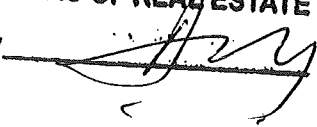


*Saito*

1 Bureau of Real Estate  
320 West 4th Street, Ste. 350  
2 Los Angeles, California 90013-1105  
3 Telephone: (213) 576-6982  
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**FILED**  
MAR 13 2015  
BUREAU OF REAL ESTATE  
By 

7  
8 BEFORE THE BUREAU OF REAL ESTATE  
9 STATE OF CALIFORNIA

\*\*\*

10 In the Matter of the Accusation of )  
11 )  
EMILE NICHOLAS MISIRACA, )  
12 )  
13 Respondent, )  
14 )

No. H-38929 LA  
2014101028  
STIPULATION  
AND  
AGREEMENT

15 It is hereby stipulated by and between Respondent EMILE NICHOLAS  
16 MISIRACA (sometimes referred to as "Respondent") represented by Frank M. Buda, Esq. and  
17 the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Bureau of Real  
18 Estate, as follows for the purpose of settling and disposing of the Accusation ("Accusation")  
19 filed on June 28, 2013, in this matter against Independence Realty Inc. and Emile Nicholas  
20  
21 Misiraca:

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

1                   2. Respondent has received, read and understands the Statement to Respondent,  
2 the Discovery Provisions of the APA and the Accusation filed by the Bureau of Real Estate in  
3 this proceeding.  
4

5                   3. Respondent 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 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent  
8 acknowledges that he understands that by withdrawing said Notice of Defense he thereby  
9 waives his right to require the Real Estate Commissioner ("Commissioner ") to prove the  
10 allegations in the Accusation at a contested hearing held in accordance with the provisions of  
11 the APA and that he will waive other rights afforded to him in connection with the hearing such  
12 as the right to present evidence in his defense and the right to cross-examine witnesses.  
13

14                   4. This Stipulation is based on the factual allegations contained in the  
15 Accusation. In the interest of expedience and economy, Respondent chooses not to contest  
16 these allegations, but to remain silent and understands that, as a result thereof, these factual  
17 allegations, without being admitted or denied, will serve as a prima facie basis for the  
18 disciplinary action stipulated to herein. The Commissioner shall not be required to provide  
19 further evidence to prove said factual allegations.  
20

21                   5. This Stipulation is made for the purpose of reaching an agreed disposition of  
22 this proceeding and is expressly limited to this proceeding and any other proceeding or case in  
23 which the Bureau of Real Estate ("Bureau") the state or federal government, or any agency of  
24 this state, another state or federal government is involved, and otherwise shall not be admissible  
25 in any other criminal or civil proceedings.  
26  
27

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

9                   7. The Order or any subsequent Order of the Commissioner made pursuant to  
10 this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or  
11 civil proceedings by the Bureau of Real Estate with respect to any matters which were not  
12 specifically alleged to be causes for Accusation in this proceeding but do constitute a bar,  
13 estoppel and merger as to any allegations actually contained in the Accusation against  
14 Respondent herein.  
15

16                   8. Respondents understand that by agreeing to this Stipulation, Respondents  
17 agree to pay, pursuant to Business and Professions Code Section 10106, the cost of the  
18 investigation and enforcement of this matter. The amount of said cost is \$1,500.00.  
19

20   DETERMINATION OF ISSUES

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

23                   The conduct, acts and omissions of Respondent EMILE NICHOLAS  
24 MISIRACA, as described in Paragraph 4, above, is in violation of Sections 10162 of the  
25 Business and Professions Code ("Code") and is a basis for suspension or revocation of  
26 Respondent's broker license and license rights as a violation of the Real Estate Law pursuant to  
27 Code Section 10177(g).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

Respondent EMILE NICHOLAS MISIRACA is publicly reprovod.

II.

All licenses and licensing rights of Respondent are indefinitely suspended unless

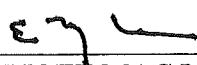
or until Respondent pays the sum of \$1,500.00 for the Commissioner's reasonable cost of the investigation and enforcement which led to this disciplinary action. Said payment must be received by the Bureau prior to the effective date of the Order in this matter.

GENERAL PROVISIONS

I.

All proof required by this Decision, shall be sent to the attention of Bureau of Real Estate, Flag Section, P.O. Box 137013, Sacramento, CA 95813-7013. All checks, if any, unless otherwise specified, are payable to the Bureau of Real Estate. All proof required by this Decision, and all payments required herein, may be made by either cashier's check or made by credit card. Credit card payments shall be accompanied by Form RE 909. Proof and payments shall be sent to the attention of Bureau of Real Estate, Flag Section, P.O. Box 137013, Sacramento, CA 95813-7013.

DATED: 2-26-15

  
\_\_\_\_\_  
ELLIOTT MAC LENNAN, Counsel for  
Bureau of Real Estate

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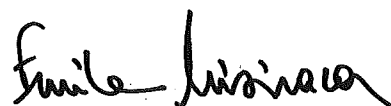
EXCUTION OF THE STIPULATION

I have read the Stipulation and discussed it with my attorney. 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). 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.

MAILING/FACSIMILE

Respondent (1) shall mail the original signed signature page of the Stipulation herein to Elliott Mac Lennan: Attention: Legal Section, Bureau of Real Estate, 320 W. Fourth St., Suite 350, Los Angeles, California 90013-1105. Respondent (2) shall also facsimile a copy of signed signature page, to the Bureau at the following fax number: (213) 576-6917, Attention: Elliott Mac Lennan.

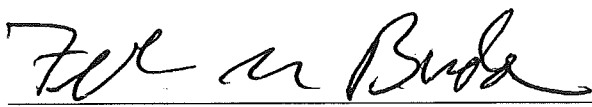
A facsimile constitutes acceptance and approval of the terms and conditions of this Stipulation. Respondent agrees, acknowledges and understands that by electronically sending to the Bureau a facsimile copy of Respondent's actual signature as it appears on the Stipulation that receipt of the facsimile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



DATED: 02/17/2015

EMILE NICHOLAS MISIRACA  
Respondent

DATED: 2-18-15



FRANK M. BUDA  
Attorney for Respondent

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1  
2 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to  
3 Respondent EMILE NICHOLAS MISIRACA and shall become effective at 12 o'clock noon on  
4 April 2, 2015.

5 IT IS SO ORDERED MAR 24 C, 2015.

6  
7 Real Estate Commissioner

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10 By: JEFFREY MASON  
11 Chief Deputy Commissioner  
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