

OCT 08 2014

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

BUREAU OF REAL ESTATE
By S. Black

4 Telephone: (916) 263-8670

7 BEFORE THE BUREAU OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of:)	Case No. H-11702 SF
)	
11 BROKER'S NETWORK INC. and)	<u>STIPULATION AND AGREEMENT</u>
12 MICHAEL MARK MENDOZA,)	<u>IN SETTLEMENT AND ORDER</u>
)	
13 Respondents.)	
)	

15 It is hereby stipulated by and between Respondent BROKER'S NETWORK
16 INC. ("BROKER'S"), MICHAEL MARK MENDOZA ("MENDOZA") (collectively referred
17 to as "Respondents"), acting by and through Michael Yesk, 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 May 21, 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 June 3, 2014, Respondents filed a Notice 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. Respondents, pursuant to the limitations set forth below, hereby admit that
12 the factual allegations or findings of fact as set forth in the Accusation filed in this proceeding
13 are true and correct and the Real Estate Commissioner shall not be required to provide further
14 evidence of such allegations.

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

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

1 The acts and/or omissions of Respondent MENDOZA as described in the
2 Accusation are grounds for the suspension or revocation of the licenses and license rights of
3 Respondent MENDOZA under the provisions of Sections 10177(d), 10177(g) 10177(h) and
4 10177(q) of the Code, in conjunction with Sections 10085.5, 10085.6, and 10159.2, of the Code
5 and Sections 2725 and 2944.7 of Title 10 of the California Code of the Regulations.

6 ORDER

7 I.

8 1. The corporate real estate broker license and license rights of Respondent
9 BROKER'S under the Real Estate Law are revoked; provided, however, a restricted corporate
10 real estate broker license shall be issued to Respondent BROKER'S pursuant to Section 10156.5
11 of the Code if Respondent BROKER'S makes application therefore and pays to the Bureau the
12 appropriate fee for the restricted license within 90 days from the effective date of this Decision.

13 2. The restricted license issued to Respondent BROKER'S shall be subject to all
14 of the provisions of Section 10156.7 of the Code as to the following limitations, conditions and
15 restrictions imposed under authority of Section 10156.6 of that Code: The restricted license
16 issued to Respondent BROKER'S shall be suspended prior to hearing by Order of the
17 Commissioner on evidence satisfactory to the Commissioner that Respondent BROKER'S has
18 violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of
19 the Real Estate Commissioner, or conditions attaching to the restricted license.

20 3. Respondent BROKER'S shall not be eligible to apply for the issuance of an
21 unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions
22 of a restricted license until two (2) years have elapsed from the effective date of this Decision.

23 II.

24 All licenses and licensing rights of Respondent MENDOZA under the Real Estate
25 Law are revoked; provided, however, a restricted real estate broker license shall be issued to
26 Respondent MENDOZA pursuant to Section 10156.5 of the Code if Respondent MENDOZA
27

1 makes application therefore and pays to the Bureau the appropriate fee for the restricted license
2 within 90 days from the effective date of this Decision.

3 1. The restricted license issued to Respondent MENDOZA shall be subject to all
4 of the provisions of Section 10156.7 of the Code as to the following limitations, conditions and
5 restrictions imposed under authority of Section 10156.6 of that Code:

6 (a) The restricted license issued to Respondent MENDOZA shall be
7 suspended prior to hearing by Order of the Commissioner in the event of
8 Respondent MENDOZA's conviction (including by plea of guilty or nolo
9 contendere) to a crime which is substantially related to Respondent
10 MENDOZA's fitness or capacity as a real estate licensee; and,

11 (b) The restricted license issued to Respondent MENDOZA shall be
12 suspended prior to hearing by Order of the Commissioner on evidence
13 satisfactory to the Commissioner that Respondent MENDOZA has
14 violated provisions of the California Real Estate Law, the Subdivided
15 Lands Law, Regulations of the Real Estate Commissioner, or conditions
16 attaching to the restricted license.

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

20 3. Respondent MENDOZA shall notify the Commissioner in writing within 72
21 hours of any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate,
22 Post Office Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of
23 Respondent MENDOZA's arrest, the crime for which Respondent MENDOZA was arrested and
24 the name and address of the arresting law enforcement agency. Respondent MENDOZA's
25 failure to timely file written notice shall constitute an independent violation of the terms of the
26 restricted license and shall be grounds for the suspension or revocation of that license.

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1 4. Respondent MENDOZA shall, within nine (9) months from the effective date
2 of this Decision, present evidence satisfactory to the Commissioner that Respondent MENDOZA
3 has, since the most recent issuance of an original or renewal real estate license, taken and
4 successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the
5 Real Estate Law for renewal of a real estate license. If Respondent MENDOZA fails to satisfy
6 this condition, the Commissioner shall order the suspension of the restricted license until the
7 Respondent MENDOZA presents such evidence. The Commissioner shall afford Respondent
8 MENDOZA the opportunity for hearing pursuant to the APA to present such evidence.

9 5. Respondent MENDOZA shall, within six (6) months from the issuance of the
10 Order, take and pass the continuing education course on Trust Fund Accounting and Handling
11 specified in Section 10170.5(a)(3) of the Code, including the payment of the appropriate
12 examination fee. All licenses and licensing rights of Respondent MENDOZA shall be
13 indefinitely suspended unless or until Respondent MENDOZA passes the examination.

14 6. Respondent MENDOZA shall, within six (6) months from the issuance of the
15 Order, take and pass the Professional Responsibility Examination administered by the Bureau,
16 including the payment of the appropriate examination fee. All licenses and licensing rights of
17 Respondent MENDOZA shall be indefinitely suspended unless or until Respondent
18 MENDOZA passes the examination.

19 III.

20 1. Respondents, jointly and severally, shall pay the sum of \$6,376.81 for
21 the Commissioner's cost of the audit which led to this disciplinary action. Respondents shall
22 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.
23 The Commissioner shall indefinitely suspend all licenses and licensing rights of Respondents
24 pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if
25 payment is not timely made as provided for herein, or as provided for in a subsequent
26 agreement between Respondents and the Commissioner. The suspension shall remain in effect
27 until payment is made in full or until Respondents enter into an agreement satisfactory to the

1 Commissioner to provide for payment, or until a decision providing otherwise is adopted
2 following a hearing held pursuant to this condition.

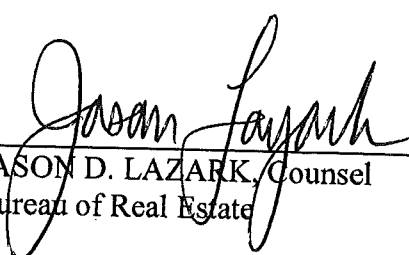
3 2. Respondents, jointly and severally, shall pay the Commissioner's costs,
4 not to exceed \$6,376.81, of any audit conducted pursuant to Section 10148 of the Code to
5 determine if Respondents have corrected the violations described in the Determination of
6 Issues, above, and any other violations found in the audit which led to this disciplinary action.
7 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use
8 the estimated average hourly salary for all persons performing audits of real estate
9 BROKER'S, and shall include an allocation for travel time to and from the auditor's place of
10 work. Respondents shall pay such cost within sixty (60) days of receiving an invoice therefore
11 from the Commissioner detailing the activities performed during the audit and the amount of
12 time spent performing those activities. If Respondents fail to pay such cost within the sixty
13 (60) days, the Commissioner shall indefinitely suspend all licenses and licensing rights of
14 Respondents under the Real Estate Law until payment is made in full or until Respondents
15 enter into an agreement satisfactory to the Commissioner to provide for payment. Upon full
16 payment, the indefinite suspension provided for in this paragraph shall be stayed.

17 IV.

18 All licenses and licensing rights of Respondents, are indefinitely suspended
19 unless or until Respondents, jointly and severally, pay the sum of \$3,129.50 for the
20 Commissioner's reasonable cost of the investigation and enforcement which led to this
21 disciplinary action. Said payment shall be in the form of a cashier's check or certified check
22 made payable to the Real Estate Fund.

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24
25 9-24-14

26 DATED

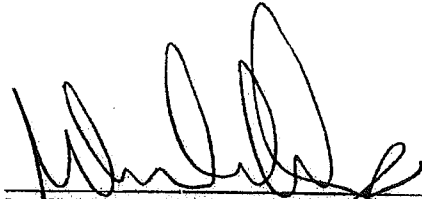
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JASON D. LAZARK, Counsel
Bureau of Real Estate

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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.

9-23-14

DATED



MICHAEL MARK MENDOZA
Designated Officer for Respondent
BROKER'S NETWORK INC.

9-23-14

DATED



MICHAEL MARK MENDOZA
Respondent

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

9-23-2014

DATED



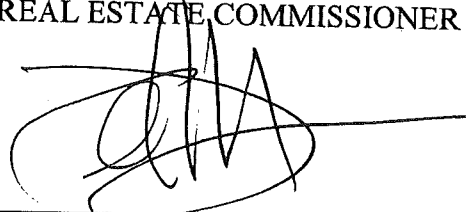
Michael Yesk
Attorney for Respondents

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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 **OCT 29 2014**

IT IS SO ORDERED ~~OCT 07 2014~~

REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner