

FILED

NOV 08 2018

DEPARTMENT OF REAL ESTATE

By *pdw*

1 Department of Real Estate
P.O. Box 137007
2 Sacramento, CA 95818-7007
3 Telephone: (916) 263-8672
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8 **BEFORE THE DEPARTMENT OF REAL ESTATE**
9 **STATE OF CALIFORNIA**

10 * * *

11 In the Matter of the Accusation of
12 WAYNE DOUGLAS POWELL,
13 Respondent.

No. H-6639 SAC

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

14 It is hereby stipulated by and between WAYNE DOUGLAS POWELL
15 (Respondent), and the Complainant, acting by and through Megan Lee Olsen, Counsel for
16 the Department of Real Estate (Department), as follows for the purpose of settling and
17 disposing of the Accusation filed on June 13, 2018, in this matter:

18 1. All issues which were to be contested and all evidence which was to be
19 presented by Complainant and Respondent at a formal hearing on the Accusation, which
20 hearing was to be held in accordance with the provisions of the Administrative Procedure
21 Act (APA), shall instead and in place thereof be submitted solely on the basis of the
22 provisions of this Stipulation and Agreement In Settlement and Order (Stipulation).

23 2. Respondent has received, read, and understands the Statement to
24 Respondent, the Discovery Provisions of the APA and the Accusation filed by the
25 Department in this proceeding.

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1 3. On or about June 22, 2018, Respondent filed a Notice of Defense
2 pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing
3 on the allegations in the Accusation. Respondent hereby freely and voluntarily withdraws
4 said Notice of Defense. Respondent acknowledges that Respondent will thereby waive
5 Respondent's right to require the Real Estate Commissioner (Commissioner) to prove the
6 allegations in the Accusation at a contested hearing held in accordance with the provisions of
7 the APA and that Respondent will waive other rights afforded to Respondent in connection
8 with the hearing such as the right to present evidence in defense of the allegations in the
9 Accusation and the right to cross-examine witnesses.

10 4. This Stipulation is based on the factual allegations contained in the
11 Accusation. Respondent, pursuant to the limitations set forth below, hereby admits that the
12 factual allegations in the Accusation filed in this proceeding are true and correct and the
13 Commissioner shall not be required to provide further evidence to prove such allegations.

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

21 6. This Decision and Order or any subsequent Order of the Commissioner
22 made pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
23 administrative or civil proceedings by the Department with respect to any matters which
24 were not specifically alleged in Accusation H-6639 SAC.

25 7. Respondent understands that by agreeing to this Stipulation,
26 Respondent agrees to pay, pursuant to Section 10106 of the Business and Professions Code
27 (Code), the cost of the investigation which resulted in the determination that Respondent

1 committed the violations found in the Determination of Issues. The amount of said costs is
2 \$1,161.40.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations, admissions, and waivers and solely for
5 the purpose of settlement of the pending Accusation without hearing, it is stipulated and
6 agreed that the acts and/or omissions of Respondent, as described in the Accusation,
7 constitute grounds for the suspension or revocation of the license and license rights of
8 Respondent under the provisions of Sections 10176 (a), 10177 (d), and 10177 (g).

9 ORDER

10 All licenses and licensing rights of Respondent WAYNE DOUGLAS
11 POWELL under the Real Estate Law are revoked; provided, however, a restricted real estate
12 broker license shall be issued to Respondent pursuant to Section 10156.5 of the Code if
13 Respondent makes application therefor and pays to the Department the appropriate fee for
14 the restricted license within 90 days from the effective date of this Decision and Order. The
15 restricted licenses issued to Respondent shall be subject to all of the provisions of Section
16 10156.7 of the Code and to the following limitations, conditions and restrictions imposed
17 under authority of Section 10156.6 of that Code:

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

22 2. The restricted broker license issued to Respondent may be suspended
23 prior to hearing by Order of the Commissioner on evidence satisfactory to the Commissioner
24 that Respondent has violated provisions of the California Real Estate Law, the Subdivided
25 Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the
26 restricted license.

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1 3. Respondent shall not be eligible to apply for the issuance of an
2 unrestricted real estate broker license nor for removal of any of the conditions, limitations or
3 restrictions of a restricted license broker license or restricted mortgage loan endorsement
4 until two (2) years have elapsed from the effective date of this Decision and Order.

5 Respondent shall not be eligible to apply for any unrestricted licenses until all restrictions
6 attaching to the license have been removed.

