

FILED

BEFORE THE REAL ESTATE COMMISSION AUG 31 2017

STATE OF NEVADA

REAL ESTATE COMMISSION
BY *[Signature]*

SHARATH CHANDRA, Administrator,
REAL ESTATE DIVISION, DEPARTMENT
OF BUSINESS & INDUSTRY,
STATE OF NEVADA,

Case No. 2016-2877

Petitioner,

**STIPULATION FOR SETTLEMENT
OF DISCIPLINARY ACTION**

vs.

DONALD JOSEPH MACLELLAN,

Respondent.

This Stipulation for Settlement of Disciplinary Action ("Stipulation") is entered into between the Petitioner, State of Nevada, Department of Business and Industry, Real Estate Division ("Division"), through its Administrator, Sharath Chandra, and Respondent, Donald Joseph MacLellan ("Respondent").

JURISDICTION

Respondent engaged in activities which require a license as a real estate broker, real estate broker-salesperson, or real estate salesperson, issued by the Division and is, therefore, subject to the jurisdiction of the Division and the Nevada Real Estate Commission, and the provisions of NRS and NAC 645.

SUMMARY OF FACTUAL ALLEGATIONS SET FORTH IN THE COMPLAINT

1. At all times relevant, Respondent was not licensed by the Division in any capacity.
2. Respondent is licensed with the California Bureau of Real Estate as a Salesperson, License No. 00897784.
3. At all times relevant, Respondent was employed with Faris Lee Investments ("Faris Lee"), in Irvine, California.
4. Faris Lee was previously credentialed with the Division on October 6, 2010, but terminated its credentialing on January 12, 2016.

...

1 5. On or about July 1, 2016, Respondent advertised himself, via Faris Lee's website, as one
2 of the listing agents for a commercial property located at 120 S. Rainbow Blvd., in Las Vegas, Nevada,
3 despite not having a Nevada real estate license.

4 6. On or about July 5, 2016, the Division sent Respondent, via certified mail, an
5 Investigation Opening Letter and a Cease & Desist Order.

6 **SUMMARY OF VIOLATION OF LAW ALLEGED IN THE COMPLAINT**

7 7. Respondent violated NRS 645.230(1)(a) and/or NRS 645.235(1)(a) by engaging in the
8 business of, acting in the capacity of, or advertising or assuming to act as a real estate broker, real estate
9 broker-salesperson, or real estate salesperson within the State of Nevada without first obtaining the
10 appropriate license from the Division.

11 **SETTLEMENT**

12 8. The Division was prepared to present its case based upon the Complaint filed with the
13 Commission.

14 9. Respondent admits to the facts as alleged in the Complaint. Respondent represents that
15 he and Faris Lee were in the process of re-credentialing with the Division, but this process was not
16 consummated for relevant purposes of this action. Respondent further represents that he and/or Faris
17 Lee are actively seeking, or will seek, direct licensure with the Division, or indirect license status,
18 through Certification under NRS 645.605.

19 10. The Parties desire to compromise and settle the instant controversy upon the following
20 terms and conditions.

21 11. Respondent agrees to pay to the Division \$2,000.00 as an administrative fine and
22 \$500.00 in costs, for a total of \$2,500.00, within 30 days of the effective date of the Commission's
23 Order Approving Stipulation. No grace period is permitted. If full payment is not actually received by
24 the Division on or before its due date, it shall be construed as an event of default by Respondent. Debt
25 collection actions for unpaid monetary assessments in this case may be instituted by the Division.

26 12. The Division agrees not to pursue any other or greater remedies or fines in connection
27 with Respondent's alleged conduct referenced herein. Additionally, the Division agrees that this
28 Stipulation is without prejudice to Respondent and/or Faris Lee's present and/or future application for

1 licensee and/or certificated status and this Stipulation will not be given adverse and/or negative
2 consideration.

3 13. Respondent and the Division agree that by entering into this Stipulation, the Division
4 does not concede any defense or mitigation Respondent may assert and that once this Stipulation is
5 approved and fully performed, the Division will close its file in this matter.

6 14. Respondent agrees that if the administrative fine is not paid within the time period set
7 forth hereinabove, the Division may, at its option, rescind this Stipulation and proceed with prosecuting
8 the Complaint before the Commission.

9 15. Respondent agrees and understands that by entering into this Stipulation, Respondent is
10 waiving his right to a hearing at which Respondent may present evidence in his defense, his right to a
11 written decision on the merits of the complaint, his rights to reconsideration and/or rehearing, appeal
12 and/or judicial review, and all other rights which may be accorded by the Nevada Administrative
13 Procedure Act, the Nevada Real Estate Brokers and Salespersons statutes and accompanying
14 regulations, and the federal and state constitutions. Respondent understands that this Agreement and
15 other documentation may be subject to public records laws. The Commission members who review
16 this matter for approval of this Stipulation may be the same members who ultimately hear, consider and
17 decide the Complaint if this Stipulation is either not approved by the Commission or is not timely
18 performed by Respondent. Respondent fully understands he has the right to be represented by legal
19 counsel in this matter at his own expense.

20 16. Except as provided above, each party shall bear its or his own attorney's fees and costs.

21 17. Stipulation is Not Evidence. Neither this Stipulation nor any statements made
22 concerning this Stipulation may be discussed or introduced into evidence at any hearing on the
23 Complaint, if the Division must ultimately present its case based on the Complaint filed in this matter.

24 18. Approval of Stipulation. Once executed, this Stipulation will be filed with the
25 Commission and will be placed on the agenda for approval at its August 2017 public meeting. The
26 Division will recommend to the Commission approval of the Stipulation. Respondent agrees that the
27 Commission may approve, reject, or suggest amendments to this Stipulation that must be accepted or
28 rejected by Respondent before any amendment is effective.

1 19. Withdrawal of Stipulation. If the Commission rejects this Stipulation or suggests
2 amendments unacceptable to Respondent, Respondent may withdraw from this Stipulation and the
3 Division may pursue its Complaint before the Commission at the Commission's regular public meeting.

4 20. Release. In consideration of execution of this Stipulation, Respondent for himself, his
5 heirs, executors, administrators, successors, and assigns, hereby release, remise, and forever discharge
6 the State of Nevada, the Department of Business and Industry and the Division, and each of their
7 respective members, agents, employees and counsel in their individual and representative capacities,
8 from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims, and
9 demands whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may
10 have, or claim to have, against any or all of the persons or entities named in this section, arising out of
11 or by reason of the Division's investigation, this disciplinary action, and all other matters relating
12 thereto.

13 21. Indemnification. Respondent hereby indemnifies and holds harmless the State of
14 Nevada, the Department of Business and Industry, the Division, and each of their respective members,
15 agents, employees and counsel in their individual and representative capacities against any and all
16 claims, suits, and actions brought against said persons and/or entities by reason of the Division's
17 investigation, this disciplinary action and all other matters relating thereto, and against any and all
18 expenses, damages, and costs, including court costs and attorney fees, which may be sustained by the
19 persons and/or entities named in this section as a result of said claims, suits, and actions.

20 22. Respondent has signed and dated this Stipulation only after reading and understanding
21 all terms herein.

22 Dated: 8/10/17 By: [Signature]
23 Donald Joseph MacLellan, Respondent

24 Dated: 8/25/17 State of Nevada
25 Department of Business and Industry
26 Real Estate Division
27 By: [Signature]
28 Sharath Chandra, Administrator

1 Approved as to form:

Approved as to form:

2 Dated: 8/22/17

Dated: 8/17/17

3 ADAM PAUL LAXALT
4 Attorney General

FERRUZZO & FERRUZZO, LLP

5 By: Keith E. Kizer
6 Keith E. Kizer
7 Senior Deputy Attorney General
8 Attorney for the Real Estate Division

By: Vasko R. Mitzev
Vasko R. Mitzev, Esq.
Attorney for Respondent

9 **ORDER APPROVING STIPULATION**

10 The Stipulation for Settlement of Disciplinary Action having come before the Real Estate
11 Commission, Department of Business and Industry, State of Nevada, during its regular agenda on
12 August 15, 2017, and the Commission being fully apprised in the premises, and good cause appearing,

13 IT IS ORDERED that the above Stipulation is approved in full.

14 This Order shall become effective on the _____ day of _____, 2017.

15 Dated this _____ day of August, 2017.

16 NEVADA REAL ESTATE COMMISSION

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18 By: _____
19 President, Nevada Real Estate Commission
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Approved as to form:

Dated: 8/22/17

ADAM PAUL LAXALT
Attorney General

By: Keith E. Kizer
Keith E. Kizer
Senior Deputy Attorney General
Attorney for the Real Estate Division

Approved as to form:

Dated: 8/17/17

FERRUZZO & FERRUZZO, LLP

By: Vasko R. Mitzev
Vasko R. Mitzev, Esq.
Attorney for Respondent

ORDER APPROVING STIPULATION

The Stipulation for Settlement of Disciplinary Action having come before the Real Estate Commission, Department of Business and Industry, State of Nevada, during its regular agenda on August 15, 2017, and the Commission being fully apprised in the premises, and good cause appearing,

IT IS ORDERED that the above Stipulation is approved in full.

This Order shall become effective on the 8th day of October, 2017.

Dated this 29th day of August, 2017.

NEVADA REAL ESTATE COMMISSION

By: [Signature]
President, Nevada Real Estate Commission