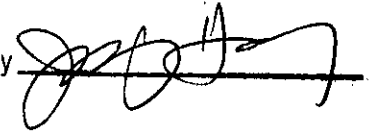


1 Department of Real Estate
320 West 4th Street, Suite 350
2 Los Angeles, California 90013-1105

3 Telephone: (213) 576-6982

FILED
JAN 17 2003
DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-29550 LA
OAH No. L-2002060698

12 ROBERT GUY MC LELLAN,)

STIPULATION AND AGREEMENT

13 Respondent.)

14)
15 It is hereby stipulated by and between ROBERT GUY
16 MC LELLAN (sometimes referred to herein as "Respondent"), his
17 attorney of record, John V. Giardinelli, and the Complainant,
18 acting by and through Darlene Averetta, Counsel for the
19 Department of Real Estate, as follows for the purpose of settling
20 and disposing of the Accusation filed on June 12, 2002, in this
21 matter:

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

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

12 3. On June 20, 2002, Respondent filed a Notice of
13 Defense pursuant to Section 11506 of the Government Code for
14 the purpose of requesting a hearing on the allegations in the
15 Accusation. Respondent hereby freely and voluntarily withdraws
16 said Notice of Defense. Respondent acknowledges that he
17 understands that by withdrawing said Notice of Defense,
18 Respondent will thereby waive his right to require the
19 Commissioner to prove the allegations in the Accusation at a
20 contested hearing held in accordance with the provisions of
21 the APA and that Respondent will waive other rights afforded
22 to him in connection with the hearing such as the right to
23 present evidence in defense of the allegations in the Accusation
24 and the right to cross-examine witnesses.

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1 4. This Stipulation and Agreement ("Stipulation")
2 is based on the factual allegations contained in the Accusation
3 filed in this proceeding. In the interest of expedience and
4 economy, Respondent chooses not to contest these factual
5 allegations, but to remain silent and understands that, as a
6 result thereof, these factual statements, without being admitted
7 or denied, will serve as a prima facie basis for the disciplinary
8 action stipulated to herein. This Stipulation and Respondent's
9 decision not to contest the Accusation are hereby expressly
10 limited to this proceeding and made solely for the purpose of
11 reaching an agree disposition of this proceeding. Respondent's
12 decision not to contest the factual allegations is made solely
13 for the purpose of effectuating this Stipulation and is intended
14 by Respondent to be non-binding upon him in any actions against
15 Respondent by third parties. The Real Estate Commissioner shall
16 not be required to provide further evidence to prove such
17 allegations.

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

1 6. This Stipulation and any Order made pursuant to
2 this Stipulation shall have no collateral estoppel or res
3 judicata effect in any proceedings in which Respondent and the
4 Department (or the Department's representative) are not parties.
5 This Stipulation is made and received by the Commissioner and the
6 Department, with the express understanding and agreement that it
7 is for the purpose of settling these proceedings only, and that
8 this Stipulation is not intended as, and shall not be deemed,
9 used, or accepted as an acknowledgment or admission of fact in
10 any other judicial, administrative, or other proceeding to which
11 the Department is not a party.

12 DETERMINATION OF ISSUES

13 By reason of the foregoing stipulations, admissions and
14 waivers and solely for the purpose of settlement of the pending
15 Accusation without a hearing, it is stipulated and agreed that
16 the following Determination of Issues shall be made: The conduct,
17 acts and/or omissions of Respondent, as set forth in Paragraph
18 III of the Accusation is grounds for suspension or revocation of
19 all of the real estate licenses and license rights of Respondent
20 under the provision of Sections 490 and 10177(b) of the Business
21 and Professions Code.

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

6 4. Respondent shall submit with any application for
7 license under an employing broker, or any application for
8 transfer to a new employing broker, a statement signed by the
9 prospective employing broker on a form approved by the Department
10 of Real Estate which shall certify:

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


14 (b) That employing broker will exercise close
15 supervision over the performance by the restricted licensee
16 relating to activities for which a real estate license is
17 required.

18 5. Respondent shall, within nine (9) months from the
19 effective date of this Decision, present evidence satisfactory to
20 the Real Estate Commissioner that Respondent has, since the most
21 recent issuance of an original or renewal real estate license,
22 taken and successfully completed the continuing education
23 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
24 for renewal of a real estate license. If Respondent fails to
25 satisfy this condition, the Commissioner may order the suspension
26 of the restricted license until the Respondent presents such
27 evidence. The Commissioner shall afford Respondent the

1 opportunity for a hearing pursuant to the Administrative
2 Procedure Act to present such evidence.

3 6. During the term of any restricted license,
4 Respondent shall submit to the Department of Real Estate as of
5 the last day of each March, June, September and December, proof
6 satisfactory to the Real Estate Commissioner of Respondent's
7 ongoing participation in a recognized drug and alcohol diversion
8 program. Said proof shall be submitted to the District Manager
9 of the Los Angeles Office of the Department of Real Estate and
10 shall be verified as true and accurate by Respondent under
11 penalty of perjury.

12
13 DATED: December 17, 2002



14 DARLENE AVERETTA, Counsel for
15 the Complainant, the Department
16 of Real Estate

17 * * *

18 I have read the Stipulation and Agreement, have
19 discussed it with my counsel, and its terms are understood by me
20 and are agreeable and acceptable to me. I understand that I am
21 waiving rights given to me by the California Administrative
22 Procedure Act (including but not limited to Sections 11506,
23 11508, 11509 and 11513 of the Government Code), and I willingly,
24 intelligently and voluntarily waive those rights, including the
25 right of requiring the Commissioner to prove the allegations in
26 the Accusation at a hearing at which I would have the right to
27 cross-examine witnesses against me and to present evidence in
defense and mitigation of the charges.

1 Respondent can signify acceptance and approval of the
2 terms and conditions of this Stipulation and Agreement by faxing
3 a copy of its signature page, as actually signed by Respondent,
4 to the Department at the following telephone/fax number: (213)
5 576-6917. Respondent agrees, acknowledges and understands that
6 by electronically sending to the Department a fax copy of his
7 actual signature as it appears on the Stipulation and Agreement,
8 that receipt of the faxed copy by the Department shall be binding
9 on Respondent as if the Department had received the original
10 signed Stipulation and Agreement.

11
12 DATED: 12-16-02 
13 ROBERT GUI MC LELLAN, Respondent

14
15 DATED: 12/17/02 
16 JOHN V. GIARDINELLI, Attorney for
17 Respondent
(Approved as to form and content)

17 * * *

18 The foregoing Stipulation and Agreement is hereby
19 adopted as my Decision in this matter and shall become effective
20 at 12 o'clock noon on _____.

21 IT IS SO ORDERED _____.

22
23 PAULA REDDISH ZINNEMANN
24 Real Estate Commissioner
25
26
27

1 Respondent can signify acceptance and approval of the
2 terms and conditions of this Stipulation and Agreement by faxing
3 a copy of its signature page, as actually signed by Respondent,
4 to the Department at the following telephone/fax number: (213)
5 576-6917. Respondent agrees, acknowledges and understands that
6 by electronically sending to the Department a fax copy of his
7 actual signature as it appears on the Stipulation and Agreement,
8 that receipt of the faxed copy by the Department shall be binding
9 on Respondent as if the Department had received the original
10 signed Stipulation and Agreement.

11
12 DATED: _____ ROBERT GUY MC LELLAN, Respondent


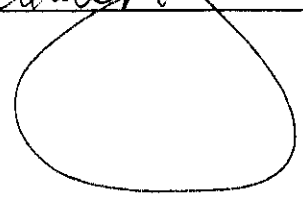
13
14
15 DATED: _____ JOHN V. GIARDINELLI, Attorney for
16 Respondent
(Approved as to form and content)

17 * * *

18 The foregoing Stipulation and Agreement is hereby
19 adopted as my Decision in this matter and shall become effective
20 at 12 o'clock noon on February 6, 2003

21 IT IS SO ORDERED January 9, 2003

22
23 PAULA REDDISH ZINNEMANN
Real Estate Commissioner

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SM10

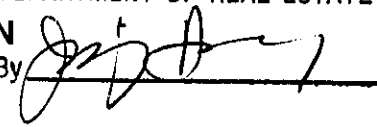
BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
 ROBERT GUY MCLELLAN,)
)
 _____)
 Respondent (s)

Case No. **H-29550 LA**
OAH No. L-2002060698

FILED
OCT 10 2002
DEPARTMENT OF REAL ESTATE

NOTICE OF CONTINUED HEARING ON ACCUSATION

By 

To the above-named Respondent(s):

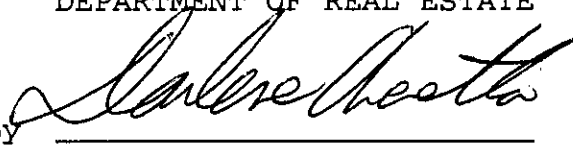
You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on **TUESDAY, DECEMBER 17, 2002**, at the hour of **1:30 P.M.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

By 

DARLENE AVERETTA
Assistant Chief Counsel

Dated: October 10, 2002

cc: Robert Guy McLellan
John V. Giardinelli, Esq.
Sacto.
OAH

SACTO

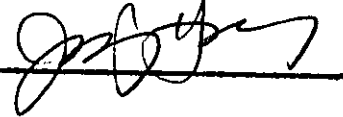
BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
 ROBERT GUY MCLELLAN,)
)
 _____)
 Respondent.

Case No. **H-29550 LA**
OAH No. L-2002060698

FILED
JUL 17 2002
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

By 

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on FRIDAY, SEPTEMBER 27, 2002, at the hour of 1:30 P.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: July 17, 2002

By 
DAVID EDWARD BRUCE, Counsel

cc: Robert Guy McLellan
John V. Giardinelli, Esq.
v Sacto.
OAH

59010

1 DAVID EDWARD BRUCE, Counsel (SBN 212539)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, California 90013-1105
5 Telephone: (213) 576-6905 (direct)
6 (213) 576-6982 (office)

FILED
JUN 12 2002

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11	In the Matter of the Accusation of)	No. H-29550 LA
12	ROBERT GUY MCLELLAN,)	<u>ACCUSATION</u>
13	Respondent.)	

15 The Complainant, Maria Suarez, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against ROBERT GUY MCLELLAN (Respondent), is informed and alleges
18 in her official capacity as follows:

I

20 Respondent is presently licensed and/or has license
21 rights as a real estate broker under the Real Estate Law (Part 1
22 of Division 4 of the California Business and Professions Code)
23 (Code).

24 ///
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1 WHEREFORE, the Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against the license and license rights of Respondent,
5 ROBERT GUY MCLELLAN, under the Real Estate Law (Part 1 of
6 Division 4 of the California Business and Professions Code) and
7 for such other and further relief as may be proper under other
8 applicable provisions of law.

9 Dated at Los Angeles, California,
10 this 10th day of June, 2002.
11

12 
13 _____
14 Deputy Real Estate Commissioner
15
16
17
18
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20
21
22
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24

25 cc: Robert Guy McLellan
26 Maria Suarez
27 ✓ Sac
 LA