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Bureau of Real Estate
320 West Fourth Street, #350
Los Angeles, California 90013
(213) 576-6982
(213) 620-6430
(213) 576-6917 (f)

FILED

JUN 18 2014

BUREAU OF REAL ESTATE
By 

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	CalBRE Case No. H-04535 SD
)	OAH Case No. 2013120296
EUGENE EUGENE KOCHERGA,)	
)	
)	<u>STIPULATION AND</u>
)	<u>AGREEMENT</u>
Respondent.)	

It is hereby stipulated by and between EUGENE EUGENE KOCHERGA (sometimes referred to herein as "Respondent"), represented by Eric R. Ginder, Esq., and the Complainant, acting by and through Martha J. Rosett, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on September 18, 2013 and the First Amended Accusation issued on May 30, 2014 (collectively referred to herein as "the Accusation") 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

1 (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of
2 this Stipulation and Agreement.

3 2. Respondent has received, read and understands the Statement to Respondent,
4 the Discovery Provisions of the APA and the Accusation filed by the Bureau of Real Estate in
5 this proceeding, and has reviewed it with his attorney.

6 3. On December 5, 2013, Respondent filed a Notice of Defense pursuant to
7 Section 11506 of the Government Code for the purpose of requesting a hearing on the
8 allegations in the Accusation. In order to effectuate this settlement, Respondent hereby freely
9 and voluntarily withdraws said Notice of Defense. Respondent acknowledges that he
10 understands that by withdrawing said Notice of Defense, he will thereby waive his right to
11 require the Commissioner to prove the allegations in the Accusation at a contested hearing held
12 in accordance with the provisions of the APA and that he will waive other rights afforded to
13 him in connection with the hearing such as the right to present evidence in defense of the
14 allegations in the Accusation and the right to cross-examine witnesses.

15 4. Respondent, pursuant to the limitations set forth below, although not
16 admitting or denying the truth of the allegations, will not contest the factual allegations
17 contained in the Accusation filed in this proceeding and the Real Estate Commissioner shall
18 not be required to provide further evidence of such allegations.

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

26 6. The Order or any subsequent Order of the Real Estate Commissioner made
27 pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to

1 any further administrative proceedings by the Bureau with respect to any matters which were
2 not specifically alleged to be causes for accusation in this proceeding.

3 7. This Stipulation and Respondent's decision not to contest the Accusation are
4 made for the purpose of reaching an agreed disposition of this proceeding, and are expressly
5 limited to this proceeding and any other proceeding or case in which the Bureau of Real Estate
6 ("Bureau"), or another licensing agency of this state, another state, or of the federal
7 government is involved, and otherwise shall not be admissible in any other criminal or civil
8 proceedings.

9 DETERMINATION OF ISSUES

10 By reason of the foregoing stipulations and waivers and solely for the purpose
11 of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the
12 following Determination of Issues shall be made:

13 The conduct, acts or omissions of Respondent EUGENE EUGENE
14 KOCHERGA, as set forth in the Accusation constitute cause to suspend or revoke the real
15 estate license and licensing rights of Respondent EUGENE EUGENE KOCHERGA pursuant
16 to Business and Professions Code Sections 10177 (g).

17 ORDER

18 WHEREFORE, THE FOLLOWING ORDER is hereby made:

19 I. All licenses and licensing rights of Respondent EUGENE EUGENE
20 KOCHERGA under the Real Estate Law are suspended for a period of sixty (60) days from the
21 effective date of this Decision, provided, however, that sixty (60) days of said suspension shall
22 be stayed for two years from the effective date of the Decision upon the following terms and
23 conditions:

24 1. Respondent shall obey all laws, rules and regulations governing the rights,
25 duties and responsibilities of a real estate licensee in the State of California.

26 2. That no final subsequent determination be made, after hearing or upon
27 stipulation, that cause for disciplinary action occurred within two (2) years of the effective date

1 of this Decision. Should such a determination be made, the Commissioner may, in his
2 discretion, vacate and set aside the stay order and impose all or a portion of the stayed
3 suspension. Should no such determination be made, the stay imposed herein shall become
4 permanent.

5 II. Respondent shall, within six (6) months from the effective date of this
6 Decision, take and pass the Professional Responsibility Examination administered by the Bureau
7 including the payment of the appropriate examination fee. If Respondent fails to satisfy this
8 condition, the Commissioner may order suspension of Respondent's license until Respondent
9 passes the examination.

10 III. All licenses and license rights of Respondent are indefinitely suspended
11 unless or until Respondent pays the sum of \$3,365.00 for the Commissioner's reasonable costs of
12 investigation and enforcement which led to this disciplinary action. Said payment shall be in the
13 form of a cashier's check made payable to the Real Estate Fund. The investigation costs must be
14 delivered to the Bureau of Real Estate, Legal Section at P.O. Box 137007, Sacramento, CA
15 95813-7007, prior to the effective date of this Order.

16 DATED: 6/3/14

17 Martha J. Rosett
18 Martha J. Rosett, Counsel for
19 Bureau of Real Estate

20 * * *

21 I have read the Stipulation and Agreement, and reviewed it with my attorney. Its
22 terms are understood by me and are agreeable and acceptable to me. I understand that I am
23 waiving rights given to me by the California Administrative Procedure Act (including but not
24 limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly,
25 intelligently and voluntarily waive those rights, including the right of requiring the
26 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
27 right to cross-examine witnesses against me and to present evidence in defense and mitigation of
the charges.

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Respondent may signify acceptance and approval of the terms and conditions of this Stipulation by faxing a copy of its signature page, as actually signed by Respondent, to the Bureau at the following facsimile number: **Martha J. Rosett at (213) 576-6917**. Respondent agrees, acknowledges and understands that by electronically sending to the Bureau a fax copy of Respondent's actual signature as it appears on the Stipulation, receipt of the faxed copy by the Bureau shall be as binding on Respondent as if the Bureau had received the original signed Stipulation.

DATED: 6/3/2014 
EUGENE EUGENE KOCHERGA
Respondent

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on **JUL 09 2014**

IT IS SO ORDERED JUN 16 2014

REAL ESTATE COMMISSIONER


By: **JEFFREY MASON**
Chief Deputy Commissioner