

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 137007
3 Sacramento, CA 95813-7007

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FILED

JUN 23 2023

DEPARTMENT OF REAL ESTATE
By B. McLaughlin

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:) Case No. H-3463 FR
12)
13 CONNOLLY PROPERTIES, INC., and) STIPULATION AND AGREEMENT
14 BERNARD F. CONNOLLY) IN SETTLEMENT AND ORDER
15 Respondents.)

16 It is hereby stipulated by and between Respondents CONNOLLY
17 PROPERTIES, INC. ("CONNOLLY INC.") and BERNARD F. CONNOLLY (Mr.
18 CONNOLLY), (collectively referred to as "Respondents"), acting by and through Joshua A.
19 Rosenthal, counsel for Respondents, and the Complainant, acting by and through Jason D.
20 Lazark, Counsel for the Department of Real Estate, as follows for the purpose of settling and
21 disposing of the Accusation filed on December 27, 2022, in this matter:

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

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1 2. Respondents have received, read, and understand the Statement to
2 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department
3 of Real Estate in this proceeding.

4 3. Respondents filed Notices of Defense pursuant to Section 11505 of the
5 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
6 Respondents hereby freely and voluntarily withdraw said Notices of Defense. Respondents
7 acknowledge that they understand that by withdrawing said Notices of Defense they will
8 thereby waive their rights to require the Real Estate Commissioner ("Commissioner") to prove
9 the allegations in the Accusation at a contested hearing held in accordance with the provisions
10 of the APA, and that they will waive other rights afforded to them in connection with the
11 hearing, such as the right to present evidence in defense of the allegations in the Accusation
12 and the right to cross-examine witnesses.

13 4. Respondents, pursuant to the limitations set forth below, hereby admit that
14 the factual allegations or findings of fact as set forth in the Accusation filed in this proceeding
15 are true and correct and the Real Estate Commissioner shall not be required to provide further
16 evidence of such allegations.

17 5. This Stipulation and Agreement is made for the purpose of reaching an
18 agreed disposition of this proceeding and is expressly limited to this proceeding and any other
19 proceeding or case in which the Department, the state or federal government, any agency of
20 this state, or an agency of another state is involved.

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

1 1. Thirty (30) days of said suspension shall be stayed upon the condition that Mr.
2 CONNOLLY petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty
3 pursuant to Section 10175.2 of the Code, at a rate of \$100 for each day of the suspension, for a
4 total monetary penalty of \$3,000.

5 a. Said payment shall be in the form of a cashier's check made payable to
6 the Department of Real Estate. Said check must be delivered to the Department of Real Estate,
7 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
8 Order.

9 b. No further cause for disciplinary action against the real estate license
10 of Mr. CONNOLLY occurs within two (2) years from the effective date of the Order in this
11 matter.

12 c. If Mr. CONNOLLY fails to pay the monetary penalty in accordance
13 with the terms and conditions of the Decision, the Commissioner may, without a hearing, order
14 the immediate execution of all or any part of the stayed suspension, in which event, Mr.
15 CONNOLLY shall not be entitled to any repayment nor credit, prorated or otherwise, for money
16 paid to the Department under the terms of this decision.

17 d. If Mr. CONNOLLY pays the monetary penalty, and if no further
18 cause for disciplinary action against the real estate license of Mr. CONNOLLY occurs within
19 two (2) years from the effective date of the Decision herein, then the stay hereby granted shall
20 become permanent.

21 2. The remaining sixty (60) days of said suspension shall be stayed for two (2)
22 years upon the following terms and conditions:

23 a. Mr. CONNOLLY shall obey all laws, rules and regulations governing
24 the rights, duties and responsibilities of a real estate licensee in the State of California, and

25 b. That no final subsequent determination be made, after hearing or
26 upon stipulation, that cause for disciplinary action occurred within two (2) years from the
27 effective date of this Order. Should such a determination be made, the Commissioner may, in

1 his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
2 suspension. Should no such determination be made, the stay imposed herein shall become
3 permanent.

4 3. Mr. CONNOLLY shall, within six (6) months from the effective date of this
5 Order, take and pass the Professional Responsibility Examination administered by the
6 Department, including the payment of the appropriate examination fee. If Mr. CONNOLLY
7 fails to satisfy this condition, Mr. CONNOLLY's real estate license shall automatically be
8 suspended until Mr. CONNOLLY passes the examination.

9 4. All licenses and licensing rights of Mr. CONNOLLY are indefinitely
10 suspended unless or until Mr. CONNOLLY provides proof satisfactory to the Commissioner, of
11 having taken and successfully completed the continuing education course on trust fund
12 accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the
13 Code. Proof of satisfaction of these requirements includes evidence that Mr. CONNOLLY has
14 successfully completed the trust fund accounting and handling continuing education course, no
15 earlier than one hundred twenty (120) days prior to the effective date of the Order in this matter.
16 Proof of completion of the trust fund accounting and handling course must be delivered to the
17 Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior
18 to the effective date of this Order.

19 III.

20 AS TO CONNOLLY INC. AND Mr. CONNOLLY JOINTLY AND SEVERALLY

21 1. All licenses and licensing rights of Respondents, are indefinitely suspended
22 unless or until Respondents, jointly and severally, pay the sum of \$2,998.80 for the
23 Commissioner's reasonable cost of the investigation and enforcement which led to this
24 disciplinary action. Said payment shall be in the form of a cashier's check or certified check
25 made payable to the Real Estate Fund. The investigative and enforcement costs must be
26 delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA
27 95813-7013, prior to the effective date of this Order

1 2. Pursuant to Section 10148 of the Code, Respondents, jointly and severally,
2 shall pay the sum of \$3,627.00 for the Commissioner's cost of the audit which led to this
3 disciplinary action. Respondents shall pay such cost within sixty (60) days of receiving an
4 invoice therefore from the Commissioner. The Commissioner shall indefinitely suspend all
5 licenses and licensing rights of Respondents pending a hearing held in accordance with Section
6 11500, et seq., of the Government Code, if payment is not timely made as provided for herein,
7 or as provided for in a subsequent agreement between Respondents and the Commissioner.
8 The suspension shall remain in effect until payment is made in full or until Respondents enter
9 into an agreement satisfactory to the Commissioner to provide for payment, or until a decision
10 providing otherwise is adopted following a hearing held pursuant to this condition.

11 3. Respondents, jointly and severally, shall pay the Commissioner's costs, not
12 to exceed \$4,533.75 of any audit conducted pursuant to Section 10148 of the Code to
13 determine if Respondents have corrected the violations described in the Determination of
14 Issues, above, and any other violations found in the audit which led to this disciplinary action.
15 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use
16 the estimated average hourly salary for all persons performing audits of real estate brokers, and
17 shall include an allocation for travel time to and from the auditor's place of work. Respondents
18 shall pay such cost within sixty (60) days of receiving an invoice therefore from the
19 Commissioner detailing the activities performed during the audit and the amount of time spent
20 performing those activities. If Respondents fail to pay such cost within the sixty (60) days, the
21 Commissioner shall indefinitely suspend all licenses and licensing rights of Respondents under
22 the Real Estate Law until payment is made in full or until Respondents enter into an agreement
23 satisfactory to the Commissioner to provide for payment. Upon full payment, the indefinite
24 suspension provided for in this paragraph shall be stayed.

25 5/9/2023


26 _____
 DATED

27 _____
 JASON D. LAZARK, Counsel
 Department of Real Estate

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

3 05/05/23

4 DATED


5 Joshua A. Rosenthal,
6 Attorney for Respondents,
7 CONNOLLY PROPERTIES, INC.,
8 and BERNARD F. CONNOLLY

9 * * *

10 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
11 this matter and shall become effective at 12 o'clock noon on JUL 14 2023.

12 IT IS SO ORDERED 6-8-23, 2023.

13 REAL ESTATE COMMISSIONER
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