

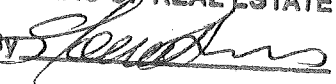
FLAG

Bureau of Real Estate  
320 West 4th Street, Ste. 350  
Los Angeles, California 90013-1105

Telephone: (213) 576-6982

**FILED**

JUL 21 2015

BUREAU OF REAL ESTATE  
BY 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
)  
CAFFERY FINANCIAL INC.; and )  
)  
JOSEPH GEORGE CAFFERY, )  
individually and as designated officer of )  
Caffery Financial Inc., )  
)  
Respondents. )

No. H-39588 LA  
STIPULATION  
AND  
AGREEMENT

It is hereby stipulated by and between Respondent JOSEPH GEORGE CAFFERY, (sometimes referred to as "Respondent,") and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on September 3, 2014, in this matter:

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

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

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

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

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

16                   8. Respondent understands that by agreeing to this Stipulation, Respondent  
17 agrees 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 \$6,513.92.  
19

20                   9. Respondent has received, read, and understood the "Notice Concerning Costs  
21 of Subsequent Audit". Respondent further understands that by agreeing to this Stipulation, the  
22 findings set forth below in the Determination of Issues become final, and the Commissioner  
23 may charge Respondent for the cost of any subsequent audit conducted pursuant to Business and  
24 Professions Code Section 10148 to determine if the violations have been corrected. The  
25 maximum cost of the follow-up audit will not exceed \$6,513.92.  
26

27 ///

1                   10. Respondent understands that by agreeing to this Stipulation, Respondent  
2 agrees 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 \$6,500.00.  
4

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                   The conduct, acts and omissions of Respondent JOSEPH GEORGE CAFFERY  
9 as described in Paragraph 4, herein above, is in violation of Sections 10145, 10159.2, 10176(e),  
10 10176(g), 10232(a), 10232(e), 10232.2(e), 10232.4, 10232.5, 10232.6, 10238(a), 10238(l),  
11 10240, 10238(h), 10238(f) and 10238(h)(4)(d)(e)(f) of the Business and Professions Code  
12 ("Code") and Sections 2725, 2831, 2831.1, 2831.2, 2832(a), 2842.5, 2846, 2846.5, and 2849.01  
13 of Title 10, Chapter 6 of the California Code of Regulations ("Regulations") and is a basis for  
14 discipline of Respondent's license and license rights as a violation of the Real Estate Law  
15 pursuant to Code Sections 10177(d), 10177(g) and 10177(h).

16   ORDER

17                   WHEREFORE, THE FOLLOWING ORDER is hereby made:

18   I.

19                   All licenses and licensing rights of Respondent JOSEPH GEORGE CAFFERY  
20 under the Real Estate Law are suspended for a period of ninety (90) days from the effective date  
21 of this Decision.

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

24                   1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the  
25 Business and Professions Code at the rate of \$166.67 per day for each day of the suspension for  
26 a total monetary penalty of \$5,000.  
27

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

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

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

11                    5. If Respondent pays the monetary penalty and if no further cause for  
12 disciplinary action against the real estate license of Respondent occurs within two (2) years from  
13 the effective date of the Decision, the stay hereby granted shall become permanent.

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

16                    1. Respondent 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  
19 stipulation, which cause for disciplinary action occurred within two (2) years from the effective  
20 date of this Decision. Should such a determination be made, the Commissioner may, in his  
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.

24                    II.

25                    Pursuant to Section 10148 of the Business and Professions Code, Respondent  
26 shall pay the Commissioner's reasonable cost for (a) the audit which led to this disciplinary  
27 action and (b) a subsequent audit to determine if Respondent is now in compliance with the Real

1 Estate Law. The cost of the audit which led to this disciplinary action is \$6,513.92. In  
2 calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the  
3 estimated average hourly salary for all persons performing audits of real estate brokers, and shall  
4 include an allocation for travel time to and from the auditor's place of work. Said amount for  
5 the prior and subsequent audits shall not exceed \$13,027.84. Respondent shall pay such cost  
6 within 60 days of receiving an invoice from the Commissioner detailing the activities performed  
7 during the audit and the amount of time spent performing those activities.

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

15 III.

16 All licenses and licensing rights of Respondent are indefinitely suspended unless  
17 or until Respondent pays the sum of \$6,500.00 for the Commissioner's reasonable cost of the  
18 investigation and enforcement which led to this disciplinary action. Said payment shall be in the  
19 form of a cashier's check made payable to the Real Estate Fund. Said check must be received by  
20 the Bureau prior to the effective date of the Order in this matter.

21 IV.

22 All licenses and licensing rights of Respondent are indefinitely suspended unless  
23 or until Respondent provides proof satisfactory to the Commissioner, of having taken and  
24 successfully completed the continuing education course on trust fund accounting and handling  
25 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions  
26 Code. Proof of satisfaction of this requirement includes evidence that Respondent has  
27 successfully completed the trust fund account and handling continuing education course within

1 120 days prior to the effective date of the Decision.

2 V.

3 As a further condition for the Real Estate Commissioner to enter into this  
4 Stipulation, Respondent shall provide evidence satisfactory to the Commissioner that all  
5 violations set forth below have been corrected prior to the effective date of the Stipulation. All  
6 licenses and licensing rights of Respondent are indefinitely suspended unless or until Respondent  
7 provides said evidence of correction.

8 VI.

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

13  
14  
15 DATED: 6-29-15

EJL  
16 ELLIOTT MAC LENNAN, Counsel for  
17 Bureau of Real Estate

18 \* \* \*

19 EXECUTION OF THE STIPULATION

20 I have read the Stipulation. Its terms are understood by me and are agreeable and  
21 acceptable to me. I understand that I am waiving rights given to me by the California  
22 Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and  
23 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those  
24 rights, including the right of requiring the Commissioner to prove the allegations in the  
25 Accusation at a hearing at which I would have the right to cross-examine witnesses against me  
26 and to present evidence in defense and mitigation of the charges.  
27

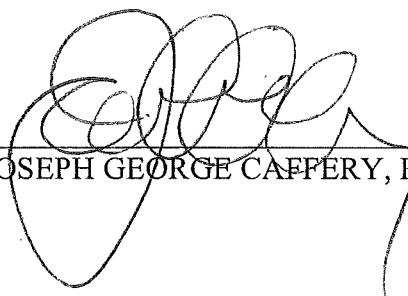
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

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. Additionally, 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: 5-11-2015

  
\_\_\_\_\_  
JOSEPH GEORGE CAFFERY, Respondent

[This space intentionally left blank]



\* \* \*

1  
2 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to  
3 Respondent JOSEPH GEORGE CAFFERY and shall become effective at 12 o'clock noon on

4 AUG 11, 2015

5 IT IS SO ORDERED July 15, 2015

6  
7 Real Estate Commissioner

8 

9 By: JEFFREY MASON  
10 Chief Deputy Commissioner