

1 Bureau of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6982

FILED

DEC 31 2013

BUREAU OF REAL ESTATE

By *J. L. To*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the First Amended Accusation of	)	No. H-38117 LA
	)	L-2012060893
ASR PROPERTIES, INC. and	)	
	)	
MANUCHEHR KHOSHBIN, individually	)	<u>STIPULATION</u>
and as designated officer of ASR Properties Inc.,	)	<u>AND</u>
	)	<u>AGREEMENT</u>
Respondents.	)	

17 It is hereby stipulated by and between Respondents ASR PROPERTIES, INC.
18 ("ASR" or "Respondent ASR"), MANUCHEHR KHOSHBIN ("KHOSHBIN" or "Respondent
19 KHOSHBIN"), represented by Mary E. Work, Esq.. and the Complainant, acting by and through
20 Julie L. To, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and
21 disposing of the First Amended Accusation ("Accusation") filed on July 8, 2013. (The original
22 Accusation was filed on May 8, 2012; the First Amended Accusation filed on July 8, 2013
23 amends the May 8, 2012 in its entirety.)

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

1 Stipulation and Agreement ("Stipulation").

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

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

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

19 5. This Stipulation is made for the purpose of reaching an agreed disposition of
20 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
21 which the Bureau (formerly Department) of Real Estate ("Bureau"), the state or federal
22 government, or any agency of this state, another state or federal government is involved, and
23 otherwise shall not be admissible in any other criminal or civil proceeding.

24 6. It is understood by the parties that the Real Estate Commissioner may adopt
25 this Stipulation as the Commissioner's Decision in this matter thereby imposing the penalty and
26 sanctions on Respondent's real estate licenses and license rights as set forth in the "Order" herein
27 below. In the event that the Commissioner in his discretion does not adopt the Stipulation, it

1 shall be void and of no effect and Respondents shall retain the right to a hearing and proceeding
2 on the Accusation under the provisions of the APA and shall not be bound by any stipulation or
3 waiver made herein.

4 7. The Order or any subsequent Order of the Real Estate Commissioner made
5 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
6 administrative or civil proceedings by the Bureau of Real Estate with respect to any matters
7 which were not specifically alleged to be causes for Accusation in this proceeding but do
8 constitute a bar, estoppel and merger as to any allegations actually contained in the Accusations
9 against Respondents herein.

10 8. Respondents understand that by agreeing to this Stipulation, Respondents agree
11 to pay, pursuant to Business and Professions Code Section 10148, the cost of the audits. The
12 amount of said cost for the three original audits (LA090210, LA090235, and LA090234) is
13 \$7,764.75.

14 9. Respondents have received, read, and understand the "Notice Concerning
15 Costs of Subsequent Audit". Respondents further understand that by agreeing to this Stipulation,
16 the findings set forth below in the Determination of Issues become final, and the Commissioner
17 may charge Respondent for the cost of any subsequent audits conducted pursuant to Business and
18 Professions Code Section 10148 to determine if the violations have been corrected. The
19 maximum cost of the follow-up audits will not exceed \$7,764.75.

20 10. Respondents understand that by agreeing to this Stipulation, Respondents
21 agree to pay, pursuant to Business and Professions Code Section 10106, the Commissioner's cost
22 of the investigation and enforcement. The amount of said costs is \$2,844.80.

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

3 4. If Respondents fail to pay the monetary penalty in accordance with the terms of
4 the Decision, the Commissioner may, without a hearing, order the immediate execution of all or
5 any part of the stayed suspension, in which event the Respondents shall not be entitled to any
6 repayment nor credit, prorated or otherwise, for money paid to the Bureau under the terms of this
7 Decision.

8
9 5. If Respondents pay the monetary penalty in accordance with the terms of the
10 Decision, and if no further cause for disciplinary action against the real estate licenses of
11 Respondents occurs within two (2) years from the effective date of the Decision, the stay hereby
12 granted shall become permanent.

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

16 1. Respondents shall obey all laws, rules and regulations governing the rights,
17 duties and responsibilities of a real estate licensee in the State of California; and

18 2. That no final subsequent determination be made after hearing or upon stipulation,
19 that cause of disciplinary action occurred within two (2) years from the effective date of this
20 Decision. Should such a determination be made, the Commissioner may, in the Commissioner's
21 discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed
22 suspension. Should no such determination be made, the stay imposed herein shall become
23 permanent.
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1 II.

2 Pursuant to Section 10148 of the Business and Professions Code, Respondents
3 ASR PROPERTIES INC. and MANUCHEHR KHOSHBIN, shall pay the Commissioner's
4 reasonable cost for (a) the audit which led to this disciplinary action and (b) a subsequent audit to
5 determine if Respondent ASR is now in compliance with the Real Estate Law. The cost of the
6 audit which led to this disciplinary action is \$7,764.75. In calculating the amount of the
7 Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary
8 for all persons performing audits of real estate brokers, and shall include an allocation for travel
9 time to and from the auditor's place of work. Said amount for the prior and subsequent audits
10 shall not exceed \$7,764.75. Respondents shall pay such cost within 60 days of receiving an
11 invoice from the Commissioner detailing the activities performed during the audit and the
12 amount of time spent performing those activities.

13 The Commissioner may suspend the license of Respondents pending a hearing
14 held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely
15 made as provided for herein, or as provided for in a subsequent agreement between the
16 Respondents and the Commissioner. The suspension shall remain in effect until payment is
17 made in full or until Respondent(s) enters into an agreement satisfactory to the Commissioner to
18 provide for payment, or until a decision providing otherwise is adopted following a hearing held
19 pursuant to this condition.

20 III.

21 All licenses and licensing rights of Respondents are indefinitely suspended unless
22 or until Respondents pay the sum of \$2,844.80 for the Commissioner's reasonable costs of
23 investigation and enforcement which led to this disciplinary action. Said payment shall be in the
24 form of a cashier's check or certified check made payable to the Real Estate Fund.

25 IV.

26 All licenses and licensing rights of MANUCHEHR KHOSHBIN, are indefinitely
27 suspended unless or until Respondent KHOSHBIN provides proof satisfactory to the

1 Commissioner, of having taken and successfully completed the continuing education course on
2 trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section
3 10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement includes
4 evidence that respondent has successfully completed the trust fund account and handling
5 continuing education course within 120 days prior to the effective date of the Decision in this
6 matter.

7 V.

8 Respondent MANUCHEHR KHOSHBIN shall, within six (6) months from the
9 effective date of the Decision herein, take and pass the Professional Responsibility Examination
10 administered by the Department including the payment of the appropriate examination fee. If
11 Respondent fails to satisfy this condition, the Commissioner may order suspension of
12 Respondent's license until Respondent passes the examination. The Commissioner shall afford
13 Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present
14 such evidence.
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16
17 DATED: 11-21-13

18 
19 JULIE L. TO, Counsel for
Bureau of Real Estate

20 * * *

21 EXECUTION OF THE STIPULATION

22 I have read the Stipulation and Agreement and discussed it with my attorney. Its
23 terms are understood by me and are agreeable and acceptable to me. I understand that I am
24 waiving rights given to us by the California Administrative Procedure Act (including but not
25 limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly,
26 intelligently and voluntarily waive those rights, including the right of requiring the
27 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the

1 right to cross-examine witnesses against me and to present evidence in defense and mitigation of
2 the charges.

3 MAILING AND FACSIMILE

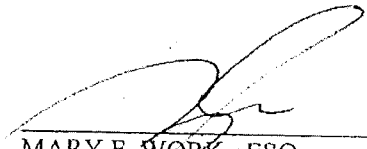
4 Respondent (1) shall mail the original signed signature page of the stipulation
5 herein to Julie L. To: Attention: Legal Section, Department of Real Estate, 320 W. Fourth St.,
6 Suite 350, Los Angeles, California 90013-1105. Respondent shall also (2) transmit via facsimile
7 a copy of signed signature page, to the Department at the following telephone/fax number: (213)
8 576-6917, Attention: Julie L. To.

9 A facsimile constitutes acceptance and approval of the terms and conditions of
10 this stipulation. Respondent agrees, acknowledges and understands that by electronically sending
11 to the Department a facsimile copy of Respondent's actual signature as it appears on the
12 stipulation that receipt of the facsimile copy by the Department shall be as binding on
13 Respondents as if the Department had received the original signed stipulation.

14
15
16 DATED: 11-25-13


MANUCHEHR KHOSHBIN, Respondent,
individually and as designated officer of ASR
PROPERTIES INC.

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18
19
20 DATED: 11/26/13


MARY E. WORK, ESQ.
Attorney for Respondent
Approved as to form

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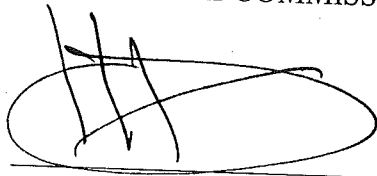
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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents ASR PROPERTIES INC. and MANUCHEHR KHOSHBIN, individually and as designated officer of ASR Properties Inc. and shall become effective at 12 o'clock noon on

JAN 23 2014

IT IS SO ORDERED DEC 23 2013, 2013.

REAL ESTATE COMMISSIONER

A handwritten signature in black ink, consisting of several vertical strokes and a large loop, positioned over a horizontal line.

By: JEFFREY MASON
Chief Deputy Commissioner