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MAY 07 2015

BUREAU OF REAL ESTATE

By S. Black

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Bureau of Real Estate  
P.O. Box 187007  
Sacramento, CA 95818-7007  
Telephone: (916) 227-0781

BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of  
  
JAMES MICHAEL DUKE,  
  
Respondent.

No. H-2924 FR  
  
STIPULATION AND  
AGREEMENT TO  
SURRENDER

It is hereby stipulated by and between JAMES MICHAEL DUKE (Respondent), represented by Matt Backowski, and the Complainant, acting by and through Truly Sughrue, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing the Accusation filed on December 3, 2014 in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent 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. Respondent has received, read, and understands the Statement to Respondent, and the Discovery Provisions of the APA filed by the Bureau of Real Estate in this proceeding.

1                   3.       Respondent 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 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent  
4 acknowledges that he understands that by withdrawing said Notice of Defense he will thereby  
5 waive his rights to require the Commissioner to prove the allegations in the Accusation at a  
6 contested hearing held in accordance with the provisions of the APA, and that he will waive  
7 other rights afforded to him in connection with the hearing such as the right to present evidence  
8 in defense of the allegations in the Accusation and the right to cross-examine witnesses.

9                   4.       It is understood by the parties that the Real Estate Commissioner may  
10 adopt the Stipulation and Agreement at his decision in this matter thereby imposing the penalty  
11 and sanctions on the real estate licenses and license rights of Respondent as set forth in the below  
12 "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and  
13 Agreement, it shall be void and of no effect, and Respondents shall retain the right to a hearing  
14 and proceeding on the Accusations under all the provisions of the APA and shall not be bound by  
15 any admission or waiver made herein.

16                   5.       The Order or any subsequent Order of the Real Estate Commissioner made  
17 pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any  
18 further administrative or civil proceedings by the Bureau with respect to any matters which were  
19 not specifically alleged in Accusation H-2924 FR. An acceptance of the surrender by  
20 Respondent shall dispose of the Accusation.

21                                   DECLARATION OF JAMES MICHAEL DUKE

22                   In lieu of proceeding in this matter in accordance with the provisions of the APA,  
23 I wish to voluntarily surrender my real estate license(s) issued by the Bureau, pursuant to  
24 Business and Professions Code section 10100.2.

25                   I understand that by voluntarily surrendering my license(s), I may be re-licensed  
26 as a salesperson or as a broker only by petitioning for reinstatement pursuant to section 11522 of  
27

1 the Government Code. I also understand that by voluntarily surrendering my license(s), I agree  
2 to the following:

3 1. The filing of this Declaration shall be deemed as my petition for  
4 voluntary surrender.

5 2. It shall also be deemed to be an understanding and agreement by me that  
6 I waive all rights I have to require the Commissioner to prove the allegations contained in the  
7 Accusation filed in this matter at a hearing held in accordance with the provisions of the  
8 Administrative Procedure Act (Government Code sections 11400 et seq.), and that I also waive  
9 other rights afforded to me in connection with the hearing such as the right to discovery, the  
10 right to present evidence in defense of the allegations in the Accusation and the right to cross-  
11 examine witnesses.

12 3. I further agree that upon acceptance by the Commissioner, as evidenced  
13 by an appropriate order, all affidavits and all relevant evidence obtained by the Bureau in this  
14 matter prior to the Commissioner's acceptance, and all allegations contained in the Accusation  
15 filed in the Bureau Case No. H-2924 FR may be considered by the Bureau to be true and  
16 correct for the purpose of deciding whether to grant re-licensure or reinstatement pursuant to  
17 Government Code section 11522.

18 4. I freely and voluntarily surrender all my licenses and license rights under  
19 the Real Estate Law.

20 \* \* \*

21 ORDER

22 I

23 Respondent's petition for voluntary surrender of his real estate broker license is  
24 accepted as of the effective date of this Order as set forth below, based upon the understanding  
25 and agreement expressed in Respondent's Declaration incorporated herein as part of this  
26 Stipulation and Agreement. Respondent's license certificates, pocket cards and any branch office  
27 license certificates shall be sent to the below listed address so that they reach the Bureau on or

1 before the effective date of this Order:

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BUREAU OF REAL ESTATE  
Attn: Licensing Flag Section  
P. O. Box 137013  
Sacramento, CA 95813-7013

4-13-15



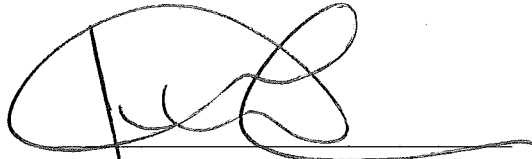
DATED

TRULY SUGHRUE  
Counsel for Complainant

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I have read the Stipulation and Agreement, discussed it with my counsel, 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, 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.

4-9-15



DATED

JAMES MICHAEL DUKE  
Respondent

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

4-10-15



DATED

MATT BACKOWSKI  
Attorney for Respondents

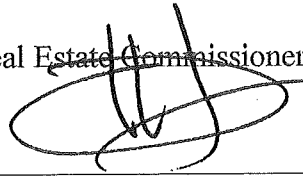
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The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on MAY 28 2015.

IT IS SO ORDERED APR 23 2015.

Real Estate Commissioner



By: **JEFFREY MASON**  
Chief Deputy Commissioner