

FILED

August 21, 2012

DEPARTMENT OF REAL ESTATE
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Sacramento, CA 95818-7007

Telephone: (916) 227-0789

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
JOSEPH BARRIE MOONJIAN,)
)
Respondent.)
_____)

NO. H-4267 SD
STIPULATION
AND AGREEMENT

It is hereby stipulated by and between Respondent JOSEPH BARRIE MOONJIAN (hereinafter Respondent), acting by and through his attorney, Mary Work, and the Complainant, acting by and through John Van Driel, Counsel for the Department of Real Estate (the Department), as follows for the purpose of settling and disposing of the Accusation filed on December 17, 2011, in this matter (the Accusation):

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, the Discovery Provisions of the APA and the Accusation filed by the Department in this proceeding.

No. H-4267 SD

JOSEPH BARRIE MOONJIAN

3. On or about January 25, 2012, Respondent filed a Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent acknowledges that he understands that by withdrawing said Notice of Defense he will thereby waive his right to require the Department to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that he will waive other rights afforded to him in connection with the hearing such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.
4. This stipulation is based on the factual allegations contained in the Accusation. Respondent admits the violations alleged in the Accusation, and acknowledges that the factual allegations of the Accusation will serve as a prima facie basis for the Determination of Issues and Order set forth below. The Department shall not be required to provide further evidence to prove such allegations.
5. This Stipulation and Respondent's decision not to contest the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and are expressly limited to this proceeding.
6. It is understood by the parties that the Commissioner of the Department (the Commissioner) may adopt the Stipulation and Agreement as his decision in this matter thereby imposing the penalty and sanctions on the real estate licenses and license rights of Respondent as set forth in the below Order. In the event that the Commissioner in his discretion does not adopt the Stipulation and Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing and proceeding on the Accusation under all the provisions of the APA and shall not be bound by any admission or waiver made herein.
7. This Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further administrative or civil proceedings by the Department with respect to any matters which were not specifically alleged to be causes for accusation in this proceeding.

DETERMINATION OF ISSUES

By reason of the foregoing stipulations 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 acts and omissions of Respondent described in the Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondent under the provisions of sections 490 and 10177(b) of the Business & Professions Code (the Code).

ORDER

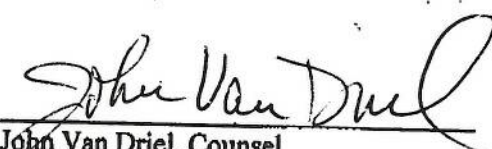
1. The real estate broker license and license rights of Respondent are hereby revoked, however, a restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.6 of the Code, if Respondent makes application therefore and pays to the Department of Real Estate the appropriate fee for said license within ninety (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 Code and to the following limitations, conditions, and restrictions imposed under authority of Section 10156.6 of the 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 to act 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 Commissioner, or conditions attaching to the restricted license.
- 3) Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license, nor the removal of any of the conditions of the restricted license, until two (2) years have elapsed from the effective date of this Decision.

2. Respondent shall, within nine (9) months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for hearing pursuant to the APA to present such evidence.

6-11-12
DATED


John Van Driel, Counsel
Department of Real Estate

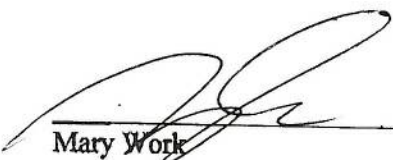
I, JOSEPH BARRIE MOONJIAN, have read the Stipulation and Agreement, and I understand and agree to its terms. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly and voluntarily waive those rights, including the right to require 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.

6-1-12
DATED


JOSEPH BARRIE MOONJIAN

Approved as to form and content by counsel for Respondent.

6/5/12
DATED


Mary Work
Attorney for Respondent

The foregoing Stipulation and Agreement is hereby adopted by as my Decision in this
 matter as to Respondent JOSEPH BARRIE MOONJIAN and shall become effective at 12
 o'clock noon on SEP 11 2012

IT IS SO ORDERED

8/16/2012

Real Estate Commissioner


 By WAYNE S. BELL
 Chief Counsel