

1 Bureau of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007

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FILED

DEC 13 2017

BUREAU OF REAL ESTATE

By B. Nicholas

7
8 **BEFORE THE BUREAU OF REAL ESTATE**
9 **STATE OF CALIFORNIA**

10 * * *

11 In the Matter of the Accusation of)

12 KENCO INVESTMENTS, INC., and)
13 KENNETH ROBERT BOYD,)

14 Respondents.)

No. H-3080 FR

STIPULATION AND
AGREEMENT

15 It is hereby stipulated by and between KENCO INVESTMENTS, INC.,
16 (KENCO) and KENNETH ROBERT BOYD (BOYD) (collectively "Respondents"),
17 represented by Joseph Boyd, and the Complainant, acting by and through Truly Sughrue,
18 Counsel for the Bureau of Real Estate (Bureau), as follows for the purpose of settling and
19 disposing the First Amended Accusation filed on March 20, 2017, in this matter:

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

25 2. Respondents have received, read, and understand the Statement to
26 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 Respondents understand that by withdrawing said Notice of Defense
5 Respondents will thereby waive Respondents' rights to require the Real Estate Commissioner
6 (Commissioner) to prove the allegations in the Accusation at a contested hearing held in
7 accordance with the provisions of the APA, and that Respondents will waive other rights
8 afforded to Respondents in connection with the hearing such as the right to present evidence in
9 defense of the allegations in the Accusation and the right to cross-examine witnesses.

10 4. This Stipulation and Agreement is based on the factual allegations
11 contained in the Accusation. In the interest of expediency and economy, Respondents choose not
12 to contest these factual allegations, but to remain silent and understand that, as a result thereof,
13 these factual statements will serve as a prima facie basis for the "Determination of Issues" and
14 "Order" set forth below. The Commissioner shall not be required to provide further evidence to
15 prove such allegations.

16 5. This Stipulation and Agreement and Respondents' decision not to contest
17 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and
18 are expressly limited to this proceeding and any other proceeding or case in which the Bureau,
19 the state or federal government, an agency of this state, or an agency of another state is involved.

20 6. Respondents understand that by agreeing to this Stipulation and
21 Agreement, Respondents agree to pay, pursuant to Section 10106 of the Code, the reasonable
22 costs of the investigation and enforcement of these cases. The amount of said costs is
23 \$4,630.31.

24 7. It is understood by the parties that the Commissioner may adopt the
25 Stipulation and Agreement as his decision in this matter thereby imposing the penalty and
26 sanctions on the real estate licenses and license rights of Respondents as set forth in the below
27 "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and

1 Agreement, it shall be void and of no effect, and Respondents shall retain the right to a hearing
2 and proceeding on the Accusation under all the provisions of the APA and shall not be bound by
3 any admission or waiver made herein.

4 8. The Order or any subsequent Order of the Commissioner made pursuant to
5 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further
6 administrative or civil proceedings by the Bureau with respect to any matters which were not
7 specifically alleged to be causes for action in Accusation H-3080 FR.

8 9. On April 8, 2014, in Case No. H-2700 FR, a Decision was rendered
9 revoking the real estate broker and real estate corporation licenses of Respondents effective
10 May 7, 2014, but granting Respondents the right to the issuance of a restricted real estate broker
11 license and a restricted real estate corporation license. On or about May 11, 2016, Respondents
12 petitioned for reinstatement of their unrestricted real estate licenses (case #s 616-0511-006 &
13 616-0511-007). Respondents hereby withdraw said petitions. Respondents understand that by
14 withdrawing said petitions Respondents shall not be eligible to apply for the issuance of an
15 unrestricted real estate license nor for removal of any of the conditions, limitations, or
16 restrictions of a restricted license until three (3) years have elapsed from the effective date of this
17 Decision and Order.

18 * * *

19 DETERMINATION OF ISSUES

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

23 I

24 The acts and omissions of Respondents as described in the First Cause of Action
25 of the Accusation are grounds for the suspension or revocation of Respondents' licenses and
26 license rights under the following sections of the Code and Title 10 of the California Code of:
27

1 As to Paragraph 9(a), under Section 10177(d) of the Code in conjunction with
2 Sections 10241 and 10240 of the Code and Section 2840 of the Regulations;

3 As to Paragraph 9(b), under Section 10177(d) of the Code in conjunction with
4 Sections 10232.3 and 10232.5 of the Code and Section 2846 of the Regulations; and

5 As to Paragraph 10, under Section 10177(d) of the Code in conjunction with
6 Section 10141.6 of the Code.

7 II

8 The acts and/or omissions of BOYD as described in the Second Cause of Action
9 of the Accusation is cause for the suspension or revocation of Respondent's license and/or
10 license rights under Section 10177(h) of the Code.

11 * * *

12 ORDER

13 I

14 All licenses and licensing rights of Respondent KENCO under the Real Estate
15 Law are revoked; provided, however, a restricted real estate corporate broker license shall be
16 issued to KENCO pursuant to Section 10156.5 of the Code if KENCO makes application
17 therefor and pays to the Bureau the appropriate fee for the restricted license within 90 days from
18 the effective date of this Decision and Order. The restricted license issued to KENCO shall be
19 subject to all of the provisions of Section 10156.7 of the Code and to the following limitations,
20 conditions and restrictions imposed under authority of Section 10156.6 of that Code:

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

24 2. The restricted license issued to KENCO may be suspended prior to hearing
25 by Order of the Commissioner on evidence satisfactory to the Commissioner that KENCO has
26 violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of
27 the Commissioner or conditions attaching to the restricted license.

1 3. KENCO shall not be eligible to apply for the issuance of an unrestricted
2 real estate license nor for removal of any of the conditions, limitations, or restrictions of a
3 restricted license until three (3) years have elapsed from the effective date of this Decision and
4 Order. KENCO shall not be eligible to apply for any unrestricted licenses until all restrictions
5 attaching to the license have been removed.

6 II

7 All licenses and licensing rights of Respondent BOYD under the Real Estate Law
8 are revoked; provided, however, a restricted real estate broker license shall be issued to BOYD
9 pursuant to Section 10156.5 of the Code if BOYD makes application therefor and pays to the
10 Bureau the appropriate fee for the restricted license within 90 days from the effective date of this
11 Decision and Order. The restricted license issued to BOYD shall be subject to all of the
12 provisions of Section 10156.7 of the Code and to the following limitations, conditions and
13 restrictions imposed under authority of Section 10156.6 of that Code:

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

17 2. The restricted license issued to BOYD may be suspended prior to hearing
18 by Order of the Commissioner on evidence satisfactory to the Commissioner that BOYD has
19 violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of
20 the Commissioner or conditions attaching to the restricted license.

21 3. BOYD shall not be eligible to apply for the issuance of an unrestricted real
22 estate license nor for removal of any of the conditions, limitations, or restrictions of a restricted
23 license until three (3) years have elapsed from the effective date of this Decision and Order.
24 BOYD shall not be eligible to apply for any unrestricted licenses until all restrictions attaching to
25 the license have been removed.

26 4. BOYD shall, within nine (9) months from the effective date of this
27 Decision and Order, present evidence satisfactory to the Commissioner that BOYD has, since the

1 most recent issuance of an original or renewal real estate license, taken and successfully
2 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
3 Law for renewal of a real estate license. If BOYD fails to satisfy this condition, BOYD's real
4 estate license shall automatically be suspended until BOYD presents evidence satisfactory to the
5 Commissioner of having taken and successfully completed the continuing education
6 requirements. Proof of completion of the continuing education courses must be delivered to the
7 Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.

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

13 III

14 1. All licenses and licensing rights of Respondents are indefinitely suspended
15 unless or until Respondent pays the sum of \$4,630.31 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 and Order.

21 16-Oct-17
22 DATED


23 TRULY SUGHRUE
24 Counsel for Complainant

24 * * *

25 I have read the Stipulation and Agreement, discussed it with my counsel, and its
26 terms are understood by me and are agreeable and acceptable to me. I understand that I am
27

1 waiving rights given to me by the California Administrative Procedure Act, and I willingly,
2 intelligently and voluntarily waive those rights, including the right of requiring the
3 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
4 right to cross-examine witnesses against me and to present evidence in defense and mitigation of
5 the charges.

6 Respondents and Respondents' attorney further agree to send the original signed
7 Stipulation and Agreement by mail to the following address no later than one (1) week from the
8 date the Stipulation and Agreement is signed by Respondents and Respondents' attorney:
9 *Bureau of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-7007.*
10 Respondents and Respondents' attorney understand and agree that if they fail to return the
11 original signed Stipulation and Agreement by the due date, Complainant retains the right to set
12 this matter for hearing.

13
14 10-16-17
15 DATED

Kenneth Robert Boyd
Kenneth Robert Boyd, Chief Executive Officer
KENCO INVESTMENTS, INC.
Respondent

16
17
18
19 10-16-17
20 DATED

Kenneth Robert Boyd
KENNETH ROBERT BOYD
Respondent

21 ***

22
23 *I have reviewed the Stipulation and Agreement as to form and content and have*
24 *advised my clients accordingly.*

25
26 10/16/17
DATED

Joseph Boyd
JOSEPH BOYD
Attorney for Respondents

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The foregoing Stipulation and Agreement is hereby adopted as my Decision and
Order and shall become effective at 12 o'clock noon on JAN 03 2018

IT IS SO ORDERED 12/7/17

WAYNE S. BELL
REAL ESTATE COMMISSIONER



By: DANIEL J. SANDRI
Chief Deputy Commissioner