

1 BUREAU OF REAL ESTATE
2 P. O. Box 137007
3 Sacramento, CA 95813-7007
4 Telephone: (916) 263-8670
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FILED
OCT 27 2015

BUREAU OF REAL ESTATE

By 

9 BEFORE THE BUREAU OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of:)

13 ROYCE HENRY CABLAYAN,)

14 Respondent.)

Case No. H-11730 SF

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

15
16 It is hereby stipulated by and between Respondent ROYCE HENRY
17 CABLAYAN ("Respondent"), acting by and through his counsel, Mary E. Work, Esq., and the
18 Complainant, acting by and through Jason D. Lazark, Esq., Counsel for the Bureau of Real
19 Estate ("Bureau"), as follows for the purpose of settling and disposing of the Accusation filed
20 on June 27, 2014, in this matter:

21 1. All issues which were to be contested and all evidence which was to be
22 presented by Complainant and Respondent 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 ("Stipulation and Agreement").

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

1 3. On or about July 3, 2014, Respondent filed a Notice of Defense pursuant to
2 Section 11505 of the Government Code for the purpose of requesting a hearing on the
3 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice
4 of Defense. Respondent acknowledges and understands that by withdrawing said Notice of
5 Defense, he will thereby waive his right to require the Real Estate Commissioner
6 ("Commissioner") to prove the allegations in the Accusation at a contested hearing held in
7 accordance with the provisions of the APA and that he will waive other rights afforded to him
8 in connection with the hearing such as the right to present evidence in defense of the
9 allegations in the Accusation and the right to cross-examine witnesses.

10 4. Respondent, pursuant to the limitations set forth below, hereby admits that
11 the factual allegations as set forth in the Accusation filed in this proceeding are true and correct
12 and the Commissioner shall not be required to provide further evidence of such allegations.

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

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

24 7. Respondent understands that by agreeing to this Stipulation and Agreement,
25 Respondent agrees to pay, pursuant to Section 10106 of the Business and Professions Code
26 (Code), the cost of the investigation and enforcement which resulted in the determination that
27 Respondent committed the violation(s) found in the Determination of Issues. The amount of

1 said costs is \$6,852.50.

2 DETERMINATION OF ISSUES

3 By reason of the foregoing stipulations, admissions and waivers, and solely for
4 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed
5 that the acts and omissions of Respondent, as described in the Accusation, violate Section
6 10176(i) of the Code.

7 DECISION AND ORDER

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

13 2. The restricted license issued to Respondent shall be subject to all of the
14 provisions of Section 10156.7 of the Code and to the following limitations, conditions, and
15 restrictions imposed under authority of Section 10156.6 of that Code:

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

21 (b) The restricted license issued to Respondent shall be suspended prior to
22 hearing by Order of the Commissioner on evidence satisfactory to the
23 Commissioner that Respondent has violated provisions of the California
24 Real Estate Law, the Subdivided Lands Law, Regulations of the Real
25 Estate Commissioner, or conditions attaching to the restricted license.

1 3. Respondent shall not be eligible to apply for the issuance of an unrestricted
2 real estate license nor for removal of any of the conditions, limitations or restrictions of a
3 restricted license until five (5) years have elapsed from the effective date of this Decision.

4 4. Upon the issuance of a restricted license to Respondent, all licenses and
5 licensing rights of Respondent under the Real Estate Law are suspended for a period of nine (9)
6 months; provided, however, that:

7 (a) Three (3) months of said suspension shall be stayed upon the condition that
8 Respondent petitions, pursuant to Section 10175.2 of the Code, and pays a monetary penalty of
9 \$3,000.00, pursuant to Section 10175.2 of the Code.

10 i. Said payment shall be in the form of a cashier's check made payable to
11 the Bureau of Real Estate. Said check must be delivered to the Bureau of Real Estate, Flag
12 Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
13 Decision and Order.

14 ii. No further cause for disciplinary action against the real estate license
15 of Respondent occurs within two (2) years from the effective date of the Decision and Order in
16 this matter.

17 iii. If Respondent fails to pay the monetary penalty in accordance with the
18 terms and conditions of the Decision and Order, the Commissioner may, without a hearing, order
19 the immediate execution of all or any part of the stayed suspension, in which event, Respondent
20 shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the
21 Bureau under the terms of this decision.

22 iv. If Respondent pays the monetary penalty, and if no further cause for
23 disciplinary action against the real estate license of Respondent occurs within two (2) years
24 from the effective date of the Decision and Order herein, then the stay hereby granted shall
25 become permanent.

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1 5. Respondent shall notify the Commissioner in writing within 72 hours of any
2 arrest by sending a certified letter to the Commissioner at: Bureau of Real Estate, P. O. Box
3 137007, Sacramento, CA 95813-7007. The letter shall set forth the date of Respondent's arrest,
4 the crime for which Respondent was arrested, and the name and address of the arresting law
5 enforcement agency. Respondent's failure to timely file written notice shall constitute an
6 independent violation of the terms of the restricted license and shall be grounds for the
7 suspension or revocation of that license.

8 6. With any application for license under any employing broker, or any
9 application for transfer to a new employing broker, Respondent shall submit a statement signed
10 by the prospective employing real estate broker on a form approved by the Bureau which shall
11 certify as follows:

12 (a) That the employing broker has read the Decision of the Commissioner
13 which is the basis for the right to a restricted license; and

14 (b) That the employing broker will carefully review all transaction
15 documents prepared by the restricted licensee and otherwise exercise close
16 supervision over the Respondent's performance of acts for which a real
17 estate license is required.

18 7. Respondent shall, within nine (9) months from the effective date of this
19 Decision, present evidence satisfactory to the Commissioner that Respondent has, since the most
20 recent issuance of an original or renewal real estate license, taken and successfully completed the
21 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal
22 of a real estate license. If Respondent fails to satisfy this condition, Respondent's restricted real
23 estate license shall automatically be suspended until the Respondent presents such evidence to
24 the Commissioner. Proof of completion of the continuing education courses must be delivered
25 to: Bureau of Real Estate, Flag Section, P. O. Box 137013, Sacramento, CA 95813-7013.

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

6 9. All licenses and licensing rights of Respondent are indefinitely suspended
7 unless or until Respondent pays the sum of \$6,852.50 for the Commissioner's reasonable costs
8 of the investigation and enforcement which led to this disciplinary action. Said payment shall
9 be in the form of a cashier's check or certified check made payable to the Bureau of Real
10 Estate. The investigative and enforcement costs must be delivered to the Bureau of Real
11 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective
12 date of this Decision and Order.

13 8/30/15
14 DATED

15 Jason Lazark
16 JASON D. LAZARK, Counsel
17 Bureau of Real Estate

18 * * *


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 Administrative Procedure Act (including but not limited to
22 Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly,
23 intelligently, and voluntarily waive those rights, including the right of requiring the
24 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
25 right to cross-examine witnesses against me and to present evidence in defense and mitigation
26 of the charges.

27 Respondent can signify acceptance and approval of the terms and conditions of
this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by
Respondent, to the Bureau at fax number (916) 263-3767 or by e-mail to

1 jason.lazark@dre.ca.gov. Respondent agrees, acknowledges, and understands that by
2 electronically sending to the Bureau a fax copy of Respondent's actual signature as it appears
3 on the Stipulation and Agreement, that receipt of the faxed copy by the Bureau shall be as
4 binding on Respondent as if the Bureau had received the original signed Stipulation and
5 Agreement.

6 8-13-15

7 DATED



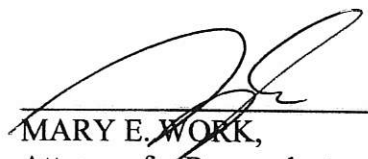
8 ROYCE HENRY CABLAYAN,
Respondent

9 * * *

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

12 8/18/15

13 DATED



14 MARY E. WORK,
Attorney for Respondent
15 ROYCE HENRY CABLAYAN

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17 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
18 this matter and shall become effective at 12 o'clock noon on **NOV 17 2015**

19 IT IS SO ORDERED OCTOBER 16, 2015

20 REAL ESTATE COMMISSIONER



21 By: JEFFREY MASON
22 Chief Deputy Commissioner
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