

**FILED**

NOV 13 2014

BUREAU OF REAL ESTATE

By S. Black

Bureau of Real Estate  
P.O. Box 137007  
Sacramento, CA 95813-7007

Telephone: (916) 263-8672

BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of: )  
 )  
WR PROPERTIES and )  
CRAIG HARMON MCCLEAREN, )  
 )  
Respondents. )

No. H-11679 SF

STIPULATION AND  
AGREEMENT

It is hereby stipulated by and between WR PROPERTIES and CRAIG HARMON MCCLEAREN (collectively referred to herein as "Respondents"), represented by Shannon B. Jones, and the Complainant, acting by and through Jason D. Lazark, Counsel for the Bureau of Real Estate ("Bureau"), as follows for the purpose of settling and disposing of the Accusation filed on April 14, 2014 in this matter:

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 (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement.

2. Respondents have received, read, and understand the Statement to Respondent, and the Discovery Provisions of the APA filed by the Bureau in this proceeding.

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

10                   4.       Respondents, pursuant to the limitations set forth below, hereby admit  
11 that the factual allegations or findings of fact as set forth in the Accusation filed in this  
12 proceeding are true and correct and the Real Estate Commissioner shall not be required to  
13 provide further evidence of such allegations.

14                   5.       It is understood by the parties that the Real Estate Commissioner may  
15 adopt the Stipulation and Agreement In Settlement and Order as his Decision in this matter,  
16 thereby imposing the penalties and sanctions on Respondents' real estate licenses and license  
17 rights as set forth in the below "Order". In the event that the Commissioner in his discretion  
18 does not adopt the Stipulation and Agreement In Settlement and Order, it shall be void and of  
19 no effect, and Respondents shall retain the right to a hearing and proceeding on the Accusation  
20 under all the provisions of the APA and shall not be bound by any admission or waiver made  
21 herein.

22                   6.       The Order or any subsequent Order of the Real Estate Commissioner  
23 made pursuant to this Stipulation and Agreement In Settlement and Order shall not constitute  
24 an estoppel, merger or bar to any further administrative or civil proceedings by the Bureau of  
25 Real Estate with respect to any matters which were not specifically alleged to be causes for  
26 accusation in this proceeding.

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1 of the Code and Sections 2831, 2831.1, 2831.2, 2832, and 2832.1 of Title 10 of the California  
2 Code of the Regulations.

3 II

4 The acts and/or omissions of MCCLEAREN as described in the Second Cause of  
5 Action of the Accusation is cause for the suspension or revocation of MCCLEARENs license  
6 and/or license rights under provisions of Section 10177(h) of the Code, in conjunction with  
7 Sections 10159.2 of the Code and Section 2725 of Title 10 of the California Code of  
8 Regulations.

9 \* \* \*

10 ORDER

11 I

12 All licenses and licensing rights of Respondent WR PROPERTIES under the Real  
13 Estate Law are suspended for a period of ninety (90) days from the effective date of this Order;  
14 provided, however, that:

15 (1) Sixty (60) days of said suspension shall be stayed, upon the condition that WR  
16 PROPERTIES petition pursuant to Section 10175.2 of the Code and pays a monetary penalty  
17 pursuant to Section 10175.2 of the Code at a rate of \$50.00 for each day of the suspension for  
18 a total monetary penalty of \$3,000.00.

19 (a) Said payment shall be in the form of a cashier's check made payable to the Bureau of  
20 Real Estate. Said check must be delivered to the Bureau of Real Estate, Legal Section at  
21 P.O. Box 137007, Sacramento, CA 95813-7007, prior to the effective date of this Order.

22 (b) No further cause for disciplinary action against the Real Estate licenses of WR  
23 PROPERTIES occurs within two (2) years from the effective date of the decision in this  
24 matter.

25 (c) If WR PROPERTIES fails to pay the monetary penalty as provided above prior to the  
26 effective date of this Order, the stay of the suspension shall be vacated as to that  
27 Respondent and the order of suspension shall be immediately executed, under this Order,

1 in which event the said Respondent shall not be entitled to any repayment nor credit,  
2 prorated or otherwise, for the money paid to the Bureau under the terms of this Order.

