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**NOV 01 2018**

DEPARTMENT OF REAL ESTATE

By           *R Andino*          

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**BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

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In the Matter of the Accusation of:

**EAGLE VINES REALTY and  
RONALD KENNETH BANASIK,  
Respondents.**

**No. H-6584 SAC**

**STIPULATION AND  
AGREEMENT IN  
SETTLEMENT AND ORDER**

It is hereby stipulated by and between EAGLE VINES REALTY ("EVR") and RONALD KENNETH BANASIK ("BANASIK") (collectively "Respondents") and their attorney Ralph Andino and the Complainant, acting by and through Adriana Z. Badilas, Counsel for the Department of Real Estate ("Department"), as follows for the purpose of settling and disposing of the Accusation filed on August 31, 2017, in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents 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.

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1                   2.       Respondents have received, read, and understand the Statement to  
2 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department in  
3 this proceeding.

4                   3.       Respondents filed a Notice of Defense pursuant to Section 11505 of the  
5 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.  
6 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents  
7 acknowledge that Respondents will waive Respondents' right to require the Real Estate  
8 Commissioner ("Commissioner") to prove the allegations in the Accusation at a contested  
9 hearing held in accordance with the provisions of the APA and that Respondents will waive other  
10 rights afforded to Respondents in connection with the hearing, such as the right to present  
11 evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

12                   4.       This Stipulation and Agreement and Respondents' decision not to contest  
13 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and  
14 are expressly limited to this proceeding and any other proceeding or case in which the  
15 Department, the state or federal government, an agency of this state, or an agency of another state  
16 is involved.

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

24                   6.       This Decision and Order or any subsequent Order of the Commissioner  
25 made pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar  
26 to any further administrative or civil proceedings by the Department with respect to any matters,  
27 which were not specifically alleged in Accusation H-6584 SAC.

1 DETERMINATION OF ISSUES

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

5 I

6 The acts and/or omissions of EVR, as described in the Accusation, are grounds for  
7 disciplinary action against the licenses and license rights of EVR under Business and Professions  
8 Code ("Code") Sections 10145, 10176(e), 10177(d), and 10177(g), in conjunction with the  
9 California Code of Regulations ("Regulations"), Title 10, Sections 2831.1, 2831.2, and 2835.

10 II

11 The acts and/or omissions of BANASIK, as described in the Accusation, are  
12 grounds for disciplinary action against the licenses and license rights of BANASIK under  
13 Sections 10145, 10159.2, 10176(e), 10177(d), and 10177(g) of the Code, in conjunction with  
14 Sections 2725, 2831.1, 2831.2, and 2835 of the Regulations.

15 ORDER AS TO EVR

16 All licenses and licensing rights of EVR under the Real Estate Law are suspended  
17 for a period of ninety (90) days from the effective date of this Order; provided, however, that:

18 1. Forty-five (45) days of said suspension shall be stayed upon the condition that  
19 EVR petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to  
20 Section 10175.2 of the Code, at a rate of \$50 for each day of the suspension, for a total monetary  
21 penalty of \$2,250.00.

22 a. Said payment shall be in the form of a cashier's check made payable to  
23 the Department of Real Estate and must be delivered to the Department of Real Estate, Flag  
24 Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this  
25 Order.

26 b. No further cause for disciplinary action against the real estate license  
27 of EVR occurs within two (2) years from the effective date of the Order in this matter.

1                   c. If EVR fails to pay the monetary penalty in accordance with the terms  
2 and conditions of the Decision, the Commissioner may, without a hearing, order the immediate  
3 execution of all or any part of the stayed suspension, in which event, EVR shall not be entitled to  
4 any repayment nor credit, prorated or otherwise, for money paid to the Bureau under the terms of  
5 this decision.

6                   d. If EVR pays the monetary penalty, and if no further cause for  
7 disciplinary action against the real estate license of EVR occurs within two (2) years from the  
8 effective date of the Decision herein, then the stay hereby granted shall become permanent.

9                   2. The remaining forty-five (45) days of said suspension shall also be stayed for  
10 two (2) years upon the following terms and conditions:

11                   a. EVR shall obey all laws, rules and regulations governing the rights,  
12 duties and responsibilities of a real estate licensee in the State of California, and

13                   b. That no final subsequent determination be made, after hearing or  
14 upon stipulation, that cause for disciplinary action occurred within two (2) years from the  
15 effective date of this Order. Should such a determination be made, the Commissioner may, in  
16 his discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed  
17 suspension. Should no such determination be made, the stay imposed herein shall become  
18 permanent.

19   ORDER AS TO BANASIK

20                   All licenses and licensing rights of BANASIK under the Real Estate Law are  
21 suspended for a period of ninety (90) days from the effective date of this Order; provided,  
22 however, that:

23                   1. Forty-five (45) days of said suspension shall be stayed upon the condition that  
24 BANASIK petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty  
25 pursuant to Section 10175.2 of the Code, at a rate of \$50 for each day of the suspension, for a  
26 total monetary penalty of \$2,250.00.

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1                    a. Said payment shall be in the form of a cashier's check made payable to  
2 the Department of Real Estate and must be delivered to the Department of Real Estate, Flag  
3 Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this  
4 Order.

5                    b. No further cause for disciplinary action against the real estate license  
6 of BANASIK occurs within two (2) years from the effective date of the Order in this matter.

7                    c. If BANASIK fails to pay the monetary penalty in accordance with the  
8 terms and conditions of the Decision, the Commissioner may, without a hearing, order the  
9 immediate execution of all or any part of the stayed suspension, in which event, BANASIK shall  
10 not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Bureau  
11 under the terms of this decision.

12                    d. If BANASIK pays the monetary penalty, and if no further cause for  
13 disciplinary action against the real estate license of BANASIK occurs within two (2) years  
14 from the effective date of the Decision herein, then the stay hereby granted shall become  
15 permanent.

16                    2. The remaining forty-five (45) days of said suspension shall also be stayed for  
17 two (2) years upon the following terms and conditions:

18                    a. BANASIK shall obey all laws, rules and regulations governing the  
19 rights, duties and responsibilities of a real estate licensee in the State of California, and

20                    b. That no final subsequent determination be made, after hearing or  
21 upon stipulation, that cause for disciplinary action occurred within two (2) years from the  
22 effective date of this Order. Should such a determination be made, the Commissioner may, in  
23 his discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed  
24 suspension. Should no such determination be made, the stay imposed herein shall become  
25 permanent.

26                    3. BANASIK shall, within six (6) months from the effective date of this Order,  
27 take and pass the Professional Responsibility Examination administered by the Bureau,

1 including the payment of the appropriate examination fee. If BANASIK fails to satisfy this  
2 condition, BANASIK's real estate license shall automatically be suspended until BANASIK  
3 passes the examination.

4 4. All licenses and licensing rights of BANASIK are indefinitely suspended  
5 unless or until BANASIK provides proof satisfactory to the Commissioner, of having taken and  
6 successfully completed the continuing education course on trust fund accounting and handling  
7 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of  
8 satisfaction of these requirements includes evidence that BANASIK has successfully completed  
9 the trust fund accounting and handling continuing education course, no earlier than one hundred  
10 twenty (120) days prior to the effective date of the Order in this matter. Proof of completion of  
11 the trust fund accounting and handling course must be delivered to the Department of Real  
12 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-  
13 8785, prior to the effective date of this Order.

14 ORDER AS TO EVR AND BANASIK

15 1. All licenses and licensing rights of Respondents are indefinitely suspended  
16 unless or until Respondents, jointly and severally, pay the sum of \$1,893.25 for the  
17 Commissioner's reasonable costs of the investigation and enforcement which led to this  
18 disciplinary action. Said payment shall be in the form of a cashier's check or certified check  
19 made payable to the Bureau of Real Estate. The investigative and enforcement costs must be  
20 delivered to the Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA  
21 95813-7013, prior to the effective date of this Order.

