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FILED
DEC 22 2021
DEPARTMENT OF REAL ESTATE
By *J. Taggart*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	
ANDREW DESMOND,)	No. H-12545 SF
)	
Respondent.)	OAH No. 2021060128
)	

STIPULATION AND AGREEMENT
AND DECISION AFTER REJECTION

This matter came to hearing before Traci C. Belmore, Administrative Law Judge, Office of Administrative Hearings, State of California, by videoconference, on August 12, 2021.

Real Estate Counsel Kyle T. Jones represented Complainant, Stephanie Yee, in her official capacity as a Supervising Special Investigator with the Department of Real Estate. Respondent ANDREW DESMOND represented himself.

Evidence was received, the record was closed, and the matter was submitted for decision on August 12, 2021.

On September 8, 2021, the Administrative Law Judge rendered a Proposed Decision which the Real Estate Commissioner ("Commissioner") declined to adopt as his

1 Decision herein. Pursuant to Section 11517 of the Government Code of the State of California,
2 Respondent was served with notice of the Commissioner's determination not to adopt the
3 Proposed Decision along with a copy of the Proposed Decision. Respondent was notified that
4 the case would be decided by the Commissioner upon the record, the transcript of proceedings,
5 and upon written argument offered by Respondent and Complainant.

6 Written argument was not submitted by Respondent. Written argument was not
7 submitted by Complainant. The parties wish to settle this matter without further proceedings.

8 IT IS HEREBY STIPULATED by and between Respondent and the Complainant,
9 acting by and through Kyle T. Jones, Counsel for the Department, as follows for the purpose of
10 settling and disposing of the Accusation filed by Complainant.

11 1. It is understood by the parties that the Real Estate Commissioner may adopt
12 the Stipulation and Agreement as his Decision in this matter, thereby imposing the penalty and
13 sanctions on Respondent's real estate license as set forth in the "Order". In the event the
14 Commissioner in his discretion does not adopt the Stipulation and Agreement, the Stipulation
15 shall be void and of no effect; the Commissioner will review the transcript and the evidence in
16 the case, and will then issue his Decision after Rejection as his Decision in this matter.

17 2. The Order or any subsequent Order of the Commissioner made pursuant to
18 this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or
19 civil proceedings by the Department with respect to any matters which were not specifically
20 alleged to be cause for accusation in this proceeding.

21 ORDER

22 Respondent's real estate salesperson license and license rights are revoked;
23 provided, however, a restricted real estate salesperson license shall be issued to Respondent
24 pursuant to Section 10156.5 of the Code if Respondent makes application thereof and pays to the
25 Department the appropriate fee for the restricted license within ninety (90) days from the
26 effective date of this Order. The restricted license issued to Respondent shall be subject to all of
27 the provisions of Section 10156.7 of the Code and to the following limitations, conditions, and

1 restrictions imposed under authority of Section 10156.6 of the Code:

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

6 2. The restricted license issued to Respondent may be suspended prior to
7 hearing by order of the Real Estate Commissioner on evidence satisfactory to the Commissioner
8 that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
9 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted
10 license.

11 3. Respondent shall not be eligible to apply for the issuance of an
12 unrestricted real estate license nor the removal of any of the conditions, limitations, or
13 restrictions attaching to the restricted license until two (2) years have elapsed from the date of
14 issuance of the restricted license to Respondent.

15 4. With the application for license, or with the application for transfer to a
16 new employing broker, Respondent shall submit a statement signed by the prospective employing
17 real estate broker on a form approved by the Department which shall certify as follows:

18 (a) That the employing broker has read the Decision which is the basis
19 for the issuance of the restricted license; and

20 (b) That the employing broker will carefully review all transaction
21 documents prepared by the restricted licensee and otherwise
22 exercise close supervision over the licensee's performance of acts
23 for which a license is required.

24 5. Respondent shall, within nine (9) months from the effective date of this
25 Order, present evidence satisfactory to the Commissioner that Respondent has, since the most
26 recent issuance of an original or renewal real estate license, taken and successfully completed the
27 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal

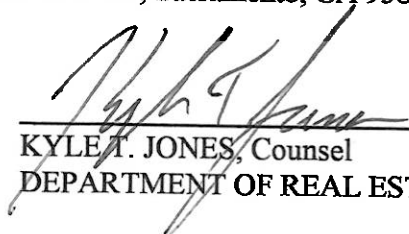
1 of a real estate license. If Respondent fails to satisfy this condition, Respondent's real estate
2 license shall automatically be suspended until Respondent presents evidence satisfactory to the
3 Commissioner of having taken and successfully completed the continuing education
4 requirements. Proof of completion of the continuing education courses must be delivered to the
5 Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.

6 6. Respondent shall notify the Commissioner in writing within
7 seventy-two (72) hours of any arrest by sending a certified letter to the Commissioner at the
8 Department of Real Estate, P.O. Box 137000, Sacramento, CA 95813-7000. The letter shall set
9 forth the date of Respondent's arrest, the crime for which Respondent was arrested and the name
10 and address of the arresting law enforcement agency. Respondent's failure to timely file written
11 notice shall constitute an independent violation of the terms of the restricted license and shall be
12 grounds for the suspension or revocation of that license.

13 7. Respondent shall pay \$3,710.10 to the Department for the costs of
14 investigation and enforcement of this matter. Respondent's failure to pay the Department shall
15 constitute an independent violation of the terms of the restricted license and shall be grounds for
16 the immediate suspension or revocation of that license. Said payment shall be in the form of a
17 cashier's check or certified check made payable to the Real Estate Fund. Said check must be
18 received by the Department prior to the effective date of the order in this matter at the following
19 address: Department of Real Estate, Post office Box 137007, Sacramento, CA 95813-7007.

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21 11/18/21

22 DATED



KYLE T. JONES, Counsel
DEPARTMENT OF REAL ESTATE

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I have read the Stipulation and Agreement and Decision After Rejection, and its terms are understood by me and are agreeable and acceptable to me. I willingly and voluntarily agree to enter into this Stipulation.

11/17/2021 | 8:44 PM PST

DocuSigned by:

DD632189BEE343B...

DATED

ANDREW DESMOND
Respondent

DECISION AND ORDER

The foregoing Stipulation and Agreement and Decision After Rejection is hereby adopted by the Real Estate Commissioner as his Decision and Order.

This Decision and Order shall become effective at 12 o'clock noon on
JAN 11 2022

IT IS SO ORDERED 12.20.21

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