3 (d) If WR PROPERTIES pays the monetary penalty and any other moneys due under this  
4 Stipulation and Agreement and if no further cause for disciplinary action against the real  
5 estate license of said Respondent occurs within two (2) years from the effective date of  
6 this Order, the entire stay hereby granted this Order, as to said Respondent only, shall  
7 become permanent.

8 (2) Thirty (30) days of said suspension shall be stayed for two (2) years upon the following terms  
9 and conditions:

10 (a) WR PROPERTIES shall obey all laws, rules and regulations governing the rights, duties  
11 and responsibilities of a real estate licensee in the State of California; and,

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

17 II

18 All licenses and licensing rights of Respondent MCCLEAREN under the Real  
19 Estate Law are suspended for a period of ninety (90) days from the effective date of this Order;

20 provided, however, that:

21 (1) Sixty (60) days of said suspension shall be stayed, upon the condition that MCCLEAREN  
22 petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to  
23 Section 10175.2 of the Code at a rate of \$50.00 for each day of the suspension for a total  
24 monetary penalty of \$3,000.00.

25 a) Said payment shall be in the form of a cashier's check made payable to the Bureau of  
26 Real Estate. Said check must be delivered to the Bureau of Real Estate, Legal Section at  
27 P.O. Box 137007, Sacramento, CA 95813-7007, prior to the effective date of this Order.

1 b) No further cause for disciplinary action against the Real Estate licenses of MCCLEAREN  
2 occurs within two (2) years from the effective date of the decision in this matter.

3 c) If MCCLEAREN fails to pay the monetary penalty as provided above prior to the  
4 effective date of this Order, the stay of the suspension shall be vacated as to that  
5 Respondent and the order of suspension shall be immediately executed, under this Order,  
6 in which event the said Respondent shall not be entitled to any repayment nor credit,  
7 prorated or otherwise, for the money paid to the Bureau under the terms of this Order.

8 d) If MCCLEAREN pays the monetary penalty and any other moneys due under this  
9 Stipulation and Agreement and if no further cause for disciplinary action against the real  
10 estate license of said Respondent occurs within two (2) years from the effective date of  
11 this Order, the entire stay hereby granted this Order, as to said Respondent only, shall  
12 become permanent.

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

15 a) MCCLEAREN shall obey all laws, rules and regulations governing the rights, duties and  
16 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 stipulation, that  
18 cause for disciplinary action occurred within two (2) years from the effective date of this  
19 Order. Should such a determination be made, the Commissioner may, in his discretion,  
20 vacate and set aside the stay order and reimpose all or a portion of the stayed suspension.  
21 Should no such determination be made, the stay imposed herein shall become permanent.

22 (3) All licenses and licensing rights of MCCLEAREN are indefinitely suspended unless or until  
23 Respondent provides proof satisfactory to the Commissioner, of having taken and successfully  
24 completed the continuing education course on trust fund accounting and handling specified in  
25 paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of satisfaction of these  
26 requirements includes evidence that Respondent has successfully completed the trust fund  
27 account and handling continuing education courses, no earlier than 120 days prior to the

1 effective date of the Order in this matter. Proof of completion of the trust fund accounting and  
2 handling course must be delivered to the Bureau of Real Estate, Legal Section at P.O. Box  
3 137007, Sacramento, CA 95813-7007 or by fax at 916-263-3767, prior to the effective date of  
4 this Order

5 (4) MCCLEAREN shall, within six (6) months from the effective date of this Order, take and  
6 pass the Professional Responsibility Examination administered by the Bureau including the  
7 payment of the appropriate examination fee. If Respondent fails to satisfy this condition,  
8 Respondent's real estate license shall automatically be suspended until Respondent passes the  
9 examination.

