

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007
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FILED

MAY - 2 2012

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 LONDON PROPERTIES, LTD.,)
14 PATRICK JAMES CONNER, and)
15 DANIEL JAMES CONNER)
16 Respondents.)

NO. H-2632 FR

STIPULATION AND AGREEMENT
IN SETTLEMENT
AND ORDER

17 It is hereby stipulated by and between Respondents LONDON PROPERTIES,
18 LTD. ("LONDON PROPERTIES"), PATRICK JAMES CONNER ("PATRICK CONNER"),
19 and DANIEL JAMES CONNER ("DANIEL CONNER") (herein collectively "Respondents")
20 acting by and through David R. McNamara, Esq., Counsel for Respondents, and the
21 Complainant, acting by and through Daniel E. Kehew, Counsel for the Department of Real Estate
22 (herein "the Department"), as follows for the purpose of settling and disposing of the Accusation
23 filed on May 13, 2011 in this matter:

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

1 Stipulation and Agreement in Settlement. This includes the issues that arose as a result of the
2 audit of Respondent LONDON PROPERTIES conducted in 2011, without amendment of the
3 Accusation to include those issues.

4 2. Respondents have received, read and understand the Statement to Respondent,
5 the Discovery Provisions of the APA, and the Accusation filed by the Department in this
6 proceeding.

7 3. Notices of Defense were filed on May 26, 2011 by Respondents, pursuant to
8 Section 11505 of the Government Code, for the purpose of requesting a hearing on the
9 allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notices
10 of Defense. Respondents acknowledge that they understand that by withdrawing said Notices of
11 Defense they will thereby waive their right to require the Commissioner to prove the allegations
12 in the Accusation at a contested hearing held in accordance with the provisions of the APA and
13 that they will waive other rights afforded to them in connection with the hearing such as the right
14 to present evidence in defense of the allegations in the Accusation and the right to cross-examine
15 witnesses.

16 4. This Stipulation and Agreement in Settlement is based on the
17 factual allegations contained in the Accusation. In the interests of expedience and economy,
18 Respondents PATRICK CONNER and DANIEL CONNER choose not to contest these
19 allegations, but to remain silent and understand that, as a result thereof, these factual allegations,
20 without being admitted or denied, will serve as a prima facie basis for the disciplinary action
21 stipulated to herein. The Commissioner shall not be required to provide further evidence to
22 prove said factual allegations.

23 5. It is understood by the parties that the Commissioner may adopt the Stipulation
24 and Agreement in Settlement as his/her decision in this matter thereby imposing the penalty and
25 sanctions on Respondents' real estate licenses and license rights as set forth in the below "Order".
26 In the event that the Commissioner in his/her discretion does not adopt the Stipulation and
27 Agreement in Settlement, it shall be void and of no effect, and Respondents shall retain the right

1 to a hearing and proceeding on the Accusation under all the provisions of the APA and shall not
2 be bound by any admission or waiver made herein.

3 6. The Order or any subsequent Order of the Commissioner made pursuant to
4 this Stipulation and Agreement in Settlement shall not constitute an estoppel, merger, or bar to
5 any further administrative or civil proceedings by the Department with respect to any matters
6 that were not specifically alleged to be causes for accusation in this proceeding, save for those
7 matters arising from the audit of Respondent LONDON PROPERTIES in 2011, specifically:

8 (a) Matters arising from Respondent LONDON PROPERTIES'
9 inclusion of "Paragraph T" in its Standard Contract Addendum and
10 charging of an associated fee, including trust fund issues addressed
11 by Section 10148 of the Business and Professions Code ("the
12 Code"), and

13 (b) Matters arising from Respondent LONDON PROPERTIES'
14 redaction of clients' personal information from original
15 documents within real estate files prior to the conclusion of the
16 minimum retention period set forth in section 10148 of the
17 Code.

18 7. Respondents understand that by agreeing to this Stipulation and Agreement in
19 Settlement, and in consideration of the Department's withdrawing, as set out in Paragraph 1 of
20 the Order below, of all charges alleged in its Accusation against Respondent LONDON
21 PROPERTIES, Respondent LONDON PROPERTIES agrees to pay, pursuant to Section 10148
22 of the Code, the cost of the audit in 2011 that resulted in the matters described in Paragraph 6,
23 above. The amount of said costs is \$14,866.50.

24 8. Respondents further understand that by agreeing to this Stipulation and
25 Agreement in Settlement, the findings set forth below in the Determination of Issues become
26 final, and that the Commissioner may charge Respondent LONDON PROPERTIES for the costs
27 of any audit conducted pursuant to Section 10148 of the Code to determine if the matters found

1 in the Determination of Issues have been corrected. The maximum costs of said audit shall not
2 exceed \$14,866.50.

3 9. Respondents understand that by agreeing to this Stipulation and Agreement in
4 Settlement, and in consideration of the Department's withdrawing, as set out in Paragraph 1 of
5 the Order below, of all charges alleged in its Accusation against Respondent LONDON
6 PROPERTIES, Respondent LONDON PROPERTIES agrees to pay, pursuant to Section 10106
7 of the Code, the cost of the investigation and enforcement of this case. The amount of said costs
8 is \$15,133.50.

9 DETERMINATION OF ISSUES

10 10. The acts and omissions of Respondents, as described in the Accusation, are
11 grounds for the suspension or revocation of the licenses and license rights of Respondents under
12 the following provisions of the Code, and/or Chapter 6, Title 10, California Code of Regulations
13 (herein "the Regulations"):

14 (a) as to Paragraph 16 under Section 2725 (broker supervision) of
15 the Regulations in conjunction with Section 10177(d) (willful
16 violation of the Real Estate Law or the Regulations) of the
17 Code;

18 (b) as to Paragraph 28 under Section 10176(a) (substantial
19 misrepresentation) and/or 10177(j) (fraud or dishonest dealing)
20 of the Code;

21 (c) as to Paragraph 31 under Section 10177(d) and/or (g)
22 (negligence or incompetence) of the Code;

23 (d) as to Paragraph 34, relating to Respondent PATRICK
24 CONNER only, under Section 10177(g) and/or (h) (failure to
25 properly supervise) of the Code and/or Section 10159.2(a)
26 (broker supervision of a licensed corporation) of the Code in
27 conjunction with Section 10177(d) of the Code.

1 Respondent LONDON PROPERTIES shall pay the sum of \$14,866.50 for the Commissioner's
2 cost of the audit which led to this disciplinary action. Respondent LONDON PROPERTIES
3 shall pay such cost within 60 days of receiving an invoice therefore from the Commissioner.
4 The Commissioner may indefinitely suspend all licenses and licensing rights of Respondent
5 LONDON PROPERTIES pending a hearing held in accordance with Section 11500, et seq., of
6 the Government Code, if payment is not timely made as provided for herein, or as provided for
7 in a subsequent agreement between Respondent LONDON PROPERTIES and the
8 Commissioner. The suspension shall remain in effect until payment is made in full or until
9 Respondent LONDON PROPERTIES enters into an agreement satisfactory to the
10 Commissioner to provide for payment, or until a decision providing otherwise is adopted
11 following a hearing held pursuant to this condition.

12 C. Pursuant to Section 10106 of the Code, and in consideration of the
13 Department's withdrawal of the charges against Respondent LONDON PROPERTIES,
14 Respondent LONDON PROPERTIES shall pay the sum of \$15,133.50 for the
15 Commissioner's cost of investigation and enforcement in this disciplinary action. Respondent
16 LONDON PROPERTIES shall pay such cost within 60 days of receiving an invoice therefore
17 from the Commissioner. The Commissioner may indefinitely suspend all licenses and licensing
18 rights of Respondent LONDON PROPERTIES pending a hearing held in accordance with
19 Section 11500, et seq., of the Government Code, if payment is not timely made as provided for
20 herein.

21 D. In consideration of the Department's withdrawal of the charges against
22 Respondent LONDON PROPERTIES, Respondent LONDON PROPERTIES shall pay the
23 Commissioner's costs, not to exceed \$14,866.50, of any audit conducted pursuant to Section
24 10148 of the Code to determine if Respondent has corrected the violations described in the
25 Determination of Issues, above, and the terms of settlement described in Paragraph E of this
26 Order, below. In calculating the amount of the Commissioner's reasonable cost, the
27 Commissioner may use the estimated average hourly salary for all persons performing audits of

1 real estate brokers, and shall include an allocation for travel time to and from the auditor's place
2 of work. Respondent LONDON PROPERTIES shall pay such cost within 60 days of receiving
3 an invoice therefore from the Commissioner detailing the activities performed during the audit
4 and the amount of time spent performing those activities. If Respondent LONDON
5 PROPERTIES fails to pay such cost within the 60 days, or if the follow-up audit determines that
6 the terms of this Order applicable to Respondent LONDON PROPERTIES have not been
7 complied with by Respondent LONDON PROPERTIES, the Commissioner may indefinitely
8 suspend all licenses and licensing rights of Respondent LONDON PROPERTIES under the Real
9 Estate Law until payment is made in full or until Respondent LONDON PROPERTIES enters
10 into an agreement satisfactory to the Commissioner to provide for payment. Upon payment in
11 full, the indefinite suspension provided in this paragraph shall be stayed.

12 E. Respondent LONDON PROPERTIES shall conduct an examination of its
13 client files to identify all clients, commencing January 1, 2011 through the effective date of this
14 Order, who were charged the \$27.50 fee described in "Paragraph T" of London Standard
15 Contract Addendum. Respondent LONDON PROPERTIES shall remit via cash or check the full
16 \$27.50 "Paragraph T" fee to each client so identified by December 31, 2012. Respondent
17 LONDON PROPERTIES' due diligence in completing this remittance shall include at least one
18 notice mailing and, if no claim is made by a client upon the first notice, a follow-up notice
19 mailing via certified mail to the last known address of each client so identified. Each such notice
20 mailing shall include a means for the client to claim, without cost to the client, the cash or check
21 repayment of the "Paragraph T" fee. Repayment funds that are not claimed by a client as of
22 December 31, 2013, shall be subject to the Unclaimed Property Law (Code of Civil Procedure
23 Sections 1500 et seq.).

24 F. Respondent LONDON PROPERTIES shall not redact or otherwise alter the
25 documents included in real estate files until such time as the retention period described in Section
26 10148 is fulfilled. Subsequent to the retention period described in Section 10148, Respondent
27 LONDON PROPERTIES shall dispose of each real estate file securely as required by law.

1 (2.) The remaining sixty (60) days of said suspension shall be stayed upon
2 the condition that Respondent PATRICK CONNER timely petition pursuant to Section 10175.2
3 of the Code and pay a monetary penalty pursuant to Section 10175.2 of the Code at a rate of
4 \$166.66 for each day of the suspension for a total monetary penalty of \$10,000.00:

5 (a.) Said payment shall be in the form of a cashier's check or certified
6 check made payable to the Recovery Account of the Real Estate Fund. Said check must be
7 received by the Department prior to the effective date of the Order in this matter.

8 (b.) No further cause for disciplinary action against the real estate
9 license of Respondent PATRICK CONNER occurs within one (1) year from the effective date
10 of the Order in this matter.

11 (3.) If Respondent PATRICK CONNER fails to pay the monetary penalty
12 as provided above prior to the effective date of this Order, the stay of the suspension shall be
13 vacated and the full order of suspension shall be immediately executed, in which event,
14 Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for the
15 money paid to the Department under the terms of this Order.

16 (4.) If Respondent PATRICK CONNER pays the monetary penalty under
17 this Stipulation and Agreement in Settlement and if no further cause for disciplinary action
18 against the real estate license of Respondent PATRICK CONNER occurs within one (1) year
19 from the effective date of this Order, the entire stay hereby granted under this Order shall
20 become permanent.

21 (5.) Respondent PATRICK CONNER shall, within six (6) months from the
22 effective date of this Order, take and pass the Professional Responsibility Examination
23 administered by the Department, including the payment of the appropriate examination fee. If
24 Respondent PATRICK CONNER fails to satisfy this condition, the Commissioner may order the
25 suspension of the license and licensing rights until Respondent PATRICK CONNER takes and
26 passes the examination.

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1 III

2 A. The license and licensing rights of Respondent DANIEL CONNER under the
3 Real Estate Law are suspended for a period of one hundred twenty (120) days from the effective
4 date of this Order; provided, however, that:

5 (1.) Sixty (60) days of said suspension shall be stayed for one (1) year upon
6 the following terms and conditions:

7 (a.) Respondent DANIEL CONNER shall obey all laws, rules and
8 regulations governing the rights, duties and responsibilities of a real estate licensee in the State of
9 California; and,

10 (b.) That no final subsequent determination be made, after hearing or
11 upon stipulation, that cause for disciplinary action occurred within one (1) year from the
12 effective date of this Order. Should such a determination be made, the Commissioner may, in
13 his/her discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
14 suspension. Should no such determination be made, the stay imposed herein shall become
15 permanent.

16 (2.) The remaining sixty (60) days of said suspension shall be stayed upon
17 the condition that Respondent DANIEL CONNER timely petition pursuant to Section 10175.2 of
18 the Code and pay a monetary penalty pursuant to Section 10175.2 of the Code at a rate of
19 \$166.66 for each day of the suspension for a total monetary penalty of \$10,000.00:

20 (a.) Said payment shall be in the form of a cashier's check or
21 certified check made payable to the Recovery Account of the Real Estate Fund. Said
22 check must be received by the Department prior to the effective date of the Order in this
23 matter.

24 (b.) No further cause for disciplinary action against the real
25 estate license of Respondent DANIEL CONNER occurs within one (1) year from the
26 effective date of the Order in this matter.

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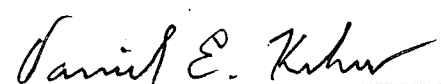
(3.) If Respondent DANIEL CONNER fails to pay the monetary penalty as
provided above prior to the effective date of this Order, the stay of the suspension shall be
vacated and the full order of suspension shall be immediately executed, in which event,
Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for the
money paid to the Department under the terms of this Order.

(4.) If Respondent DANIEL CONNER pays the monetary penalty under
this Stipulation and Agreement in Settlement and if no further cause for disciplinary action
against the real estate license of Respondent DANIEL CONNER occurs within one (1) year
from the effective date of this Order, the entire stay hereby granted under this Order shall
become permanent.

(5.) Respondent DANIEL CONNER shall, within six (6) months from the
effective date of this Order, take and pass the Professional Responsibility Examination
administered by the Department, including the payment of the appropriate examination fee. If
Respondent DANIEL CONNER fails to satisfy this condition, the Commissioner may order the
suspension of his license and licensing rights until Respondent PATRICK CONNER takes and
passes the examination.

MARCH 14, 2012

DATED



DANIEL E. KEHEW, Counsel
DEPARTMENT OF REAL ESTATE

* * *

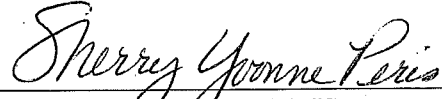
I have read the Stipulation and Agreement in Settlement and Order and its terms
are understood by me and are agreeable and acceptable to me. I understand that I am waiving
rights given to me by the California APA (including but not limited to Sections 11506, 11508,
11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive
those rights, including the right of requiring the Commissioner to prove the allegations in the

1 Accusation at a hearing at which I would have the right to cross-examine witnesses against me
2 and to present evidence in defense and mitigation of the charges.

3 LONDON PROPERTIES LTD, Respondent

4 March 22, 2012

5 By:



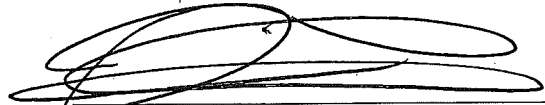
6 DATED

SHERRY YVONNE PERIS

As Designated Officer of Respondent

7 3-22-12

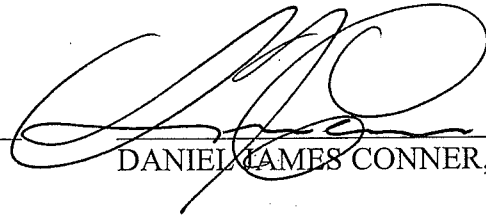
8 DATED



PATRICK JAMES CONNER, Respondent

9 3/22/12

10 DATED



DANIEL JAMES CONNER, Respondent

11 ***

12 *I have reviewed this Stipulation and Agreement and Order as to form and*
13 *content and have advised my clients accordingly.*

14 3-21-12

15 DATED



16 DAVID R. MCNAMARA

17 Attorney for Respondents

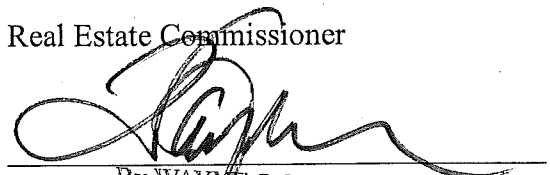
18 ***

19 The foregoing Stipulation and Agreement in Settlement and Order is hereby
20 adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on

21 May 22, 2012.

22 IT IS SO ORDERED April 23, 2012.

23 Real Estate Commissioner



24 By WAYNE S. BELL
25 Chief Counsel