

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105
5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

FILED
MAR 29 2005
DEPARTMENT OF REAL ESTATE

By K. Kriesel

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

| | |
|-----------------------------------------|--------------------|
| 11 In the Matter of the Accusation of) | No. H-30823 LA |
| 12 THANH KEVIN LAM,) | |
| 13 Respondent.) | <u>STIPULATION</u> |
| 14) | <u>AND</u> |
| | <u>AGREEMENT</u> |

15 It is hereby stipulated by and between Respondent
16 THANH KEVIN LAM (sometimes referred to herein as "Respondent"),
17 represented by Roderick Lipscomb, Attorney At Law, and the
18 Complainant, acting by and through Elliott Mac Lennan, Counsel
19 for the Department of Real Estate, as follows for the purpose of
20 settling and disposing of the Accusation filed on April 2, 2004,
21 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 and Agreement.

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

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

19 4. This Stipulation is based on the factual
20 allegations contained in the Accusation filed in this proceeding.
21 In the interest of expedience and economy, Respondent chooses not
22 to contest these factual allegations, but to remain silent and
23 understands that, as a result thereof, these factual statements,
24 will serve as a prima facie basis for the disciplinary action
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1 stipulated to herein. The Real Estate Commissioner shall not be
2 required to provide further evidence to prove such allegations.

3 5. This Stipulation and Respondent's decision not to
4 contest the Accusation are made for the purpose of reaching an
5 agreed disposition of this proceeding and are expressly limited
6 to this proceeding and any other proceeding or case in which the
7 Department of Real Estate ("Department"), or another licensing
8 agency of this state, another state or if the federal government
9 is involved and otherwise shall not be admissible in any other
10 criminal or civil proceedings.

11 6. It is understood by the parties that the Real
12 Estate Commissioner may adopt the Stipulation as her decision
13 in this matter, thereby imposing the penalty and sanctions on
14 Respondent's real estate license and license rights as set forth
15 in the below "Order". In the event that the Commissioner in her
16 discretion does not adopt the Stipulation, the Stipulation shall
17 be void and of no effect, and Respondent shall retain the right
18 to a hearing on the Accusation under all the provisions of the
19 APA and shall not be bound by any stipulation or waiver made
20 herein.
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22 7. The Order or any subsequent Order of the Real
23 Estate Commissioner made pursuant to this Stipulation shall
24 not constitute an estoppel, merger or bar to any further
25 administrative or civil proceedings by the Department of Real
26 Estate with respect to any matters which were not specifically
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1 alleged to be causes for accusation in this proceeding.

2 DETERMINATION OF ISSUES

3 By reason of the foregoing stipulations and waivers and
4 solely for the purpose of settlement of the pending Accusation
5 without a hearing, it is stipulated and agreed that the following
6 determination of issues shall be made:

7 The conduct, acts and/or omissions of Respondent
8 THANH KEVIN LAM, as set forth in the Accusation, constitutes
9 cause to suspend or revoke the real estate license and license
10 rights of Respondent under the provisions of Code Sections 490
11 and 10177(b).

12 ORDER

13 WHEREFORE, THE FOLLOWING ORDER is hereby made:

14 All licenses and licensing rights of Respondent
15 THANH KEVIN LAM, under the Real Estate Law are revoked;
16 provided, however, a restricted real estate salesperson license
17 shall be issued to Respondent THANH KEVIN LAM, pursuant
18 to Section 10156.5 of the Business and Professions Code, if
19 Respondent makes application therefor and pays to the Department
20 of Real Estate the appropriate fee for the restricted license
21 within ninety (90) days from the effective date of this Decision.
22 The restricted license issued to Respondent shall be subject to
23 all of the provisions of Section 10156.7 of the Code and the
24 following limitations, conditions and restrictions imposed under
25 authority of Section 10156.6 of that Code:
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1 1. The restricted license issued to Respondent may be
2 suspended prior to hearing by Order of the Real Estate
3 Commissioner in the event of Respondent's conviction or plea of
4 nolo contendere to a crime which is substantially related to
5 Respondent's fitness or capacity as a real estate licensee.

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

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

17 4. Respondent shall submit with any application for
18 license under an employing broker, or any application for
19 transfer to a new employing broker, a statement signed by the
20 prospective employing real estate broker on a form approved by
21 the Department of Real Estate which shall certify:

- 22 (a) That the employing broker has read
23 the Decision of the Commissioner which
24 granted the right to a restricted license;
25 and
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1 (b) That the employing broker will exercise
2 close supervision over the performance by the
3 restricted licensee relating to activities
4 for which a real estate license is required.

5 5. Respondent shall, within nine (9) months from the
6 effective date of this Decision, present evidence satisfactory to
7 the Real Estate Commissioner that Respondent has, since the most
8 recent issuance of an original or renewal real estate license,
9 taken and successfully completed the continuing education
10 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
11 for renewal of a real estate license. If Respondent fails to
12 satisfy this condition, the Commissioner may order the suspension
13 of the restricted license until the Respondent presents such
14 evidence. The Commissioner shall afford Respondent the
15 opportunity for a hearing pursuant to the Administrative
16 Procedure Act to present such evidence.
17

18
19 DATED: 12-22-14

EJL
20 ELLIOTT MAC LENNAN, Counsel for
21 the Department of Real Estate

22 * * *

23 I have read the Stipulation and Agreement and have
24 discussed it with my counsel. Its terms are understood by me and
25 are agreeable and acceptable to me. I understand that I am
26 waiving rights given to me by the California Administrative
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1 Procedure Act (including but not limited to Sections 11506,
2 11508, 11509 and 11513 of the Government Code), and I willingly,
3 intelligently and voluntarily waive those rights, including the
4 right of requiring the Commissioner to prove the allegations in
5 the Accusation at a hearing at which I would have the right to
6 cross-examine witnesses against me and to present evidence in
7 defense and mitigation of the charges.

8 Respondent can signify acceptance and approval of the
9 terms and conditions of this Stipulation and Agreement by faxing
10 a copy of its signature page, as actually signed by Respondent,
11 to the Department at the following telephone/fax number: (213)
12 576-6917. Respondent agrees, acknowledges and understands that
13 by electronically sending to the Department a fax copy of his
14 actual signature as it appears on the Stipulation and Agreement,
15 that receipt of the faxed copy by the Department shall be as
16 binding on Respondent as if the Department had received the
17 original signed Stipulation and Agreement.
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19
20 DATED: 2/23/05



21 THANH KEVIN LAM, Respondent

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23 DATED: 2/26/05



24 RODERICK LIPSCOMB
25 Attorney for Respondent
26 Approved as to form
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondent THANH KEVIN LAM, and
shall become effective at 12 o'clock noon
on APR 18, 2005.

IT IS SO ORDERED 3-22, 2005.

JEFF DAVI
Real Estate Commissioner



Handwritten signature

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FILED
APR - 2 2004
DEPARTMENT OF REAL ESTATE
By *K. Weederhild*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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| In the Matter of the Accusation of |) | No. H-30823 LA |
| THANH KEVIN LAM, |) | <u>ACCUSATION</u> |
| Respondent. |) | |

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against THANH KEVIN LAM, is informed and alleges in her official capacity as follows:

1.

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

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2.

1 Respondent was originally licensed by the Department of
2 Real Estate of the State California as a real estate salesperson
3 on September 18, 2000.
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3.

5 On December 10, 2002, in the Municipal Court of
6 Alhambra Judicial District, County of Los Angeles, State of
7 California, respondent was convicted on a nolo contendere plea to
8 one count of Penal Code Section 273a(b) (cruelty to child by
9 endangering health), a misdemeanor.
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4.

11 This crime, by its facts and circumstances, is
12 substantially related under Section 2910(a), Chapter 6, Title 10
13 of the California Code of Regulations, to the qualifications,
14 functions or duties of a real estate licensee..
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5.

17 The facts as alleged in Paragraph 3, above, constitutes
18 cause for the suspension or revocation of the license and license
19 rights of respondent under Sections 490 and 10177(b) of the Code.
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1 WHEREFORE, 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 action
4 against the license and license rights of respondent THANH KEVIN
5 LAM under the Real Estate Law (Part 1 of Division 4 of the
6 Business and Professions Code) and for such other and further
7 relief as may be proper under other applicable provision of law.

8 Dated at Los Angeles, California

9 This *17th* day of *March* 200*4*.

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12 Deputy Real Estate Commissioner
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23 cc: Thanh Kevin Lam
24 New Century Pacificom Inc.
25 Maria Suarez
26 Sacto
27 EE