

1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, California 90012

4 (213) 897-3937

FILED
APR 11 1995
DEPARTMENT OF REAL ESTATE

by 

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of)
12)
13 DAVID LUEDDEKE,)
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27)
Respondent.

No. H-26142 LA

STIPULATION AND AGREEMENT
IN
SETTLEMENT AND ORDER

17 It is hereby stipulated by and between DAVID LUEDDEKE
18 (sometimes referred to as respondent) and the Complainant, acting
19 by and through Elliott Mac Lennan, Counsel for the Department of
20 Real Estate, as follows for the purpose of settling and disposing
21 of the Accusation filed on May 24, 1995, in this matter:

22 1. All issues which were to be contested and all
23 evidence which was to be presented by Complainant and respondent
24 at a formal hearing on the Accusation, which hearing was to be
25 held in accordance with the provisions of the Administrative
26 Procedure Act (APA), shall instead and in place thereof be

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1 submitted solely on the basis of the provisions of this
2 Stipulation.

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

7 3. Respondent filed a Notice of Defense pursuant to
8 Section 11505 of the Government Code for the purpose of requesting
9 a hearing on the allegations in the Accusation. Respondent hereby
10 freely and voluntarily withdraws said Notice of Defense.
11 Respondent acknowledges that he understands that by withdrawing
12 said Notice of Defense he thereby waives his right to require the
13 Commissioner to prove the allegations in the Accusation at a
14 contested hearing held in accordance with the provisions of the
15 APA and that he will waive other rights afforded to him in
16 connection with the hearing such as the right to present evidence
17 in defense of the allegations in the Accusation and the right to
18 cross-examine witnesses.

19 4. This Stipulation is based on the factual allegations
20 contained in the Accusation. In the interest of expedience and
21 economy, respondent chooses not to contest these allegations, but
22 to remain silent and understands that; as a result thereof, these
23 factual allegations, without being admitted or denied, will serve
24 as a prima facie basis for the disciplinary action stipulated to
25 herein. This Stipulation is based on respondent's decision not to
26 contest the Accusation. It is made solely for the purpose of
27 effectuating this Stipulation and is intended to be non-binding.

1 upon respondent in any action against respondent by third parties.
2 The Real Estate Commissioner shall not be required to provide
3 further evidence to prove said factual allegations.

4 5. This Stipulation is based on respondent's decision
5 not to contest the allegations set forth in the Accusation as a
6 result of the agreement negotiated between the parties. This
7 Stipulation, based on respondent's decision not to contest the
8 Accusation, is expressly limited to this proceeding and any
9 further proceeding initiated by or brought before the Department
10 of Real Estate based upon the facts and circumstances alleged in
11 the Accusation, and made for the sole purpose of reaching an
12 agreed disposition of this proceeding. The decision of respondent
13 not to contest the factual statements alleged, and as contained in
14 the stipulated Order, is made solely for the purpose of
15 effectuating this Stipulation. It is the intent and understanding
16 of the parties that this Stipulation and Order shall not be
17 binding or admissible against respondent in any actions against
18 respondent by third parties.

19 6. It is understood by the parties that the Real Estate
20 Commissioner may adopt the Stipulation and Agreement as his
21 decision in this matter thereby imposing the penalty and sanctions
22 on respondent's real estate licenses and license rights as set
23 forth in the "Order" hereinbelow. In the event that the
24 Commissioner in his discretion does not adopt the Stipulation and
25 the Agreement, it shall be void and of no effect, and respondent
26 shall retain the right to a hearing and proceeding on the

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1 Accusation under the provisions of the APA and shall not be bound
2 by any waiver made herein.

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

9 DETERMINATION OF ISSUES

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

14 I

15 The acts or omissions of respondent DAVID LUEDDEKE, as
16 described in Paragraph 4, above, are in violation of Sections
17 10145, 10148 and 10161.8 of the California Business and
18 Professions Code (Code) and Sections 2752, 2830, 2831, 2831.1,
19 2831.2 and 2832.1 of Title 10, Chapter 6 of the California Code of
20 Regulations, and are a basis for the suspension or revocation of
21 said respondent's licenses and license rights pursuant to Sections
22 10177(d) and 10177(g) of the Code.

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1 ORDER

2 WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT TO THE
3 WRITTEN STIPULATION OF THE PARTIES:

4 I

5 The real estate broker license and license rights of
6 respondent DAVID LUEDDEKE under the Real Estate Law (Part 1 of
7 Division 4 of the Business and Professions Code) are hereby
8 revoked.

9 However, respondent shall be entitled to apply for and
10 be issued a restricted real estate broker license if he makes
11 application therefor and pays to the Department of Real Estate the
12 appropriate fee for said license within ninety (90) days of the
13 effective date of the Stipulation herein. The fact that
14 respondent has incurred a prior criminal conviction over three
15 years ago, of which the Department of Real Estate has been made
16 aware prior to the date of this Stipulation and Order, shall not
17 act as a bar to issuance of such unrestricted real estate broker's
18 license and/or any renewals to respondent.

19 The restricted real estate broker license issued to
20 respondent shall be subject to all of the provisions of Section
21 10156.7 of the Business and Professions Code and the following
22 limitations, conditions and restrictions imposed under authority
23 of Section 10156.6 of the Code:

24 A. The restricted license may be suspended prior to
25 hearing by Order of the Real Estate Commissioner in the event of
26 respondent's conviction (including conviction of a plea of nolo
27

1 contendere) to a crime which bears a significant relationship to
2 respondent's fitness or capacity as a real estate licensee.

3 B. The restricted license may be suspended prior to
4 hearing by Order of the Real Estate Commissioner on evidence
5 satisfactory to the Commissioner that respondent has, after the
6 effective date of the Order herein, violated provisions of the
7 California Real Estate Law, the Subdivided Lands Law, Regulations
8 of the Real Estate Commissioner or conditions attaching to said
9 restricted license.

10 C. Respondent shall obey all laws of the United States,
11 the State of California and its political subdivisions, and shall
12 further obey and comply with all rules and regulations of the Real
13 Estate Commissioner.

14 D. Respondent shall not be eligible for the issuance of
15 an unrestricted real estate license nor the removal of any of the
16 conditions, limitations or restrictions of the restricted license
17 until at least one year has elapsed from the effective date of the
18 Decision. The fact that respondent has incurred a prior criminal
19 conviction over three years ago, of which the Department of Real
20 Estate has been made aware prior to the date of this Stipulation
21 and Order, shall not act as a bar to issuance of such unrestricted
22 real estate broker's license and/or any renewals to respondent.

23 E. Respondent shall within six months from the
24 effective date of the restricted license take and pass the
25 Professional Responsibility Examination administered by the
26 Department including the payment of the appropriate examination
27 fee. If respondent fails to satisfy this condition, the

1 Commissioner may order suspension of the restricted license until
2 respondent passes the examination.

3 F. Respondent shall, within six months from the
4 effective date of this Decision, present evidence satisfactory to
5 the Real Estate Commissioner that respondent has, since the most
6 recent issuance of an original or renewal real estate license,
7 taken and successfully completed the continuing education
8 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
9 for renewal of a real estate license. If respondent fails to
10 satisfy this condition, the Commissioner may order the suspension
11 of the restricted license until the respondent presents such
12 evidence. The Commissioner shall afford respondent the
13 opportunity for a hearing pursuant to the Administrative Procedure
14 Act to present such evidence.

15 II

16 Any restricted real estate license issued to respondent
17 DAVID LUEDDEKE under the Real Estate Law is suspended for a period
18 of thirty (30) days from the date any restricted real estate
19 license is issued, provided, however, that all of said suspension
20 shall permanently be stayed upon the terms and conditions of this
21 paragraph:

- 22 A. Respondent pays a monetary penalty pursuant to
23 Section 10175.2 of the Business and Professions
24 Code in the amount of \$2,500;
25 B. Said payment shall be in the form of a cashier's
26 check or certified check made payable to the
27 Recovery Account of the Real Estate Fund. Said

check must be delivered to the Department prior to the effective date of the Order in this matter.

DATED:

5-3-11

ELLIOTT MAC LENNAN
Counsel for Complainant

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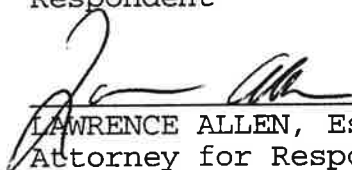
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I have read the Stipulation and Agreement in Settlement and Order and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including 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.

DATED: 3/1/96


DAVID LUEDDEKE
Respondent

DATED: 3-5-96


LAWRENCE ALLEN, Esq.
Attorney for Respondent

* * * *

The foregoing Stipulation and Agreement in Settlement and Order is hereby adopted as my Decision and Order and shall become effective at 12 o' clock noon on May 1, 1996.

IT IS SO ORDERED 3/25, 1996.

JIM ANTT, JR.
Real Estate Commissioner

