

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

4 Telephone: (916) 263-8670

FILED

JUL 30 2015

BUREAU OF REAL ESTATE

By *[Signature]*

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 In the Matter of the Accusation of)

NO. H-11773 SF

11 MICHAEL ANTHONY MCHUGH,)

STIPULATION AND
AGREEMENT

12 Respondent.)
13)

14 It is hereby stipulated by and between Respondent MICHAEL ANTHONY
15 MCHUGH ("Respondent"), acting by and through Robert F. Hahn, Esq., Counsel for
16 Respondent, and the Complainant, acting by and through Annette E. Ferrante, Esq., Counsel for
17 the Bureau of Real Estate ("Bureau"), as follows for the purpose of settling and disposing of the
18 Accusation filed on November 3, 2014, in this matter:

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

24 2. Respondent has received, read and understands the Statement to
25 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Bureau in
26 this proceeding.
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1 3. Respondent filed a Notice of Defense pursuant to Section 11505 of the
2 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
3 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
4 acknowledges that Respondent understands that by withdrawing said Notice of Defense,
5 Respondent will thereby waive Respondent's 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 Respondent will waive other rights
8 afforded to Respondent in connection with the hearing such as the right to present evidence in
9 defense of the allegations in the Accusation and the right to cross-examine witnesses.

10 4. This Stipulation is based on the factual allegations contained in the
11 Accusation. In the interest of expedience and economy, Respondent chooses not to contest these
12 factual allegations, but to remain silent and understands that, as a result thereof, these factual
13 statements will serve as a prima facie basis for the "Determination of Issues" and "Order" set
14 forth below. The Commissioner shall not be required to provide further evidence to prove such
15 allegations.

16 5. This Stipulation and Respondent's decision not to contest the Accusation
17 are made for the purpose of reaching an agreed disposition in this proceeding and are expressly
18 limited to this proceeding and any other proceeding or case in which the Bureau, the state or
19 federal government, an agency of this state, or an agency of another state is involved.

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

1 7. The Order or any subsequent Order of the Commissioner made pursuant
2 to this Stipulation shall not constitute an estoppel, merger or bar to any further administrative
3 or civil proceedings by the Bureau with respect to any matters which were not specifically
4 alleged to be causes for accusation in this proceeding.

5 8. Respondent understands that by agreeing to this Stipulation, Respondent
6 agrees to pay, pursuant to Section 10106 of the Code, the costs of the investigation and
7 enforcement of this case which resulted in the determination that Respondent committed the
8 violation(s) found in the Determination of Issues. The amount of such cost is \$1,894.45.

9 DETERMINATION OF ISSUES

10 By reason of the foregoing stipulations, admissions and waivers and solely for
11 the purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed
12 that the following determination of issues shall be made: The acts and omissions of Respondent
13 as described in the Accusation are grounds for the suspension or revocation of the license and
14 license rights of Respondent under Sections 490 and 10177(b) of the Code, and under Section
15 10177(d) of the Code in conjunction with Section 10186.2 of the Code.

16 ORDER

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

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

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

10 c. Respondent shall not be eligible to apply for the issuance of an
11 unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions
12 of a restricted license until four (4) years have elapsed from the effective date of this Decision
13 and Order.

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

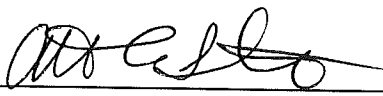
24 3. Respondent shall notify the Commissioner in writing within 72 hours of
25 any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Flag
26 Section, P.O. Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the date of

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1 Respondent's arrest, the crime for which Respondent was arrested and the name and address of
2 the arresting law enforcement agency. Respondent's failure to timely file written notice shall
3 constitute an independent violation of the terms of the restricted license and shall be grounds for
4 the suspension or revocation of that license.

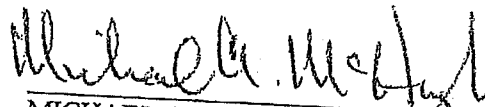
5 4. All licenses and licensing rights of Respondent are indefinitely suspended
6 unless or until Respondent pays the sum of \$1,894.45 for the Commissioner's reasonable cost of
7 the investigation and enforcement which led to this disciplinary action. Said payment shall be in
8 the form of a cashier's check made payable to the Bureau of Real Estate. **The investigation and**
9 **enforcement costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box**
10 **137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.**

11 6/17/15
12 DATED

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14 Annette E. Ferrante, Counsel
15 Bureau of Real Estate
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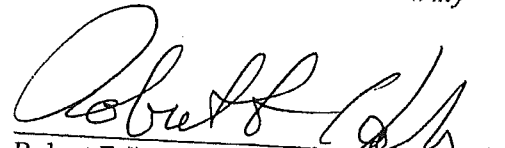
I have read this Stipulation and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I 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. Respondent can signify acceptance and approval of the terms and conditions of this Stipulation by faxing a copy of the signature page, as actually signed by Respondent, to the Bureau at fax number (916) 263-3767. Respondent agrees, acknowledges and understands that by electronically sending to the Bureau a fax copy of Respondent's actual signature as it appears on this Stipulation, that receipt of the faxed copy by the Bureau shall be as binding on Respondent as if the Bureau had received the original signed Stipulation.

June 17, 2015
DATED


MICHAEL ANTHONY MCHUGH
Respondent

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

June 17 2015
DATED


Robert F. Hahn, Esq.,
Attorney for Respondent

The foregoing Stipulation and Agreement and Order is hereby adopted by me as
my Decision in this matter as to Respondent MICHAEL ANTHONY MCHUGH, and shall
become effective at 12 o'clock noon on AUG 19 2015.

IT IS SO ORDERED

July 15, 2015

Real Estate Commissioner



By: JEFFREY MASON
Chief Deputy Commissioner