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1 2 3 4	Bureau of Real Estate 320 West Fourth Street, #350 Los Angeles, California 90013 BUREAU OF REAL ESTATE By Normanne
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8	BEFORE THE BUREAU OF REAL ESTATE
9	STATE OF CALIFORNIA
10	* * *
11	In the Matter of the Accusation of DRE No. H-04476 SD
12) OAH No. 2013060030
13	DANIEL J. SEKELY,)) STIPULATION AND
14	Respondent.) <u>AGREEMENT</u>)
15)
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It is hereby stipulated by and between DANIEL J. SEKELY ("Respondent") who is representing himself in this matter and the Complainant, acting by and through Lissete Garcia, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation in this matter, filed on March 22, 2013:

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

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1 the basis of the provisions of this Stipulation and Agreement 2 ("Stipulation").

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Respondent has received, read and understands the 2. 4 Statement to Respondent, the Discovery Provisions of the APA and the 5 Accusation filed by the Bureau of Real Estate in this proceeding.

6 Respondent filed a Notice of Defense pursuant to 3. 7 Section 11506 of the Government Code for the purpose of requesting a 8 hearing on the allegations in the Accusation. Respondent hereby 9 freely and voluntarily withdraws said Notice of Defense. Respondent 10 acknowledges that he understands that by withdrawing said Notice of 11 Defense, he thereby waives his right to require the Commissioner to 12 prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that he will waive 13 14 other rights afforded to him in connection with the hearing such as 15 the right to present evidence in his defense and the right to cross-16 examine witnesses.

17 This Stipulation is based on the factual allegations 4. 18 contained in the Accusation. In the interest of expedience and 19 economy, Respondent chooses not to contest these allegations, but to 20 remain silent and understands that, as a result thereof, these 21 factual allegations, without being admitted or denied, will serve as 22 a prima facie basis for the disciplinary action stipulated to 23 herein. The Real Estate Commissioner shall not be required to 24 provide further evidence to prove said factual allegations.

25 This Stipulation is based on Respondent's decision not 5. 26 to contest the allegations set forth in the Accusation as a result 27 of the agreement negotiated between the parties. This Stipulation

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is expressly limited to this proceeding and any further proceeding initiated by or brought before the Bureau of Real Estate based upon the factual allegations in the Accusation and is made for the sole purpose of reaching an agreed disposition of this proceeding. The decision of Respondent not to contest the allegations contained in the "Order" herein below, is made solely for the purpose of effectuating this Stipulation. It is the intent and understanding of the parties that this Stipulation shall not be binding or admissible against Respondent in any action against Respondent by third parties.

It is understood by the parties that the Real Estate 11 6. Commissioner may adopt the Stipulation as his Decision in this 12 matter thereby imposing the penalty and sanctions on Respondent's 13 real estate license and license rights as set forth in the "Order" 14 In the event that the Commissioner in his discretion 15 herein below. does not adopt the Stipulation, it shall be void and of no effect, 16 and Respondent shall retain the right to a hearing and proceeding on 17 18 the Accusation under the provisions of the APA and shall not be 19 bound by any admission or waiver made herein.

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

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DETERMINATION OF ISSUES

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

6 The conduct of DANIEL J. SEKELY, as described in Paragraph 7 4, above, is a basis for discipline of DANIEL J. SEKELY's license 8 and license rights pursuant to Sections <u>10177(h)</u>, <u>10177(g)</u>, and 9 <u>10177(d)</u> of the Business and Professions Code ("Code") for 10 violations of Code Sections <u>10148</u>, <u>10159.5</u>, <u>10167.2</u>, and Regulation 11 <u>2731</u> of the Regulations of the Real Estate Commissioner, Title 10, 12 Chapter 6, California Code of Regulations.

ORDER

WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT TO THE WRITTEN STIPULATION OF THE PARTIES:

Ι.

17 All licenses and licensing rights of Respondent DANIEL J. 18 SEKELY under the Real Estate Law are hereby revoked; provided, 19 however, a restricted real estate salesperson license shall be 20 issued to Respondent pursuant to Section 10156.5 of the Business and 21 Professions Code if Respondent makes application therefor and pays 22 to the Bureau of Real Estate the appropriate fee for the restricted 23 license within ninety (90) days from the effective date of this 24 Decision. The restricted license issued to Respondent shall be 25 subject to all of the provisions of Section 10156.7 of the Business 26 and Professions Code and to the following limitations, conditions

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1 and restrictions imposed under authority of Section 10156.6 of that
2 Code:

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1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of *nolo contendere* to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

8 <u>2. The restricted license issued to Respondent may be</u> 9 suspended prior to hearing by Order of the Real Estate Commissioner 10 on evidence satisfactory to the Commissioner that Respondent has 11 violated provisions of the California Real Estate Law, the 12 Subdivided Lands Law, Regulations of the Real Estate Commissioner or 13 conditions attaching to the restricted license.

14 <u>3. Respondent shall not be eligible for the issuance of</u> 15 an unrestricted real estate license nor for the removal of any of 16 the conditions, limitations or restrictions of a restricted license 17 until at least three (3) years have elapsed from the effective date 18 of this Decision.

19 <u>4. Respondent shall submit with any application for</u> 20 license under an employing broker, or any application for transfer 21 to a new employing broker, a statement signed by the prospective 22 employing real estate broker on a form approved by the Bureau of 23 Real Estate which shall certify:

24 (a) That the employing broker has read the Decision of the 25 Commissioner which granted the right to a restricted license; and

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(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

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5. Respondent shall, within nine (9) months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedures Act to present such evidence.

II.

16 Respondent shall, prior to and as a condition of issuance 17 of the restricted license, submit proof satisfactory to the 18 Commissioner of having taken and successfully completed the 19 continuing education course on trust fund accounting and handling 20 specified in subdivision (a) of Section 10170.5 of the Business and 21 Professions Code. Proof of satisfaction of this requirement 22 includes evidence that Respondent has successfully completed the 23 trust fund account and handling continuation course within 120 days 24 prior to the effective date of the Decision in this matter. 25 111 26 111 27 111

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2 Respondent shall, prior to the issuance of the restricted 3 license and as a condition of the issuance of said restricted 4 license, submit proof satisfactory to the Commissioner of payment of 5 restitution as follows: 6 1) \$1,262.10 to Bill and Marion J.; 7 2) \$185 to Acela A.; 8 3) \$185 to Cathlina C.; 9 4) \$185 to Myra N.; and 10 5) \$185 to Max C. 11 Respondent shall deliver or mail the restitution a) 12 payment, by certified mail, return receipt requested, to the above-13 named individuals' last address on file with or known to Respondent. 14 If the payment is returned by the Post Office marked b) 15 "unable to deliver," Respondent shall employ a locator service (that 16 may include or be limited to the Internet or other database 17 retrieval search) to try and locate the individuals. Repayment 18 shall then be made to the addresses recommended by the locator 19 service. 20 If unable to effect repayment after using a locator C) 21 service, Respondent shall provide reasonable proof satisfactory to 22 the Commissioner of his efforts to comply with the provisions of 23 this Paragraph. If the Commissioner determines that proof to be 24 unsatisfactory, he shall so advise Respondent, and indicate what 25 additional reasonable efforts should be made to make repayment to 26 the above-named individuals. 27

III.

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d) If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until Respondent effects compliance herein. Restitution payments not made to the above-named individuals shall escheat to the State of California.

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IV.

Respondent shall, within six (6) months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Bureau of Real Estate including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until Respondent passes the examination.

V.

Pursuant to California Business and Professions Code

Section 10106, Respondent shall pay the Commissioner's reasonable cost for investigation and enforcement of the matter. The investigation and enforcement cost which led to this disciplinary action is \$5,326.20. Said payment shall be made within nine (9) months from the effective date of this Decision.

The Commissioner may suspend the license of Respondent 20 pending a hearing held in accordance with California Government 21 Code Section 11500, et seq., if payment is not timely made as 22 provided for herein, or as provided for in a subsequent 23 agreement between the Respondents and the Commissioner. The 24 suspension shall remain in effect until payment is made in full 25 or until Respondent enters into an agreement satisfactory to the 26 Commissioner to provide for payment, or until a decision 27

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providing otherwise is adopted following a hearing held pursuant 1 2 to this condition.

VI.

A copy of all proofs of payment and completed coursework shall be submitted to Bureau Counsel Lissete Garcia, Attention: Legal Section, Bureau of Real Estate, 320 W. Fourth St., Suite 350, Los Angeles, California 90013-1105, on or before the dates set forth above.

DATED: _ 9/10/20/3

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YE GARCIA, Counsel for the Bureau of Real Estate

EXECUTION OF THE STIPULATION

I have read the Stipulation and Agreement and its terms are understood by me and are agreeable and acceptable to me. Ι understand that I am waiving rights given to me by the California Administrative Procedure Act (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 Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence 22 in defense and mitigation of the charges.

Respondent can signify acceptance and approval of the 24 terms and conditions of this Stipulation by faxing a copy of the 25 signature page, as actually signed by Respondents, to the Bureau at 26 the following telephone/fax number: Lissete Garcia at (213) 576-27

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Respondent agrees, acknowledges and understands that by 1 6917. electronically sending to the Bureau a fax copy of Respondent's 2 actual signature as it appears on the Stipulation, that receipt of 3 the faxed copy by the Bureau shall be as binding on Respondent as if 4 the Bureau had received the original signed Stipulation. 5 6 Schely 7 DATED: 9-3-2013 DANIEL J. SEKEI 8 9 * * * 10 11 The foregoing Stipulation and Agreement is hereby adopted 12 as my Decision as to Respondent DANIEL J. SEKELY and shall become 13 NOV 1 2 2013 2013. effective at 12 o'clock noon on 14IT IS SO ORDERED SEPTEMBER 19,2013 15 REAL ESTATE COMMISSIONER 16 17 18 19 7 7 20 By: JEFFREY MASON Chief Deputy Commissioner 21 22 23 2425 26 27 - 10 -