

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

FILED

MAY 30 2024

DEPT. OF REAL ESTATE

By 

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 ***

11 In the Matter of the Accusation of)
12 EXCLUSIVE LIFESTYLES, INC., RANDALL)
13 NOEL KOSTICK, individually and as designated)
14 officer of Exclusive Lifestyles, Inc., ALL)
15 CALIFORNIA BROKERAGE INC, BARBARA)
16 MAYBER LYNCH, individually and as)
designated officer of All California Brokerage)
Inc, and FRANK JOHN SERGI,)
Respondents. }

DRE No. H-12614 SF

**STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER**

17
18 It is hereby stipulated by and between Respondent FRANK JOHN SERGI
19 (“Respondent”) and his attorney of record, David E. Libman, and the Complainant, acting by and
20 through Kevin H. Sun, Counsel for the Department of Real Estate, as follows for the purpose of
21 settling and disposing of the Accusation filed on March 28, 2023, in this matter (Case No. H-12614
22 SF):

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

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

4 3. On or about June 9, 2023, Respondent filed a Notice of Defense pursuant to
5 Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in
6 the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
7 Respondent acknowledges that he understands that by withdrawing said Notice of Defense he will
8 thereby waive his rights to require the Commissioner to prove the allegations in the Accusation at a
9 contested hearing held in accordance with the provisions of the APA and that he will waive other
10 rights afforded to him in connection with the hearing such as the right to present evidence in
11 defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

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

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

1 made herein.

2 7. The Order or any subsequent Order of the Real Estate Commissioner made
3 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
4 administrative or civil proceedings by the Department of Real Estate with respect to any matters
5 which were not specifically alleged to be causes for accusation in this proceeding.

6 **DETERMINATION OF ISSUES**

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

10 The conduct of Respondent, as described in the Accusation, are in violation of
11 California Business and Professions Code ("Code") 10145 and Title 10, Chapter 6, California Code
12 of Regulations ("Regulations") Sections 2831, 2832, and 2834 and are grounds for the suspension
13 or revocation of all of the real estate license and license rights of Respondent under the provision of
14 Code Section 10177(d) and (g).

15 **ORDER**

16 WHEREFORE, THE FOLLOWING ORDER is hereby made:

17 I.

18 (FRANK JOHN SERGI)

19 All licenses and license rights of Respondent FRANK JOHN SERGI under the Real
20 Estate Law are suspended for a period of sixty (60) days from the effective date of this Decision;

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

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

26 2. Said payment shall be in the form of a cashier's check made payable to the
27 Department of Real Estate. Said check must be delivered to the Department of Real Estate, Flag

1 Section, P.O. Box 137013, Sacramento, CA 95813-7013, **prior to the effective date of this**
2 **Decision and Order.**

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

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

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

12 6. Respondent FRANK JOHN SERGI shall cooperate fully with the
13 Department and testify at the hearing in this matter (Case No. H-12614 SF), if one is held.
14 Respondent agrees to accept written notice to appear at hearing, in lieu of a subpoena. If
15 Respondent fails to cooperate fully with the Department or testify at the hearing in this matter, the
16 suspension shall go into effect automatically with regard to said Respondent.

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

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

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


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

1 successfully completed the continuing education course on trust fund accounting and handling
2 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions
3 Code. Proof of satisfaction of these requirements includes evidence that Respondent has
4 successfully completed the trust fund account and handling continuing education courses, no earlier
5 than 120 days prior to the effective date of the Decision and Order in this matter. Proof of
6 completion of the trust fund accounting and handling course must be delivered to the Bureau of
7 Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-
8 8758, prior to the effective date of this Decision and Order.

9 D. All licenses and licensing rights of Respondent are indefinitely suspended unless
10 or until Respondent pay the sum of **\$1,596.56** for the Commissioner's reasonable costs of the
11 investigation and enforcement which led to this disciplinary action. Said payment shall be in the
12 form of a cashier's check made payable to the Department of Real Estate. **The payment for the**
13 **investigative and enforcement costs must be delivered to the Department of Real Estate, Flag**
14 **Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this**
15 **Decision and Order.** If Respondent fail to satisfy this condition, the Commissioner shall order
16 suspension of Respondent's licenses and license rights until the sum is paid.

17 E. Pursuant to Code Sections 10148, Respondent shall pay one-third of the
18 Commissioner's reasonable costs for the audit which led to this disciplinary action in the amount of
19 **\$4,699.50**. Respondent shall pay such costs within sixty (60) days of receiving an invoice therefore
20 from the Commissioner. Payment of the audit costs should not be made until Respondent receives
21 the invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
22 Respondent's real estate licenses shall automatically be suspended until payment is made in full, or
23 until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

24
25 DATED: 4/5/2024


26 Kevin H. Sun, Counsel for
27 Department of Real Estate

1 * * *

2 **EXECUTION OF THE STIPULATION**

3 I have read the Stipulation, have discussed it with my counsel, and its terms are
4 understood by me and are agreeable and acceptable to me. I understand that I am waiving rights
5 given to me by the California Administrative Procedure Act (including but not limited to Sections
6 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently and
7 voluntarily waive those rights, including the right of requiring the Commissioner to prove the
8 allegations in the Accusation at a hearing at which I would have the right to cross-examine
9 witnesses against me and to present evidence in defense and mitigation of the charges.

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

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

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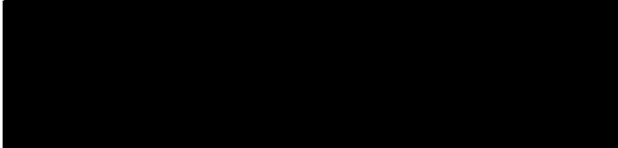
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1 Respondent's signature below constitutes acceptance and approval of the terms and
2 conditions of this Stipulation. Respondent agrees, acknowledges and understands that by signing
3 this Stipulation, Respondent is bound by its terms as of the date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

6 DATED: 4-1-24 

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9 DATED: 4/1/2024 
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11 David E. Libman, Esq.
12 Counsel for Respondent
13 Approved as to Form

14 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
15 Respondent FRANK JOHN SERGI in this matter and shall become effective at 12 o'clock noon on
16 _____, 2024.

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18 IT IS SO ORDERED _____, 2024.

19 CHIKA SUNQUIST
20 REAL ESTATE COMMISSIONER

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23 By: Marcus L. McCarther
24 Chief Deputy Real Estate Commissioner

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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: _____
FRANK JOHN SERGI
Respondent

DATED: _____
David E. Libman, Esq.
Counsel for Respondent
Approved as to Form

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent FRANK JOHN SERGI in this matter and shall become effective at 12 o'clock noon on **JUL 01 2024**, 2024.

IT IS SO ORDERED 5/15/2024, 2024.

CHIKA SUNQUIST
REAL ESTATE COMMISSIONER



By: Marcus L. McCarther
Chief Deputy Real Estate Commissioner