

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 137007
3 Sacramento, CA 95813-7007

4 Telephone: (916) 576-8700
5 Fax: (916) 263-3767

FILED

MAY 07 2021

DEPARTMENT OF REAL ESTATE
By B. Nicholas

8
9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) DRE No. H-3319 FR
13 MCDONALD INVESTMENTS, INC. and,)
14 JARED OWEN MCDONALD,) STIPULATION AND AGREEMENT
15 Respondents.) IN SETTLEMENT AND ORDER

16 It is hereby stipulated by and between MCDONALD INVESTMENTS, INC.
17 (MI), and JARED OWEN MCDONALD (MCDONALD), collectively Respondents, their
18 counsel Edward O. Lear, and the Complainant, acting by and through Richard K. Uno, Counsel
19 for the Department of Real Estate (Department); as follows for the purpose of settling and
20 disposing of the Accusation filed on June 12, 2020, in this matter:

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

26 2. Respondents have received, read, and understand the Statement to
27 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department of

1 Real Estate in this proceeding.

2 3. Respondents filed a Notice of Defense pursuant to Section 11505 of the
3 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
4 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents
5 acknowledge that they understand that by withdrawing said Notice of Defense they will thereby
6 waive their right to require the Real Estate Commissioner (Commissioner) to prove the
7 allegations in the Accusation at a contested hearing held in accordance with the provisions of the
8 APA and that he will waive other rights afforded to them in connection with the hearing such as
9 the right to present evidence in defense of the allegations in the Accusation and the right to
10 cross-examine witnesses.

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

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

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

1 7. Respondents understand that by agreeing to this Stipulation, Respondents
2 agree to pay, pursuant to Section 10148 of the Code, the cost of the audit which resulted in the
3 violation(s) found in the Determination of Issues. The amount of such costs is \$16,621.48.

4 8. Respondents further understand that by agreeing to this Stipulation, the
5 findings set forth below in the "Determination of Issues" become final, and that the
6 Commissioner may charge said Respondents for the costs of any audit conducted pursuant to
7 Section 10148 of the Code to determine if the violations have been corrected. The maximum
8 cost of said audit shall not exceed \$20,776.85.

9 DETERMINATION OF ISSUES

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

15 ORDER

16 MCDONALD INVESTMENTS, INC.

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

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

1 2. MI shall not be eligible to apply for the issuance of any unrestricted real
2 estate license nor the removal of any of the conditions, limitations, or restrictions of a restricted
3 until two (2) years have elapsed from the effective date of this Stipulation. MI shall not be
4 eligible to apply for any unrestricted licenses until all restrictions attaching to the license have
5 been removed.

6 JARED OWEN MCDONALD

7 All licenses and licensing rights of MCDONALD, under the Real Estate Law are
8 revoked; provided, however, a restricted real estate broker license shall be issued to
9 MCDONALD, pursuant to Section 10156.5 of the Code, if MCDONALD makes application
10 therefore and pays to the Department of Real Estate the appropriate fee for the restricted license
11 within 90 days from the effective date of this Stipulation. The restricted license issued to
12 MCDONALD shall be subject to all of the provisions of Section 10156.7 of the Code and to the
13 following limitations, conditions, and restrictions imposed under authority of Section 10156.6 of
14 the Code:

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

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

23 3. MCDONALD shall not be eligible to apply for the issuance of any
24 unrestricted real estate license nor the removal of any of the conditions, limitations, or
25 restrictions of a restricted until two (2) years have elapsed from the effective date of this
26 Stipulation. MCDONALD shall not be eligible to apply for any unrestricted licenses until all
27 restrictions attaching to the license have been removed.

1 4. MCDONALD shall, within nine (9) months from the effective date of this
2 Stipulation, present evidence satisfactory to the Commissioner that MCDONALD has, since the
3 most recent issuance of an original or renewal real estate license, taken and successfully
4 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
5 Law for renewal of a real estate license. If MCDONALD fails to satisfy this condition,
6 MCDONALD's real estate license shall automatically be suspended until MCDONALD presents
7 evidence satisfactory to the Commissioner of having taken and successfully completed the
8 continuing education requirements. Proof of completion of the continuing education courses
9 must be delivered to the Department of Real Estate, Flag Section, at P.O. Box 137013,
10 Sacramento, CA 95813-7013.

11 MCDONALD INVESTMENTS, INC. AND JARED OWEN MCDONALD

12 1. Pursuant to Section 10148 of the Code, Respondents shall, jointly and
13 severally, pay the sum of \$16,621.48 for the Commissioner's cost of the audit which led to this
14 disciplinary action. Respondents shall pay such cost within sixty (60) days of receiving an
15 invoice therefore from the Commissioner. Payment of audit costs should not be paid until
16 Respondents receive the invoice. If Respondents fail to satisfy this condition in a timely manner
17 as provided for herein, Respondents' real estate licenses shall automatically be suspended until
18 payment is paid in full, or until a decision providing otherwise is adopted following a hearing
19 held pursuant to this condition.

20 2. Pursuant to Section 10148 of the Code, Respondents shall, jointly and
21 severally, pay the Commissioner's reasonable cost, not to exceed \$20,776.85, for an audit to
22 determine if Respondents have corrected the violation(s) found in the "Determination of Issues".
23 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the
24 estimated average hourly salary for all persons performing audits of real estate brokers, and shall
25 include an allocation for travel time to and from the auditor's place of work. Respondents shall
26 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.
27 Payment of the audit costs should not be paid until Respondents receive the invoice. If

Respondents fails to satisfy this condition in a timely manner as provided for herein,
Respondents' real estate licenses shall automatically be suspended until payment is paid in full,
or until a decision providing otherwise is adopted following a hearing held pursuant to this
condition.

3/1/21

DATED

Richard K. Uno

RICHARD K. UNO, Counsel III
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 California Administrative Procedure Act (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.

2/26/21

DATED

Jared Owen McDonald
MCDONALD INVESTMENTS, INC.
BY: JARED OWEN MCDONALD

* * *

2/26/21

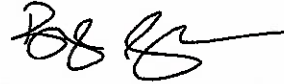
DATED

Jared Owen McDonald
JARED OWEN MCDONALD

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

February 26, 2021

DATED



for

EDWARD O. LEAR
Attorney for Respondents

The foregoing Stipulation and Agreement In Settlement and Order is hereby adopted by the Real Estate Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on **MAY 28 2021**

IT IS SO ORDERED

5.4.21

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

