

FILED

JUN 13 2023

DEPT. OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-05236 SD
)
SAN DIEGO HOMES AND ESTATES, INC.,) STIPULATION AND AGREEMENT
doing business as California Desert Escrow,)
A Non-Independent Broker Escrow, Catherine)
Thoreson & Associates, Countywide Escrow,)
a Non-Independent Broker Escrow,)
The DeChamplain Group, Drutman and)
Associates, Gretchen Pagnotta & Associates,)
Gretchen Pagnotta and Associates, Karen Pado)
and Associates, The Key Team, Kolker Real)
Estate Group, Legacy Homes & Estates, Lisa)
Herndon & Associates, Michele)
Massion & Associates, Palm Valley Country)
Club On Site Sales, Palm Valley County)
Country Club On-Site Sales, Premier Properties,)
Premier Property, San Diego County Homes,)
SD County Escrow, a Non-Independent Broker)
Escrow, The Time Team, True North Associates,)
Valhalla Team, W Collection, Windermere)
Commercial, Windermere Homes & Estates,)
Windermere Homes and Estates, Windermere)
Real Estate, Windermere Real Estate)
Homes & Estates, Windermere Real Estate)
Homes and Estates,)
NANCY RICHARDS LAYNE,)
individually and as designated officer of)
San Diego Homes and Estates, Inc., and)

1 JAMES BERNS,)
2 individually and as former designated)
3 officer of San Diego Homes and Estates, Inc.,)
4 Respondents.)
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6 It is hereby stipulated by and between Respondents SAN DIEGO HOMES AND
7 ESTATES, INC., NANCY RICHARDS LAYNE, and JAMES BERNS (“Respondents”),
8 represented by Frank Buda, and the Complainant, acting by and through Steve Chu, Counsel for
9 the Department of Real Estate (“Department”), as follows for the purpose of settling and
10 disposing of the Accusation filed on November 10, 2021, in this matter:

11 1. All issues which were to be contested and all evidence which was to be
12 presented by Complainant and Respondents at a formal hearing on the Accusation, which
13 hearing was to be held in accordance with the provisions of the Administrative Procedure Act
14 (“APA”), shall instead and in place thereof be submitted solely on the basis of the provisions of
15 this Stipulation and Agreement (“Stipulation”).

16 2. Respondents have received, read and understand the Statement to
17 Respondent, the Discovery Provisions of the APA, and the Accusation filed by the Department
18 of Real Estate in this proceeding.

19 3. On December 3, 2021, Respondents filed Notices of Defense pursuant to
20 Section 11506 of the Government Code for the purpose of requesting a hearing on the
21 allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notices
22 of Defense. Respondents acknowledge that Respondents understand that by withdrawing said
23 Notices of Defense, Respondents will thereby waive Respondents’ right to require the Real
24 Estate Commissioner (“Commissioner”) to prove the allegations in the Accusation at a
25 contested hearing held in accordance with the provisions of the APA and that Respondents will
26 waive other rights afforded to Respondents in connection with the hearing such as the right to
27 present evidence in defense of the allegations in the Accusation and the right to cross-examine
witnesses.

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II.

The conduct, acts, and/or omissions of Respondent NANCY RICHARDS LAYNE, as described in the Accusation, constitute cause for the suspension or revocation of all real estate licenses, license endorsements, and license rights of Respondent NANCY RICHARDS LAYNE under Code section 10177(d), 10177(g), and 10177(h) for violation of Code section 10159.2 and Regulations section 2725.

III.

The conduct, acts, and/or omissions of Respondent JAMES BERNS, as described in the Accusation, constitute cause for the suspension or revocation of all real estate licenses, license endorsements, and license rights of Respondent JAMES BERNS under Code section 10177(d), 10177(g), and 10177(h) for violation of Code section 10159.2 and Regulations section 2725.

ORDER

I.

All licenses, license endorsements, and license rights of Respondent SAN DIEGO HOMES AND ESTATES, INC. under the Real Estate Law are suspended for a period of thirty (30) days from the effective date of this Decision and Order; provided, however, that:

- 1. Thirty (30) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:
 - a. Respondent shall obey all laws, rules, and regulations governing the rights, duties, and responsibilities of a real estate licensee in the State of California.

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1 b. No final determination be made after hearing or upon stipulation
2 that cause for disciplinary action against any of the real estate
3 licenses, license endorsements, and license rights of Respondent
4 occurred within two (2) years from the effective date of this Decision
5 and Order. Should such a determination be made, the Commissioner
6 may, in his discretion, vacate and set aside the stay order and
7 reimpose all or a portion of the stayed suspension. Should no such
8 determination be made, the stay imposed herein shall become
9 permanent.

10 2. All licenses, license endorsements, and license rights of SAN DIEGO
11 HOMES AND ESTATES, INC. are indefinitely suspended unless or until Respondent SAN
12 DIEGO HOMES AND ESTATES, INC. pays, jointly and severally with Respondent NANCY
13 RICHARDS LAYNE and Respondent JAMES BERNS, the sum of \$8,242.00 for the
14 Commissioner's cost of the audit which led to this disciplinary action. Respondent SAN
15 DIEGO HOMES AND ESTATES, INC. shall pay such cost within sixty (60) days of receiving
16 an invoice therefore from the Commissioner. Said payment shall be in the form of a cashier's
17 check made payable to the Department of Real Estate. The audit cost must be delivered to the
18 Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.

