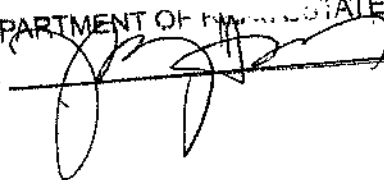


1 Department of Real Estate
2 320 West Fourth Street, #350
3 Los Angeles, California 90013

4 (213) 576-6982

FILED

SEP 11 2012

DEPARTMENT OF REAL ESTATE
BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	No. H-37769 LA
12	ROBERT ANDREW LEWALLEN,)	OAH No. 2012020720
13	Respondent.)	
14)	<u>STIPULATION AND AGREEMENT</u>
15)	

16 It is hereby stipulated by and between
17 ROBERT ANDREW LEWALLEN (hereinafter "Respondent") and his
18 attorney, Mary E. Work, and the Complainant, acting by and
19 through Julie L. To, Counsel for the Department of Real Estate,
20 as follows for the purpose of settling and disposing of the
21 Accusation filed on December 28, 2011, in this matter:

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

4 2. Respondent has received, read and understands the
5 Statement to Respondent, the Discovery Provisions of the APA and
6 the Accusation filed by the Department of Real Estate in this
7 proceeding.

8 3. On January 11, 2012, Respondent filed a Notice of
9 Defense pursuant to Section 11506 of the Government Code for the
10 purpose of requesting a hearing on the allegations in the
11 Accusation. Respondent hereby freely and voluntarily withdraws
12 said Notice of Defense. Respondent acknowledges that he
13 understands that by withdrawing said Notice of Defense he will
14 thereby waive his right to require the Commissioner to prove the
15 allegations in the Accusation at a contested hearing held in
16 accordance with the provisions of the APA and that he will waive
17 other rights afforded to him in connection with the hearing such
18 as the right to present evidence in defense of the allegations
19 in the Accusation and the right to cross-examine witnesses.
20

21 4. Respondent, pursuant to the limitations set forth
22 below, hereby admits that the factual allegations of the
23 Accusation filed in this proceeding are true and correct and the
24 Real Estate Commissioner shall not be required to provide
25 further evidence of such allegations.

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

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

17
18 DETERMINATION OF ISSUES

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

23 The conduct of Respondent, as set forth in the
24 Accusation constitutes grounds for suspension or revocation of
25 Respondent's real estate broker license under the provisions of
26 Sections 490 and 10177(b) of the Business and Professions Code.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent ROBERT ANDREW LEWALLEN under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate

1 Commissioner, or conditions attaching to this restricted
2 license.

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

8 4. Respondent shall, within nine months from the
9 effective date of this Decision, present evidence satisfactory to
10 the Real Estate Commissioner that Respondent has, since the most
11 recent issuance of an original or renewal real estate license,
12 taken and successfully completed the continuing education
13 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
14 for renewal of a real estate license. If Respondent fails to
15 satisfy this condition, the Commissioner may order the suspension
16 of the restricted license until the Respondent presents such
17 evidence. The Commissioner shall afford Respondent the
18 opportunity for a hearing pursuant to the Administrative
19 Procedure Act to present such evidence.
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1 5. Respondent shall notify the Commissioner in
2 writing within 72 hours of any arrest by sending a certified
3 letter to the Commissioner at the Department of Real Estate,
4 Post Office Box 187000, Sacramento, CA 95818-7000. The letter
5 shall set forth the date of Respondent's arrest, the crime for
6 which Respondent was arrested and the name and address of the
7 arresting law enforcement agency. Respondent's failure to
8 timely file written notice shall constitute an independent
9 violation of the terms of the restricted license and shall be
10 grounds for the suspension or revocation of that license.

11
12 6. Respondent shall provide proof acceptable to the
13 Real Estate Commissioner that, after the issuance of the
14 restricted license and for the duration that Respondent holds a
15 restricted, Respondent has attended one or more sessions, each
16 and every month, of Alcoholics Anonymous or a similar 12 Step or
17 substance abuse program, or that such attendance in any month was
18 impractical due to travel for work, the illness of Respondent or
19 a member of Respondent's family, vacation, incarceration,
20 residential treatment for substance abuse, extreme personal
21 hardship for Respondent or a member of Respondent's family, or
22 family emergency. Respondent shall submit proof to the Los
23 Angeles Crisis Response Team Manager of the Department of Real
24 Estate. The Commissioner may suspend the restricted license
25 issued to Respondent pending a hearing held in accordance with
26 Section 11500, et seq., of the Government Code, if such proof is
27 not timely submitted as provided for herein, or as provided for

1 in a subsequent agreement between the Respondent and the
2 Commissioner. The suspension shall remain in effect until such
3 proof is submitted or until Respondent enters into an agreement
4 satisfactory to the Commissioner to provide such proof, or until
5 a decision providing otherwise is adopted following a hearing
6 held pursuant to this condition.

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9 DATED: 07-27-12 JULIE L. TO, Counsel for Complainant

10 * * *

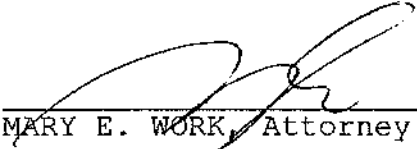
11 I have read the Stipulation and Agreement, have
12 discussed it with my counsel, and its terms are understood by me
13 and are agreeable and acceptable to me. I understand that I am
14 waiving rights given to me by the California Administrative
15 Procedure Act (including but not limited to Sections 11506,
16 11508, 11509 and 11513 of the Government Code), and I willingly,
17 intelligently and voluntarily waive those rights, including the
18 right of requiring the Commissioner to prove the allegations in
19 the Accusation at a hearing at which I would have the right to
20 cross-examine witnesses against me and to present evidence in
21 defense and mitigation of the charges.

22
23 Respondent can signify acceptance and approval of the
24 terms and conditions of this Stipulation and Agreement by faxing
25 a copy of the signature page, as actually signed by Respondent,
26 to the Department at fax number (213) 576-6917. Respondent
27

1 agrees, acknowledges and understands that by electronically
2 sending to the Department a fax copy of his actual signature as
3 it appears on the Stipulation and Agreement, that receipt of the
4 faxed copy by the Department shall be as binding on Respondent
5 as if the Department had received the original signed
6 Stipulation and Agreement.

7
8 DATED: July 30 2012 
9 ROBERT ANDREW LEWALLEN, Respondent

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

12
13 DATED: 8/6/12 
14 MARY E. WORK, Attorney for Respondent

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2 The foregoing Stipulation and Agreement is hereby
3 adopted as my Decision in this matter and shall become effective
4 at 12 o'clock noon on OCT 01 2012.

5 IT IS SO ORDERED

8/31/2012

6
7 Real Estate Commissioner

8
9 
10 By WAYNE S. BELL
11 Chief Counsel