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DEPT. OF REAL ESTATE

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Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013

Telephone: (213) 576-6982

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-42140 LA
)	
)	
CHARLES JOHN LYONS III,)	STIPULATION AND
)	AGREEMENT
Respondent.)	
)	

It is hereby stipulated by and between Respondent CHARLES JOHN LYONS III (“Respondent”), represented by Frank Buda, Esq., and the Complainant, acting by and through Diane Lee, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation (“Accusation”) filed on or about January 31, 2022, in this matter:

1. All issues which were to be contested and all evidence which were 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 California 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”).

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

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

9 4. This Stipulation is based on the factual allegations contained in the
10 Accusation. In the interest of expediency and economy, Respondent chooses not to contest these
11 factual allegations, but to remain silent and understand that, as a result thereof, these factual
12 statements will serve as a prima facie basis for the disciplinary action stipulated to herein and
13 violations set for below.

14 5. This Stipulation and Respondent's decision not to contest the Accusation are
15 made for the purpose of reaching an agreed disposition of this proceeding, and are expressly
16 limited to this proceeding and any other proceeding or case in which the Department of Real
17 Estate, or another licensing agency of this state or another state, or if a state or federal
18 government is involved, and otherwise shall not be admissible in any other criminal or civil
19 proceedings. Respondent further understands that the sustained violation(s) may be considered
20 in any future administrative or disciplinary matters by the Department of Real Estate.

21 6. It is understood by the parties that the Real Estate Commissioner may adopt
22 this Stipulation as his Decision in this matter thereby imposing the penalties and sanctions on
23 the real estate license(s) and license rights of Respondent as set forth in the below "Order." In
24 the event that the Commissioner in his discretion does not adopt this Stipulation, it shall be void
25 and of no effect, and Respondent shall retain the right to a hearing and proceeding on the
26 Accusation under the provisions of the APA and shall not be bound by this Stipulation herein.

27

1 7. The Order or any subsequent Order of the Real Estate Commissioner made
2 pursuant to this Stipulation herein shall not constitute an estoppel, merger, or bar to any further
3 administrative or civil proceedings by the Department of Real Estate with respect to any matters
4 which were not specifically alleged to be causes for Accusation in this proceeding, but do
5 constitute a bar, estoppel, and merger as to any allegations specifically and actually contained in
6 the Accusation against Respondent herein.

7 8. Respondent understands that by agreeing to this Stipulation, Respondent
8 agrees to pay, pursuant to California Business and Professions Code section 10106, the cost of
9 the investigation and enforcement. The amount of investigation and enforcement cost
10 is \$2,043.70.

11 9. Respondent understands that by agreeing to this Stipulation, Respondent
12 agrees to pay, pursuant to California Business and Professions Code section 10148, the cost of
13 the audit which led to this disciplinary action, or provide proof satisfactory to the Commissioner
14 that this cost of audit has already been paid. The amount of said cost for the original audit (LA
15 200080) is \$10,545.00.

16 10. Respondent understands that by agreeing to this Stipulation and Agreement,
17 the findings set forth below in the Determination of Issues become final, and the Commissioner
18 may charge Respondent for the cost of any subsequent audit(s) conducted pursuant to California
19 Business and Professions Code section 10148. The maximum cost of the subsequent audit will
20 not exceed \$13,181.25.

21
22 DETERMINATION OF ISSUES

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

25 The conduct, acts, or omissions of Respondent CHARLES JOHN LYONS II, as
26 described in the Accusation and Paragraph 4, above, are a basis for discipline of Respondent's
27 licenses and license rights pursuant to California Business and Professions Code sections 10145,

1 10148, 10176(e), and 10177(g), and Title 10, Chapter 6 of the California Code of Regulations,
2 sections 2831, 2832, and 2835. California Business and Professions Code section 10148 pertains
3 only to River City Bank, account number *****6357, which is designated B/A 3 in the
4 Accusation and Audit Report LA200080.

5
6 ORDER

7 WHEREFORE, THE FOLLOWING ORDER is hereby made:

8
9 (SUSPENSION)

10 I.

11 All licenses and licensing rights of Respondent under the Real Estate Law are
12 suspended for a period of forty-five (45) days from the effective date of this Decision:

13 A. Provided, however, that the initial fifteen (15) days of said suspension shall be
14 stayed upon condition that:

15 1. Respondent pays a monetary penalty pursuant to California Business and
16 Professions Code section 10175.2 at the rate of \$100.00 per day for a monetary penalty of
17 \$1,500.00 total.

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

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

23 4. If Respondent fails to pay the monetary penalty in accordance with the terms
24 of the Decision, the Commissioner may, without a hearing, order the immediate execution of all
25 or any part of the stayed suspension, in which event Respondent shall not be entitled to any
26 repayment nor credit, prorated or otherwise, for money paid to the Department of Real Estate
27 under the terms of this Decision.

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

4 B. The remaining thirty (30) days of the forty-five (45) day suspension shall be
5 stayed for two (2) years upon the following terms and conditions:

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

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

14
15 (INVESTIGATION AND ENFORCEMENT COSTS)

16 II.

17 Respondent shall, within thirty (30) days from the effective date of this Decision
18 and Order, pay the sum of \$2,043.70 for the Commissioner's reasonable cost for investigation
19 and enforcement which led to this disciplinary action. Said payment shall be in the form of a
20 cashier's check made payable to the Department of Real Estate. The investigative and
21 enforcement costs must be delivered to the Department of Real Estate, Flag Section at P.O. Box
22 137013, Sacramento, CA 95813-7013, within thirty (30) days from the effective date of this
23 Decision and Order. If the costs of investigation and enforcement are not paid within thirty (30)
24 days from the effective date of this Decision and Order, the licenses and license rights of
25 Respondent shall automatically be suspended until full payment is made.

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1 (AUDIT COSTS)

2 III.

3 1. Pursuant to California Business and Professions Code section 10148,
4 Respondent shall pay \$10,545.00 for the Commissioner's cost of audit which led to this
5 disciplinary action. Respondent shall pay this \$10,545.00 within thirty (30) days of receiving an
6 invoice therefore from the Commissioner. Payment of audit costs should not be made until
7 Respondent receives the invoice. If Respondent fails to satisfy this condition in a timely manner
8 as provided for herein, the real estate license(s) and license rights of Respondent shall
9 automatically be suspended until payment is made in full, or until a decision providing otherwise
10 is adopted following a hearing.

11 2. Pursuant to California Business and Professions Code section 10148,
12 Respondent shall pay the Commissioner's reasonable cost, not to exceed \$13,181.25 for audit(s)
13 to determine if Respondent has corrected the violations found in the Determination of Issues. In
14 calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the
15 estimated average hourly salary for all persons performing audits of real estate broker(s), and
16 shall include an allocation for travel time to and from the auditor's place of work. Respondent
17 shall pay such cost within thirty (30) days of receiving an invoice therefor from the
18 Commissioner. Payment of the audit costs should not be made until Respondent receives the
19 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
20 the real estate license of Respondent shall automatically be suspended until payment is made in
21 full, or until a decision providing otherwise is adopted following a hearing held pursuant to this
22 condition.

23 (TRUST FUND COURSE)

24 IV.

25 All licenses and licensing rights of Respondent are indefinitely suspended unless
26 or until Respondent provides proof satisfactory to the Commissioner, of having taken and
27

1 successfully completed the continuing education course on trust fund accounting and handling
2 specified in California Business and Professions Code section 10170.5(a)(3). Proof of
3 satisfaction of this requirement includes evidence that Respondent has successfully completed
4 the trust fund account and handling continuing education course within one hundred twenty
5 (120) days prior to the effective date of the Decision in this matter. Proof of completion of the
6 trust fund accounting and handling course must be delivered to the Department of Real Estate,
7 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at (916) 263-
8 8758, within ninety (90) days of the effective date of this Decision and Order.

9
10 DATED: 01/30/2023



11 DIANE LEE,
12 Counsel for Department of Real Estate

13 * * *

14 EXECUTION OF THE STIPULATION

15 I, CHARLES JOHN LYONS III, have read the Stipulation and discussed it with
16 my attorney, Frank Buda, Esq. Its terms are understood by me, and are agreeable and acceptable
17 to me. I understand that I am waiving rights given to me by the California APA (including, but
18 not limited to, California Government Code sections 11506, 11508, 11509, and 11513),
19 and I willingly, intelligently, and voluntarily waive those rights, including, but not limited to, the
20 right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at
21 which I would have the right to cross-examine witnesses against me and to present evidence in
22 defense and mitigation of the charges.

23
24 MAILING AND E-MAIL


25 Respondent shall mail the original signed signature page of this Stipulation herein
26 to Department of Real Estate, Attention: Legal Section – Diane Lee, 320 West Fourth Street,
27 Suite 350, Los Angeles, California 90013-1105.

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In the event of time constraints before an administrative hearing, Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by emailing a scanned copy of the signature page, as actually signed by Respondent, to the Department counsel assigned to this case. Respondent agrees, acknowledges, and understands that by electronically sending the Department a scan of Respondent’s actual signature as it appears on the Stipulation and Agreement that receipt of the scan by the Department shall be binding on Respondent as if the Department had received the original signed Stipulation.

Respondent’s signature below constitutes acceptance and approval of the terms and conditions of this Stipulation. Respondent agrees, acknowledges, and understands that by signing this Stipulation, Respondent is bound by its terms as of the date of such signature and that this agreement is not subject to rescission or amendment at a later date except by a separate Decision and Order of the Real Estate Commissioner.

DATED: JAN. 30, 2023 
CHARLES JOHN LYONS III

DATED: 1-30-2023 
FRANK BUDA, ESQ.
Attorney for Respondent
Approved as to Form

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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent CHARLES JOHN LYONS III, and shall become effective at 12 o'clock noon on

March 28, 2023

IT IS SO ORDERED 3.2.23

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley