

1 Department of Real Estate
2 P. O. Box 1870007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

FILED

FEB 03 2014

BUREAU OF REAL ESTATE

By *J. L. L. L.*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Investigation of

) Case No. H-11645 SF

) Inv. No. 511-0421-001

12 KENNETH LEATHERBARROW,

) STIPULATION AND AGREEMENT

) (B&P Code 10100.4)

13 Respondent.

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15
16 Respondent KENNETH LEATHERBARROW ("Respondent") is
17 currently licensed by the Department of Real Estate
18 ("Department") as a real estate broker. His license expires on
19 October 25, 2014.

20 FACTUAL BASIS

21 From December 17, 2010 through December 21, 2011,
22 Respondent served as the supervising broker for licensed real
23 estate salesperson Armjit S. Ahluwalia ("Ahluwalia") and as the
24 designated broker-officer for licensed real estate broker
25 corporation Saratoga Bancorp ("Saratoga"). As the designated
26 broker-officer, Respondent was responsible, pursuant to section
27 10159.2 of the Business and Professions Code ("Code"), for the

511-0421-001

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STIPULATION OF
KENNETH LEATHERBARROW

1 supervision of the activities of the officers, agents, real
2 estate licensees, and employees of Saratoga for which a license
3 is required.

4 At all times mention herein, Saratoga engaged in the
5 business of, acted in the capacity of, advertised, or assumed to
6 act as a real estate broker, in the State of California, within
7 the meaning of section 10131(d) of the Code, including the
8 operation and conduct of a mortgage loan brokerage with the
9 public wherein Saratoga solicited lender and borrowers for or
10 negotiated loans or collected payments and/or performed services
11 for borrowers or lenders or note owners in connection with loans
12 secured directly or collaterally by liens on real property for
13 or in expectation of compensation.

14 During the time that Respondent was the designated
15 broker-officer of Saratoga, Ahluwalia and Saratoga fraudulently
16 converted all or part of \$25,000 from Joseph G. during the
17 course and scope of real estate related activities.

18 ACKNOWLEDGMENTS AND VOLUNTARY WAIVER OF RIGHTS

19 It is hereby stipulated by and between Respondent, and
20 the Department of Real Estate, acting by and through its
21 counsel, Jason D. Lazark, as follows:

22 1. All issues relating to the Department's
23 investigation of Respondent's acts, and all evidence which may
24 be presented by the Department and Respondent at a formal
25 disciplinary hearing held in accordance with the provisions of
26 the Administrative Procedure Act ("APA") resulting from the
27 Department's investigation, shall instead and in place thereof
be submitted solely on the basis of the provisions of this

1 Stipulation and Agreement.

2 2. Respondent hereby waives his right to a formal
3 hearing under the provisions of the APA regarding the factual
4 basis set forth above, and the determination of issues and the
5 Department's revocation of Respondent's real estate broker
6 license, as set forth below.

7 3. Respondent acknowledges that he understands that
8 by waiving his right to notice of the charges brought against
9 him by the Department, and his right to file a Notice of Defense
10 requesting a formal hearing under the APA, Respondent will
11 thereby waive his right to require the Commissioner to prove the
12 allegations which would be alleged in a formal Accusation at a
13 contested hearing held in accordance with the provisions of the
14 APA and that Respondent will waive other rights afforded to him
15 in connection with a formal hearing such as the right to present
16 evidence in defense of the allegations in the Accusation and the
17 right to cross-examine witnesses.

18 4. It is understood the Real Estate Commissioner
19 will adopt the Stipulation and Agreement as his or her decision
20 in this matter, thereby imposing the penalty and sanctions on
21 Respondent's real estate license and license rights as set forth
22 in the "Order" below.

23 5. The Order or any subsequent Order of the Real
24 Estate Commissioner made pursuant to this Stipulation and
25 Agreement shall not constitute an estoppel, merger or bar to any
26 further administrative or civil proceedings by the Department of
27 Real Estate with respect to any matters which were not

1 specifically alleged as grounds for discipline in this matter.

2 DETERMINATION OF ISSUES

3 By reason of the foregoing stipulations, admissions
4 and waivers and solely for the purpose of settlement of the
5 Department's investigation of Respondent's acts requiring a real
6 estate license without hearing, it is stipulated and agreed that
7 the following Determination of Issues shall be made:

8 I

9 The acts and omissions of Respondent set forth above
10 in failing to properly supervise Ahluwalia and Saratoga are
11 grounds for the suspension or revocation of the licenses and
12 license rights of Respondent under the provisions of Section
13 10177(d) of the Code in conjunction with title 10, section 2725
14 of the California Code of Regulations.

15 ORDER

16 All licenses and licensing rights of Respondent
17 KENNETH LEATHERBARROW under the Real Estate Law are revoked;
18 provided, however, a restricted real estate broker license shall
19 be issued to said Respondent pursuant to Section 10156.5 of the
20 Code if Respondent makes application therefore and pays to the
21 Department of Real Estate the appropriate fee for the restricted
22 license within 90 days from the effective date of this Decision.
23 The restricted license issued to Respondent shall be subject to
24 all of the provisions of Section 10156.7 of the Code and to the
25 following limitations, conditions and restrictions imposed under
26 authority of Section 10156.6 of that Code:

1 1. The restricted license issued to Respondent may
2 be suspended prior to hearing by Order of the Real Estate
3 Commissioner in the event of Respondent's conviction or plea of
4 nolo contendere to a crime which is substantially related to
5 Respondent's fitness or capacity as a real estate licensee.

6 2. The restricted license issued to Respondent may
7 be suspended prior to hearing by Order of the Real Estate
8 Commissioner on evidence satisfactory to the Commissioner that
9 Respondent has violated provisions of the California Real Estate
10 Law, the Subdivided Lands Law, Regulations of the Real Estate
11 Commissioner or conditions attaching to the restricted license.

12 3. Respondent shall not be eligible to apply for the
13 issuance of an unrestricted real estate license nor for the
14 removal of any of the conditions, limitations or restrictions of
15 a restricted license until two (2) years have elapsed from the
16 effective date of this Decision.

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

1 Administrative Procedure Act to present such evidence.

2 5. Respondent shall, within six (6) months from the
3 issuance of the restricted license, take and pass the
4 Professional Responsibility Examination administered by the
5 Department, including the payment of the appropriate examination
6 fee. If Respondent fails to satisfy this condition, the
7 Commissioner may order the suspension of the restricted license
8 until Respondent passes the examination.

9 6. Respondent shall notify the Commissioner in
10 writing within 72 hours of any arrest by sending a certified
11 letter to the Commissioner at the Department of Real Estate, Post
12 Office Box 187000, Sacramento, CA 95818-7000. The letter shall
13 set forth the date of Respondent's arrest, the crime for which
14 Respondent was arrested and the name and address of the arresting
15 law enforcement agency. Respondent's failure to timely file
16 written notice shall constitute an independent violation of the
17 terms of the restricted license and shall be grounds for the
18 suspension or revocation of that license.

21
22 7-18-13

23 DATED

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JASON D. LAZARK, Counsel
DEPARTMENT OF REAL ESTATE

1 * * *

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

13 6/4/2013
14 DATED

Kenneth Leatherbarrow
KENNETH LEATHERBARROW
Respondent

16 * * *

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18 The foregoing Stipulation and Agreement for Settlement
19 is hereby adopted by the Real Estate Commissioner as his
20 Decision and Order and shall become effective at 12 o'clock noon
21 on FEB 24 2014.

22 IT IS SO ORDERED

July 31, 2013

23
24 REAL ESTATE COMMISSIONER

25 [Signature]
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27