

1 Department of Real Estate
2 P.O. Box 137007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 576-8700
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FILED

JUL 01 2020

DEPARTMENT OF REAL ESTATE

By *L. Kump*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:

12 BENJAMIN JOHN MARTIN,

13 Respondent.

No. H-3284 FR

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

14 It is hereby stipulated by and between BENJAMIN JOHN MARTIN
15 (“Respondent”), acting by and through Shannon B. Jones, Counsel for Respondent, and the
16 Complainant, acting by and through Jason D. Lazark, Counsel for the Department of Real Estate
17 (“Department”), as follows for the purpose of settling and disposing of the Accusation filed on
18 December 20 2019, in this matter:

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

24 2. Respondent has received, read, and understands the Statement to
25 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department in
26 this proceeding.
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1 3. Respondent filed a Notice of Defense pursuant to Section 11505 of the
2 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
3 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
4 acknowledges that Respondent will thereby waive Respondent's right to require the Real Estate
5 Commissioner ("Commissioner") to prove the allegations in the Accusation at a contested
6 hearing held in accordance with the provisions of the APA and that Respondent will waive other
7 rights afforded to Respondent in connection with the hearing such as the right to present
8 evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

9 4. This Stipulation and Agreement is based on the factual allegations contained
10 in the Accusation. In the interest of expediency and economy, Respondent chooses not to
11 contest these factual allegations, but to remain silent and understand that, as a result thereof,
12 these factual statements will serve as a prima facie basis for the "Determination of Issues" and
13 "Order" set forth below. The Commissioner shall not be required to provide further evidence
14 to prove such allegations.

15 5. This Stipulation and Agreement and Respondent's decision not to contest the
16 Accusation are made for the purpose of reaching an agreed disposition of this proceeding and
17 is expressly limited to this proceeding and any other proceeding or case in which the
18 Department, the state or federal government, any agency of this state, or an agency of another
19 state is involved, and shall not be admissible in any other criminal or civil proceeding.

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

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

5 8. Respondent understands that by agreeing to this Stipulation, Respondent
6 agrees to pay, pursuant to Section 10106 of the Business and Professions Code (Code), the cost
7 of the investigation and enforcement of this case which resulted in the determination that
8 Respondents committed the violations found in the Determination of Issues. The amount of such
9 costs is \$2,254.00

10 DETERMINATION OF ISSUES

11 By reason of the foregoing stipulations, admissions, and waivers and solely for
12 the purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed
13 that the acts and/or omissions of Respondent, as described in the Accusation, constitute grounds
14 for the suspension or revocation of the license and license rights of Respondent under the
15 provisions of Sections 490 and 10177(d) of the Code, in conjunction with Section 10186.2 of the
16 Code.

17 ORDER

18 All licenses and licensing rights of BENJAMIN JOHN MARTIN under the Real
19 Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued
20 to Respondent pursuant to Section 10156.5 of the Code if Respondent makes application therefor
21 and pays to the Department the appropriate fee for the restricted license within 90 days from the
22 effective date of this Decision and Order. The restricted license issued to Respondent shall be
23 subject to all of the provisions of Section 10156.7 of the Code and to the following limitations,
24 conditions and restrictions imposed under authority of Section 10156.6 of that Code:

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

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

8 3. Respondent shall not be eligible to apply for the issuance of an
9 unrestricted real estate broker license nor for removal of any of the conditions, limitations or
10 restrictions of a restricted license broker license until two (2) years have elapsed from the
11 effective date of this Decision and Order. Respondent shall not be eligible to apply for any
12 unrestricted licenses until all restrictions attaching to the license have been removed.

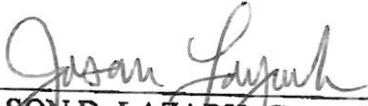
13 4. Respondent shall, within nine (9) months from the effective date of this
14 Decision and Order, present evidence satisfactory to the Commissioner that Respondent has,
15 since the most recent issuance of an original or renewal real estate license, taken and successfully
16 completed the continuing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

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

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6. All licenses and licensing rights of Respondent are indefinitely suspended unless or until Respondent pays the sum of \$2,254.00 for the Commissioner's reasonable cost of the investigation which led to this disciplinary action. Said payment shall be in the form of a cashier's check made payable to the Department of Real Estate. The investigative costs must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Stipulation.

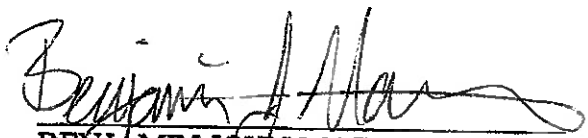
4/2/2020
DATED



JASON D. LAZARK, Counsel
DEPARTMENT OF REAL ESTATE

I have read the Stipulation and Agreement In Settlement and Order and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the APA (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges. I further agree to mail the original Stipulation no later than five days after signing it to: Department of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-7007. I understand that failure to mail the original back may result in this matter going to hearing.

04/06/2020
DATED



BENJAMIN JOHN MARTIN
Respondent

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I have reviewed the Stipulation and Agreement as to form and content and have advised my clients accordingly.

4/3/2020

DATED



SHANNON B. JONES,
Attorney for Respondent,
BENJAMIN JOHN MARTIN

The foregoing Stipulation and Agreement In Settlement and Order is hereby adopted by the Real Estate Commissioner as her Decision and Order and shall become effective at 12 o'clock noon on

JUL 22 2020

IT IS SO ORDERED

5-26-20

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