7 4. Respondent shall, within nine (9) months from the effective date of this
8 Decision and Order, present evidence satisfactory to the Commissioner that Respondent has,
9 since the most recent issuance of an original or renewal real estate license, taken and
10 successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of
11 the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this
12 condition, Respondent's real estate license shall automatically be suspended until
13 Respondent presents evidence satisfactory to the Commissioner of having taken and
14 successfully completed the continuing education requirement.


15 5. All licenses and licensing rights of Respondents are indefinitely
16 suspended unless or until Respondent pays the sum of \$1,161.40 for the Commissioner's
17 reasonable cost of the investigation which led to this disciplinary action. Said payment shall
18 be in the form of a cashier's check made payable to the Department of Real Estate. The
19 investigative costs must be delivered to the Department of Real Estate, Flag Section at P.O.
20 Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and
21 Order.

22 6. Respondent shall, within six (6) months from the effective date of this
23 Order, take and pass the Professional Responsibility Examination administered by the
24 Department including the payment of the appropriate examination fee. If Respondent fails to
25 satisfy this condition, Respondent's real estate license shall automatically be suspended until
26 Respondent passes the examination.

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1 7. Respondent shall notify the Commissioner in writing within 72 hours
2 of any arrest by sending a certified letter to the Commissioner at the Department of Real
3 Estate, Post Office Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the
4 date of Respondent's arrest, the crime for which Respondent was arrested and the name and
5 address of the arresting law enforcement agency. Respondent's failure to timely file written
6 notice shall constitute an independent violation of the terms of the restricted license and shall
7 be grounds for the suspension or revocation of that license.

8
9 10/12/18
10 DATED


11 MEGAN LEE OLSEN, Counsel III
12 DEPARTMENT OF REAL ESTATE

13 * * *

14 I have read the Stipulation and Agreement In Settlement and Order and its
15 terms are understood by me and are agreeable and acceptable to me. I understand that I am
16 waiving rights given to me by the APA (including but not limited to Sections 11506,
17 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and
18 voluntarily waive those rights, including the right of requiring the Commissioner to prove
19 the allegations in the Accusation at a hearing at which I would have the right to cross-
20 examine witnesses against me and to present evidence in defense and mitigation of the
21 charges.

22 Respondent may signify acceptance and approval of the terms and
23 conditions of this Stipulation and Agreement In Settlement and Order by faxing a copy of
24 the signature page, as actually signed by Respondent, to the Department at fax number
25 (916) 263-3767. Respondent agrees, acknowledges, and understands that by electronically
26 sending to the Department a fax copy of Respondent's actual signature as it appears on the
27 Stipulation and Agreement In Settlement and Order, that receipt of the faxed copy by the
Department shall be as binding on Respondent as if the Department had received the

1 original signed Stipulation and Agreement In Settlement and Order. Respondent shall mail
2 the signed Stipulation and Agreement In Settlement and Order to the Department of Real
3 Estate, Legal Section, Post Office Box 137000, Sacramento, CA 95813-7000.

4 10/9/2018
5 DATED

Wayne Douglas Powell
6 WAYNE DOUGLAS POWELL
7 Respondent

8 * * *

9 The foregoing Stipulation and Agreement In Settlement and Order is hereby
10 adopted by the Real Estate Commissioner as his Decision and Order and shall become
11 effective at 12 o'clock noon on **NOV 29 2018**

12 IT IS SO ORDERED November 2, 2018

13 DANIEL J. SANDRI
14 Acting Real Estate Commissioner

15 Daniel J. Sandri
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DEPARTMENT OF REAL ESTATE
Attention: Licensing Flag Section
P. O. Box 137013
Sacramento, CA 95813-7013

This Order shall become effective at 12 o'clock noon on NOV 29 2018

DATED: October 25, 2018

DANIEL J. SANDRI
ACTING REAL ESTATE COMMISSIONER



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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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In the Matter of the Accusation of:)
WAYNE DOUGLAS POWELL,) NO. H-6639 SAC
Respondent.)

DECLARATION

My name is WAYNE DOUGLAS POWELL and I am currently licensed and/or have license rights as a mortgage loan originator.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (sections 11400 et seq., of the Government Code), I wish to voluntarily surrender my mortgage loan originator endorsement issued by the California Department of Real Estate ("the Department"), pursuant to Business and Professions Code section 10100.2.

I understand that by voluntarily surrendering my mortgage loan originator endorsement, I may be re-licensed as a mortgage loan originator only by petitioning for reinstatement pursuant to section 11522 of the Government Code. I also understand that by voluntarily surrendering my mortgage loan originator endorsement, I agree to the following:

