

1 Department of Real Estate  
2 P.O. Box 137007  
3 Sacramento, CA 95813-7007

4 Telephone: (916) 576-8700

**FILED**

NOV 18 2022

DEPARTMENT OF REAL ESTATE

By B. Nicholas

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 FRANK COOK REALTY INC.; )  
13 and )  
14 FRANK L. COOK, as designated officer of )  
15 Frank Cook Realty Inc., )  
16 Respondents.)

No. H-7123 SAC

STIPULATION AND  
AGREEMENT

17 It is hereby stipulated by and between FRANK COOK REALTY INC. (FCRI),  
18 and FRANK L. COOK (COOK) (collectively "Respondents"), and the Complainant, acting by  
19 and through Truly Sughrue, Counsel for the Department of Real Estate (Department), as  
20 follows for the purpose of settling and disposing of the Accusation filed on April 19, 2022, in  
21 this matter:

22 1. All issues which were to be contested and all evidence which was to be  
23 presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing  
24 was to be held in accordance with the provisions of the Administrative Procedure Act (APA),  
25 shall instead and in place thereof be submitted solely on the basis of the provisions of this  
26 Stipulation and Agreement.  
27

1                   2.     Respondents have received, read, and understand the Statement to  
2 Respondent, and the Discovery Provisions of the APA filed by the Department in this  
3 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 understand that by withdrawing said Notice of Defense  
8 Respondents will thereby waive Respondents' rights to require the Real Estate Commissioner  
9 (Commissioner) to prove the allegations in the Accusation at a contested hearing held in  
10 accordance with the provisions of the APA, and that Respondents will waive other rights  
11 afforded to Respondents in connection with the hearing such as the right to present evidence in  
12 defense of the allegations in the Accusation and the right to cross-examine witnesses.

13                   4.     This Stipulation and Agreement is based on the factual allegations  
14 contained in the Accusation. In the interest of expediency and economy, Respondents choose not  
15 to contest these factual allegations, but to remain silent and understand that, as a result thereof,  
16 these factual statements will serve as a prima facie basis for the "Determination of Issues" and  
17 "Order" set forth below. The Commissioner shall not be required to provide further evidence to  
18 prove such allegations.

19                   5.     This Stipulation and Agreement and Respondents' decision not to contest  
20 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and  
21 are expressly limited to this proceeding and any other proceeding or case in which the  
22 Department, the state or federal government, an agency of this state, or an agency of another  
23 state is involved.

24                   6.     Respondents understand that by agreeing to this Stipulation and  
25 Agreement, Respondents agree to pay, pursuant to Section 10148 of the California Business and  
26 Professions Code (Code), the cost of the audit, which resulted in the determination that  
27 Respondent committed the trust fund handling violation(s) found in the Determination of Issues.

1 The amount of said costs is \$5,222.

2           7. Respondents further understand that by agreeing to this Stipulation and  
3 Agreement, the findings set forth below in the Determination of Issues become final, and that  
4 the Commissioner may charge said Respondents for the costs of any audit conducted pursuant  
5 to Section 10148 of the Code to determine if the violations have been corrected. The maximum  
6 costs of said audit shall not exceed \$6,257.50.

7           8. It is understood by the parties that the Commissioner may adopt the  
8 Stipulation and Agreement as his decision in this matter thereby imposing the penalty and  
9 sanctions on the real estate licenses and license rights of Respondents as set forth in the below  
10 "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and  
11 Agreement, it shall be void and of no effect, and Respondents shall retain the right to a hearing  
12 and proceeding on the Accusation under all the provisions of the APA and shall not be bound by  
13 any admission or waiver made herein.

14           9. The Order or any subsequent Order of the Commissioner made pursuant to  
15 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further  
16 administrative or civil proceedings by the Department with respect to any matters which were  
17 not specifically alleged to be causes for action in Accusation H-7123 SAC.

18 \* \* \*

19 DETERMINATION OF ISSUES

20           By reason of the foregoing stipulations and waivers and solely for the purpose of  
21 settlement of the pending Accusation without a hearing, it is stipulated and agreed that the  
22 following determination of issues shall be made:

23 I

24           The acts and omissions of Respondents as described in the Accusation are  
25 grounds for the suspension or revocation of Respondents' licenses and license rights under the  
26 following sections of the Code and Title 10, Chapter 6, of the California Code of Regulations  
27 (Regulations):

1 As to Paragraph 10, under Section 10177(d) of the Code in conjunction with  
2 Section 10145 of the Code and Section 2832.1 of the Regulations.

3 II

4 The acts and/or omissions of COOK as described in the Accusation is cause for  
5 the suspension or revocation of COOK's license and/or license rights under Section 10177(h) of  
6 the Code.

7 \* \* \*

8 ORDER

9 I

10 All licenses and licensing rights of FCRI under the Real Estate Law are  
11 suspended for a period of thirty (30) days from the effective date of this Order; provided,  
12 however, that:

13 1) Fifteen (15) days of said suspension shall be stayed, upon the condition that FCRI  
14 petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to  
15 Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total monetary  
16 penalty of \$750.

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

21 b) No further cause for disciplinary action against the Real Estate licenses of FCRI  
22 occurs within two (2) years from the effective date of the decision in this matter.

23 c) If FCRI fails to pay the monetary penalty as provided above prior to the effective  
24 date of this Order, the stay of the suspension shall be vacated as to FCRI and the order of  
25 suspension shall be immediately executed, under this Order, in which event FCRI shall not be  
26 entitled to any repayment nor credit, prorated or otherwise, for the money paid to the Department  
27 under the terms of this Order.



1 c) If COOK fails to pay the monetary penalty as provided above prior to the  
2 effective date of this Order, the stay of the suspension shall be vacated as to COOK and the order  
3 of suspension shall be immediately executed, under this Order, in which event COOK shall not  
4 be entitled to any repayment nor credit, prorated or otherwise, for the money paid to the  
5 Department under the terms of this Order.

6 d) If COOK pays the monetary penalty and any other moneys due under this  
7 Stipulation and Agreement and if no further cause for disciplinary action against the real estate  
8 license of COOK occurs within two (2) years from the effective date of this Order, the entire stay  
9 hereby granted this Order, as to COOK only, shall become permanent.

10 2) Fifteen (15) days of said suspension shall be stayed for two (2) years upon the  
11 following terms and conditions:

12 a) COOK shall obey all laws, rules and regulations governing the rights, duties and  
13 responsibilities of a real estate licensee in the State of California; and,

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

19 3) All licenses and licensing rights of COOK are indefinitely suspended unless or  
20 until COOK provides proof satisfactory to the Commissioner, of having taken and successfully  
21 completed the continuing education course on trust fund accounting and handling specified in  
22 paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of satisfaction of these  
23 requirements includes evidence that COOK has successfully completed the trust fund account  
24 and handling continuing education courses, no earlier than 120 days prior to the effective date of  
25 the Decision and Order in this matter. Proof of completion of the trust fund accounting and  
26 handling course must be delivered to the Department of Real Estate, Flag Section at P.O. Box  
27 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the effective date of

1 this Decision and Order.

2 III

3 1) Pursuant to Section 10148 of the Code, Respondents shall pay the sum of \$5,222  
4 for the Commissioner's cost of the audit which led to this disciplinary action. Respondents shall  
5 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.

6 Payment of audit costs should not be made until Respondents receive the invoice. If  
7 Respondents fail to satisfy this condition in a timely manner as provided for herein,  
8 Respondents' real estate license shall automatically be suspended until payment is made in full,  
9 or until a decision providing otherwise is adopted following a hearing held pursuant to this  
10 condition.

11 2) Pursuant to Section 10148 of the Code, Respondents shall pay the  
12 Commissioner's reasonable cost, not to exceed \$6,527.50, for an audit to determine if  
13 Respondents have corrected the violation(s) found in the Determination of Issues. In calculating  
14 the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated  
15 average hourly salary for all persons performing audits of real estate brokers, and shall include  
16 an allocation for travel time to and from the auditor's place of work. Respondents shall pay such  
17 costs within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment  
18 of the audit costs should not be made until Respondents receive the invoice. If Respondents fail  
19 to satisfy this condition in a timely manner as provided for herein, Respondents' real estate  
20 license shall automatically be suspended until payment is made in full, or until a decision  
21 providing otherwise is adopted following a hearing held pursuant to this condition.

22  
23 2 September 2022

24 DATED



25 TRUDY SUGHRUE  
26 Counsel for Complainant

27 \*\*\*

1 I have read the Stipulation and Agreement, discussed it with my counsel, and its  
2 terms are understood by me and are agreeable and acceptable to me. I understand that I am  
3 waiving rights given to me by the California Administrative Procedure Act, and I willingly,  
4 intelligently and voluntarily waive those rights, including the right of requiring the  
5 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the  
6 right to cross-examine witnesses against me and to present evidence in defense and mitigation of  
7 the charges.

8 Respondent and Respondent's attorney further agree to send the original signed  
9 Stipulation and Agreement by mail to the following address no later than one (1) week from the  
10 date the Stipulation and Agreement is signed by Respondent and Respondent's attorney:

11 *Department of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-*  
12 *7007.* Respondent and Respondent's attorney understand and agree that if they fail to return the  
13 original signed Stipulation and Agreement by the due date, Complainant retains the right to set  
14 this matter for hearing.

15 9/11/2022  
16 DATED

Frank L. Cook  
17 Frank L. Cook, Designated Officer  
FRANK COOK REALTY INC.,  
Respondent

18 9/11/2022  
19 DATED

Frank L. Cook  
20 FRANK L. COOK  
Respondent

21 \*\*\*

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

24 9/2/2022  
25 DATED

Roberto M. Hernandez  
26 ROBERTO M. HERNANDEZ  
Attorney for Respondent



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The foregoing Stipulation and Agreement is hereby adopted as my Decision and  
Order and shall become effective at 12 o'clock noon on DEC 09 2022.

IT IS SO ORDERED OCT 18 2022

DOUGLAS R. McCAULEY  
REAL ESTATE COMMISSIONER

Stew Lem  
For Douglas McCauley