

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

FILED

JAN 22 2015

BUREAU OF REAL ESTATE

By *Horne*

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 CAPITAL EXECUTIVE REALTY INC.,)
13 doing business as ERA Capital)
14 Executive Realty; and)
15 MELVIN JAMES BURRELL, individually)
16 and as designated officer of Capital)
17 Executive Realty Inc.)
18 Respondents.)

No. H-38980 LA

STIPULATION
AND
AGREEMENT

19 It is hereby stipulated by and between Respondents CAPITAL EXECUTIVE
20 REALTY INC. and MELVIN JAMES BURRELL, individually and as designated officer of
21 Capital Executive Realty Inc. (sometimes collectively referred to as "Respondents") and the
22 Complainant, acting by and through Elliott Mac Lennan, Counsel for the Bureau of Real Estate,
23 as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on
24 August 1, 2013, in this matter:

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

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

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

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

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

3 6. It is understood by the parties that the Real Estate Commissioner may adopt
4 this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on
5 Respondents' real estate licenses and license rights as set forth in the below "Order." In the
6 event that the Commissioner in the Commissioner's discretion does not adopt the Stipulation,
7 the Stipulation shall be void and of no effect and Respondents shall retain the right to a hearing
8 and proceeding on the Accusation under the provisions of the APA and shall not be bound by
9 any stipulation or waiver made herein.
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11 7. The Order or any subsequent Order of the Real Estate Commissioner made
12 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
13 administrative or civil proceedings by the Bureau of Real Estate with respect to any matters
14 which were not specifically alleged to be causes for accusation in this proceeding.
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16 8. Respondents understand that by agreeing to this Stipulation, Respondents
17 agree to pay, pursuant to Business and Professions Code Section 10148, the cost of the original
18 audit which led to this disciplinary action. The amount of said cost is \$4,751.50.
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20 9. Respondents have received, read, and understand the "Notice Concerning
21 Costs of Subsequent Audit." Respondents further understand that by agreeing to this
22 Stipulation, the findings set forth below in the Determination of Issues become final, and the
23 Commissioner may charge Respondents for the cost of any subsequent audit conducted pursuant
24 to Business and Professions Code Section 10148 to determine if the violations have been
25 corrected. The maximum cost of the subsequent audit shall not exceed \$4,751.50.
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1 10. Respondents understand that by agreeing to this Stipulation, Respondents
2 agree to pay, pursuant to Business and Professions Code Section 10106, the cost of the
3 investigation and enforcement of this matter. The amount of said cost is \$4,000.00.
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5 DETERMINATION OF ISSUES

6 By reason of the foregoing, it is stipulated and agreed that the following
7 Determination of Issues shall be made:

8 I.

9 The conduct of CAPITAL EXECUTIVE REALTY INC. and MELVIN JAMES
10 BURRELL, as described in Paragraph 4 of the Stipulation, above, is in violation of Code
11 Section 10145(a) and Sections 2832.1, 2831, 2831.1, 2831.2, 2834(a) and 2959(g) of Title 10,
12 Chapter 6 of the California Code of Regulations (“Regulations”) and is a basis for suspension or
13 revocation of Respondents’ license and license rights as a violation of the Real Estate Law
14 pursuant to Code Section 10177(d).

15 II.

16 The conduct of MELVIN JAMES BURRELL, as described in Paragraph 4 of the
17 Stipulation, above, constitutes a failure to supervise and to keep Capital Executive Realty Inc. in
18 compliance with the Real Estate Law during the time that said Respondent was the officer
19 designated by a corporate broker licensee, in violation of Code Section 10159.2 and Regulation
20 2725 and is a basis for suspension or revocation of Respondent’s license and license rights as a
21 violation of the Real Estate Law pursuant to Code Section 10177(h).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondents CAPITAL EXECUTIVE REALTY INC. and MELVIN JAMES BURRELL, under the Real Estate Law, are suspended for a period of sixty (60) days from the effective date of this Decision:

A. Provided, however, that if a Respondent requests, the initial thirty (30) days of said suspension (or a portion thereof) shall be stayed for two (2) years upon condition that:

1. Respondents pay a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$66.67 per day for each day of the suspension for a monetary penalty of \$2,000 for each Respondent, or \$4,000 total.

2. Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be received by the Bureau prior to the effective date of the Decision in this matter.

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

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

5. If Respondents pay the monetary penalty and if no further cause for disciplinary action against the real estate license of a Respondent occurs within two (2) years

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

2 B. The remaining thirty (30) days of the sixty (60) day suspension shall be stayed
3 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 shall become permanent.

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12 II.

13 Pursuant to Section 10148 of the Business and Professions Code, Respondents
14 CAPITAL EXECUTIVE REALTY INC. and MELVIN JAMES BURRELL shall pay the
15 Commissioner's reasonable cost for (a) the audit which led to this disciplinary action and (b) a
16 subsequent audit to determine if Respondents are now in compliance with the Real Estate Law.
17 The cost of the audit which led to this disciplinary action is \$4,751.50. In calculating the
18 amount of the Commissioner's reasonable cost, the Commissioner may use the estimated
19 average hourly salary for all persons performing audits of real estate brokers, and shall include
20 an allocation for travel time to and from the auditor's place of work. Said amount for the prior
21 and subsequent audits shall not exceed \$9,503.00. Respondents are jointly and severally liable
22 for the cost of the audit.

