays a monetary penalty pursuant to Section 10175.2 of the
23 Business and Professions Code at the rate of \$100.00 per day for thirty (30) days of the
24 suspension for a total monetary penalty of \$3,000.00.

25 b. Said payment shall be in the form of a cashier's check or certified check made
26 payable to the Department of Real Estate. Said check must be delivered to the Department of
27

1 Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the
2 effective date of this Order.

3 c. No further cause for disciplinary action against the real estate license of
4 KASHIAN occurs within two (2) years from the effective date of the Decision in this matter.

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

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

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

15 a. KASHIAN shall obey all laws, rules and regulations governing the rights,
16 duties and responsibilities of a real estate licensee in the State of California, and,

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

23 K4 MANAGEMENT AND JOHN EDWARD KASHIAN

24 1. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
25 \$1,753.13 for the Commissioner's cost of the audit which led to this disciplinary action.
26 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the
27 Commissioner. Payment of audit costs should not be made until Respondent receives the

1 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
2 Respondent's real estate licenses shall automatically be suspended until payment is made in full,
3 or until a decision providing otherwise is adopted following a hearing held pursuant to this
4 condition.

5 2. Pursuant to Section 10148 of the Code, Respondent shall pay the
6 Commissioner's reasonable cost, not to exceed \$2,191.14, for an audit to determine if
7 Respondent has corrected the violation(s) found in the "Determination of Issues". In calculating
8 the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated
9 average hourly salary for all persons performing audits of real estate brokers, and shall include an
10 allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost
11 within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of the
12 audit costs should not be made until Respondent receives the invoice. If Respondent fails to
13 satisfy this condition in a timely manner as provided for herein, Respondent's real estate licenses
14 shall automatically be suspended until payment is made in full, or until a decision providing
15 otherwise is adopted following a hearing held pursuant to this condition.

16 3. All licenses and licensing rights of Respondents are indefinitely
17 suspended unless or until Respondent pays the sum of \$1,402.50 for the Commissioner's
18 reasonable cost of the investigation and enforcement which led to this disciplinary action. Said
19 payment shall be in the form of a cashier's check made payable to the Department of Real
20 Estate. The investigative and enforcement costs must be delivered to the Department of Real
21 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective
22 date of this Stipulation.

23 4. The Order to Desist and Refrain, Case No. 3248 FR is hereby dismissed.
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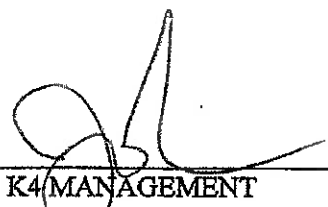
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 2/11/20
 DATED

 RICHARD K. UNO, Counsel
 DEPARTMENT OF REAL ESTATE

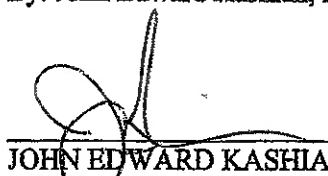
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I have read the Stipulation and Agreement in Settlement and Order and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including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

2/7/2020
DATED


K4 MANAGEMENT
Respondent
By: John Edward Kashian, Designated
Officer

2/7/2020
DATED


JOHN EDWARD KASHIAN
Respondent

I have reviewed this Stipulation and Agreement as to form and content and have advised my clients accordingly.

Feb 7, 2020
DATED

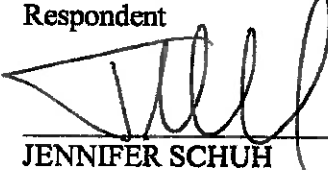

MICHAEL WILHELM

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DATED
Officer
K4 MANAGEMENT
Respondent
By: John Edward Kashian, Designated

DATED
2/10/20

DATED
JOHN EDWARD KASHIAN
Respondent


JENNIFER SCHUH
Respondent

I have reviewed this Stipulation and Agreement as to form and content and have advised my clients accordingly.

DATED
MICHAEL WILHELM
Attorney for Respondents

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The foregoing Stipulation and Agreement In Settlement and Order is hereby adopted by the Real Estate Commissioner as her Decision and Order and shall become effective at 12 o'clock noon on JUL 03 2020.

IT IS SO ORDERED 4/16/20.

SANDRA KNAU
ACTING REAL ESTATE COMMISSIONER

