

1 ELLIOTT MAC LENNAN, Counsel (SBN 66674)
2 Bureau of Real Estate
3 320 W. 4TH Street, Suite 350
4 Los Angeles, CA 90013-1105
5 Telephone: (213) 576-6982

FILED

JAN 20 2015

BUREAU OF REAL ESTATE

By *N. Medina*

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 EASTERN MORTGAGE COMPANY;)
14 and)
15 JOHN R. SHAIKIN, individually and as)
16 designated officer of Eastern Mortgage)
17 Company,)
18 Respondents.)
)
)

DRE No. H-38312LA
OAH No. L-2013020465

STIPULATION
AND
AGREEMENT

19 It is hereby stipulated by and between Respondents EASTERN MORTGAGE
20 COMPANY and JOHN R. SHAIKIN, individually and as designated officer of Eastern
21 Mortgage Company (sometimes collectively referred to as "Respondents") represented by Mary
22 E. Work, Esq. and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the
23 Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation
24 filed on August 1, 2012, in this matter:
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1 1. All issues which were to be contested and all evidence which was to be
2 presented by Complainant and Respondents at a formal hearing on the Accusation, which
3 hearing was to be held in accordance with the provisions of the Administrative Procedure Act
4 (“APA”) shall instead and in place thereof be submitted solely on the basis of the provisions of
5 this Stipulation and Agreement (“Stipulation.”)
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7 2. Respondents have received, read and understand the Statement to Respondent,
8 the Discovery Provisions of the APA and the Accusation filed by the Bureau of Real Estate in
9 this proceeding.

10 3. Respondents timely filed a Notice of Defense pursuant to Section 11506 of
11 the Government Code for the purpose of requesting a hearing on the allegations in the
12 Accusation. Respondents hereby freely and voluntarily withdraw said Notice of Defense.
13 Respondents acknowledge that they understand that by withdrawing said Notice of Defense they
14 thereby waive their right to require the Commissioner to prove the allegations in the Accusation
15 at a contested hearing held in accordance with the provisions of the APA and that they will
16 waive other rights afforded to them in connection with the hearing such as the right to present
17 evidence in their defense the right to cross-examine witnesses.
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19 4. This Stipulation is based on the factual allegations contained in the
20 Accusation. In the interest of expedience and economy, Respondents choose not to contest
21 these allegations, but to remain silent and understand that, as a result thereof, these factual
22 allegations, without being admitted or denied, will serve as a prima facie basis for the
23 disciplinary action stipulated to herein. The Real Estate Commissioner shall not be required to
24 provide further evidence to prove said factual allegations.
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1 5. This Stipulation is made for the purpose of reaching an agreed disposition of
2 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
3 which the Bureau of Real Estate ("Bureau") or another licensing agency of this state, another
4 state or if the federal government is involved, and otherwise shall not be admissible in any other
5 criminal or civil proceeding.

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

13 7. The Order or any subsequent Order of the Real Estate Commissioner made
14 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
15 administrative or civil proceedings by the Bureau of Real Estate with respect to any matters
16 which were not specifically alleged to be causes for accusation in this proceeding.

17 8. Respondents understand that by agreeing to this Stipulation, Respondents
18 agree to pay, pursuant to Business and Professions Code Section 10148, the cost of the original
19 audit which led to this disciplinary action. The amount of said cost is \$12,244.95.
20

21 9. Respondents have received, read, and understand the "Notice Concerning
22 Costs of Subsequent Audit." Respondents further understand that by agreeing to this
23 Stipulation, the findings set forth below in the Determination of Issues become final, and the
24 Commissioner may charge Respondents for the cost of any subsequent audit conducted pursuant
25 to Business and Professions Code Section 10148 to determine if the violations have been
26 corrected. The maximum cost of the subsequent audit will not exceed \$12,244.95.
27

1 from the effective date of the Decision, the stay hereby granted shall become permanent.

2 B. The remaining sixty (60) days of the ninety (90) day suspension shall be
3 stayed for two (2) years upon the following terms and conditions:

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

6 2. That no final subsequent determination be made after hearing or upon
7 stipulation, that cause for disciplinary action occurred within two (2) years from the effective
8 date of this Decision. Should such a determination be made, the Commissioner may, in his
9 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
10 suspension. Should no such determination be made, the stay imposed herein shall become
11 permanent.

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14 II.

15 Pursuant to Section 10148 of the Business and Professions Code, Respondents
16 EASTERN MORTGAGE COMPANY and JOHN R. SHAIKIN shall pay the Commissioner's
17 reasonable cost for (a) the audit which led to this disciplinary action and (b) a subsequent audit
18 to determine if Respondents are now in compliance with the Real Estate Law. The cost of the
19 audit which led to this disciplinary action is \$12,244.95. In calculating the amount of the
20 Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary
21 for all persons performing audits of real estate brokers, and shall include an allocation for travel
22 time to and from the auditor's place of work. Said amount for the prior and subsequent audits
23 shall not exceed \$24,489.90. Respondents are jointly and severally liable for the cost of the
24 audits.

25 Respondents shall pay such cost within 60 days of receiving an invoice from the
26 Commissioner detailing the activities performed during the audit and the amount of time spent
27 performing those activities.

1 Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to
2 satisfy this condition, the Commissioner may order the suspension of the restricted license until
3 Respondent presents such evidence. The Commissioner shall afford Respondent the
4 opportunity for a hearing pursuant to the Administrative Procedure Act to present such
5 evidence.

6 VI.

7
8 All licenses and licensing rights of JOHN R. SHAIKIN are indefinitely
9 suspended unless or until Respondent provides proof satisfactory to the Commissioner, of
10 having taken and successfully completed the continuing education course on trust fund
11 accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the
12 Business and Professions Code. Proof of satisfaction of this requirement includes evidence that
13 respondent has successfully completed the trust fund account and handling continuing education
14 course within 120 days prior to the effective date of the Decision in this matter.
15

16 VII.

17 As a further condition for the Commissioner to enter into this Stipulation,
18 Respondents shall provide evidence satisfactory to the Real Estate Commissioner that all
19 violations set forth below have been corrected prior to the effective date of the Stipulation.
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VIII.

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2 All proof required by this Order shall be sent to the attention of Elliott Mac
3 Lennan, Counsel, Legal Section, Bureau of Real Estate, 320 West 4th St., Suite 350, Los
4 Angeles, California 90013-1105.

5
6 DATED: 6.18.14 EML
7 ELLIOTT MAC LENNAN,
8 Counsel for Bureau of Real Estate

9 * * *

10 EXECUTION OF THE STIPULATION

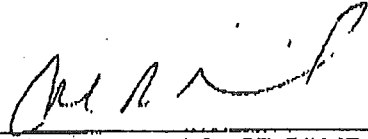
11 We have read the Stipulation and have discussed it with our attorney. Its terms
12 are understood by us and are agreeable and acceptable to us. We understand that we are waiving
13 rights given to us by the California Administrative Procedure Act (including but not limited to
14 Sections 11506, 11508, 11509 and 11513 of the Government Code), and we are willingly,
15 intelligently and voluntarily waive those rights, including the right of requiring the
16 Commissioner to prove the allegations in the Accusation at a hearing at which we would have
17 the right to cross-examine witnesses against us and to present evidence in defense and
18 mitigation of the charges.

19 FACSIMILE

20 Respondents can signify acceptance and approval of the terms and conditions of
21 this Stipulation by faxing a copy of its signature page, as actually signed by Respondents, to the
22 Bureau at the following facsimile number: Elliott Mac Lennan at (213) 576-6917. Respondents
23 agree, acknowledge and understand that by electronically sending to the Bureau a fax copy of
24 Respondents' actual signature as they appear on the Stipulation, that receipt of the faxed copy by
25 the Bureau shall be as binding on Respondents as if the Bureau had received the original signed
26 Stipulation.
27

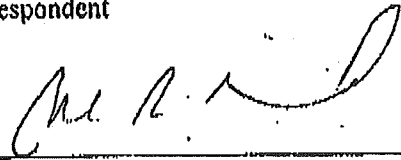
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DATED: 5/15/14



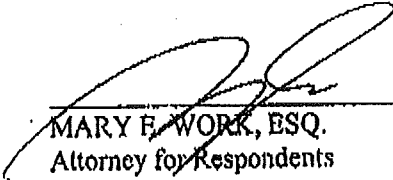
EASTERN MORTGAGE COMPANY
BY: JOHN R. SHAIKIN D.O.
Respondent

DATED: 5/15/14



JOHN R. SHAIKIN, individually and as
designated officer of Eastern Mortgage Company,
Respondent

DATED: 5/29/14



MARY F. WORK, ESQ.
Attorney for Respondents

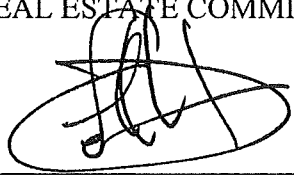
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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
Respondents EASTERN MORTGAGE COMPANY and JOHN R. SHAIKIN, individually and
as designated officer of Eastern Mortgage Company and shall become effective at 12 o'clock
noon on FEB 09 2015.

IT IS SO ORDERED JAN 05 2015,

REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner