

1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6982

FILED

SEP 25 2020

DEPT. OF REAL ESTATE

By *[Signature]*

10 BEFORE THE DEPARTMENT OF REAL ESTATE
11 STATE OF CALIFORNIA

12 * * *

13 In the Matter of the Accusation of	)	No. H-03249 FR
	)	
14 EB PREFERRED;	)	STIPULATION
	)	AND
15 RALPH DOMENICO SCHIAVONE,	)	AGREEMENT
16 individually and as designated officer of	)	
16 EB Preferred; and	)	
	)	
17 ETHELE MARIE BARRON,	)	
	)	
18	)	
	)	
19	)	
Respondents.	)	

21 It is hereby stipulated by and between Respondents EB PREFERRED ("EB") and
22 RALPH DOMENICO SCHIAVONE ("SCHIAVONE"), both represented by Mark Nialis, Esq.
23 of Nialis Law Group; ETHELE MARIE BARRON ("Barron"), representing herself; and the

24 H-03249 FR: STIPULATION AND AGREEMENT

1 Complainant, acting by and through Julie L. To, Counsel for the Department of Real Estate
2 ("Department" or "DRE"), as follows for the purpose of settling and disposing of the Accusation
3 filed on May 23, 2019 in Case No. H-03249 FR, in this matter.

4 1. All issues which were to be contested and all evidence which was to be
5 presented by Complainant and Respondents EB, SCHIAVONE and BARRON at a formal
6 hearing on the Accusation, which hearing was to be held in accordance with the provisions of
7 the Administrative Procedure Act ("APA"), shall instead and in place thereof be submitted
8 solely on the basis of the provisions of this Stipulation and Agreement ("Stipulation").

9 2. Respondents EB, SCHIAVONE and BARRON have received, read and
10 understand the Statement to Respondent, the Discovery Provisions of the APA and the
11 Accusation filed by the Department of Real Estate ("Department") in this proceeding.

12 3. On June 13, 2019, Respondents EB, SCHIAVONE and BARRON timely filed
13 Notices of Defense pursuant to Section 11506 of the Government Code for the purpose of
14 requesting a hearing on the allegations in the Accusation. Respondents hereby freely and
15 voluntarily withdraw said Notices of Defense. Respondents acknowledge that they understand
16 that by withdrawing said Notices of Defense they thereby waive their right to require the
17 Commissioner to prove the allegations in the Accusation at a contested hearing held in
18 accordance with the provisions of the APA and that they will waive other rights afforded to them
19 in connection with the hearing such as the right to present evidence in their defense and the right
20 to cross-examine witnesses.

21 4. This Stipulation is based on the factual allegations contained in the
22 Accusation. In the interest of expedience and economy, Respondents EB, SCHIAVONE and
23 BARRON choose not to contest these allegations, but to remain silent, and understand that, as a
24 result thereof, these factual allegations, without being admitted or denied, will serve as a prima

1 facie basis for the disciplinary action stipulated to herein. The Real Estate Commissioner shall
2 not be required to provide further evidence to prove said factual allegations.

3 5. This Stipulation is made for the purpose of reaching an agreed disposition of
4 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
5 which the Department or another licensing agency of this state, another state, or if the federal
6 government is involved, and otherwise shall not be admissible in any other criminal or civil
7 proceeding.

8 6. It is understood by the parties that the Real Estate Commissioner may adopt
9 this Stipulation as the Commissioner's Decision in this matter, thereby imposing the penalty and
10 sanctions on Respondents EB, SCHIAVONE and BARRON's real estate licenses and license
11 rights as set forth in below "Order." In the event that the Commissioner in his discretion does
12 not adopt the Stipulation and Agreement, the Stipulation shall be void and of no effect and
13 Respondents shall retain the right to a hearing and proceeding on the Accusation under the
provisions of the APA and shall not be bound by any admission or waiver made herein.

14 7. The Order or any subsequent Order of the Real Estate Commissioner made
15 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
16 administrative or civil proceedings by the Department of Real Estate with respect to any matters
17 which were not specifically alleged to be causes for Accusation in this proceeding but do
18 constitute a bar, estoppel and merger as to any allegations actually contained in the Accusations
against Respondents EB, SCHIAVONE and BARRON herein.

19 8. Respondents EB, SCHIAVONE and BARRON understand that by agreeing to
20 this Stipulation, Respondents EB and BARRON agree to pay, pursuant to Business and
21 Professions Code ("Code") Section 10148, the cost of the audit which resulted in the
22 determination that Respondents committed the violations found in the Determination of
23 Issues. The amount of said costs for the original audit (FR 170087) is \$2,304.09. Respondents

1 EB and BARRON agree to pay, pursuant to Code Section 10148, \$2,304.09 for the cost of Audit
2 FR 170087.

3 9. Respondents EB, SCHIAVONE and BARRON have received, read, and
4 understand the "Notice Concerning Costs of Subsequent Audit." Respondents further
5 understand that by agreeing to this Stipulation, the findings set forth below in the Determination
6 of Issues become final, and the Commissioner may charge Respondents EB and BARRON for
7 the cost of any subsequent audit conducted pursuant to Code Section 10148 to determine if the
8 violations have been corrected. The maximum cost of the follow-up audit will not exceed one-
9 hundred twenty-five percent (125%) of the cost of the original audit; in the instant case, the cost
10 of the original audit is \$2,304.09, and the maximum cost of the follow-up audit ($\$2,304.09 \times$
11 125%) will not exceed \$2,880.11, Respondents EB and BARRON agree to pay, pursuant to
12 Code Section 10148, a maximum of \$2,880.11 for the cost of any follow-up audit to determine if
the violations in the original audit have been corrected.

13 10. Respondents EB, SCHIAVONE and BARRON understand that by agreeing
14 to this Stipulation, Respondents EB and BARRON agree to pay, pursuant to Code Section
15 10106, the Commissioner's cost of the investigation and enforcement which resulted in the
16 determination that Respondents committed the violations found in the Determination of
17 Issues. The amount of said investigation and enforcement costs is 3,774.45 (comprised of
18 investigation costs in the amount \$3,271.60 and enforcement costs in the amount \$502.85);
19 therefore, Respondent EB and BARRON agree to pay, pursuant to Code Section 10106, the
amount \$3,774.45.

20 ///

21 ///

22 ///

23 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

DETERMINATION OF ISSUES

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

The conduct, acts or omissions of Respondent EB, as described in Paragraph 4, herein above, are in violation of: Code Section 10145 and Regulation 2832.1; Code Section 10145 and Regulation 2831.2; Code Section 10145 and Regulation 2832 and 2831.1; Code Section 10145 and Regulation 2831; and Code Section 10159.5 and Regulation 2731 and are bases for the suspension or revocation of the license and license rights of Respondent EB as a violation of the Real Estate Law pursuant to Code Sections 10177(d) and 10177(g).

The conduct, acts or omissions of Respondent SCHIAVONE, as described in Paragraph 4, herein above, are in violation of: Code Sections 10159.2 and Regulation 2725 and are bases for the suspension or revocation of the license and license rights of Respondent SCHIAVONE as a violation of the Real Estate Law pursuant to Code Section 10177(h).

The conduct, acts or omissions of Respondent BARRON, as described in Paragraph 4, herein above, are in violation of: Code Section 10137 and is basis for the suspension or revocation of the license and license rights of Respondent BARRON as a violation of the Real Estate Law pursuant to Code Sections 10177(d) and 10177(g).

///

///

///

///

///

///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondents EB PREFERRED, RALPH DOMENICO SCHIAVONE and ETHELE MARIE BARRON under the Real Estate Law are suspended for a period of thirty (30) days from the effective date of this Decision and Order; provided, however, that:

1. All thirty (30) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

a) Respondents EB, SCHIAVONE and BARRON shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and,

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

2. Pursuant to Section 10148 of the Code, Respondents EB and BARRON shall pay the sum of \$2,304.09 for the Commissioner's cost of the audit which led to this disciplinary action. Respondents EB and BARRON shall pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of audit costs should not be made until Respondents receive the invoice. If Respondents EB and BARRON fail to satisfy this condition in a timely manner as provided for herein, EB, SCHIAVONE and BARRON's real estate

1 licenses shall automatically be suspended until payment is made in full, or until a decision
2 providing otherwise is adopted following a hearing held pursuant to this condition.

3 3. Pursuant to Section 10148 of the Code, Respondents EB and BARRON shall
4 pay the Commissioner's reasonable cost, not to exceed \$2,880.11 [or, 125% of the original audit
5 cost], for a subsequent audit to determine if Respondents EB have corrected the violations found
6 in the Determination of Issues. In calculating the amount of the Commissioner's reasonable
7 cost, the Commissioner may use the estimated average hourly salary for all persons performing
8 audits of real estate brokers, and shall include an allocation for travel time to and from the
9 auditor's place of work. Respondents EB and BARRON shall pay such cost within sixty (60)
10 days of receiving an invoice therefore from the Commissioner. Payment of the audit costs
11 should not be made until Respondent receive the invoice. If Respondents EB and BARRON fail
12 to satisfy this condition in a timely manner as provided for herein, Respondent EB,
13 SCHIAVONE and BARRON's real estate licenses shall automatically be suspended until
14 payment is made in full, or until a decision providing otherwise is adopted following a hearing
15 held pursuant to this condition.

16 4. All licenses and licensing rights of Respondents EB, SCHIAVONE and
17 BARRON are indefinitely suspended unless or until Respondents EB and BARRON pay the
18 sum of \$3,774.45 for the Commissioner's reasonable cost of the investigation and enforcement
19 which led to this disciplinary action. Said payment shall be in the form of a cashier's check or
20 certified check made payable to the Department of Real Estate. The investigation and
21 enforcement costs must be delivered to the Department of Real Estate, Flag Section at P.O. Box
22 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.

23 DATED: 8-17-20



Julie L. To, Counsel for
Department of Real Estate

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

* * *

EXECUTION OF THE STIPULATION

We have read the Stipulation and Agreement. Its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we 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 we would have the right to cross-examine witnesses against us and to present evidence in defense and mitigation of the charges.

MAILING AND FACSIMILE

Respondents can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by sending a hard copy of the original signed signature page of the Stipulation herein to Julie L. To, Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350, Los Angeles, California 90013-1105. In the event of time constraints before an administrative hearing, Respondents can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by emailing a scanned copy of the signature page, as actually signed by Respondents, to the Department counsel assigned to this case. Respondents agree, acknowledge, and understand that by electronically sending to the Department a scan of Respondents' actual signatures as they appear on the Stipulation and Agreement, that receipt of the scan by the Department shall be binding on Respondents as if the Department had received the original signed Stipulation and Agreement.

DATED: 7-31-20


ETHELE MARIE BARRON, Respondent

1
2 DATED: 8-4-2020

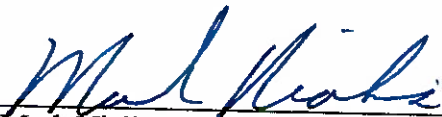

3 RALPH DOMENICO SCHIAVONE, Respondent

4 DATED: 8-4-2020


5 EB PREFERRED, Respondent
6 By: RALPH DOMENICO SCHIAVONE,
7 Designated Officer

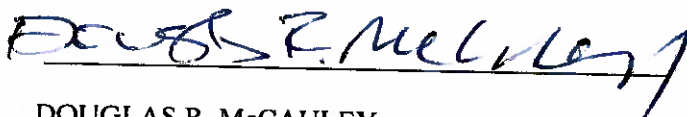
8 *I have reviewed the Stipulation and Agreement as to form and content and have*
9 *advised my clients accordingly.*

10 DATED: 8/6/2020


11 Mark Nialis, Esq./Nialis Law Group
12 Attorney for Respondents RALPH DOMENICO
13 SCHIAVONE and EB PREFERRED

14 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
15 Respondents ETHELE MARIE BARRON, EB PREFERRED and RALPH DOMENICO
16 SCHIAVONE, individually and as designated officer of EB PREFERRED, and shall become
17 effective at 12 o'clock noon on OCT 26 2020, 2020.

18 IT IS SO ORDERED 9.24.20, 2020.

19
20
21
22 
23 DOUGLAS R. McCAULEY
24 REAL ESTATE COMMISSIONER