19 3. All licenses, license endorsements, and license rights of Respondent
20 SAN DIEGO HOMES AND ESTATES, INC. are indefinitely suspended unless or until
21 Respondent SAN DIEGO HOMES AND ESTATES, INC. pays, jointly and severally with
22 Respondent NANCY RICHARDS LAYNE and Respondent JAMES BERNS, the sum of
23 \$2,596.15 for the Commissioner's reasonable cost of the investigation and enforcement which
24 led to this disciplinary action. Said payment shall be in the form of a cashier's check made
25 payable to the Department of Real Estate. The investigative and enforcement costs must be
26 delivered to the Department of Real Estate, Flag Section at P.O. Box 137013,
27 Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.

1 b. No final determination be made after hearing or upon stipulation
2 that cause for disciplinary action against any of the real estate
3 licenses, license endorsements, and license rights of Respondent
4 occurred within two (2) years from the effective date of this Decision
5 and Order. Should such a determination be made, the Commissioner
6 may, in his discretion, vacate and set aside the stay order and
7 reimpose all or a portion of the stayed suspension. Should no such
8 determination be made, the stay imposed herein shall become
9 permanent.

10 2. All licenses, license endorsements, and license rights of Respondent
11 JAMES BERNS are indefinitely suspended unless or until Respondent provides proof
12 satisfactory to the Commissioner of having taken and successfully completed the continuing
13 education course on trust fund accounting and handling specified in Code
14 section 10170.5(a)(3). Proof of satisfaction of this requirement includes evidence that
15 Respondent has successfully completed the trust fund accounting and handling continuing
16 education course within one hundred twenty (120) days prior to the effective date of this
17 Decision and Order. Proof of completion of the trust fund accounting and handling course must
18 be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013,
19 Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.

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1 3. All licenses, license endorsements, and license rights of Respondent
2 JAMES BERNS are indefinitely suspended unless or until Respondent JAMES BERNS pays,
3 jointly and severally with Respondent SAN DIEGO HOMES AND ESTATES, INC. and
4 Respondent NANCY RICHARDS LAYNE, the sum of \$8,242.00 for the Commissioner's cost
5 of the audit which led to this disciplinary action. Respondent JAMES BERNS shall pay such
6 cost within sixty (60) days of receiving an invoice therefore from the Commissioner. Said
7 payment shall be in the form of a cashier's check made payable to the Department of Real
8 Estate. The audit cost must be delivered to the Department of Real Estate, Flag Section at
9 P.O. Box 137013, Sacramento, CA 95813-7013.

10 4. All licenses, license endorsements, and license rights of Respondent
11 JAMES BERNS are indefinitely suspended unless or until Respondent JAMES BERNS pays,
12 jointly and severally with Respondent SAN DIEGO HOMES AND ESTATES, INC. and
13 Respondent NANCY RICHARDS LAYNE, the sum of \$2,596.15 for the Commissioner's
14 reasonable cost of the investigation and enforcement which led to this disciplinary action. Said
15 payment shall be in the form of a cashier's check made payable to the Department of Real
16 Estate. The investigative and enforcement costs must be delivered to the Department of Real
17 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective
18 date of this Decision and Order.

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20 DATED: 3/15/2023



Steve Chu, Counsel
Department of Real Estate

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We have read the Stipulation and Agreement. We understand that we are waiving rights given to us by the California Administrative Procedure Act, (including but not limited to sections 11521 and 11523 of the Government Code), and we willingly, intelligently, and voluntarily waive those rights, including the right to seek reconsideration and the right to seek judicial review of the Commissioner's Decision and Order by way of a writ of mandate.

We agree, acknowledge, and understand that we cannot rescind or amend this Stipulation and Agreement.

We can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by mailing the original signed Stipulation and Agreement to: Steve Chu, Department of Real Estate, 320 West 4th Street, Suite 350, Los Angeles, California 90013-1105. Steve Chu must receive the original signed Stipulation and Agreement or a copy faxed to (213) 576-6917 by March 15, 2023; if not, this Stipulation and Agreement is invalid and void because the sum for the Commissioner's reasonable cost of the investigation and enforcement which led to this disciplinary action will increase.

DATED: 3/15/23

[Redacted Signature]

SAN DIEGO HOMES AND ESTATES, INC.
Respondent
By NANCY RICHARDS LAYNE,
as designated officer of
SAN DIEGO HOMES AND ESTATES, INC.

DATED: 3/15/23

[Redacted Signature]

NANCY RICHARDS LAYNE
Respondent

DATED: _____

JAMES BERNS
Respondent

We have read the Stipulation and Agreement. We understand that we are waiving rights given to us by the California Administrative Procedure Act, (including but not limited to sections 11521 and 11523 of the Government Code), and we willingly, intelligently, and voluntarily waive those rights, including the right to seek reconsideration and the right to seek judicial review of the Commissioner's Decision and Order by way of a writ of mandate.

We agree, acknowledge, and understand that we cannot rescind or amend this Stipulation and Agreement.

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DATED: _____

SAN DIEGO HOMES AND ESTATES, INC.
Respondent
By NANCY RICHARDS LAYNE,
as designated officer of
SAN DIEGO HOMES AND ESTATES, INC.

DATED: _____

NANCY RICHARDS LAYNE
Respondent

DATED: 3-15-23


JAMES BERNS
Respondent

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The foregoing Stipulation and Agreement is hereby adopted by me as my Decision in this matter as to Respondents SAN DIEGO HOMES AND ESTATES, INC. and NANCY RICHARDS LAYNE, JAMES BERNES, and shall become effective at 12 o'clock noon on 7/13/2023.

IT IS SO ORDERED 5.24.23

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

