

1 BUREAU OF REAL ESTATE
2 P. O. Box 137007
3 Sacramento, CA 95813-7007
4 Telephone: (916) 263-8670

FILED
MAR 04 2015
BUREAU OF REAL ESTATE
By L. Frost

7 BEFORE THE BUREAU OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of:) Case No. H-6098 SAC
11)
12 KIM JOSEPH CURRIERI, and) STIPULATION AND AGREEMENT
13 JERALD LEROY MASON, JR.,) IN SETTLEMENT AND ORDER
14 Respondents.)

15 It is hereby stipulated by and between Respondents KIM JOSEPH CURRIERI
16 (“CURRIERI”) and JERALD LEROY MASON, JR. (“MASON”) (collectively referred to as
17 “Respondents”), acting by and through Frank M. Buda, counsel for Respondents, and the
18 Complainant, acting by and through Jason D. Lazark, Counsel for the Bureau of Real Estate, as
19 follows for the purpose of settling and disposing of the Accusation filed on March 26, 2014, in
20 this matter:

21 1. All issues which were to be contested and all evidence which was to be
22 presented by Complainant and Respondents at a formal hearing on the Accusation, which
23 hearing was to be held in accordance with the provisions of the Administrative Procedure Act
24 (“APA”), shall instead and in place thereof be submitted solely on the basis of the provisions of
25 this Stipulation and Agreement In Settlement and Order.

26 2. Respondents have received, read and understand the Statement to
27 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Bureau of

1 Real Estate in this proceeding.

2 3. On April 8, 2014, Respondents filed Notices of Defense pursuant to Section
3 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the
4 Accusation. Respondents hereby freely and voluntarily withdraw said Notices of Defense.
5 Respondents acknowledge that they understand that by withdrawing said Notices of Defense
6 they will thereby waive their rights to require the Commissioner to prove the allegations in the
7 Accusation at a contested hearing held in accordance with the provisions of the APA and that
8 they will waive other rights afforded to them in connection with the hearing such as the right to
9 present evidence in defense of the allegations in the Accusation and the right to cross-examine
10 witnesses.

11 4. Respondent CURRIERI, pursuant to the limitations set forth below, hereby
12 admits that the factual allegations or findings of fact as set forth in paragraphs 1 through 13 and
13 paragraphs 19 through 33 in the Accusation filed in this proceeding are true and correct and the
14 Real Estate Commissioner shall not be required to provide further evidence of such allegations.

15 5. Respondent MASON, pursuant to the limitations set forth below, hereby
16 admits that the factual allegations or findings of fact as set forth in paragraphs 1 through 24 of
17 the Accusation filed in this proceeding are true and correct and the Real Estate Commissioner
18 shall not be required to provide further evidence of such allegations.

19 6. This Stipulation is made for the purpose of reaching an agreed disposition of
20 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
21 which the Bureau, the state or federal government, any agency of this state, or an agency of
22 another state is involved.

23 7. It is understood by the parties that the Real Estate Commissioner may adopt
24 the Stipulation and Agreement In Settlement and Order as his Decision in this matter, thereby
25 imposing the penalties and sanctions on Respondents' real estate licenses and license rights as
26 set forth in the below "Order". In the event that the Commissioner in his discretion does not
27 adopt the Stipulation and Agreement In Settlement and Order, it shall be void and of no effect,

1 and Respondents shall retain the right to a hearing and proceeding on the Accusation under all
2 the provisions of the APA and shall not be bound by any admission or waiver made herein.

3 8. The Order or any subsequent Order of the Real Estate Commissioner made
4 pursuant to this Stipulation and Agreement In Settlement and Order shall not constitute an
5 estoppel, merger or bar to any further administrative or civil proceedings by the Bureau of
6 Real Estate with respect to any matters which were not specifically alleged to be causes for
7 accusation in this proceeding.

8 9. CURRIERI understands that by agreeing to this Stipulation and Agreement,
9 CURRIERI agrees to be responsible for paying, pursuant to Section 10148 of the California
10 Business and Professions Code ("the Code"), the costs of the audit which resulted in the
11 determination that CURRIERI committed the trust fund violation(s) found in the Determination
12 of Issues. The amount of such costs is \$2,124.69.

13 10. CURRIERI further understands that by agreeing to this Stipulation and
14 Agreement, the findings set forth below in the Determination of Issues become final, and that the
15 Commissioner may charge CURRIERI for the costs of any audit conducted pursuant to Section
16 10148 of the Code to determine if the violations have been corrected and hold CURRIERI
17 responsible for paying the costs of the follow up audit. The maximum costs of said audit shall
18 not exceed \$2,124.69.

19 11. Respondents understand that by agreeing to this Stipulation and Agreement,
20 Respondents agree to be responsible for jointly and severally paying, pursuant to Section 10106
21 of the Code, the costs of the investigation and enforcement of this case which resulted in the
22 determination that Respondents committed the violation(s) found in the Determination of Issues.
23 The amount of such cost is \$3,214.14.

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1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions and waivers, and solely for
3 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and
4 agreed that the acts and/or omissions of Respondents, as described in the Accusation, constitute
5 grounds for the suspension or revocation of the licenses and license rights of Respondent
6 CURRIERI under the provisions of Sections, 10177(d), 10177(g), and 10177(h) of the Code
7 and of Respondent MASON under the provisions of Sections 10176(a), 10176(b), 10176(c),
8 10176(i) and 10177(d) of the Code.

9 ORDER

10 I. AS TO CURRIERI

11 1. All licenses and licensing rights of Respondent CURRIERI under the Real
12 Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued
13 to Respondent pursuant to Section 10156.5 of the Code if Respondent makes application
14 therefore and pays to the Bureau the appropriate fee for the restricted license within 90 days from
15 the effective date of this Decision.

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

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

24 (b) The restricted license issued to Respondent CURRIER shall be suspended
25 prior to hearing by Order of the Commissioner on evidence satisfactory to
26 the Commissioner that Respondent CURRIERI has violated provisions of
27 the California Real Estate Law, the Subdivided Lands Law, Regulations of

1 the Real Estate Commissioner, or conditions attaching to the restricted
2 license.

3 3. Respondent CURRIERI shall not be eligible to apply for the issuance of an
4 unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions
5 of a restricted license until four (4) years have elapsed from the effective date of this Decision.

6 4. Respondent CURRIERI shall notify the Commissioner in writing within 72
7 hours of any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate,
8 Post Office Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of
9 Respondent CURRIERI's arrest, the crime for which Respondent CURRIERI was arrested and
10 the name and address of the arresting law enforcement agency. Respondent CURRIERI's failure
11 to timely file written notice shall constitute an independent violation of the terms of the restricted
12 license and shall be grounds for the suspension or revocation of that license.

13 5. Respondent CURRIERI shall, within nine (9) months from the effective date
14 of this Order, present evidence satisfactory to the Commissioner that Respondent CURRIERI
15 has, since the most recent issuance of an original or renewal real estate license, taken and
16 successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the
17 Real Estate Law for renewal of a real estate license. If Respondent CURRIERI fails to satisfy
18 this condition, Respondent CURRIERI's real estate license shall automatically be suspended
19 until Respondent CURRIERI presents evidence satisfactory to the Commissioner of having taken
20 and successfully completed the continuing education requirements. Proof of completion of the
21 continuing education course must be delivered to the Bureau of Real Estate, Flag Section at P.O.
22 Box 137013, Sacramento, CA 95813-7013.

23 6. Respondent CURRIERI shall, within six (6) months from the effective date of
24 this Order, take and pass the Professional Responsibility Examination administered by the
25 Bureau, including the payment of the appropriate examination fee. If Respondent CURRIERI
26 fails to satisfy this condition, Respondent CURRIERI's real estate license shall automatically be
27 suspended until Respondent CURRIERI passes the examination.

1 7. All licenses and licensing rights of Respondent CURRIERI are indefinitely
2 suspended unless or until Respondent CURRIERI provides proof satisfactory to the
3 Commissioner, of having taken and successfully completed the continuing education course on
4 trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section
5 10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement
6 includes evidence that Respondent CURRIERI has successfully completed the trust fund
7 account and handling continuing education course no earlier than 120 days prior to the
8 effective date of the Order in this matter. Proof of completion of the trust fund accounting and
9 handling course must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box
10 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the effective date of
11 this Order.

12 8. All licenses and licensing rights of Respondent CURRIERI are indefinitely
13 suspended unless and until Respondent CURRIERI provides proof satisfactory to the
14 Commissioner, of having taken and successfully completed the continuing education course on
15 risk management specified in paragraph (5) of subdivision (a) of Section 10170.5 of the Business
16 and Professions Code. Proof of satisfaction of this requirement includes evidence that
17 Respondent CURRIERI has successfully completed the risk management continuing education
18 course no earlier than 120 days prior to the effective date of the Order in this matter. Proof of
19 completion of the risk management course must be delivered to the Bureau of Real Estate, Flag
20 Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to
21 the effective date of this Order.

22 9. Pursuant to Section 10148 of the Code, Respondent CURRIERI shall pay the
23 sum of \$2,124.69 for the Commissioner's cost of the audit which led to this disciplinary action.
24 Respondent CURRIERI shall pay such cost within sixty (60) days of receiving an invoice
25 therefore from the Commissioner. Payment of audit costs should not be made until Respondent
26 receives the invoice. If Respondent CURRIERI fails to satisfy this condition in a timely manner
27 as provided for herein, Respondent CURRIERI's real estate license shall automatically be

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

3 10. Pursuant to Section 10148 of the Code, Respondent CURRIERI shall pay the
4 Commissioner's reasonable cost, not to exceed \$2,124.69, for an audit to determine if
5 Respondent CURRIERI has corrected the violation(s) found in the Determination of Issues. In
6 calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the
7 estimated average hourly salary for all persons performing audits of real estate brokers, and shall
8 include an allocation for travel time to and from the auditor's place of work. Respondent
9 CURRIERI shall pay such cost within sixty (60) days of receiving an invoice therefore from the
10 Commissioner. Payment of the audit costs should not be made until Respondent receives the
11 invoice. If Respondent CURRIERI fails to satisfy this condition in a timely manner as provided
12 for herein, Respondent CURRIERI's real estate license shall automatically be suspended until
13 payment is made in full, or until a decision providing otherwise is adopted following a hearing
14 held pursuant to this condition.

15 II. AS TO MASON

16 1. All licenses and licensing rights of Respondent MASON under the Real Estate
17 Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to
18 Respondent MASON pursuant to Section 10156.5 of the Code if Respondent MASON makes
19 application therefore and pays to the Bureau the appropriate fee for the restricted license within
20 90 days from the effective date of this Decision.

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

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

3 (d) The restricted license issued to Respondent MASON shall be suspended
4 prior to hearing by Order of the Commissioner on evidence satisfactory to
5 the Commissioner that Respondent MASON has violated provisions of the
6 California Real Estate Law, the Subdivided Lands Law, Regulations of the
7 Real Estate Commissioner, or conditions attaching to the restricted
8 license.

9 3. Respondent MASON shall not be eligible to apply for the issuance of an
10 unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions
11 of a restricted license until four (4) years have elapsed from the effective date of this Decision.

12 4. Respondent MASON shall notify the Commissioner in writing within 72 hours
13 of any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post
14 Office Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of
15 Respondent MASON's arrest, the crime for which Respondent MASON was arrested and the
16 name and address of the arresting law enforcement agency. Respondent MASON's failure to
17 timely file written notice shall constitute an independent violation of the terms of the restricted
18 license and shall be grounds for the suspension or revocation of that license.

19 5. With any application for license under any employing broker, or any
20 application for transfer to a new employing broker, Respondent MASON shall submit a
21 statement signed by the prospective employing real estate broker on a form approved by the
22 Bureau which shall certify as follows:

23 (a) That the employing broker has read the Decision of the Commissioner
24 which is the basis for the right to a restricted license; and

25 (b) That the employing broker will carefully review all transaction
26 documents prepared by the restricted licensee and otherwise exercise close
27 supervision over the Respondent MASON's performance of acts for which a

1 real estate license is required.

2 6. Respondent MASON shall, within nine (9) months from the effective date of
3 this Order, present evidence satisfactory to the Commissioner that Respondent MASON has,
4 since the most recent issuance of an original or renewal real estate license, taken and successfully
5 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
6 Law for renewal of a real estate license. If Respondent MASON fails to satisfy this condition,
7 Respondent MASON's real estate license shall automatically be suspended until Respondent
8 MASON presents evidence satisfactory to the Commissioner of having taken and successfully
9 completed the continuing education requirements. Proof of completion of the continuing
10 education courses must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box
11 137013, Sacramento, CA 95813-7013.

12 7. Respondent MASON shall, within six (6) months from the effective date of
13 this Order, take and pass the Professional Responsibility Examination administered by the
14 Bureau, including the payment of the appropriate examination fee. If Respondent MASON
15 fails to satisfy this condition, Respondent MASON's real estate license shall automatically be
16 suspended until Respondent MASON passes the examination.

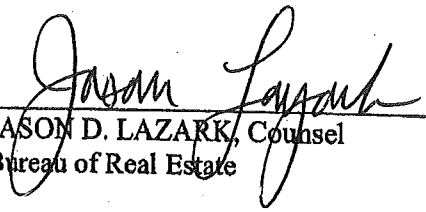
17 III. AS TO BOTH CURRIERI AND MASON

18 All licenses and licensing rights of Respondents CURRIERI and MASON are
19 indefinitely suspended unless or until Respondents CURRIERI and MASON, jointly and
20 severally, pay the sum of \$3,214.14 for the Commissioner's reasonable costs of the
21 investigation and enforcement which led to this disciplinary action. Said payment shall be in
22 the form of a cashier's check or certified check made payable to the Bureau of Real Estate.
23 The investigative and enforcement costs must be delivered to the Bureau of Real Estate, Flag
24 Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
25 Order.

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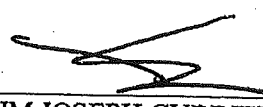
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DATED



JASON D. LAZARK, Counsel
Bureau of Real Estate

I have read the Stipulation and Agreement in Settlement and Order and its terms are understood by me and are agreeable and acceptable to me. 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, 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 I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

Jan 15 2015
DATED

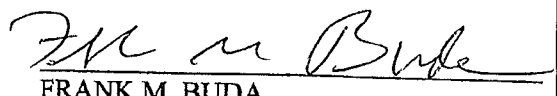

KIM JOSEPH CURRIERI
Respondent

1-15-2015
DATED


GERALD LEROY MASON
Respondent

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

1-15-2015
DATED


FRANK M. BUDA
Attorney for Respondents

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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 25 2015.

IT IS SO ORDERED FEBRUARY 5, 2015.

REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner