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1 Bureau of Real Estate  
2 320 West 4<sup>th</sup> Street, Suite 350  
3 Los Angeles, California 90013  
4  
5 (213) 576-6913

**FILED**

OCT 21 2014

BUREAU OF REAL ESTATE  
By *[Signature]*

BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

9	In the Matter of the Accusation of )	No. H-39218 LA
10	KENDRIC MORRIS FOULTZ, )	L-2014 010 645
11	Respondent. )	<u>STIPULATION AND AGREEMENT</u>
12	)	<u>and DECISION AFTER</u>
	)	<u>REJECTION</u>

13 It is hereby stipulated by and between KENDRIC MORRIS  
14 FOULTZ (sometimes referred to as Respondent), and the  
15 Complainant, acting by and through James R. Peel, Counsel for the  
16 Bureau of Real Estate, as follows for the purpose of settling and  
17 disposing of the Accusation filed on December 23, 2013, in this  
18 matter.

19 1. The Real Estate Commissioner held a hearing on  
20 this Accusation on July 16, 2014, before the Office of  
21 Administrative Hearings for the purpose of proving the  
22 allegations therein. Respondent was present at the hearing and  
23 participated therein. Further, Respondent has had an opportunity  
24 to read and review the Proposed Decision of the Administrative Law  
25 Judge.

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1           2. Respondent understands that pursuant to Government  
2 Code Section 11517(c), the Real Estate Commissioner has rejected  
3 the Proposed Decision of the Administrative Law Judge.

4 Respondent further understands that pursuant to the same  
5 Section 11517(c), the Real Estate Commissioner may decide this case  
6 upon the record, including the transcript, without taking any  
7 additional evidence, after affording Respondent the opportunity to  
8 present written argument to the Real Estate Commissioner.

9           3. Respondent further understands that by signing  
10 this Stipulation and Waiver, Respondent is waiving his right to  
11 obtain a dismissal of the Accusation through proceedings under  
12 Government Code Section 11517(c) if this Stipulation and Waiver  
13 is accepted by the Real Estate Commissioner.

14           4. Respondent, pursuant to the limitations set forth  
15 below, hereby admits that the factual allegations in the  
16 Accusation filed in this proceeding are true and correct and the  
17 Real Estate Commissioner shall not be required to provide  
18 further evidence of such allegations.

19           5. It is understood by the parties that the Real  
20 Estate Commissioner may adopt the Stipulation and Agreement and  
21 Decision After Rejection ("Stipulation") as his Decision in this  
22 matter, thereby imposing the penalty and sanctions on  
23 Respondent's real estate license and license rights as set forth  
24 in the below "Order". In the event that the Commissioner in his  
25 discretion does not adopt the Stipulation, it shall be void and  
26 of no effect, and Respondent shall retain the right to proceed  
27 under all the provisions of the APA and shall not be bound by

any admission or waiver made herein.

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

8           7. This Stipulation and Respondent's decision not to  
9 contest the Accusation is made for the purpose of reaching an  
10 agreed disposition of this proceeding and is expressly limited  
11 to this proceeding and any other proceeding or case in which the  
12 Bureau of Real Estate ("Bureau"), the state or federal  
13 government, or an agency of this state, another state or the  
14 federal government is involved.

15                           DETERMINATION OF ISSUES

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

20           The conduct of Respondent, as described in Paragraph  
21 4, is grounds for the suspension or revocation of all of the  
22 real estate licenses and license rights of Respondent under the  
23 provisions of Sections 490 and 10177(b) of the Business and  
24 Professions Code.

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ORDER

1  
2           The license and licensing rights of Respondent KENDRIC  
3 MORRIS FOULTZ under the Real Estate Law are revoked, provided,  
4 however, a restricted real estate salesperson license shall be  
5 issued to Respondent pursuant to Section 10156.5 of the Business  
6 and Professions Code if Respondent makes application therefor  
7 and pays to the Bureau of Real Estate the appropriate fee for  
8 the restricted license within 90 days from the effective date of  
9 this Decision. The restricted license issued to Respondent  
10 shall be subject to all of the provisions of Section 10156.7 of  
11 the Business and Professions Code and to the following  
12 limitations, conditions, and restrictions imposed under  
13 authority of Section 10156.6 of that Code:

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

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

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

6                   4. Respondent shall submit with any application for  
7 license under an employing broker, or any application for  
8 transfer to a new employing real estate broker, a statement  
9 signed by the prospective employing real estate broker on a form  
10 approved by the Bureau of Real Estate which shall certify:

11                   (a) That the employing broker has read the  
12 Accusation, and this Stipulation and Waiver which is the basis  
13 for the issuance of the restricted license; and

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

18                   5. Respondent shall, within nine months from the  
19 effective date of this Decision, present evidence satisfactory  
20 to the Real Estate Commissioner that Respondent has, since the  
21 most recent issuance of an original or renewal real estate  
22 license, taken and successfully completed the continuing  
23 education requirements of Article 2.5 of Chapter 3 of the Real  
24 Estate Law for renewal of a real estate license. If Respondent  
25 fails to satisfy this condition, the Commissioner may order the  
26 suspension of the restricted license until the Respondent  
27 presents such evidence. The Commissioner shall afford

1 Respondent the opportunity for a hearing pursuant to the  
2 Administrative Procedure Act to present such evidence.

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

13 DATED: 10-8-14

14 James R. Peel  
15 JAMES R. PEEL  
16 Counsel for Complainant

17 \* \* \*

18 I have read the Stipulation and its terms are  
19 understood by me and are agreeable and acceptable to me. I  
20 understand that I am waiving rights given to me by the  
21 California Administrative Procedure Act (including but not  
22 limited to Sections 11506, 11508, 11509 and 11513 of the  
23 Government Code), and I willingly, intelligently and voluntarily  
24 waive those rights, including the right of requiring the  
25 Commissioner to prove the allegations in the Accusation at a  
26 hearing at which I would have the right to cross-examine  
27 witnesses against me and to present evidence in defense and  
mitigation of the charges.

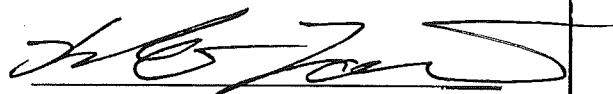
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Respondent can signify acceptance and approval of the terms and conditions of this Stipulation by faxing a copy of the signature page, as actually signed by Respondent, to the Bureau at the following telephone/fax number: (213) 576-6917.

Respondent agrees, acknowledges, and understands that by electronically sending to the Bureau a fax copy of his/her actual signature as it appears on the Stipulation that receipt of the faxed copy by the Bureau shall be as binding on Respondent as if the Bureau had received the original signed Stipulation.

Further, if the Respondent is represented in these proceedings, the Respondent's counsel can signify his/her agreement to the terms and conditions of the Stipulation by submitting that signature via fax.

DATED: 9/30/14

  
KENDRIC MORRIS FOULTZ  
Respondent

\* \* \*

The foregoing Stipulation and Agreement and Decision After Rejection is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on \_\_\_\_\_, 2014.

IT IS SO ORDERED \_\_\_\_\_, 2014.

Real Estate Commissioner

\_\_\_\_\_

YF

1 Respondent can signify acceptance and approval of the  
2 terms and conditions of this Stipulation by faxing a copy of the  
3 signature page, as actually signed by Respondent, to the Bureau  
4 at the following telephone/fax number: (213) 576-6917.

5 Respondent agrees, acknowledges, and understands that by  
6 electronically sending to the Bureau a fax copy of his/her  
7 actual signature as it appears on the Stipulation that receipt  
8 of the faxed copy by the Bureau shall be as binding on  
9 Respondent as if the Bureau had received the original signed  
10 Stipulation.

11 Further, if the Respondent is represented in these  
12 proceedings, the Respondent's counsel can signify his/her  
13 agreement to the terms and conditions of the Stipulation by  
14 submitting that signature via fax.

15  
16 DATED: \_\_\_\_\_

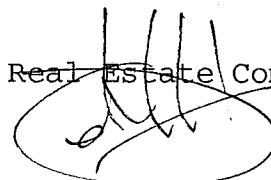
\_\_\_\_\_ KENDRIC MORRIS FOULTZ  
Respondent

17  
18 \* \* \*

19 The foregoing Stipulation and Agreement and Decision  
20 After Rejection is hereby adopted as my Decision in this matter  
21 and shall become effective at 12 o'clock noon on  
22 NOV 10 2014, 2014.

23 IT IS SO ORDERED OCTOBER 15, 2014.

24 Real Estate Commissioner

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26 By: JEFFREY MASON  
27 Chief Deputy Commissioner



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**FILED**

SEP 09 2014

BUREAU OF REAL ESTATE

By *Erin Warner*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of

KENDRIC MORRIS FOULTZ,

Respondent.

) CalBRE No. H-39218 LA

) OAH No. 2014010645

NOTICE

TO: KENDRIC MORRIS FOULTZ, Respondent.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated August 14, 2014, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated August 14, 2014, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on July 16, 2014, any written argument hereafter submitted on behalf of Respondent and Complainant.

Written argument of Respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of July 16, 2014, at the

1 Los Angeles office of the Bureau of Real Estate unless an extension of the time is granted for  
2 good cause shown.

3 Written argument of Complainant to be considered by me must be submitted  
4 within 15 days after receipt of the argument of Respondent at the Los Angeles office of the  
5 Bureau of Real Estate unless an extension of the time is granted for good cause shown.

6 DATED: \_\_\_\_\_

9/4/2014

7 REAL ESTATE COMMISSIONER

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10 WAYNE S. BELL

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BEFORE THE  
BUREAU OF REAL ESTATE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation of:

KENDRIC MORRIS FOULTZ,

Respondent.

Case No. H-39218 LA

OAH No. 2014010645

**PROPOSED DECISION**

This matter came on regularly for hearing before Felix W. Loya, Administrative Law Judge of the Office of Administrative Hearings, in Los Angeles, California, on July 16, 2014. James R. Peel, Staff Counsel, represented complainant Robin Trujillo, Deputy Real Estate Commissioner (complainant). Respondent Kendric Morris Foulz (respondent) appeared and represented himself at the hearing.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on July 16, 2014. The Administrative Law Judge makes the following factual findings, legal conclusions and order:

**FACTUAL FINDINGS**

*Jurisdiction and Parties*

1. Robin Trujillo filed the Accusation in her official capacity as a Deputy Real Estate Commissioner of the Bureau of Real Estate of the Department of Consumer Affairs of the State of California (the Bureau).

2. Respondent holds real estate salesperson license no. 01376005, issued by the Bureau on March 14, 2003 and due to expire on June 1, 2015, unless renewed.

3. On December 23, 2013, the Bureau filed an Accusation against respondent. On January 7, 2014, respondent submitted a Notice of Defense to the Accusation. The instant hearing ensued. Jurisdiction exists in this proceeding.

### *Falsification of Evidence of Registration Conviction*

4. On February 28, 2012, in the Superior Court of California, County of Los Angeles, Case No. 2MB00225, respondent pled nolo contendere to one count of violating Vehicle Code section 4463, subdivision (a)(1). By that plea, respondent was convicted of falsification of evidence of registration, a misdemeanor.

5. On February 28, 2012, the court suspended respondent's sentencing and placed him on summary probation under certain terms and conditions for 24 months. The terms and conditions of respondent's summary probation included paying fines and fees totaling \$1,434, which included the past-due registration fees and penalties, or serving 10 days in jail. Respondent was also ordered to obey all laws and orders of the court. Respondent paid all of the fines and fees. Respondent completed his probation on February 28, 2014.

6. The facts and circumstances of respondent's conviction were that respondent falsified the registration tag on his car's license plate. He did so because his car could not pass the smog test necessary to qualify for a new registration tag and he did not have the money to buy a new car.

### *Rehabilitation and Mitigation Factors*

7. The following factors indicate mitigation or rehabilitation:
- a. Respondent has a stable family life with his wife and twin children.
  - b. Respondent has no other convictions and has no other disciplinary actions against his license.
  - c. Respondent expressed remorse for his conduct.
  - d. Respondent's employer, a business broker, is aware of his conviction and is willing to continue to employ him.
8. Complainant did not offer any evidence in support of her prayer for costs.

### LEGAL CONCLUSIONS

1. Cause exists to discipline respondent's real estate salesperson license for his falsification of evidence of registration conviction based on Factual Findings 4 through 6. The Bureau may revoke a real estate salesperson license if the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of a real estate

licensee. (Bus. & Prof. Code,<sup>1</sup> §§ 490, subd. (a), and 10177, subd. (b).) Respondent's falsification of evidence of registration conviction is substantially related to the qualifications, functions and duties of a licensee because it involved counterfeiting, forging or altering of an instrument. (Cal. Code Regs., tit. 10,<sup>2</sup> § 2910, subd. (a)(2).)

2. The Bureau has established criteria for evaluating rehabilitation of a licensee in a disciplinary proceeding based upon conviction of a crime, found at CCR section 2912. Respondent has satisfied most of the relevant criteria, which are summarized as follows:

a. Subdivision (a), requiring the passage of at least two years since the conviction, or more if there is a history of unlawful acts, is satisfied here. Respondent's conviction occurred almost two and a half years ago. (Factual Findings 4-6.)

b. Subdivision (b), restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the licensee, has been satisfied here, as respondent has paid the past-due registration fees and penalties. (Factual Findings 4-6 and Exhibit B.)

c. Subdivision (c), expungement of the conviction, has not been met.

d. Subdivision (e), requiring completion of the criminal probation has been met, as respondent completed probation on February 28, 2014. (Factual Findings 4-6.)

e. Subdivision (g), payment of any fines, is met here, as respondent has paid all amounts he was ordered to pay. (Factual Findings 4-6.)

f. Subdivision (j), stability of family life and fulfillment of parental responsibility, is satisfied here. (Factual Finding 7.)

g. Subdivision (k), completion of sustained enrollment in formal educational or vocational training courses for economic self-improvement, is not satisfied here.

h. Subdivision (l), involvement in community, church, or private programs for social betterment, is not satisfied here.

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<sup>1</sup> All further references to the Business and Professions Code are cited by section number.

<sup>2</sup> Further references to California Code of Regulations, title 10, are cited as CCR.

i. Subdivision (m), change in attitude from the time of conviction to the present, is satisfied here, as respondent expressed remorse and took full responsibility for his conduct. (Factual Findings 4-7.)

3. The factors set forth in Legal Conclusion 2 indicate that it is highly unlikely respondent will commit his misconduct again and that respondent has substantially rehabilitated. Respondent met most of the criteria for rehabilitation relevant to him set forth in CCR section 2912, has undergone a change in attitude and behavior from the time of the conviction to the present, and has taken full responsibility for his acts. The purpose of these proceedings is to protect the public, not to punish the licensee. Considering the totality of the circumstances in this matter, it would not be contrary to the public interest to give respondent a properly restricted license.

4. The Bureau did not carry its burden of proof on its claim for cost recovery.

#### ORDER

Respondent Kendric Morris Foulz's real estate salesperson license no. 01376005 is revoked. However, a restricted real estate salesperson license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code. The restricted license issued to respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of said Code:

1. The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:

a. The conviction of respondent (including a plea of nolo contendere) of a crime which is substantially related to respondent's fitness or capacity as a real estate licensee; or

b. The receipt of evidence that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to this restricted license.

2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until three years have elapsed from the date of issuance of the restricted license to respondent.

///

*Not Adopted*

*Not Adopted*

3. With the application for license, or with the application for transfer to a new employing broker, respondent shall submit a statement signed by the prospective employing real estate broker on a form RE 552 or its equivalent approved by the Bureau of Real Estate which shall certify as follows:

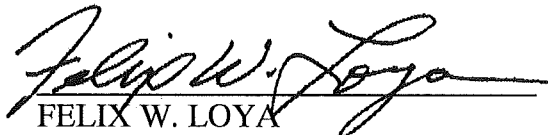
a. That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and

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

4. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post Office Box 187000, Sacramento, CA 95818-7000. The letter shall set forth the date of respondent's arrest, the crime for which respondent was arrested and the name and address of the arresting law enforcement agency. Respondent's failure timely to file written notice shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

5. Complainant's request for cost recovery is denied.

DATED: August 14, 2014

  
FELIX W. LOYA  
Administrative Law Judge  
Office of Administrative Hearings