

FILED

OCT 15 2021

BUREAU OF REAL ESTATE

[Signature]

1 Department of Real Estate
2 320 W. 4th Street, Suite 350
3 Los Angeles, CA 90013-1105
4 Telephone: (213) 576-6982

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9 **BEFORE THE DEPARTMENT OF REAL ESTATE**
10 **STATE OF CALIFORNIA**

11 * * *

12 In the Matter of the Accusation Against)
13)
14 THOMAS DAO,)
15 Respondent.)
16)
17)

DRE No. H-41890 LA
OAH No. 2021050436

**STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER**

18 It is hereby stipulated by and between Respondent THOMAS DAO (sometimes
19 referred to as "Respondent"), acting by and through his attorney, Frank M. Buda, Esq., and the
20 Complainant, acting by and through Judith B. Vasan, Counsel for the Department of Real Estate,
21 as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on
22 February 16, 2021, in this matter:

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

STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

1 2. Respondent has received, read and understands the Statement to Respondent,
2 the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate
3 (“Department”) in this proceeding.

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

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

16 5. It is understood by the parties that the Real Estate Commissioner may adopt
17 this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on
18 Respondent’s real estate license and license rights as set forth in the below “Order.” In the event
19 that the Commissioner in his discretion does not adopt the Stipulation, the Stipulation shall be
20 void and of no effect and Respondent shall retain the right to a hearing and proceed on the
21 Accusation under the provisions of the APA and shall not be bound by any stipulation or waiver
22 made herein.

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

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1 DETERMINATION OF ISSUES

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

5 The conduct, acts or omissions of Respondent THOMAS DAO, as set forth in the
6 Accusation, are in violation of Business and Professions Code ("Code") section 10159.5 and
7 Section 2725 of Title 10, Chapter 6, of the California Code of Regulations are a basis for
8 discipline of Respondent's licenses and license rights pursuant to Code sections 10177(d),
9 10177(g), and/or 10177(h).

10 ORDER

11 WHEREFORE, THE FOLLOWING ORDER is hereby made:

12 I.

13 All licenses and license rights of Respondent THOMAS DAO under the Real
14 Estate Law are suspended for a period of sixty (60) days from the effective date of this Decision
15 and Order; provided, however, that:

16 A. The initial thirty (30) days of said suspension shall be stayed upon the
17 following terms and conditions:

18 1. Respondent shall pay a monetary penalty pursuant to Code section
19 10175.2 at the rate of \$50.00 per day for each of the thirty (30) days of suspension for a total
20 monetary penalty of \$1,500.00.

21 2. Said payment shall be in the form of a cashier's check made payable to
22 the Department of Real Estate. Said check must be delivered to the Department of Real Estate,
23 Flag Section, P.O. Box 137013, Sacramento, CA 95813-7013, within thirty (30) days from the
24 effective date of this Decision and Order.

25 3. No further cause for disciplinary action against the real estate license of
26 Respondent occurs within two (2) years from the effective date of the Decision in this matter.
27

STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

1 automatically suspended unless or until Respondent pays the costs of the investigation and
2 enforcement. Respondent shall not be entitled to any repayment nor credit, prorated or otherwise,
3 for money paid to the Department under the terms of this Decision and Order.

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5
6 DATED: 8-31-2021


7 Judith B. Vasan, Counsel for
8 Department of Real Estate

8 * * *

9 EXECUTION OF THE STIPULATION

10 I have read the Stipulation, have discussed it with my counsel, and its terms are
11 understood by me and are agreeable and acceptable to me. I understand that I am waiving rights
12 given to me by the California Administrative Procedure Act (including but not limited to
13 Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently
14 and voluntarily waive those rights, including the right of requiring the Commissioner to prove
15 the allegations in the Accusation at a hearing at which I would have the right to cross-examine
16 witnesses against me and to present evidence in defense and mitigation of the charges.

17 Respondent shall mail the original signed signature page of the stipulation herein to
18 Judith B. Vasan, Attention: Legal Section, Department of Real Estate, 320 W. 4th St., Suite 350,
19 Los Angeles, California 90013-1105.

20 In the event of time constraints before an administrative hearing, Respondent can
21 signify acceptance and approval of the terms and conditions of this Stipulation and Agreement
22 by emailing a scanned copy of the signature page, as actually signed by Respondent, to the
23 Department counsel assigned to this case. Respondent agrees, acknowledges and understands
24 that by electronically sending the Department a scan of Respondent's actual signature as it
25 appears on the Stipulation and Agreement that receipt of the scan by the Department shall be
26 binding on Respondent as if the Department had received the original signed Stipulation.

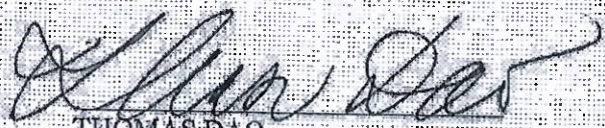
27 Respondent shall also mail the original signed signature page of this Stipulation to the

STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

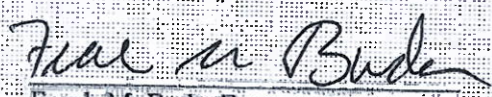
1 Department counsel.

2 Respondent's signature below constitutes acceptance and approval of the terms
3 and conditions of this Stipulation. Respondent agrees, acknowledges and understands that by
4 signing this Stipulation, Respondent is bound by its terms as of the date of such signatures and
5 that this agreement is not subject to rescission or amendment at a later date except by a separate
6 Decision and Order of the Real Estate Commissioner.

7
8 DATED: 8/31/2021


9 THOMAS DAO
10 Respondent

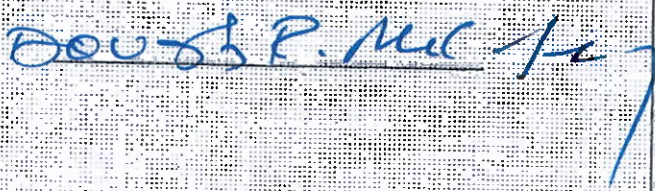
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12 DATED: 8.31.2021


13 Frank M. Buda, Esq.
14 Counsel for Respondent
15 Approved as to Form

16 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
17 Respondent THOMAS DAO and shall become effective at 12 o'clock noon on
18 Aug 15 2021

19 IT IS SO ORDERED 10-11-21

20 DOUGLAS R. McCAULEY
21 REAL ESTATE COMMISSIONER

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