

Sachs Flag

FILED

SEP 04 2013

BUREAU OF REAL ESTATE

By *[Signature]*

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

3
4 (213) 576-6910
5
6
7
8

9 DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * * *

12 In the Matter of the Accusation of)
13 OCEAN QUEST FINANCIAL INC and)
CHRISTOPHER ALLEN GAGAN,)
14 individually, and as former)
designated officer of Ocean Quest)
15 Financial Inc,)
16)
17 Respondents.)

DRE No: H-37932 LA
OAH No: 2012031220

STIPULATION AND
AGREEMENT

18 It is hereby stipulated by and between Respondents
19 OCEAN QUEST FINANCIAL INC and CHRISTOPHER ALLEN GAGAN,
20 represented by Frank M. Buda, Esq., and the Complainant, acting
21 by and through James A. Demus, Counsel for the Department of Real
22 Estate, as follows for the purpose of settling and disposing of
23 the Accusation filed on March 1, 2012, in this matter:

24 1. All issues which were to be contested and all
25 evidence which was to be presented by Complainant and Respondents
26 at a formal hearing on the Accusation, which hearing was to be
27

1 held in accordance with the provisions of the Administrative
2 Procedure Act ("APA"), shall instead and in place thereof be
3 submitted solely on the basis of the provisions of this
4 Stipulation and Agreement ("Stipulation").

5 2. Respondents have received, read and understand the
6 Statement to Respondent, the Discovery Provisions of the APA and
7 the Accusation filed by the Department of Real Estate in this
8 proceeding.

9 3. Respondents timely filed a Notice of Defense
10 pursuant to Section 11506 of the Government Code for the purpose
11 of requesting a hearing on the allegations in the Accusation.
12 Respondents hereby freely and voluntarily withdraw said Notice of
13 Defense. Respondents acknowledge that they understand that by
14 withdrawing said Notice of Defense they thereby waive the right
15 to require the Commissioner to prove the allegations in the
16 Accusation at a contested hearing held in accordance with the
17 provisions of the APA and that they will waive other rights
18 afforded to them in connection with the hearing such as the right
19 to present evidence in their defense of the allegations in the
20 Accusation and the right to cross-examine witnesses.

21 4. This Stipulation is based on the factual
22 allegations contained in the Accusation. In the interest of
23 expedience and economy, Respondents choose not to contest these
24 allegations, but to remain silent and understand that, as a
25 result thereof, these factual allegations, without being admitted
26 or denied, will serve as a prima facie basis for the disciplinary
27

1 action stipulated to herein. The Real Estate Commissioner shall
2 not be required to provide further evidence to prove said factual
3 allegations.

4 5. This Stipulation is made for the purpose of
5 reaching an agreed disposition of this proceeding and is
6 expressly limited to this proceeding and any other proceeding or
7 case in which the Department of Real Estate ("Department"), the
8 state or federal government, or any agency of this state, another
9 state or federal government is a party.

10 6. It is understood by the parties that the Real
11 Estate Commissioner may adopt this Stipulation as his Decision in
12 this matter thereby imposing the penalty and sanctions on
13 Respondents' real estate licenses and license rights as set forth
14 in the "Order" herein below. In the event that the Commissioner
15 in his discretion does not adopt the Stipulation, it shall be
16 void and of no effect and Respondents shall retain the right to a
17 hearing and proceeding on the Accusation under the provisions of
18 the APA and shall not be bound by any stipulation or waiver made
19 herein.

20 7. The Order or any subsequent Order of the Real
21 Estate Commissioner made pursuant to this Stipulation shall not
22 constitute an estoppel, merger or bar to any further
23 administrative or civil proceedings by the Department of Real
24 Estate with respect to any matters which were not specifically
25 alleged to be causes for Accusation in this proceeding but do
26 constitute a bar, estoppel and merger as to any allegations
27

1 actually contained in the Accusation against Respondents herein.

2 8. Respondents understand that by agreeing to this
3 Stipulation, Respondents agree to pay, pursuant to Business and
4 Professions Code Section 10148, the cost of the audits which led
5 to this disciplinary action. The amount of said cost is
6 \$6,576.50.

7 9. Respondents have received, read, and understand the
8 "Notice Concerning Costs of Subsequent Audit." Respondents
9 further understand that by agreeing to this Stipulation, the
10 findings set forth below in the Determination of Issues become
11 final, and the Commissioner may charge Respondents for the cost
12 of any subsequent audit conducted pursuant to Business and
13 Professions Code Section 10148 to determine if the violations
14 have been corrected. The maximum cost of the subsequent audit
15 will not exceed \$6,576.50.

16 DETERMINATION OF ISSUES

17 By reason of the foregoing, it is stipulated and agreed
18 that the following determination of issues shall be made:

19 I.

20 Respondent OCEAN QUEST FINANCIAL INC's corporate real
21 estate broker license expired on December 29, 2010, and was not
22 renewed within two years afterward. Pursuant to Business and
23 Professions Code Section 10201, Respondent OCEAN QUEST FINANCIAL
24 INC no longer retains licensing rights.

25 II.

26 The conduct of CHRISTOPHER ALLEN GAGAN, as described in
27

1 Paragraph 4, hereinabove, is in violation of Business and
2 Professions Code Sections 10145 and 10148 and provides a basis
3 for discipline of his license and license rights pursuant to
4 Business and Professions Code Section 10177(d).

5 ORDER

6 WHEREFORE, THE FOLLOWING ORDER is hereby made:

7 I.

8 The Accusation herein filed on March, 01, 2012, as it
9 pertains to Respondent OCEAN QUEST FINANCIAL INC, is dismissed.

10 II.

11 A.

12 All licenses and licensing rights of Respondent
13 CHRISTOPHER ALLEN GAGAN under the Real Estate Law are suspended
14 for a period of thirty (30) days from the effective date of this
15 Decision; provided, however, that thirty (30) days of said
16 suspension, shall be stayed for two (2) years upon the following
17 terms and conditions:

18 1. Respondent shall obey all laws, rules and
19 regulations governing the rights, duties and responsibilities of
20 a real estate licensee in the State of California; and

21 2. That no final subsequent determination be made,
22 after hearing or upon stipulation that cause for disciplinary
23 action occurred within two (2) years of the effective date of
24 this Decision. Should such a determination be made, the
25 Commissioner may, in his discretion, vacate and set aside the
26 stay order and reimpose all or a portion of the stayed
27

1 suspension. Should no such determination be made, the stay
2 imposed herein shall become permanent.

3 B.

4 Pursuant to Section 10148 of the Business and
5 Professions Code, Respondent shall pay the Commissioner's
6 reasonable cost for: a) the audit which led to this disciplinary
7 action and b) a subsequent audit to determine if Respondent has
8 corrected the trust fund violations found in the Determination
9 of Issues. In calculating the amount of the Commissioner's
10 reasonable cost, the Commissioner may use the estimated average
11 hourly salary for all persons performing audits of real estate
12 brokers, and shall include an allocation for travel costs,
13 including mileage, time to and from the auditor's place of work
14 and per diem. Respondent shall pay such costs within 60 days of
15 receiving an invoice from the Commissioner detailing the
16 activities performed during the audit and the amount of time
17 spent performing those activities. The Commissioner may, in his
18 discretion, vacate and set aside the stay order, if payment is
19 not timely made as provided for herein, or as provided for in a
20 subsequent agreement between the Respondent and the
21 Commissioner. The vacation and the set aside of the stay shall
22 remain in effect until payment is made in full, or until
23 Respondent enters into an agreement satisfactory to the
24 Commissioner to provide for payment.

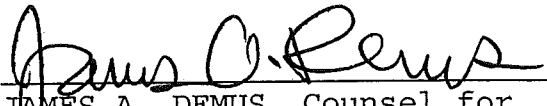
25 ///

26 ///

C.

Respondent CHRISTOPHER ALLEN GAGAN shall within six (6)
months from the effective date of the Decision herein, take and
pass the Professional Responsibility Examination administered by
the Department including the payment of the appropriate
examination fee. If Respondent CHRISTOPHER ALLEN GAGAN fails to
satisfy this condition, the Commissioner may order suspension of
Respondent CHRISTOPHER ALLEN GAGAN's license until Respondent
passes the examination.

DATED: 6/3/13


JAMES A. DEMUS, Counsel for
the Department of Real Estate

EXECUTION OF THE STIPULATION

I have read the Stipulation and discussed it with my
counsel. 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.

Respondents can signify acceptance and approval of the terms and conditions of this Stipulation by faxing a copy of its signature page, as actually signed by Respondents, to the Department at the following telephone/fax number: James A. Demus at (213) 576-6917. Respondents agree, acknowledge and understand that by electronically sending to the Department a fax copy of Respondent's actual signature as it appears on the Stipulation, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation.

DATED:

6/1/13


CHRISTOPHER ALLEN GAGAN, as former
designated officer of OCEAN QUEST
FINANCIAL INC

DATED:

6/1/13


CHRISTOPHER ALLEN GAGAN, Respondent

DATED:

6/3/13


FRANK M. BUDA
Attorney for Respondents

* * *

///

///

///

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

11
12
13 DATED: _____

CHRISTOPHER ALLEN GAGAN, as former
designated officer of OCEAN QUEST
FINANCIAL INC

14
15
16
17 DATED: _____

CHRISTOPHER ALLEN GAGAN, Respondent

18
19
20 DATED: _____

FRANK M. BUDA
Attorney for Respondents

21
22 * * *

23 ///

24 ///

25 ///

26 ///

27 ///

IT IS SO ORDERED July 24, 2013.



- 9 -