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

2 The Commissioner may suspend the licenses of Respondents pending a hearing
3 held in accordance with Section 11500, et seq., of the Government Code, if payment is not
4 timely made as provided for herein, or as provided for in a subsequent agreement between the
5 Respondents and the Commissioner. The suspension shall remain in effect until payment is
6 made in full or until a Respondent enters into an agreement satisfactory to the Commissioner to
7 provide for payment, or until a decision providing otherwise is adopted following a hearing held
8 pursuant to this condition.
9

10 III.

11 All licenses and licensing rights of Respondents CAPITAL EXECUTIVE
12 REALTY INC. and MELVIN JAMES BURRELL, are indefinitely suspended unless or until
13 Respondents pay the sum of \$4,000.00 for the Commissioner's reasonable cost of the
14 investigation and enforcement which led to this disciplinary action by the effective date. Said
15 payment must be received by the Bureau prior to the effective date of the Order in this matter.
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17 IV.

18 All licenses and licensing rights of MELVIN JAMES BURRELL are indefinitely
19 suspended unless or until Respondent provides proof satisfactory to the Commissioner of having
20 taken and successfully completed the continuing education course on trust fund accounting and
21 handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and
22 Professions Code. Proof of satisfaction of this requirement includes evidence that Respondent
23 has successfully completed the trust fund account and handling continuing education course
24 within 120 days prior to the effective date of the Decision in this matter.
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V.

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2 All licenses and licensing rights of Respondents are indefinitely suspended unless
3 or until Respondents provide evidence to the Commissioner sufficient to demonstrate that said
4 remaining shortage in escrow trust account TA 1, in the amount of \$2,179.25 has been restored.

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6 VI.

7 All licenses and licensing rights of Respondents are indefinitely suspended unless
8 or until Respondents provide evidence to the Commissioner sufficient to demonstrate that said
9 Lee Owens is no longer a signatory on escrow trust accounts TA 1 and TA 2, unless and until
10 licensed and authorized or bonded.

11 VII.

12 As a further condition for the Commissioner to enter into this Stipulation,
13 Respondents shall provide evidence satisfactory to the Commissioner that all violations cited in
14 the Determination of Issues have been corrected prior to the effective date of the Decision.

15 VIII.

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

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23 DATED: 01-02-15

24 E L
25 ELLIOTT MAC LENNAN,
26 Counsel for Bureau of Real Estate
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2 EXECUTION OF THE STIPULATION

3 We have read the Stipulation. Its terms are understood by us and are agreeable
4 and acceptable to us. We understand that we are waiving rights given to us by the California
5 Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and
6 11513 of the Government Code), and we are willingly, intelligently and voluntarily waive those
7 rights, including the right of requiring the Commissioner to prove the allegations in the
8 Accusation at a hearing at which we would have the right to cross-examine witnesses against us
9 and to present evidence in defense and mitigation of the charges.

10 MAILING/FACSIMILE


11 Respondents (1) shall mail the original signed signature page of the Stipulation
12 herein to Elliott Mac Lennan: Attention: Legal Section, Bureau of Real Estate, 320 W. Fourth
13 St., Suite 350, Los Angeles, California 90013-1105. Respondents (2) shall also facsimile a copy
14 of signed signature page, to the Bureau at the following fax number: (213) 576-6917, Attention:
15 Elliott Mac Lennan.
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17 A facsimile constitutes acceptance and approval of the terms and conditions of
18 this Stipulation. Respondents agree, acknowledge and understand that by electronically sending
19 to the Bureau of Real Estate a facsimile copy of Respondents' actual signatures as they appear
20 on the Stipulation that receipt of the facsimile copy by the Bureau shall be as binding on
21 Respondents as if the Bureau of Real Estate had received the original signed Stipulation.
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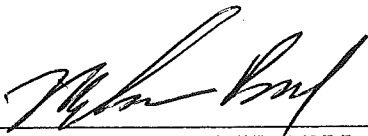
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DATED: 12-20-14


CAPITAL EXECUTIVE REALTY INC.
BY: MELVIN JAMES BURRELL, D.O.
Respondent

DATED: 12-20-14


MELVIN JAMES BURRELL, individually and as
designated officer of Capital Executive Realty Inc.
Respondent

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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to

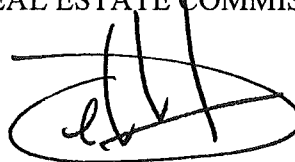
Respondents CAPITAL EXECUTIVE REALTY INC. and MELVIN JAMES BURRELL,

individually and as designated officer of Capital Executive Realty Inc. and shall become

effective at 12 o'clock noon on FEB 11 2015, 2015

IT IS SO ORDERED January 9, 2015

REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner