

1 Department of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 576-8700

FILED

AUG 07 2019

DEPARTMENT OF REAL ESTATE
By B. Nichols

5
6
7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 THOMAS CONNOLLY,)
13 Respondent.)
14
15 No. H-12298 SF
16 STIPULATION AND
17 AGREEMENT

18 It is hereby stipulated by and between THOMAS CONNOLLY (Respondent),
19 represented by Paul Chan, and the Complainant, acting by and through Truly Sughrue,
20 Counsel for the Department of Real Estate (Department), as follows for the purpose of settling
21 and disposing the Accusation filed on September 27, 2018, in this matter:

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

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

///

1 3. Respondent filed a Notice of Defense pursuant to Section 11505 of the
2 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
3 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
4 acknowledges that Respondent understands that by withdrawing said Notice of Defense
5 Respondent will thereby waive Respondent's rights to require the Real Estate Commissioner
6 (Commissioner) to prove the allegations in the Accusation at a contested hearing held in
7 accordance with the provisions of the APA, and that Respondent will waive other rights afforded
8 to Respondent in connection with the hearing such as the right to present evidence in defense of
9 the allegations in the Accusation and the right to cross-examine witnesses.

10 4. This Stipulation and Agreement is based on the factual allegations
11 contained in the Accusation. In the interest of expediency and economy, Respondent chooses not
12 to contest these factual allegations, but to remain silent and understands that, as a result thereof,
13 these factual statements will serve as a prima facie basis for the "Determination of Issues" and
14 "Order" set forth below. The Commissioner shall not be required to provide further evidence to
15 prove such allegations.

16 5. This Stipulation and Agreement and Respondent's decision not to contest
17 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and
18 are expressly limited to this proceeding and any other proceeding or case in which the
19 Department, the state or federal government, an agency of this state, or an agency of another state
20 is involved.

21 6. Respondent understands that by agreeing to this Stipulation and
22 Agreement, Respondent agrees to pay, pursuant to Section 10148 of the California Business and
23 Professions Code (Code), the cost of the audit, which resulted in the determination that
24 Respondent committed the trust fund handling violation(s) found in the Determination of Issues.
25 The amount of said costs is \$6,247.61.

26 ///

27 ///

1 As to Paragraph 8(a), under Section 10177(d) of the Code in conjunction with
2 Section 10145 of the Code and Section 2832.1 of the Regulations;

3 As to Paragraph 8(b), under Section 10177(d) of the Code in conjunction with
4 Section 10145 of the Code and Section 2832 of the Regulations;

5 As to Paragraph 8(c), under Section 10177(d) of the Code in conjunction with
6 Section 2834 of the Regulations and Section 10145 of the Code;

7 As to Paragraph 8(d), under Section 10177(d) of the Code in conjunction with
8 Section 2731 of the Regulations and Section 10159.5 of the Code;

9 As to Paragraph 8(e), under Section 10177(d) of the Code in conjunction with
10 Section 10163 of the Code; and

11 As to Paragraph 8(f), under Section 10177(d) of the Code in conjunction with
12 Section 2773 of the Regulations and Section 10140.6(b) of the Code.

13 II

14 The acts and omissions of Respondent as described in the Second Cause of
15 Action in the Accusation are grounds for the suspension or revocation of Respondent's licenses
16 and license rights Section 10177(h) of the Code.

17 * * *

18 ORDER

19 I

20 All licenses and licensing rights of Respondent under the Real Estate Law are
21 suspended for a period of sixty (60) days from the effective date of this Order; provided,
22 however, that:

23 1) Thirty (30) days of said suspension shall be stayed, upon the condition that
24 Respondent petition pursuant to Section 10175.2 of the Code and pays a monetary penalty
25 pursuant to Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total
26 monetary penalty of \$1,500.

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

5 b) No further cause for disciplinary action against the Real Estate licenses of
6 Respondent occurs within two (2) years from the effective date of the decision in this matter.

7 c) If Respondent fails to pay the monetary penalty as provided above prior to the
8 effective date of this Order, the stay of the suspension shall be vacated as to that Respondent and
9 the order of suspension shall be immediately executed, under this Order, in which event the said
10 Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for the
11 money paid to the Department under the terms of this Order.

12 d) If Respondent pays the monetary penalty and any other moneys due under this
13 Stipulation and Agreement and if no further cause for disciplinary action against the real estate
14 license of said Respondent occurs within two (2) years from the effective date of this Order, the
15 entire stay hereby granted this Order, as to said Respondent only, shall become permanent.

16 2) Thirty (30) days of said suspension shall be stayed for two (2) years upon the
17 following terms and conditions:

18 a) Respondent shall obey all laws, rules and regulations governing the rights, duties
19 and responsibilities of a real estate licensee in the State of California; and,

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

25 3) Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
26 \$6,247.61 for the Commissioner's cost of the audit which led to this disciplinary action.

27 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the

1 Commissioner. Payment of audit costs should not be made until Respondent receives the
2 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
3 Respondent's real estate license shall automatically be suspended until payment is made in full,
4 or until a decision providing otherwise is adopted following a hearing held pursuant to this
5 condition.

6 4) Pursuant to Section 10148 of the Code, Respondent shall pay the Commissioner's
7 reasonable cost, not to exceed \$7,809.51, for an audit to determine if Respondent has corrected
8 the violation(s) found in the Determination of Issues. In calculating the amount of the
9 Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary
10 for all persons performing audits of real estate brokers, and shall include an allocation for travel
11 time to and from the auditor's place of work. Respondent shall pay such cost within sixty (60)
12 days of receiving an invoice therefore from the Commissioner. Payment of the audit costs should
13 not be made until Respondent receives the invoice. If Respondent fails to satisfy this condition
14 in a timely manner as provided for herein, Respondent's real estate license shall automatically be
15 suspended until payment is made in full, or until a decision providing otherwise is adopted
16 following a hearing held pursuant to this condition.

17
18 6-June-19

19 DATED



20 TRULY SUGHRUE
Counsel for Complainant

* * *

21 I have read the Stipulation and Agreement, discussed it with my counsel, and its
22 terms are understood by me and are agreeable and acceptable to me. I understand that I am
23 waiving rights given to me by the California Administrative Procedure Act, and I willingly,
24 intelligently and voluntarily waive those rights, including the right of requiring the
25 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
26

1 right to cross-examine witnesses against me and to present evidence in defense and mitigation of
2 the charges.

3 Respondent and Respondent's attorney further agree to send the original signed
4 Stipulation by mail to the following address no later than one (1) week from the date the
5 Stipulation is signed by Respondent and Respondent's attorney: *Department of Real Estate,*
6 *Legal Section, P.O. Box 137007, Sacramento, California 95813-7007.* Respondent and
7 Respondent's attorney understand and agree that if they fail to return the original signed
8 Stipulation by the due date, Complainant retains the right to set this matter for hearing.

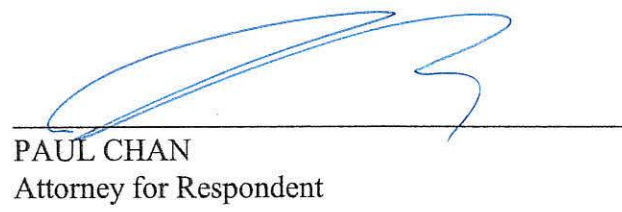
9 June 5th 2019
10 DATED


THOMAS CONNOLLY
Respondent

12 ***

13 *I have reviewed the Stipulation and Agreement as to form and content and have*
14 *advised my clients accordingly.*

15 6/6/19
16 DATED


PAUL CHAN
Attorney for Respondent

18 ***

19 The foregoing Stipulation and Agreement is hereby adopted as my Decision and
20 Order and shall become effective at 12 o'clock noon on **AUG 28 2019**

21 IT IS SO ORDERED August 6, 2019.

23 DANIEL J. SANDRI
24 ACTING REAL ESTATE COMMISSIONER

