

FILED

APR 04 2023

DEPARTMENT OF REAL ESTATE

By P. J. Dew

Department of Real Estate
P.O. Box 137007
Sacramento, CA 95818-7007

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of
KOLTON JON PICO,
Respondent.

No. H-3418 FR

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

It is hereby stipulated by and between KOLTON JON PICO (Respondent), represented by Edward O. Lear, and the Complainant, acting by and through Megan Lee Olsen, Counsel for the Department of Real Estate (Department), as follows for the purpose of settling and disposing of the Accusation filed on March 7, 2022, in this matter:

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

2. Respondent has received, read, and understands the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department in 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 hearing
6 held in accordance with the provisions of the APA and that Respondent will waive other rights
7 afforded to Respondent in connection with the hearing such as the right to present evidence in
8 defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

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

21 6. This Decision and Order or any subsequent Order of the Commissioner
22 made pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar
23 to any further administrative or civil proceedings by the Department with respect to any matters
24 which were not specifically alleged to be causes for accusation in this proceeding.

25 7. Respondent understands that by agreeing to this Order, Respondent agrees
26 to pay, pursuant to Section 10106 of the Business and Professions Code (Code), the cost of the

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1 investigation which resulted in the determination that Respondent committed the violations
2 found in the Determination of Issues. The amount of said costs is \$2,200.25.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations, admissions, and waivers and solely for
5 the purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed
6 that the acts and/or omissions of Respondent as described in the Accusation violate Sections 490
7 and 10177 (b) of the Code.

8 ORDER

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

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

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

26 3. Respondent shall not be eligible to apply for the issuance of an
27 unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions

1 of a restricted license until three (3) years have elapsed from the effective date of this Decision
2 and Order.

3 4. Respondent shall submit with any application for license under an
4 employing broker, or any application for transfer to a new employing broker, a statement signed
5 by the prospective employing real estate broker on a form approved by the Department which
6 shall certify:

7 (a) That the employing broker has read the Decision and Order of the
8 Commissioner which granted the right to a restricted license; and

9 (b) That the employing broker will exercise close supervision over the
10 performance by the restricted licensee relating to activities for which
11 a real estate license is required.

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

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

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1 7. Respondent shall pay \$2,200.25 to the Department for the costs of
2 investigation of this matter. Respondent's failure to pay the Department shall constitute an
3 independent violation of the terms of the restricted license and shall be grounds for the
4 immediate suspension or revocation of that license. Said payment shall be in the form of a
5 cashier's check or certified check made payable to the Real Estate Fund. Said check must be
6 received by the Department prior to the effective date of the order in this matter at the following
7 address: Department of Real Estate, PO Box 137007, Sacramento, CA 95813-7007.

8
9 12/7/2022

10 DATED

Megan Lee Olsen

MEGAN LEE OLSEN, Counsel
DEPARTMENT OF REAL ESTATE

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12 * * *

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

20 Respondent and Respondent's attorney further agree to send the original signed
21 Stipulation by mail to the following address no later than one (1) week from the date the
22 Stipulation is signed by Respondent and Respondent's attorney: *Department of Real Estate,*
23 *Legal Section, P.O. Box 137007, Sacramento, California 95813-7007.* Respondent and
24 Respondent's attorney understand and agree that if they fail to return the original signed
25 Stipulation by the due date, Complainant retains the right to set this matter for hearing.

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12/5/2022

DATED

DocuSigned by:

Kolton Pico

KOLTON JON PICO
Respondent

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

12/6/22
DATED

EDUARDO O. LEAR
Attorney for Respondent

The foregoing Stipulation and Agreement is hereby adopted by the Real Estate Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on
APR 25 2023

IT IS SO ORDERED

1.24.23

DOUGLAS R. McCAULEY
Real Estate Commissioner