

1 Department of Real Estate
2 320 W. 4th Street, Suite 350
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

FILED

NOV 6 2024

DEPT OF REAL ESTATE

By—

8 **DEPARTMENT OF REAL ESTATE**

9 **STATE OF CALIFORNIA**

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11 In the Matter of the Accusation of)

DRE No. H-12614 SF

12 EXCLUSIVE LIFESTYLES, INC., RANDALL)
13 NOEL KOSTICK, individually and as designated)
14 officer of Exclusive Lifestyles, Inc., ALL)
15 CALIFORNIA BROKERAGE INC, BARBARA)
16 MAYBER LYNCH, individually and as)
17 designated officer of All California Brokerage)
18 Inc, and FRANK JOHN SERGI,)

19 Respondents.)

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

20 It is hereby stipulated by and between Respondent RANDALL NOEL KOSTICK
21 ("Respondent") and his attorney of record, Shannon B. Jones, and the Complainant, acting by and
22 through Kevin H. Sun, Counsel for the Department of Real Estate, as follows for the purpose of
23 settling and disposing of the Accusation filed on March 28, 2023, in this matter (Case No. H-12614
24 SF):

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

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

4 3. On or about May 30, 2023, Respondent filed a Notice of Defense pursuant to
5 Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in
6 the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
7 Respondent acknowledges that he understands that by withdrawing said Notice of Defense he will
8 thereby waive his rights to require the Commissioner to prove the allegations in the Accusation at a
9 contested hearing held in accordance with the provisions of the APA and that he will waive other
10 rights afforded to him in connection with the hearing such as the right to present evidence in
11 defense of the allegations in the Accusation and the right to cross-examine witnesses.

12 4. This Stipulation is based on the factual allegations contained in the Accusation.
13 In the interest of expedience and economy, Respondent chooses not to contest these allegations, but
14 to remain silent, and understands that, as a result thereof, these factual allegations, without being
15 admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to herein.
16 The Real Estate Commissioner shall not be required to provide further evidence to prove said
17 factual allegations.

18 5. This Stipulation is made for the purpose of reaching an agreed disposition of this
19 proceeding and is expressly limited to this proceeding and any other proceeding or case in which
20 the Department or another licensing agency of this state, another state, or if the federal government
21 is involved, and otherwise shall not be admissible in any other criminal or civil proceeding.

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1 6. It is understood by the parties that the Real Estate Commissioner may adopt the
2 Stipulation as her Decision in this matter, thereby imposing the penalty and sanctions on
3 Respondent's real estate license and license rights as set forth in the below "Order". In the event
4 that the Commissioner in her discretion does not adopt the Stipulation and Agreement, it shall be
5 void and of no effect, and Respondent shall retain the right to a hearing and proceeding on the
6 Accusation under all the provisions of the APA and shall not be bound by any admission or waiver
7 made herein.

8 7. The Order or any subsequent Order of the Real Estate Commissioner made
9 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
10 administrative or civil proceedings by the Department of Real Estate with respect to any matters
11 which were not specifically alleged to be causes for accusation in this proceeding.

12 **DETERMINATION OF ISSUES**

13 By reason of the foregoing stipulations, admissions and waivers and solely for the
14 purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that
15 the following determination of issues shall be made:

16 The conduct of Respondent, as described in the Accusation, are in violation of
17 California Business and Professions Code ("Code") Sections 10145, 10159.2, and 10159.5 and
18 Title 10, Chapter 6, California Code of Regulations ("Regulations") Sections 2731, 2832.1, 2834,
19 2950, 2951 and are grounds for the suspension or revocation of all of the real estate license and
20 license rights of Respondent under the provision of Code Section 10177(d), (g), and (h).

21 **ORDER**

22 WHEREFORE, THE FOLLOWING ORDER is hereby made:

23 I.

24 (RANDALL NOEL KOSTICK)

25 All licenses and license rights of Respondent RANDALL NOEL KOSTICK under
26 the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this
27 Decision;

1 A. Provided, however, that the initial thirty (30) days of said suspension shall be
2 stayed for two (2) years upon the following terms and conditions:

3 1. Respondent shall pay a monetary penalty pursuant to Code section 10175.2
4 at the rate of \$50.00 per day for each of the thirty (30) days of suspension for a total monetary
5 penalty of \$1,500.00.

6 2. Said payment shall be in the form of a cashier's check made payable to the
7 Department of Real Estate. Said check must be delivered to the Department of Real Estate, Flag
8 Section, **prior to the effective date of this Decision and Order**, at PO Box 137013, Sacramento,
9 CA 95813-7013, for all mail that will be delivered prior to July 1, 2024, or 651 Bannon Street,
10 Suite 500-D, Sacramento, CA 95811, if the mail will be delivered after July 1, 2024.

11 3. No further cause for disciplinary action against the real estate license of
12 Respondent occurs within two (2) years from the effective date of the Decision in this matter.

13 4. If Respondent fails to pay the monetary penalty in accordance with the
14 terms and conditions of the Decision, the suspension shall go into effect automatically with regard
15 to said Respondent. Respondent shall not be entitled to any repayment nor credit, prorated or
16 otherwise, for money paid to the Department under the terms of this Decision and Order.

17 5. If Respondent pays the monetary penalty and if no further cause for
18 disciplinary action against the real estate license of Respondent occurs within two (2) years from
19 the effective date of the Decision, the stay hereby granted shall become permanent.

20 6. Respondent RANDALL NOEL KOSTICK shall cooperate fully with the
21 Department and testify at the hearing in this matter (Case No. H-12614 SF), if one is held.
22 Respondent agrees to accept written notice to appear at hearing, in lieu of a subpoena. If
23 Respondent fails to cooperate fully with the Department or testify at the hearing in this matter, the
24 suspension shall go into effect automatically with regard to said Respondent.

25 B. The remaining thirty (30) days of the sixty (60) day suspension shall be stayed
26 for two (2) years upon the following terms and conditions:

27 1. That Respondent shall obey all laws, rules and regulations governing the

1 rights, duties and responsibilities of a real estate licensee in the State of California; and

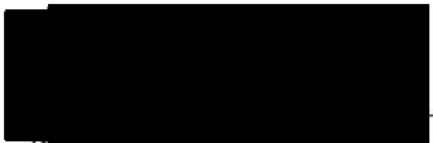
2 2. That no final subsequent determination be made after hearing or upon
3 stipulation, that cause for disciplinary action occurred within two (2) years from the effective date
4 of this Decision. Should such a determination be made, the Commissioner may, in his discretion,
5 vacate and set aside the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

7 C. All licenses and licensing rights of Respondent are indefinitely suspended unless
8 or until Respondent provides proof satisfactory to the Commissioner, of having taken and
9 successfully completed the continuing education course on trust fund accounting and handling
10 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions
11 Code. Proof of satisfaction of these requirements includes evidence that Respondent has
12 successfully completed the trust fund account and handling continuing education courses, no earlier
13 than 120 days prior to the effective date of the Decision and Order in this matter. Proof of
14 completion of the trust fund accounting and handling course must be delivered to the Department
15 of Real Estate, Flag Section at PO Box 137013, Sacramento, CA 95813-7013, for all mail that will
16 be delivered prior to July 1, 2024, or 651 Bannon Street, Suite 500-D, Sacramento, CA 95811, if
17 the mail will be delivered after July 1, 2024.

18 D. All licenses and licensing rights of Respondent are indefinitely suspended unless
19 or until Respondent pay the sum of **\$1,596.56** for the Commissioner's reasonable costs of the
20 investigation and enforcement which led to this disciplinary action. Said payment shall be in the
21 form of a cashier's check made payable to the Department of Real Estate. **The payment for the**
22 **investigative and enforcement costs must be delivered to the Department of Real Estate, Flag**
23 **Section, prior to the effective date of this Decision and Order, at PO Box 137013, Sacramento,**
24 **CA 95813-7013, for all mail that will be delivered prior to July 1, 2024, or 651 Bannon Street,**
25 **Suite 500-D, Sacramento, CA 95811, if the mail will be delivered after July 1, 2024.** If
26 Respondent fail to satisfy this condition, the Commissioner shall order suspension of Respondent's
27 licenses and license rights until the sum is paid.

1 E. Pursuant to Code Sections 10148, Respondent shall pay one-third of the
2 Commissioner's reasonable costs for the audit which led to this disciplinary action in the amount of
3 \$2,909.17. Respondent shall pay such costs within sixty (60) days of receiving an invoice therefore
4 from the Commissioner. Payment of the audit costs should not be made until Respondent receives
5 the invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
6 Respondent's real estate licenses shall automatically be suspended until payment is made in full, or
7 until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

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9 DATED: 6/25/2024

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11 Department of Real Estate

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13 **EXECUTION OF THE STIPULATION**

14 I have read the Stipulation, have discussed it with my counsel, and its terms are
15 understood by me and are agreeable and acceptable to me. I understand that I am waiving rights
16 given to me by the California Administrative Procedure Act (including but not limited to Sections
17 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently and
18 voluntarily waive those rights, including the right of requiring the Commissioner to prove the
19 allegations in the Accusation at a hearing at which I would have the right to cross-examine
20 witnesses against me and to present evidence in defense and mitigation of the charges.

21 Respondent shall mail the original signed signature page of the stipulation herein to
22 Kevin H. Sun, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350,
23 Los Angeles, California 90013-1105.

24 In the event of time constraints before an administrative hearing, Respondent can
25 signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by
26 emailing a scanned copy of the signature page, as actually signed by Respondent, to the
27 Department counsel assigned to this case. Respondent agrees, acknowledges and understands that

1 by electronically sending the Department a scan of Respondent's actual signature as it appears on
2 the Stipulation and Agreement that receipt of the scan by the Department shall be binding on
3 Respondent as if the Department had received the original signed Stipulation. Respondent shall also
4 mail the original signed signature page of this Stipulation to the Department counsel.

5 Respondent's signature below constitutes acceptance and approval of the terms and
6 conditions of this Stipulation. Respondent agrees, acknowledges and understands that by signing
7 this Stipulation, Respondent is bound by its terms as of the date of such signature and that this
8 agreement is not subject to rescission or amendment at a later date except by a separate Decision
9 and Order of the Real Estate Commissioner.

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11 DATED: 6/19/2024 
12 RANDALL NOEL KOSTICK

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14 DATED: 6/25/24 
15 Shannon B. Jones, Esq.
16 Counsel for Respondent
17 Approved as to Form

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19 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
20 Respondent RANDALL NOEL KOSTICK in this matter and shall become effective at 12 o'clock
21 noon on DEC 06 2024, 2024.

22 IT IS SO ORDERED 10/29/2024, 2024.

23 CHIKA SUNQUIST
24 REAL ESTATE COMMISSIONER

25 
26 By: Marcus L. McCardier
27 Chief Deputy Real Estate Commissioner