

**FILED**

APR 19 2016

BUREAU OF REAL ESTATE

By S. Black

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BEFORE THE  
BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

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|                                    |   |                    |
|------------------------------------|---|--------------------|
| In the Matter of the Accusation of | ) |                    |
|                                    | ) |                    |
| MICHAEL ANDREW KANE,               | ) | No. H-6186 SAC     |
|                                    | ) |                    |
| Respondent.                        | ) | OAH No. 2014120555 |
|                                    | ) |                    |

STIPULATION AND AGREEMENT AND DECISION AFTER REJECTION

The California Bureau of Real Estate (Bureau) filed an Accusation against MICHAEL ANDREW KANE (Respondent), on November 26, 2014. On December 15, 2015, a hearing was held and evidence was received, the record was closed, and the matter was submitted.

On January 20, 2016, the Proposed Decision of the Administrative Law Judge was issued revoking Respondent's real estate broker license, with the right to apply for a restricted real estate broker license.

On February 12, 2016, the Real Estate Commissioner (Commissioner) rejected the Proposed Decision of January 20, 2016.

The parties wish to settle this matter without further proceedings.

1 IT IS HEREBY STIPULATED by and between Respondent, his counsel Paul  
2 Chan, and the Complainant, acting by and through Richard K. Uno, Counsel for the Bureau, as  
3 follows for the purpose of settling and disposing of the Accusation filed by Complainant.

4 1. It is understood by the parties that the Commissioner may adopt the  
5 Stipulation and Agreement as his Decision (Stipulation) in this matter, thereby imposing the  
6 penalty and sanctions on Respondent's application for a real estate license as set forth in the  
7 "Decision and Order". In the event the Commissioner in his discretion does not adopt the  
8 Stipulation, the Stipulation shall be void and of no effect; the Commissioner will proceed  
9 pursuant to Section 11517(c)(2)(E) of the California Government Code.

#### 10 DETERMINATION OF ISSUES

11 By reason of the foregoing stipulations, admissions and waivers, and solely for  
12 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed  
13 that the acts and/or omissions of Respondent, as described in the Accusation, constitute grounds  
14 for the suspension or revocation of the licenses and license rights of Respondent under the  
15 provisions of Sections 490(a) and 10177(b) of the Code.

#### 16 ORDER

17 1. All real estate license(s) and licensing rights of Respondent are revoked.  
18 A restricted real estate broker license shall issue subject Respondent pursuant to Section 10156.6  
19 of the Code if within ninety (90) days of the effective date of the Order, Respondent makes  
20 application therefore and pays to the Bureau the appropriate fee for said license. The restricted  
21 license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the  
22 Code and to the following limitations, conditions, and restrictions imposed under authority of  
23 Section 10156.6 of said Code:

24 a. The restricted license issued to Respondent may be suspended prior to  
25 hearing by order of the Commissioner in the event of his conviction or plea of nolo contendere to  
26 a crime that is substantially related to his fitness or capacity as a real estate licensee.

27 b. The restricted license issued to Respondent may be suspended prior to

1 hearing by order of the Commissioner on evidence satisfactory to the Commissioner that he has  
2 violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of  
3 the Commissioner or conditions attaching to the restricted license.

4 c. Respondent shall not be eligible to apply for the issuance of an  
5 unrestricted real estate license nor the removal of any of the conditions, limitations, or  
6 restrictions attaching to the restricted license until three (3) years have elapsed from the date of  
7 issuance of the restricted license to Respondent.

8 2. The Order or any subsequent Order of the Commissioner made pursuant to  
9 this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or  
10 civil proceedings by the Bureau with respect to any matter which were not specifically alleged to  
11 be causes for the Accusation in this proceeding as admitted or withdrawn.

12 3. Respondent further understands that by agreeing to this Stipulation,  
13 Respondent agrees to pay, pursuant to Section 10106 of the Code, investigative and enforcement  
14 costs which led to this disciplinary action. The amount of said costs is \$1,000.00.

15 4. Respondent shall, within nine (9) months from the effective date of this  
16 Order, present evidence satisfactory to the Commissioner that Respondent has, since the most  
17 recent issuance of an original or renewal real estate license, taken and successfully completed the  
18 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal  
19 of a real estate license. If Respondent fails to satisfy this condition, Respondent's real estate  
20 license shall automatically be suspended until Respondent presents evidence satisfactory to the  
21 Commissioner of having taken and successfully completed the continuing education  
22 requirements. Proof of completion of the continuing education courses must be delivered to the  
23 Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.

24 5. All licenses and licensing rights of Respondent are indefinitely suspended  
25 unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and  
26 successfully completed the continuing education course on trust fund accounting and handling  
27 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of




1 satisfaction of these requirements includes evidence that respondent has successfully completed  
2 the trust fund account and handling continuing education courses, no earlier than 120 days prior  
3 to the effective date of the Order in this matter. Proof of completion of the trust fund accounting  
4 and handling course must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box  
5 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the effective date of  
6 this Order.

7 6. Respondent shall notify the Commissioner in writing within 72 hours of  
8 any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post  
9 Office Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of  
10 Respondent's arrest, the crime for which Respondent was arrested and the name and address of  
11 the arresting law enforcement agency. Respondent's failure to timely file written notice shall  
12 constitute an independent violation of the terms of the restricted license and shall be grounds for  
13 the suspension or revocation of that license.

14 7. All licenses and licensing rights of Respondent are indefinitely suspended  
15 unless or until Respondent pays the sum of \$1,000.00 for the Commissioner's reasonable cost of  
16 the investigation and enforcement which led to this disciplinary action. Said payment shall be in  
17 the form of a cashier's check made payable to the Bureau of Real Estate. The investigative and  
18 enforcement costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box  
19 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision.

21  
22 3/22/16

23 DATED

21  
22   
23 RICHARD K. UNO, Counsel III  
24 BUREAU OF REAL ESTATE

25 \* \* \*

26 I have read the Stipulation and Agreement and Decision After Rejection, and its  
27 terms are understood by me and are agreeable and acceptable to me. I willingly and voluntarily

1 agree to enter into this Stipulation.

2  
3 3/21/2016

4 DATED



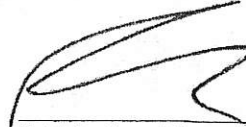
MICHAEL ANDREW KANE  
Respondent

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9 *I have reviewed this Stipulation and Agreement as to form and content and have*  
10 *advised my client accordingly.*

11 3/22/16

12 DATED



13 PAUL CHAN  
14 Attorney For Respondent

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16  
17 DECISION AND ORDER

18 The foregoing Stipulation and Agreement and Decision After Rejection is hereby  
19 adopted by the Real Estate Commissioner as his Decision and Order.

20 This Decision and Order shall become effective at 12 o'clock noon on  
21 MAY 10 2016

22  
23 IT IS SO ORDERED

4/18/2016

24 WAYNE S. BELL  
25 REAL ESTATE COMMISSIONER

