

Cowan - Alog

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

FILED

AUG 20 2020

DEPARTMENT OF REAL ESTATE
By K. Hooper

4 Telephone: (916) 576-8700

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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of:) Case No. H-6902 SAC
12)
13 DANCE HALL INVESTORS, INC.,) STIPULATION AND AGREEMENT
14 WAYNE THOMAS HALL, and) IN SETTLEMENT AND ORDER
15 NEIL PATRICK COWAN)
16 Respondents.)

17 It is hereby stipulated by and between Respondents DANCE HALL
18 INVESTORS, INC. ("DANCE HALL"), acting by and through counsel Shannon B. Jones,
19 WAYNE THOMAS HALL ("WAYNE HALL"), acting by a through counsel Shannon B.
20 Jones, NEIL PATRICK COWAN ("COWAN"), acting by and through counsel Frank M. Buda,
21 and the Complainant, acting by and through Jason D. Lazark, Counsel for the Department of
22 Real Estate ("Department"), as follows for the purpose of settling and disposing of the
23 Accusation filed on December 27, 2019, in this matter:

24 1. All issues which were to be contested and all evidence which was to be
25 presented by Complainant and Respondents DANCE HALL, WAYNE HALL and COWAN
26 (collectively referred to herein as "Respondents") at a formal hearing on the Accusation, which
27 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 ("Stipulation and Agreement").

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

6 3. Respondents filed Notices 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
10 thereby waive their rights to require the Commissioner to prove the allegations in the
11 Accusation at a contested hearing held in accordance with the provisions of the APA and that
12 they will waive other rights afforded to them in connection with the hearing such as the right to
13 present evidence in defense of the allegations in the Accusation and the right to cross-examine
14 witnesses.

15 4. Respondents, pursuant to the limitations set forth below, hereby admit that
16 the factual allegations as set forth in the Accusation filed in this proceeding are true and correct
17 and the Commissioner shall not be required to provide further evidence of such allegations.

18 5. This Stipulation and Agreement is made for the purpose of reaching an
19 agreed disposition of this proceeding and is expressly limited to this proceeding and any other
20 proceeding or case in which the Department, the state or federal government, any agency of
21 this state, or an agency of another state is involved.

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

3 7. The Order or any subsequent Order of the Real Estate Commissioner made
4 pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to
5 any further administrative or civil proceedings by the Department with respect to any matters
6 which were not specifically alleged to be causes for accusation in this proceeding.

7 8. Respondents understand that by agreeing to this Stipulation and Agreement,
8 Respondents agree to be responsible for jointly and severally paying, pursuant to Section 10106
9 of the Business and Professions Code ("the Code"), the costs of the investigation and
10 enforcement of this case which resulted in the determination that Respondents committed the
11 violation(s) found in the Determination of Issues. The amount of such costs is \$2,829.50.

12 DETERMINATION OF ISSUES

13 By reason of the foregoing stipulations, admissions and waivers, and solely for
14 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed
15 that the following determination of issues shall be made:

16 I.

17 The acts and omissions of DANCE HALL, as described in the Accusation, are
18 grounds for the suspension or revocation of the licenses and license rights of DANCE HALL
19 under the provisions of Sections 10130, 10137, 10177(d), 10177(g), and 10177(h) of the Code,
20 and Sections 2725 of Title 10, California Code of Regulations of the Regulations ("the
21 Regulations").

22 II.

23 The acts and omissions of WAYNE HALL, as described in the Accusation, are
24 grounds for the suspension or revocation of the licenses and license rights of WAYNE HALL
25 under the provisions of Sections 10159.2, 10177(d), 10177(g), and 10177(h) of the Code, and
26 Sections 2725 of the Regulations.

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1 III.

2 The acts and omissions of COWAN, as described in the Accusation, are grounds
3 for the suspension or revocation of the licenses and license rights of COWAN under the
4 provisions of Sections 10130, 10137, 10177(d), and 10177(g) of the Code.

5 ORDER

6 I. DANCE HALL

7 All licenses and licensing rights of DANCE HALL under the Real Estate Law are
8 suspended for a period of one hundred twenty (120) days from the effective date of this Order;
9 provided, however, that:

10 1. Sixty (60) days of said suspension shall be stayed upon the condition that
11 DANCE HALL petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty
12 pursuant to Section 10175.2 of the Code, at a rate of \$75 for each day of the suspension, for a
13 total monetary penalty of \$4,500.

14 a. Said payment shall be in the form of a cashier's check made payable to
15 the Department of Real Estate. Said check must be delivered to the Department of Real Estate,
16 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
17 Order.

18 b. No further cause for disciplinary action against the real estate license
19 of DANCE HALL occurs within two (2) years from the effective date of the Order in this matter.

20 c. If DANCE HALL fails to pay the monetary penalty in accordance with
21 the terms and conditions of the Decision, the Commissioner may, without a hearing, order the
22 immediate execution of all or any part of the stayed suspension, in which event, DANCE HALL
23 shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the
24 Department under the terms of this decision.

25 d. If DANCE HALL pays the monetary penalty, and if no further cause
26 for disciplinary action against the real estate license of DANCE HALL occurs within two (2)
27 years from the effective date of the Decision herein, then the stay hereby granted shall become

1 permanent.

2 2. The remaining sixty (60) days of said suspension shall also be stayed for two
3 (2) years upon the following terms and conditions:

4 a. DANCE HALL shall obey all laws, rules and regulations governing
5 the rights, duties and responsibilities of a real estate licensee in the State of California, and

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

12 II. WAYNE HALL

13 All licenses and licensing rights of WAYNE HALL under the Real Estate Law
14 are suspended for a period of one hundred twenty (120) days from the effective date of this
15 Order; provided, however, that:

16 1. Sixty (60) days of said suspension shall be stayed upon the condition that
17 WAYNE HALL petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty
18 pursuant to Section 10175.2 of the Code, at a rate of \$75 for each day of the suspension, for a
19 total monetary penalty of \$4,500.

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

24 b. No further cause for disciplinary action against the real estate license
25 of WAYNE HALL occurs within two (2) years from the effective date of the Order in this
26 matter.

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

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

10 2. The remaining sixty (60) days of said suspension shall also be stayed for two
11 (2) years upon the following terms and conditions:

12 a. WAYNE HALL shall obey all laws, rules and regulations governing
13 the rights, duties and responsibilities of a real estate licensee in the State of California, and

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

20 3. WAYNE HALL shall, within six (6) months from the effective date of this
21 Decision and Order, take and pass the Professional Responsibility Examination administered by
22 the Department including the payment of the appropriate examination fee. If WAYNE HALL
23 fails to satisfy this condition, WAYNE HALL'S real estate license shall automatically be
24 suspended until WAYNE HALL passes the examination. In the event that access to the location
25 for taking the Professional Responsibility Examination is closed during normal business hours,
26 the Department shall extend the time for taking and passing the Professional Responsibility
27 Examination by the same amount of time that access to the test location was closed.

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III. COWAN

All licenses and licensing rights of COWAN under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to COWAN pursuant to Section 10156.5 of the Code if COWAN makes application therefore and pays to the Department the appropriate fee for the restricted license within 90 days from the effective date of this Decision.

1. The restricted license issued to COWAN shall be subject to all of the provisions of Section 10156.7 of the Code as to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

(a) The restricted license issued to COWAN shall be suspended prior to hearing by Order of the Commissioner in the event of COWAN's conviction (including by plea of guilty or nolo contendere) to a crime which is substantially related to COWAN's fitness or capacity as a real estate licensee; and,

(b) The restricted license issued to COWAN shall be suspended prior to hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that COWAN has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or conditions attaching to the restricted license.

2. COWAN shall not be eligible to apply for the issuance of an unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions of a restricted license until four (4) years have elapsed from the effective date of this Decision. COWAN shall not be eligible for any unrestricted licenses until all restrictions attaching to the license have been removed.

3. COWAN shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Legal Section at Post Office Box 137007, Sacramento, CA 95813-7007. The letter shall set forth the

1 date of COWAN's arrest, the crime for which COWAN was arrested and the name and address
2 of the arresting law enforcement agency. COWAN's failure to timely file written notice shall
3 constitute an independent violation of the terms of the restricted license and shall be grounds for
4 the suspension or revocation of that license.

5 4. COWAN shall, within nine (9) months from the effective date of this
6 Decision, present evidence satisfactory to the Commissioner that COWAN has, since the most
7 recent issuance of an original or renewal real estate license, taken and successfully completed the
8 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal
9 of a real estate license. If COWAN fails to satisfy this condition, the Commissioner shall order
10 the suspension of the restricted license until the COWAN presents such evidence. The
11 Commissioner shall afford COWAN the opportunity for hearing pursuant to the APA to present
12 such evidence. Proof of completion of the continuing education courses must be delivered to the
13 Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.

14 5. COWAN shall, within six (6) months from the issuance of the Order, take
15 and pass the Professional Responsibility Examination administered by the Department,
16 including the payment of the appropriate examination fee. All licenses and licensing rights of
17 COWAN shall be indefinitely suspended unless or until COWAN passes the examination. In
18 the event that access to the location for taking the Professional Responsibility Examination is
19 closed during normal business hours, the Department shall extend the time for taking and
20 passing the Professional Responsibility Examination by the same amount of time that access to
21 the test location was closed.

22 **IV. AS TO ALL RESPONDENTS JOINTLY AND SEVERALLY**

23 1. All licenses and licensing rights of Respondents, are indefinitely suspended
24 unless or until Respondents, jointly and severally, pay the sum of \$2,829.50 for the
25 Commissioner's reasonable cost of the investigation and enforcement which led to this
26 disciplinary action. Said payment shall be in the form of a cashier's check or certified check
27 made payable to the Real Estate Fund. The investigation and enforcement costs must be

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

3 6/9/20

4 DATED

JASON D. LAZARK, Counsel
Department of Real Estate

6 * * *

7 Respondents have read the Stipulation and Agreement in Settlement and Order
8 and its terms are understood by Respondents and are agreeable and acceptable to Respondents.
9 Respondents understand that Respondents are waiving rights given to them by the California
10 Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and
11 11513 of the Government Code), and Respondents willingly, intelligently, and voluntarily
12 waive those rights, including the right of requiring the Commissioner to prove the allegations
13 in the Accusation at a hearing at which Respondents would have the right to cross-examine
14 witnesses against them and to present evidence in defense and mitigation of the charges.

15 Respondents and Respondents' attorney further agree to send the original signed
16 Stipulation and Agreement by mail to the following address no later than one (1) week from the
17 date the Stipulation and Agreement is signed by Respondents and Respondents' attorney:
18 Department of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-
19 7007. Respondents and Respondents' attorney understand and agree that if they fail to return the
20 original signed Stipulation and Agreement by the due date, Complainant retains the right to set
21 this matter for hearing.

22 6-9-2020

23 DATED

WAYNE THOMAS HALL,
Chief Executive Officer,
DANCE HALL INVESTORS, INC.

25 6-9-2020

26 DATED

27 WAYNE THOMAS HALL,
Respondent

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DATED

NEIL PATRICK COWAN,
Respondent

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

6/9/2020

DATED

Shannon B. Jones for

SHANNON B. JONES
Attorney for Respondents,
DANCE HALL INVESTORS, INC. and
WAYNE THOMAS HALL

DATED

FRANK M. BUDA
Attorney for Respondent,
NEIL PATRICK COWAN

The foregoing Stipulation and Agreement is hereby adopted as my Decision in
this matter and shall become effective at 12 o'clock noon on _____

IT IS SO ORDERED _____


REAL ESTATE COMMISSIONER

DOUGLAS R. McCAULEY

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06-05-2020

DATED


NEIL PATRICK COWAN,
Respondent


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

DATED

SHANNON B. JONES
Attorney for Respondents,
DANCE HALL INVESTORS, INC. and
WAYNE THOMAS HALL

6-5-20

DATED



FRANK M. BUDA
Attorney for Respondent,
NEIL PATRICK COWAN

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on SEP 10 2020

IT IS SO ORDERED 7.30.20

REAL ESTATE COMMISSIONER



DOUGLAS R. McCAULEY