

FILED

FEB 24 2014

BUREAU OF REAL ESTATE

By L. Amato

BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	NO. H-5907 SAC
VIRGIL DEAN MCKENZIE,)	
)	<u>STIPULATION AND AGREEMENT</u>
Respondent.)	

It is hereby stipulated by and between VIRGIL DEAN MCKENZIE (hereinafter "Respondent") and his attorney, CHRISTOPHER HANSON, and the Complainant, acting by and through JASON D. LAZARK, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on November 7, 2012 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.

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

3. 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.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

DETERMINATION OF ISSUES

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

The acts and/or omissions of Respondent as described in the Accusation violate Section 10177(j) of the Code.

ORDER

1. All licenses and licensing rights of Respondent VIRGIL DEAN MCKENZIE under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson's license shall be issued to Respondent pursuant to Section 10156.5 of the Code if Respondent makes application therefore and pays to the Bureau the appropriate fee for the restricted license within 90 days from the effective date of this Decision.

2. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Code as to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

(a) The restricted license issued to Respondent may be suspended prior to hearing by Order of the Commissioner in the event of Respondent's conviction (including by plea of guilty or nolo contendere) to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee; and,

(b) The restricted license issued to Respondent may be suspended prior to hearing by Order of the 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.

1 3. Respondent 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 two (2) years have elapsed from the effective date of this Decision.

4 4. Respondent shall notify the Commissioner in writing within 72 hours of any
5 arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post Office
6 Box 137007, Sacramento, CA 95813-7007. The letter shall set forth the date of Respondent's
7 arrest, the crime for which Respondent was arrested and the name and address of the arresting
8 law enforcement agency. Respondent's failure to timely file written notice shall constitute an
9 independent violation of the terms of the restricted license and shall be grounds for the
10 suspension or revocation of that license.

11 5. With the application for license, or with the application for transfer to a new
12 employing broker, Respondent shall submit a statement signed by the prospective employing real
13 estate broker on a form approved by the Bureau which shall certify as follows:

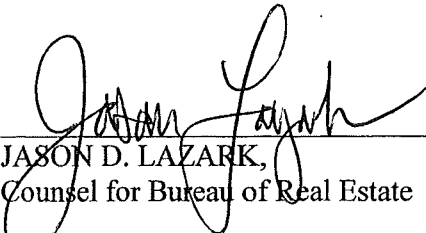
14 (a) That the employing broker has read the Decision which is the basis
15 for the issuance of the restricted license; and,

16 (b) That the employing broker will carefully review all transaction
17 documents prepared by the restricted licensee and otherwise
18 exercise close supervision over the licensee's performance of acts
19 for which a license is required.

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

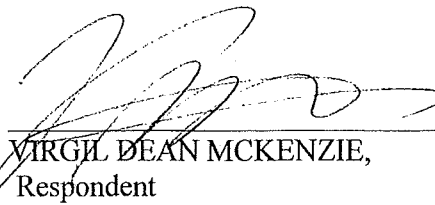
1 7. All licenses and licensing rights of Respondent are indefinitely suspended
2 unless or until Respondent pays the sum of \$1,836.70 for the Commissioner's reasonable costs of
3 the investigation and enforcement which led to this disciplinary action. Said payment shall be in
4 the form of a cashier's check or certified check made payable to the Real Estate Fund.

5
6
7 7/11/13
8 DATED

9 
10 JASON D. LAZARK,
11 Counsel for Bureau of Real Estate
12 ***

13 I have read the Stipulation and Agreement, have discussed it with my counsel,
14 and its terms are understood by me and are agreeable and acceptable to me. I understand that I
15 am waiving rights given to me by the California Administrative Procedure Act (including but
16 not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I
17 willingly, intelligently, and voluntarily waive those rights, including the right of requiring the
18 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
19 right to cross-examine witnesses against me and to present evidence in defense and mitigation
20 of the charges.

21 7/11/13
22 DATED

23 
24 VIRGIL DEAN MCKENZIE,
25 Respondent

26 *I have reviewed the Stipulation and Agreement as to form and content and
27 have advised my client accordingly.*

28 DATED

29 CHRISTOPHER HANSON,
30 Attorney for Respondent

1 7. All licenses and licensing rights of Respondent are indefinitely suspended
2 unless or until Respondent pays the sum of \$1,836.70 for the Commissioner's reasonable costs of
3 the investigation and enforcement which led to this disciplinary action. Said payment shall be in
4 the form of a cashier's check or certified check made payable to the Real Estate Fund.
5
6

7 _____
8 DATED

7 _____
8 JASON D. LAZARK,
9 Counsel for Bureau of Real Estate

9 * * *

10 I have read the Stipulation and Agreement, have discussed it with my counsel,
11 and its terms are understood by me and are agreeable and acceptable to me. I understand that I
12 am waiving rights given to me by the California Administrative Procedure Act (including but
13 not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I
14 willingly, intelligently, and voluntarily waive those rights, including the right of requiring the
15 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
16 right to cross-examine witnesses against me and to present evidence in defense and mitigation
17 of the charges.
18
19

20 _____
21 DATED

20 _____
21 VIRGIL DEAN MCKENZIE,
22 Respondent

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

25 1 July 13
26 _____
27 DATED

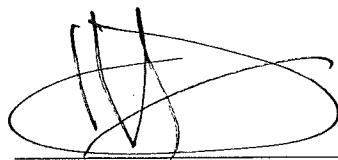
25 _____
26 CHRISTOPHER HANSON,
27 Attorney for Respondent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

The foregoing Stipulation and Agreement is hereby adopted as my Decision in
this matter and shall become effective at 12 o'clock noon on MAR 17 2014.

IT IS SO ORDERED NOV 07 2013.

REAL ESTATE COMMISSIONER



By: **JEFFREY MASON**
Chief Deputy Commissioner