10 III.

11 1. Respondents, jointly and severally, shall pay the sum of \$6,653.55 for  
12 the Commissioner's cost of the audit which led to this disciplinary action. Respondents shall  
13 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.  
14 The Commissioner shall indefinitely suspend all licenses and licensing rights of Respondents  
15 pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if  
16 payment is not timely made as provided for herein, or as provided for in a subsequent  
17 agreement between Respondents and the Commissioner. The suspension shall remain in effect  
18 until payment is made in full or until Respondents enter into an agreement satisfactory to the  
19 Commissioner to provide for payment, or until a decision providing otherwise is adopted  
20 following a hearing held pursuant to this condition.

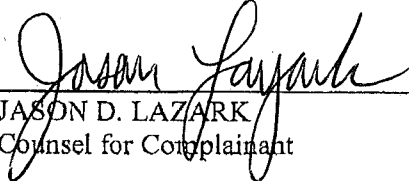
21 2. Respondents, jointly and severally, shall pay the Commissioner's costs,  
22 not to exceed \$6,653.55, of any audit conducted pursuant to Section 10148 of the Code to  
23 determine if Respondents have corrected the violations described in the Determination of  
24 Issues, above, and any other violations found in the audit which led to this disciplinary action.  
25 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use  
26 the estimated average hourly salary for all persons performing audits of real estate brokers, and  
27 shall include an allocation for travel time to and from the auditor's place of work. Respondents

1 shall pay such cost within sixty (60) days of receiving an invoice therefore from the  
2 Commissioner detailing the activities performed during the audit and the amount of time spent  
3 performing those activities. If Respondents fail to pay such cost within the sixty (60) days, the  
4 Commissioner shall indefinitely suspend all licenses and licensing rights of Respondents under  
5 the Real Estate Law until payment is made in full or until Respondents enter into an agreement  
6 satisfactory to the Commissioner to provide for payment. Upon full payment, the indefinite  
7 suspension provided for in this paragraph shall be stayed.

8 IV.

9 All licenses and licensing rights of Respondents, are indefinitely suspended  
10 unless or until Respondents, jointly and severally, pay the sum of \$1,046.75 for the  
11 Commissioner's reasonable cost of the investigation and enforcement which led to this  
12 disciplinary action. Said payment shall be in the form of a cashier's check or certified check  
13 made payable to the Real Estate Fund.

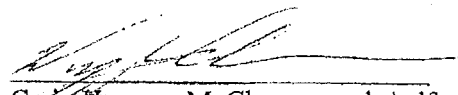
14 10-23-14  
15 DATED

  
16 JASON D. LAZARK  
Counsel for Complainant

17 \* \* \*

18 I have read the Stipulation and Agreement, discussed it with my counsel, and its  
19 terms are understood by me and are agreeable and acceptable to me. I understand that I am  
20 waiving rights given to me by the California Administrative Procedure Act, and I willingly,  
21 intelligently and voluntarily waive those rights, including the right of requiring the  
22 Commissioner to prove the allegations in the Accusations at a hearing at which I would have the  
23 right to cross-examine witnesses against me and to present evidence in defense and mitigation of  
24 the charges.

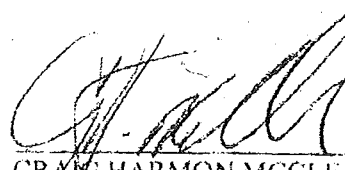
25 10/23/14  
DATED

  
26 ~~Craig Harmon McClearen~~, on behalf of  
WR PROPERTIES  
Respondent *Wesley Olson*



10-23-2014

DATED



CRAIG HARMON MCCLEAREN  
Respondent

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

10/23/14

DATED



SHANNON B. JONES  
Attorney for Respondents

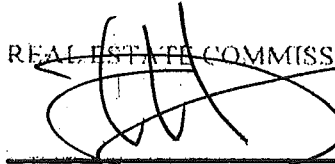
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The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on DEC 04 2014

IT IS SO ORDERED

OCT 30 2014

REAL ESTATE COMMISSIONER



By: JEFFREY MASON  
Chief Deputy Commissioner