

1 Department of Real Estate
2 320 W. 4th Street, Suite 350
3 Los Angeles, CA 90013-1105
4
5 Telephone: (213) 576-6982
6
7

FILED

MAR 23 2023

DEPT. OF REAL ESTATE

By John Aguirre

8 **DEPARTMENT OF REAL ESTATE**

9 **STATE OF CALIFORNIA**

10 ***

11 In the Matter of the Accusation of)

DRE No. H-42184 LA)

12 ARASH JOSHUA AFIGHOM,)

13 Respondent.)

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

14
15
16 It is hereby stipulated by and between Respondent ARASH JOSHUA AFIGHOM ()
17 “Respondent”) and his attorney of record, Frank Buda, and the Complainant, acting by and through)
18 Kevin H. Sun, Counsel for the Department of Real Estate, as follows for the purpose of settling and)
19 disposing of the Accusation filed on December 20, 2021, in this matter (Case No. H-42184 LA):)

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

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

1 3. On December 30, 2021, Respondent filed a Notice of Defense pursuant to
2 Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in
3 the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
4 Respondent acknowledges that he understands that by withdrawing said Notice of Defense he will
5 thereby waive his rights 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 he will waive other
7 rights afforded to him in connection with the hearing such as the right to present evidence in
8 defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

15 5. This Stipulation is made for the purpose of reaching an agreed disposition of this
16 proceeding and is expressly limited to this proceeding and any other proceeding or case in which
17 the Department or another licensing agency of this state, another state, or if the federal government
18 is involved, and otherwise shall not be admissible in any other criminal or civil proceeding.

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

26 7. The Order or any subsequent Order of the Real Estate Commissioner made
27 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further

1 administrative or civil proceedings by the Department of Real Estate with respect to any matters
2 which were not specifically alleged to be causes for accusation in this proceeding.

3 **DETERMINATION OF ISSUES**

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

7 The conduct of Respondent, as described in the Accusation, is in violation of
8 California Business and Professions Code ("Code") Sections 10145, 10159.5, 10162 and 10176(e),
9 and Title 10, Chapter 6, California Code of Regulations ("Regulations") Sections 2731, 2831.2,
10 2832, 2832.1, 2834 and 2835 and is grounds for the suspension or revocation of all of the real
11 estate license and license rights of Respondent under the provision of Code Sections 10177(d) and
12 (g) of the Code.

13 **ORDER**

14 WHEREFORE, THE FOLLOWING ORDER is hereby made:

15 I.

16 (ARASH JOSHUA AFIGHOM)

17 All licenses and license rights of Respondent ARASH JOSHUA AFIGHOM
18 under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of
19 this Decision;

20 A. Provided, however, that the initial thirty (30) days of said suspension shall be
21 stayed for two (2) years upon the following terms and conditions:

22 1. Respondent shall pay a monetary penalty pursuant to Code section 10175.2
23 at the rate of \$50.00 per day for each of the thirty (30) days of suspension for a total monetary
24 penalty of \$1,500.00.

25 2. Said payment shall be in the form of a cashier's check made payable to the
26 Department of Real Estate. Said check must be delivered to the Department of Real Estate, Flag
27 Section, P.O. Box 137013, Sacramento, CA 95813-7013, **prior to the effective date of this**

1 **Decision and Order.**

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

4 4. If Respondent fails to pay the monetary penalty in accordance with the
5 terms and conditions of the Decision, the suspension shall go into effect automatically with regard
6 to said Respondent. Respondent shall not be entitled to any repayment nor credit, prorated or
7 otherwise, for money paid to the Department under the terms of this Decision and Order.

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

11 B. The remaining thirty (30) days of the sixty (60) day suspension shall be stayed
12 for two (2) years upon the following terms and conditions:

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

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

20 C. Respondent shall, within six (6) months from the effective date of this Decision
21 and Order, provide proof satisfactory to the Department, of having taken and successfully
22 completed the continuing education course on trust fund accounting and handling specified in
23 California Business and Professions Code section 10170.5(a)(3). Proof of satisfaction of this
24 requirements includes evidence that Respondent has successfully completed the trust fund account
25 and handling continuing education courses, no earlier than 120 days prior to the effective date of
26 the Decision and Order in this matter. Proof of completion of the trust fund accounting and
27 handling course must be delivered to the Department of Real Estate, Flag Section at P.O. Box

1 137013, Sacramento, CA 95813-7013 or by fax at (916) 263-8758, within six (6) months from the
2 effective date of this Decision and Order.

3 D. Respondent shall, **within nine (9) months from the effective date of this**
4 **Order**, present evidence satisfactory to the Commissioner that Respondent has, since the most
5 recent issuance of an original or renewal real estate license, taken and successfully completed the
6 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal
7 of a real estate license. If Respondent fails to satisfy this condition, Respondent's real estate
8 license shall automatically be suspended until Respondent presents evidence satisfactory to the
9 Commissioner of having taken and successfully completed the continuing education requirements.
10 **Proof of completion of the continuing education courses must be delivered to the Department**
11 **of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.**

12 E. All licenses and licensing rights of Respondent are indefinitely suspended unless
13 or until Respondent pays the sum of **\$3,148.85** for the Commissioner's reasonable costs of the
14 investigation and enforcement which led to this disciplinary action. Said payment shall be in the
15 form of a cashier's check made payable to the Department of Real Estate. **The payment for the**
16 **investigative and enforcement costs must be delivered to the Department of Real Estate, Flag**
17 **Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this**
18 **Decision and Order.** If Respondent fails to satisfy this condition, the Commissioner shall order
19 suspension of Respondent's licenses and license rights until the sum is paid.

20 F. Pursuant to Code Sections 10148, Respondent shall pay the Commissioner's
21 reasonable costs for the audit which led to this disciplinary action in the amount of **\$6,519.50**.
22 Respondent shall pay such costs within sixty (60) days of receiving an invoice therefore from the
23 Commissioner. Payment of the audit costs should not be made until Respondent receives the
24 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
25 Respondent's real estate licenses shall automatically be suspended until payment is made in full, or
26 until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

27 G. Pursuant to Code section 10148 of the Code, Respondent shall pay the

1 Commissioner's reasonable costs, not to exceed \$8,149.37, for a subsequent audit to determine if
2 Respondent has corrected the violations found in the Determination of Issues. In calculating the
3 amount of the Commissioner's reasonable costs, the Commissioner may use the estimated average
4 hourly salary for all persons performing audits of real estate brokers, and shall include an allocation
5 for travel time to and from the auditor's place of work. Respondent shall pay such costs within
6 sixty (60) days of receiving an invoice therefor from the Commissioner. Payment of the audit costs
7 should not be made until Respondent receive the invoice. If Respondent fails to satisfy this
8 condition in a timely manner as provided for herein, Respondent's real estate licenses shall
9 automatically be suspended until payment is made in full, or until a decision, providing otherwise,
10 is adopted following a hearing held pursuant to this condition.

11
12 DATED: 1/20/2023



Kevin H. Sun, Counsel for
Department of Real Estate

13
14
15 * * *

16 **EXECUTION OF THE STIPULATION**

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

24 Respondent shall mail the original signed signature page of the Stipulation herein to
25 Kevin H. Sun, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350,
26 Los Angeles, California 90013-1105.

27 In the event of time constraints before an administrative hearing, Respondent can

1 signify acceptance and approval of the terms and conditions of this Stipulation by emailing a
2 scanned copy of the signature page, as actually signed by Respondent, to the Department counsel
3 assigned to this case, as stated above. Respondent agrees, acknowledges and understands that by
4 electronically sending the Department a scan of Respondent's actual signature as it appears on the
5 Stipulation and Agreement that receipt of the scan by the Department shall be binding on
6 Respondent as if the Department had received the original signed Stipulation. Respondent shall also
7 mail the original signed signature page of this Stipulation to the Department counsel.

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

13
14 DATED: 1-5-2023 ARASH AFIGHOM
15 ARASH JOSHUA AFIGHOM
16 Respondent

17 DATED: 1-10-2023 Frank M Buda
18 Frank Buda, Esq.
19 Counsel for Respondent
20 Approved as to Form

21 * * *

22
23 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
24 Respondent ARASH JOSHUA AFIGHOM in this matter and shall become effective at 12 o'clock
25 noon on APR 12 2023, 2023.

26
27 IT IS SO ORDERED 3.9.23, 2023.

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

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley