

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

**FILED**

NOV 17 2020

DEPT. OF REAL ESTATE

By *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of	)	No. H-41351 LA
	)	
12 EASTERN MORTGAGE COMPANY	)	<u>STIPULATION</u>
	)	<u>AND</u>
13 and	)	<u>AGREEMENT</u>
	)	
14 JOHN R. SHAIKIN, individually	)	
	)	
15 and as designated officer of	)	
	)	
16 Eastern Mortgage Company	)	
	)	
17	)	
	)	
18 Respondents.	)	

19 It is hereby stipulated by and between Respondents EASTERN MORTGAGE  
20 COMPANY ("EMC") and JOHN R. SHAIKIN ("SHAIKIN") (collectively, "Respondents"),  
21 represented by Lindsay M. Johnson, Esq. of the Law Offices of Ray & Bishop Professional Law  
22 Corporation, and the Complainant, acting by and through Julie L. To, Counsel for the  
23 Department of Real Estate ("Department" or "DRE"), as follows for the purpose of settling and  
24 disposing of the Accusation ("Accusation") filed on April 26, 2019, in Case No. H-41351 LA, in  
25 this matter.

26  
27 DRE STIPULATION & AGREEMENT: EASTERN MORTGAGE COMPANY & JOHN R. SHAIKIN, H-41351 LA

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 hearing  
3 was to be held in accordance with the provisions of the Administrative Procedure Act ("APA"),  
4 shall instead and in place thereof be submitted solely on the basis of the provisions of this  
5 Stipulation and Agreement ("Stipulation").

6                   2. Respondents have received, read and understand the Statement to Respondent,  
7 the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate  
8 ("Department") in this proceeding.

9                   3. On May 13, 2019, Respondents timely filed their Notices of Defense pursuant  
10 to Section 11506 of the Government Code for the purpose of requesting a hearing on the  
11 allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notices  
12 of Defense. Respondents acknowledge that they understand that by withdrawing said Notices of  
13 Defense they thereby waive their rights to require the Commissioner to prove the allegations in  
14 the Accusation at a contested hearing held in accordance with the provisions of the APA and that  
15 they will waive other rights afforded to them in connection with the hearing such as the right to  
16 present evidence in their defense and the right to cross-examine witnesses.

17                   4. This Stipulation is based on the factual allegations contained in the Accusation.  
18 In the interest of expedience and economy, Respondents choose not to contest these allegations,  
19 but to remain silent, and understand that, as a result thereof, these factual allegations, without  
20 being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to  
21 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove  
22 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 Department or another licensing agency of this state, another state, or if the federal  
4 government is involved, and otherwise shall not be admissible in any other criminal or civil  
5 proceeding.

6                   6. It is understood by the parties that the Real Estate Commissioner may adopt  
7 this Stipulation as the Commissioner's Decision in this matter, thereby imposing the penalty and  
8 sanctions on Respondents' real estate licenses and license rights as set forth in below "Order." In  
9 the event that the Commissioner in his discretion does not adopt the Stipulation and Agreement,  
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 any  
12 admission 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 Department of Real Estate with respect to any matters  
16 which were not specifically alleged to be causes for Accusation in this proceeding but do  
17 constitute a bar, estoppel and merger as to any allegations actually contained in the Accusations  
18 against Respondents herein.

19                   8. Respondents understand that by agreeing to this Stipulation, Respondents agree  
20 to jointly and severally pay for the cost of the audit which resulted in the determination that  
21 Respondents committed the violations found in the Determination of Issues, pursuant to Business  
22 and Professions Code ("Code") Section 10148. The amount of said costs for the original audit  
23 (LA160068) is \$6,437.97. Respondents agree to jointly and severally pay \$6,437.97, pursuant to  
24 Code Section 10148, for the cost of Audit No. LA160068.

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27 DRE STIPULATION & AGREEMENT: EASTERN MORTGAGE COMPANY & JOHN R. SHAIKIN, H-41351 LA

1                   9. Respondents EMC and SHAIKIN have received, read, and understand the  
2 "Notice Concerning Costs of Subsequent Audit." Respondents further understand that by  
3 agreeing to this Stipulation, the findings set forth below in the Determination of Issues become  
4 final, and the Commissioner may charge Respondents for the cost of any subsequent audits  
5 conducted pursuant to Code Section 10148 to determine if the violations have been corrected.  
6 The maximum cost of the follow-up audits will not exceed one-hundred twenty-five percent  
7 (125%) of the cost of the original audit; in the instant case, the cost of the original audit is  
8 \$6,437.97 and the maximum cost of the follow-up audit will not exceed \$8,047.46 ( $\$6,437.97 \times$   
9  $125\% = \$8,047.97$ ). Therefore, Respondents may be charged a maximum of \$8,047.46 in the  
10 event of a subsequent audit.

11                   10. Respondents understand that by agreeing to this Stipulation, Respondents  
12 agree to jointly and severally pay the Commissioner's cost of the investigation and enforcement  
13 which resulted in the determination that Respondents committed the violations found in the  
14 Determination of Issues, pursuant to Code Section 10106. The amount of said investigation and  
15 enforcement costs is \$1,452.57 (comprised of \$709.42 in investigation costs and \$743.15 in  
16 enforcement costs); therefore, Respondents agree to jointly and severally pay, pursuant to Code  
17 Section 10106, the amount \$1,452.57.

#### DETERMINATION OF ISSUES

19                   By reason of the foregoing stipulations, admissions and waivers, and solely for the  
20 purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed  
21 that the following determination of issues shall be made:

22                   The conduct, acts or omissions of Respondents, as described in Paragraph 4,  
23 herein above, are in violation of: Code Section 10145 and Regulation 2832.1; Code Section  
24 10145 and Regulation 2831; Code Section 10145 and Regulation 2831.1.; Code Section 10145  
25 and Regulation 2831.2; Code Section 10238(k); Code Section 10233(b); and [SHAIKIN only]

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1 Code Sections 10159.2 and 10177(h) and Regulation 2725, and are bases for the suspension or  
2 revocation of the license and license rights of Respondents EMC and SHAIKIN as a violation of  
3 the Real Estate Law pursuant to Code Sections 10177(d) and 10177(g).

4 **ORDER**

5 **WHEREFORE, THE FOLLOWING ORDER is hereby made:**

6 **I.**

7 All licenses and licensing rights of Respondents EASTERN MORTGAGE  
8 COMPANY and JOHN R. SHAIKIN under the Real Estate Law are suspended for a period of  
9 ninety (90) days from the effective date of this Decision and Order; provided, however, that:

10 1. Ninety (90) days of said suspension shall be stayed for two (2) years upon the  
11 following terms and conditions:

12 a) Respondents shall obey all laws, rules and regulations governing the  
13 rights, duties and responsibilities of a real estate licensee in the State of  
14 California; and,

15 b) That no final subsequent determination be made, after hearing or upon  
16 stipulation, that cause of disciplinary action occurred within two (2) years  
17 from the effective date of this Decision and Order. Should such a  
18 determination be made, the Commissioner may, in his discretion, vacate  
19 and set aside the stay order and reimpose all or a portion of the stayed  
20 suspension. Should no such determination be made, the stay imposed  
21 herein shall become permanent.

22 2. All licenses and licensing rights of Respondent EMC and SHAIKIN are  
23 indefinitely suspended unless or until Respondents jointly and severally pay the sum of \$1,452.57  
24 for the Commissioner's reasonable cost of the investigation and enforcement which led to this  
25 disciplinary action. Said payment shall be in the form of a cashier's check or certified check  
26

27 **DRE STIPULATION & AGREEMENT: EASTERN MORTGAGE COMPANY & JOHN R. SHAIKIN, H-41351 LA**

1 made payable to the Department of Real Estate. The investigation and enforcement costs must  
2 be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA  
3 95813-7013, prior to the effective date of this Decision and Order.

4 3. Pursuant to Section 10148 of the Code, Respondents shall jointly and severally  
5 pay the sum of \$6,437.97 for the Commissioner's cost of the audit which led to this disciplinary  
6 action. Respondents shall pay such cost within sixty (60) days of receiving an invoice therefore  
7 from the Commissioner. Payment of audit costs should not be made until Respondents receive  
8 the invoice. If Respondents fail to satisfy this condition in a timely manner as provided for  
9 herein, Respondents' real estate licenses shall automatically be suspended until payment is made  
10 in full, or until a decision providing otherwise is adopted following a hearing held pursuant to  
11 this condition.

12 4. Pursuant to Section 10148 of the Code, Respondents shall pay the  
13 Commissioner's reasonable cost, not to exceed \$8,047.46 [or, 125% of the original audit cost],  
14 for a subsequent audit to determine if Respondents have corrected the violations found in the  
15 Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the  
16 Commissioner may use the estimated average hourly salary for all persons performing audits of  
17 real estate brokers, and shall include an allocation for travel time to and from the auditor's place  
18 of work. Respondents shall pay such cost within sixty (60) days of receiving an invoice therefore  
19 from the Commissioner. Payment of the audit costs should not be made until Respondents  
20 receive the invoice. If Respondents fail to satisfy this condition in a timely manner as provided  
21 for herein, Respondents' real estate licenses shall automatically be suspended until payment is  
22 made in full, or until a decision providing otherwise is adopted following a hearing held pursuant  
23 to this condition.

24 10-20-20

25 Dated



26 Julie L. To, Counsel for  
27 Department of Real Estate

DRE STIPULATION & AGREEMENT: EASTERN MORTGAGE COMPANY & JOHN R. SHAIKIN, H-41351 LA

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EXECUTION OF THE STIPULATION

We have read the Stipulation and Agreement. Its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we 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 we would have the right to cross-examine witnesses against us and to present evidence in defense and mitigation of the charges.

MAILING AND FACSIMILE

Respondents can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by sending a hard copy of the original signed signature page of the Stipulation herein to Julie L. To, Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350, Los Angeles, California 90013-1105. In the event of time constraints before an administrative hearing, Respondents can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by e-mailing a scanned copy of the signature page, as actually signed by Respondents, to the Department counsel assigned to this case. Respondents agree, acknowledge, and understand that by electronically sending to the Department a scan of Respondents' actual signatures as they appears on the Stipulation and Agreement, that receipt of the scan by the Department shall be binding on Respondents as if the Department had received the original signed Stipulation and Agreement.

DATED: 10/19/2020

  
\_\_\_\_\_  
EASTERN MORTGAGE COMPANY  
By: John R. Shaikin, Designated Officer

DRE STIPULATION & AGREEMENT: EASTERN MORTGAGE COMPANY & JOHN R. SHAIKIN, H-41351 LA


1 DATED: 10/19/2020

  
2 \_\_\_\_\_  
3 JOHN R. SHAIKIN

4 *I have reviewed the Stipulation and Agreement as to form and content and have*  
5 *advised my client accordingly.*

6 10/19/2020

7 Dated

  
8 \_\_\_\_\_  
9 Lindsay M. Johnson, Esq., Attorney for Respondents  
10 EASTERN MORTGAGE COMPANY and  
11 JOHN R. SHAIKIN

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13 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to  
14 Respondents EASTERN MORTGAGE COMPANY and JOHN R. SHAIKIN, and shall become  
15 effective at 12 o'clock noon on DEC 17 2020, 2020.

16 IT IS SO ORDERED 11.4.20, 2020.

17 REAL ESTATE COMMISSIONER

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19 \_\_\_\_\_  
20 DOUGLAS R. McCAULEY

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27 DRE STIPULATION & AGREEMENT: EASTERN MORTGAGE COMPANY & JOHN R. SHAIKIN, H-41351 LA