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BUREAU OF REAL ESTATE

By S. Black

BUREAU OF REAL ESTATE
P. O. Box 137007
Sacramento, CA 95813-7007

Telephone: (916) 263-8670
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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

NO. H-11687 SF

NICHOLAS JAMES KRAEMER,

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

Respondent.

It is hereby stipulated by and between NICHOLAS JAMES KRAEMER (herein "Respondent") and the Complainant, acting by and through Mary F. Clarke, Counsel for the Bureau of Real Estate (herein "the Bureau"), as follows for the purpose of settling and disposing of the Accusation filed on April 23, 2014, 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 in Settlement and Order.

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

3. A Notice of Defense was filed on May 6, 2014, by Respondent pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.

1 Respondent acknowledges that he understands that by withdrawing said Notice of Defense, he
2 will thereby waive his rights to require the Real Estate Commissioner (herein "Commissioner")
3 to prove the allegations in the Accusation at a contested hearing held in accordance with the
4 provisions of the APA and that he will waive other rights afforded to him in connection with the
5 hearing such as the right to present evidence in defense of the allegations in the Accusation and
6 the right to cross-examine witnesses.

7 4. Respondent hereby admits that the factual allegations pertaining to him in the
8 Accusation filed in this proceeding are true and correct and the Commissioner shall not be
9 required to provide further evidence of such allegations.

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

17 6. The Order or any subsequent Order of the Commissioner made pursuant to this
18 Stipulation and Agreement in Settlement and Order shall not constitute an estoppel, merger, or bar
19 to any further administrative or civil proceedings by the Bureau with respect to any matters
20 which were not specifically alleged to be causes for Accusation in this proceeding.

21 7. Respondent understands that by agreeing to this Stipulation and Agreement in
22 Settlement and Order, Respondent agrees to pay, pursuant to Section 10148 of the California
23 Business and Professions Code (herein "Code"), the cost of the audit which resulted in the
24 determination that Respondent committed the violations found in the Determination of Issues.
25 The amount of said costs is \$4,672.35.

1 8. Respondent understands that by agreeing to this Stipulation and Agreement in
2 Settlement and Order, the findings set forth below in the Determination of Issues become final,
3 and that the Commissioner may charge said Respondent, for the costs of any audit conducted
4 pursuant to Section 10148 of the Code to determine if the trust fund violations found in the
5 Determination of Issues, below, have been corrected. The maximum costs of said audit shall not
6 exceed \$4,672.35.

7 9. Respondent further understands that by agreeing to this Stipulation and
8 Agreement in Settlement and Order, Respondent agrees to pay, pursuant to Section 10106(a) of
9 the Code, investigative and enforcement costs of \$2,000.00 which led to this disciplinary action.

10 DETERMINATION OF ISSUES

11 The acts and omissions of Respondent as described in the Accusation are grounds
12 for the suspension or revocation of the license and license rights of Respondent under the
13 following provisions of the Code and/or Chapter 6, Title 10, California Code of Regulations
14 (herein "the Regulations"):

- 15 (a) as to Paragraph 6(a) under Section 2832.1 of the Regulations in
16 conjunction with Section 10177(d) of the Code;
17 (b) as to Paragraph 6(b) under Section 10145 of the Code and Section
18 2832 of the Regulations in conjunction with Section 10177(d) of the
19 Code;
20 (c) as to Paragraph 6(c) under Section 2831 of the Regulations in
21 conjunction with Section 10177(d) of the Code; and
22 (d) as to Paragraph 6(d) under Section 2834 of the Regulations in
23 conjunction with Section 10177(d) of the Code.

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ORDER

All licenses and licensing rights of Respondent under the Real Estate Law are
suspended for a period of sixty (60) days from the effective date of this Order; provided,
however, that:

1. All licenses and licensing rights of Respondent under the Real Estate Law
are suspended until such time as Respondent provides proof satisfactory to the Commissioner
that Respondent has, within one hundred twenty (120) days prior to the effective date of the
Order herein completed the continuing education course on trust fund accounting and handling
specified in subdivision (a) of Section 10170.5 of the Code. **Proof of completion of the trust
fund accounting and handling course must be delivered to the Bureau of Real Estate, Legal
Section at P.O. Box 137007, Sacramento, CA 95813-7007 or by fax at 916-263-3767, prior to
the effective date of this Order.**

2. Thirty (30) days of said sixty (60) day said suspension shall be stayed for two
(2) years upon the following terms and conditions:

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

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

3. The remaining thirty (30) days of said sixty (60) day suspension shall be
stayed upon the condition that Respondent petitions, pursuant to Section 10175.2 of the Code,

1 and pays a monetary penalty, pursuant to Section 10175.2, of the Code at a rate of \$50.00 for
2 each day of said remaining thirty (30) days for a total monetary penalty of \$1,500.00:

3 (a) Said payment shall be in the form of a cashier's check or certified
4 check made payable to the Recovery Account of the Real Estate Fund.
5 Said check must be received by the Bureau prior to the effective date
6 of this Order. **Said payment shall be in the form of a cashier's**
7 **check made payable to the Bureau of Real Estate. Said check**
8 **must be delivered to the Bureau of Real Estate, Legal Section at**
9 **P.O. Box 137007, Sacramento, CA 95813-7007, prior to the**
10 **effective date of this Order.**

11 (b) No further cause for disciplinary action against the Real Estate license
12 of Respondent occurs within two (2) years from the effective date of
13 this Order.

14 (c) If Respondent fails to pay the monetary penalty as provided above prior
15 to the effective date of this Order, the suspension shall go into effect
16 automatically and remain in effect until Respondent pays the monetary
17 penalty in full, in which event Respondent shall not be entitled to any
18 repayment nor credit, prorated or otherwise, for the money paid to the
19 Bureau under the terms of this Order.

20 (d) If Respondent pays the monetary penalty and any other moneys due
21 under this Stipulation and Agreement in Settlement and Order and if
22 no further cause for disciplinary action against the real estate license of
23 Respondent occurs within two (2) years from the effective date of this
24 Order, the entire stay hereby granted under this Order shall become
25 permanent.
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1 4. Respondent understands that by agreeing to this Stipulation and Agreement in
2 Settlement and Order, Respondent agrees to pay, pursuant to Section 10148 of the Code, the cost
3 of the audit which resulted in the determination that Respondent committed the trust fund
4 violations found in the Determination of Issues, above. The amount of said cost is \$4,672.35.
5 **Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from**
6 **the Commissioner.** If Respondent fails to pay such cost within the sixty (60) days,
7 Respondent's real estate license shall automatically be suspended until Respondent's payment is
8 made in. Upon payment in full, the indefinite suspension provided for in this paragraph shall be
9 stayed.

10 5. Respondent shall pay the Commissioner's costs, not to exceed \$4,672.35, of
11 any audit conducted pursuant to Section 10148 of the Code to determine if Respondent has
12 corrected the violations described in the Determination of Issues, above. In calculating the
13 amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average
14 hourly salary for all persons performing audits of real estate brokers, and shall include an
15 allocation for travel time to and from the auditor's place of work. **Respondent shall pay such**
16 **cost within sixty (60) days of receiving an invoice therefore from the Commissioner**
17 detailing the activities performed during the audit and the amount of time spent performing those
18 activities. If Respondent fails to pay such cost within the sixty (60) days, Respondent's real estate
19 license shall automatically be suspended until Respondent's payment is made in full. Upon
20 payment in full, the indefinite suspension provided for in this paragraph shall be stayed.

21 6. Respondent shall pay the sum of \$2,000.00 for the Commissioner's
22 investigative and enforcement costs, pursuant to Section 10106(a) of the Code, for the
23 investigation and enforcement which led to this disciplinary action. Said payment shall be in the
24 form of a cashier's check or certified check made payable to the Real Estate Fund. Said check
25 must be received by the Bureau prior to the effective date of this Order. **The investigative and**
26 **enforcement costs must be delivered to the Bureau of Real Estate, Legal Section at P.O.**
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1 Box 137007, Sacramento, CA 95813-7007, prior to the effective date of this Order. If
2 Respondent fails to satisfy this condition, Respondent's real estate license shall automatically be
3 suspended until Respondent's payment is made in full. Upon payment in full, the indefinite
4 suspension provided for in this paragraph shall be stayed.

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

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11 11-14-14

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13 DATED

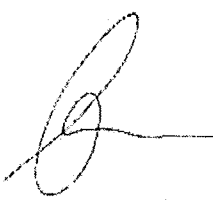
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16 MARY F. CLARKE, Counsel
17 BUREAU OF REAL ESTATE

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19 I have read the Stipulation and Agreement in Settlement and Order and its terms
20 are understood by me and are agreeable and acceptable to me. I understand that I am waiving
21 rights given to me by the California APA (including but not limited to Sections 11506, 11508,
22 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive
23 those rights, including the right of requiring the Commissioner to prove the allegations in the
24 Accusation at a hearing at which I would have the right to cross-examine witnesses against me
25 and to present evidence in defense and mitigation of the charges.

26 Friday November 14th, 2014

27 DATED


NICHOLAS JAMES KRAEMER
Respondent

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The foregoing Stipulation and Agreement in Settlement and Order is hereby
adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on
JAN 23 2015

IT IS SO ORDERED

DEC 31 2014

REAL ESTATE COMMISSIONER

By: JEFFREY MASON
Chief Deputy Commissioner