22 2. Respondents, jointly and severally, shall pay the sum of \$3,337.85 for the  
23 Commissioner's cost of the audit which led to this disciplinary action. Respondents shall pay  
24 such cost within sixty (60) days of receiving an invoice therefore from the Commissioner. The  
25 Commissioner shall indefinitely suspend all licenses and licensing rights of Respondents  
26 pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if  
27 payment is not timely made as provided for herein, or as provided for in a subsequent

1 agreement between Respondents and the Commissioner. The suspension shall remain in effect  
2 until payment is made in full or until Respondents enter into an agreement satisfactory to the  
3 Commissioner to provide for payment, or until a decision providing otherwise is adopted  
4 following a hearing held pursuant to this condition.

5 3. Respondents, jointly and severally, shall pay the Commissioner's costs, not  
6 to exceed \$4,172.31, of any audit conducted pursuant to Section 10148 of the Code to  
7 determine if Respondents have corrected the violations described in the Determination of  
8 Issues, above, and any other violations found in the audit which led to this disciplinary action.  
9 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use  
10 the estimated average hourly salary for all persons performing audits of real estate brokers, and  
11 shall include an allocation for travel time to and from the auditor's place of work. Respondents  
12 shall pay such cost within sixty (60) days of receiving an invoice therefore from the  
13 Commissioner detailing the activities performed during the audit and the amount of time spent  
14 performing those activities. If Respondents fail to pay such cost within the sixty (60) days, the  
15 Commissioner shall indefinitely suspend all licenses and licensing rights of Respondents under  
16 the Real Estate Law until payment is made in full or until Respondents enter into an agreement  
17 satisfactory to the Commissioner to provide for payment. Upon full payment, the indefinite  
18 suspension provided for in this paragraph shall be stayed.

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21 9/27/18

22 DATED

  
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24 ADRIANA Z. BADILAS, Counsel  
25 Department of Real Estate

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2 I have read the Stipulation and Agreement, have discussed it with my counsel,  
3 and its terms are understood by me and are agreeable and acceptable to me. I understand that I  
4 am waiving rights given to me by the APA (including but not limited to Sections 11506,  
5 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and  
6 voluntarily waive those rights, including the right of requiring the Commissioner to prove the  
7 allegations in the Accusation at a hearing at which I would have the right to cross-examine  
8 witnesses against me and to present evidence in defense and mitigation of the charges.

9 Respondent can signify acceptance and approval of the terms and conditions of  
10 this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by  
11 Respondent, to the Bureau at fax number (916) 263-3767 or by e-mail to  
12 adriana.badilas@DRE.ca.gov. Respondents agree, acknowledge, and understand that by  
13 electronically sending to the Bureau a fax copy of Respondents' actual signature as it appears  
14 on the Stipulation and Agreement, that receipt of the faxed copy by the Bureau shall be as  
15 binding on Respondents as if the Bureau had received the original signed Stipulation and  
16 Agreement.

17  
18 7/18, 9/22/2018  
19 DATED

Ronald K. Banasik  
EAGLE VINES REALTY  
By: RONALD K. BANASIK, Designated  
Officer  
Respondent

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23 7/18, 9/22/2018  
24 DATED

Ronald K. Banasik  
RONALD K. BANASIK  
Respondent

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*I have reviewed this Stipulation and Agreement as to form and content and have advised my clients accordingly.*

7/18/2018 / 9/22/2018  
DATED

  
RALPH ANDINO  
Attorney for Respondents

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The foregoing Stipulation and Agreement In Settlement and Order is hereby adopted by the Real Estate Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on NOV 26 2018.

IT IS SO ORDERED October 26, 2018.

DANIEL J. SANDRI  
ACTING REAL ESTATE COMMISSIONER

