

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

FILED

MAR 06 2020

DEPT. OF REAL ESTATE

By *[Signature]*

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9 **BEFORE THE DEPARTMENT OF REAL ESTATE**
10 **STATE OF CALIFORNIA**

11 * * *

12 In the Matter of the Accusation against
13 **JOSEPH GEORGE CAFFERY, doing**
14 **business as Caffery Financial,**
15 **Respondent.**

No. H-41366 LA
OAH No. 2019090142

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

16
17 It is hereby stipulated by and between Respondent JOSEPH GEORGE CAFFERY
18 (sometimes referred to as "Respondent"), acting by and through his attorney, Alain Chorbajian,
19 Esq. of the Law Offices of Vatche Chorbajian, and the Complainant, acting by and through
20 Judith B. Vasan, Counsel for the Department of Real Estate, as follows for the purpose of
21 settling and disposing of the Accusation ("Accusation") filed on May 21, 2019, 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 ("Stipulation").
27

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

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

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

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

25 6. The Order or any subsequent Order of the Real Estate Commissioner made
26 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
27 administrative or civil proceedings by the Department with respect to any matters which were

STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

1 not specifically alleged to be causes for accusation in this proceeding.

2 **DETERMINATION OF ISSUES**

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

6 The conduct, acts or omissions of Respondent JOSEPH GEORGE CAFFERY, as
7 set forth in the Accusation, are in violation of Business and Professions Code ("Code") sections
8 10232(b), 10232(e), 10232.2(c), 10232.3(b), 10232.45, and 10240(a) and Sections 2849.01 and
9 2842 of Title 10, Chapter 6, of the California Code of Regulations and are a basis for discipline
10 of Respondent JOSEPH GEORGE CAFFERY's licenses and license rights pursuant to Code
11 sections 10177(d) and/or 10177(g).

12 **ORDER**

13 WHEREFORE, THE FOLLOWING ORDER is hereby made:

14 **I.**

15 All licenses and license rights of Respondent JOSEPH GEORGE CAFFERY
16 under the Real Estate Law are suspended for a period of ninety (90) days from the effective date
17 of this Decision and Order; provided, however, that:

18 A. The initial sixty (60) days of said suspension shall be stayed upon the
19 following terms and conditions:

20 1. Respondent shall pay a monetary penalty pursuant to Code section
21 10175.2 at the rate of \$100.00 per day for each of the sixty (60) days of suspension for a total
22 monetary penalty of \$6,000.00.

23 2. Said payment shall be in the form of a cashier's check made payable to
24 the Department of Real Estate. Said check must be delivered to the Department of Real Estate,
25 Flag Section, P.O. Box 137013, Sacramento, CA 95813-7013, within sixty (60) days of the
26 effective date of this Decision and Order.

27 **STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER**

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

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

7 5. If Respondent pays the monetary penalty and if no further cause for
8 disciplinary action against the real estate license of Respondent occurs within three (3) years
9 from the effective date of the Decision, the entire stay hereby granted pursuant to this Decision
10 and Order shall become permanent.

11 B. The remaining thirty (30) days shall be stayed for three (3) years upon the
12 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 three (3) years from the effective
17 date of this Decision and Order. Should such a determination be made, the Commissioner may,
18 in her discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed
19 suspension. Should no such determination be made under this section, the stay imposed herein
20 shall become permanent.

21 II.

22 Respondent shall pay the sum of \$1,044.40 for the Commissioner's reasonable
23 costs of the investigation and enforcement, which led to this disciplinary action. Said payment
24 shall be in the form of a cashier's check made payable to the Department of Real Estate. The
25 payment for the investigative and enforcement costs must be delivered to the Department of Real
26 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, within 60 days of the
27 effective date of this Decision and Order. If Respondent fails to pay the costs of the investigation

1 and enforcement in accordance with the terms and conditions of the Decision and Order, all
2 licenses and license rights of Respondent shall be automatically suspended unless or until
3 Respondent pays the costs of the investigation and enforcement. Respondent shall not be entitled
4 to any repayment nor credit, prorated or otherwise, for money paid to the Department under the
5 terms of this Decision and Order.

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7 DATED: 1-14-2020


8 Judith B. Vasan, Counsel for
9 Department of Real Estate

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11 **EXECUTION OF THE STIPULATION**

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

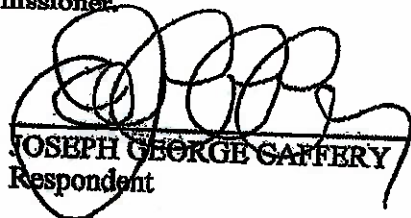
19 Respondent shall mail the original signed signature page of the stipulation herein
20 to Judith B. Vasan, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St.,
21 Suite 350, Los Angeles, California 90013-1105.

22 In the event of time constraints before an administrative hearing, Respondent can
23 signify acceptance and approval of the terms and conditions of this Stipulation and Agreement
24 by emailing a scanned copy of the signature page, as actually signed by Respondent, to the
25 Department counsel assigned to this case. Respondent agrees, acknowledges and understands
26 that by electronically sending the Department a scan of Respondent's actual signature as it
27 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.

1 Respondent shall also mail the original signed signature page of this Stipulation to the
2 Department counsel.

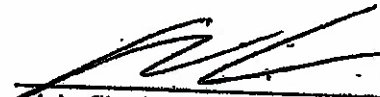
3 Respondent's signature below constitutes acceptance and approval of the terms
4 and conditions of this Stipulation. Respondent agrees, acknowledges and understands that by
5 signing this Stipulation, Respondent is bound by its terms as of the date of such signatures and
6 that this agreement is not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

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9 DATED: 1-13-2020



JOSEPH GEORGE CAFFERY
Respondent

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12 DATED: 1/13/2020



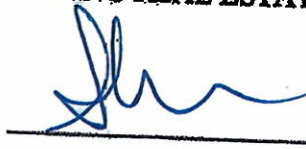
Alain Chorbajian, Esq.
Counsel for Respondent
Approved as to Form

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17 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
18 Respondent JOSEPH GEORGE CAFFERY and shall become effective at 12 o'clock noon on
19 **MAR 26 2020**

20 IT IS SO ORDERED 2/27/20

21
22 SANDRA KNAU
23 ACTING REAL ESTATE COMMISSIONER

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27 STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER