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**FILED**

JUL 26 2022

DEPARTMENT OF REAL ESTATE

By

*B. McArthur*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of:

NO. H-3416 FR

MORGAN CHARLES SPOKNY,

Respondent.

STIPULATION AND AGREEMENT  
IN SETTLEMENT AND ORDER

It is hereby stipulated by and between MORGAN CHARLES SPOKNY ("Respondent") and the Complainant, acting by and through JASON D. LAZARK, Counsel for the Department of Real Estate (the "Department"), as follows for the purpose of settling and disposing of the Accusation filed on December 29, 2021, 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 In Settlement and Order ("Stipulation and Agreement").

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

1                   3. On or about January 7, 2022, Respondent filed a Notice of Defense pursuant  
2 to Section 11505 of the Government Code for the purpose of requesting a hearing on the  
3 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice  
4 of Defense. Respondent acknowledges that Respondent will thereby waive Respondent's right  
5 to require the Real Estate Commissioner (the "Commissioner") to prove the allegations in the  
6 Accusation at a contested hearing held in accordance with the provisions of the APA and that  
7 Respondent will waive other rights afforded to Respondent 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. Respondent, pursuant to the limitations set forth below, hereby admits that  
11 the factual allegations in the Accusation filed in this proceeding are true and correct and the  
12 Commissioner shall not be required to provide further evidence to prove such allegations.

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

20                   6. The Decision and Order or any subsequent Order of the Commissioner made  
21 pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any  
22 further administrative or civil proceedings by the Department with respect to any matters which  
23 were not specifically alleged to be causes for accusation in this proceeding as admitted or  
24 withdrawn.

25                   7. Respondent understands that by agreeing to this Stipulation, Respondent  
26 agrees to pay, pursuant to Section 10106 of the Business and Professions Code (Code), the cost  
27 of the investigation and enforcement of this case which resulted in the determination that

1 Respondents committed the violations found in the Determination of Issues. The amount of such  
2 costs is \$1,941.40.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations, admissions and waivers, and solely for  
5 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed  
6 that the acts and omissions of Respondent, as described in the Accusation, are grounds for the  
7 suspension or revocation of the licenses and license rights of Respondent under the provisions of  
8 Sections 490, 10177(b) , 110177(d), 10186.2(a)(1)(A), and 10186.2(a)(1)(B) of the Code.

9 DECISION AND ORDER

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

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

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

26 3. Respondent shall not be eligible to apply for the issuance of an  
27 unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions

1 of a restricted license until three (3) years have elapsed from the effective date of this Order.

2 Respondent shall not be eligible to apply for any unrestricted licenses until all restrictions  
3 attaching to the license have been removed.

4           4.       Respondent shall submit with any application for license under an  
5 employing broker, or any application for transfer to a new employing broker, a statement signed  
6 by the prospective employing real estate broker on a form approved by the Department which  
7 shall certify:

8                   (a)     That the employing broker has read the Decision and Order of the  
9 Commissioner which granted the right to a restricted license; and

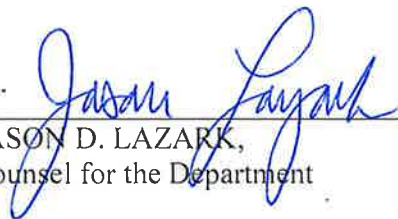
10                  (b)     That the employing broker will exercise close supervision over the  
11 performance by the restricted licensee relating to activities for which a real  
12 estate license is required.

13           5.       Respondent shall, within nine (9) months from the effective date of this  
14 Order, present evidence satisfactory to the Commissioner that Respondent has, since the most  
15 recent issuance of an original or renewal real estate license, taken and successfully completed the  
16 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal  
17 of a real estate license. If Respondent fails to satisfy this condition, Respondent's real estate  
18 license shall automatically be suspended until Respondent presents evidence satisfactory to the  
19 Commissioner of having taken and successfully completed the continuing education  
20 requirement.

21           6.       Respondent shall notify the Commissioner in writing within 72 hours of  
22 any arrest by sending a certified letter to the Commissioner at the Department of Real Estate,  
23 Post Office Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of  
24 Respondent's arrest, the crime for which Respondent was arrested and the name and address of  
25 the arresting law enforcement agency. Respondent's failure to timely file written notice shall  
26 constitute an independent violation of the terms of the restricted license and shall be grounds for  
27 the suspension or revocation of that license and/or endorsement.

1           7. All licenses and licensing rights of Respondent are indefinitely suspended  
2 unless or until Respondent pays the sum of \$1,941.40 for the Commissioner's reasonable cost of  
3 the investigation and enforcement which led to this disciplinary action in this matter. Said  
4 payment shall be in the form of a cashier's check made payable to the Department of Real Estate.  
5 The investigative and enforcement costs must be delivered to the Department of Real Estate,  
6 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this  
7 Stipulation.

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10       5/26/2022  
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JASON D. LAZARK,  
Counsel for the Department

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