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**FILED**

NOV - 8 2018

DEPT. OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )

LARRY D.A. JUDGE III; )  
SUMMIT PROPERTY MANAGEMENT, INC.; )  
and JOHN B. KISS, individually and as )  
designated officer of Summit Property )  
Management, Inc., )

No. H-04994 SD

Respondents. )

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On or about October 2, 2018, Respondent JOHN B. KISS petitioned the Commissioner to voluntarily surrender his real estate broker license (license no. 01187187) pursuant to California Business and Professions Code section 10100.2.

IT IS HEREBY ORDERED that Respondent JOHN B. KISS's petition for voluntary surrender of his real estate license is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated October 2, 2018 (attached as Exhibit "A" hereto). The license certificate and pocket card of JOHN B. KISS shall be sent to the below listed address so that they reach the Department of Real Estate on or before the effective date of this Order:

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Department of Real Estate  
Attn: Licensing Flag Section  
P. O. Box 137013  
Sacramento, CA 95813-7013

This Order shall become effective at 12 o'clock noon on November 28, 2018.

DATED: October 25, 2018.

DANIEL J. SANDRI  
ACTING REAL ESTATE COMMISSIONER

  
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EXHIBIT "A"

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
)  
) No. H-04994 SD  
)  
) LARRY D.A. JUDGE III; )  
) SUMMIT PROPERTY MANAGEMENT, INC.; )  
) and JOHN B. KISS, individually and as )  
) designated officer of Summit Property )  
) Management, Inc., )  
)  
) Respondents. )

DECLARATION

My name is JOHN B. KISS. I am a licensed real estate broker and/or have license rights with respect to said license (license no. 01187187). I am representing myself in this matter.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the California Government Code), I wish to voluntarily surrender my real estate license issued by the Department of Real Estate ("Department") pursuant to California Business and Professions Code section 10100.2.

I understand that by so voluntarily surrendering my license, I may be relicensed as a broker or as a salesperson, or issued a mortgage loan originator endorsement, only by

1 petitioning for reinstatement pursuant to California Government Code section 11522. I also  
2 understand that by so voluntarily surrendering my license, I agree to the following:

3           1. The filing of this Declaration shall be deemed as my petition for voluntary  
4 surrender.

5           2. It shall also be deemed to be an understanding and agreement by me that I  
6 waive all rights I have to require the Commissioner to prove the allegations against me in the  
7 Accusation, and that I also waive other rights afforded to me in connection with the hearing, such  
8 as the right to discovery, the right to present evidence in my defense, and the right to cross-  
9 examine witnesses.

10           3. I further agree that upon acceptance by the Commissioner, as evidenced by an  
11 appropriate order, all affidavits, and all relevant evidence obtained by the Department in this  
12 matter prior to the Commissioner's acceptance, and all evidence supporting the allegations  
13 described above, may be considered by the Department to be true and correct for the purpose of  
14 deciding whether to grant licensure, relicensure, and/or reinstatement pursuant to California  
15 Government Code section 11522 and/or a similar code section.

16           4. Prior to issuance of any new or reinstated license, I shall pay the Department  
17 its cost of investigation and enforcement. The cost of investigation and enforcement is four  
18 thousand one hundred twenty six dollars and forty cents (\$4,126.40).

19           5. A copy of the Commissioner's Criteria of Rehabilitation is attached hereto. If  
20 and when a petition application is made for licensure, relicensure, and/or reinstatement, the  
21 Commissioner will consider as one of the criteria of rehabilitation whether or not restitution has  
22 been made to any person who has suffered monetary losses through "substantially related" acts or  
23 omissions by me.

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6. I freely and voluntarily surrender all my licenses and license rights under the Real Estate Law.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this declaration was executed 2 October, 2018, at Johnson City, Tennessee.

  
\_\_\_\_\_  
JOHN B. KISS

**FILED**

NOV - 8 2018

DEPT. OF REAL ESTATE

By 

1 Department of Real Estate  
2 320 West 4th Street, Suite 350  
3 Los Angeles, California 90013

4 Telephone: (213) 576-6982  
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8 **BEFORE THE DEPARTMENT OF REAL ESTATE**

9 **STATE OF CALIFORNIA**

10 \* \* \*

11 In the Matter of the Accusation of	)	No. H-04994 SD
	)	
12 LARRY D.A. JUDGE II;	)	
13 <u>SUMMIT PROPERTY MANAGEMENT, INC.;</u>	)	STIPULATION AND
14 and JOHN B. KISS, individually and as	)	AGREEMENT FOR
15 designated officer of Summit Property	)	SUMMIT PROPERTY
16 Management, Inc.,	)	MANAGEMENT, INC.
	)	
	)	
16 Respondents.	)	
	)	

17  
18 It is hereby stipulated by and between Respondent SUMMIT PROPERTY  
19 MANAGEMENT, INC. ("SPMI"), representing itself, and the Complainant, acting by and  
20 through Diane Lee, Counsel for the Department of Real Estate, as follows for the purpose of  
21 settling and disposing of the Accusation ("Accusation") filed on or about May 14, 2018, in this  
22 matter:

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

1 provisions of this Stipulation and Agreement ("Stipulation").

2           2. Respondent SPMI has received and read, and understands the Statement to  
3 Respondent, the Discovery Provisions of the APA, and the Accusation filed by the Department of  
4 Real Estate in this proceeding.

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

13           4. This Stipulation is based on the factual allegations contained in the Accusation.  
14 These factual allegations will serve as a prima facie basis for the disciplinary action stipulated to  
15 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove  
16 said factual allegations.

17           5. It is understood by the parties that the Real Estate Commissioner may adopt  
18 this Stipulation as his Decision in this matter thereby imposing the penalties and sanctions on the  
19 real estate license and license rights of Respondent SPMI as set forth in the below "Order." In  
20 the event that the Commissioner in his discretion does not adopt this Stipulation, it shall be void  
21 and of no effect, and Respondent SPMI shall retain the right to a hearing and proceeding on the  
22 Accusation under the provisions of the APA and shall not be bound by this Stipulation herein.

23           6. The Order or any subsequent Order of the Real Estate Commissioner made  
24 pursuant to this Stipulation herein shall not constitute an estoppel, merger, or bar to any further  
25 administrative or civil proceedings by the Department of Real Estate with respect to any matters  
26 which were not specifically alleged to be causes for Accusation in this proceeding, but do  
27 constitute a bar, estoppel, and merger as to any allegations specifically and actually contained in

1 the Accusation against Respondent SPMI herein.

2 7. Respondent SPMI understands that by agreeing to this Stipulation, Respondent  
3 SPMI agrees to pay, pursuant to California Business and Professions Code section 10106, the  
4 cost of the investigation and enforcement. The amount of investigation and enforcement cost is  
5 \$4,126.40.

6 8. Respondent SPMI understands that by agreeing to this Stipulation and  
7 Agreement, Respondent SPMI agrees to pay, pursuant to California Business and Professions  
8 Code section 10148, the cost of the audit which led to this disciplinary action. The amount of  
9 said cost for the original audit (SD160024) is \$14,008.00.

10 9. Respondent SPMI understands that by agreeing to this Stipulation and  
11 Agreement, the findings set forth below in the Determination of Issues become final, and the  
12 Commissioner may charge Respondent SPMI for the cost of any subsequent audit conducted  
13 pursuant to California Business and Professions Code section 10148. The maximum cost of the  
14 subsequent audit will not exceed \$17,510.00.

15  
16 DETERMINATION OF ISSUES

17 By reason of the foregoing, it is stipulated and agreed that the following  
18 determination of issues shall be made:

19 The conduct, acts, or omissions of Respondent SPMI, as described in the  
20 Accusation and Paragraph 4, above, are a basis for discipline of Respondent SPMI's license and  
21 license rights as violation of the Real Estate Law pursuant to California Business and Professions  
22 Code sections 10140.6, 10145, 10145(a), 10148, 10161.8, 10177(d), 10177(g), and 10177(h) and  
23 Title 10, Chapter 6, California Code of Regulations sections 2725, 2726, 2731, 2773, 2752,  
24 2831, 2831.1, 2831.2, 2832, and 2832.1.

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

(RESTRICTED BROKER LICENSE)

I.

All license and licensing rights of Respondent SPMI, under the Real Estate Law  
are revoked; provided, however, a restricted real estate broker license shall be issued to  
Respondent SPMI pursuant to California Business and Professions Code section 10156.5 if  
Respondent SPMI makes application therefor and pays to the Department of Real Estate the  
appropriate fee for the restricted license within ninety (90) days from the effective date of this  
Decision. The restricted license issued to Respondent SPMI shall be subject to all of the  
provisions of California Business and Professions Code section 10156.7 and to the following  
limitations, conditions, and restrictions imposed under authority of the California Business and  
Professions Code:

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

2. The restricted license issued to Respondent SPMI may be suspended prior to  
hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner  
that Respondent SPMI 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.

3. Respondent SPMI shall not be eligible to apply for the issuance of an  
unrestricted real estate license nor for the removal of any of the conditions, limitations, or  
restrictions of a restricted license until three (3) years have elapsed from the date of issuance of  
the restricted license to Respondent SPMI.

1 (INVESTIGATION AND ENFORCEMENT COSTS)

2 II.

3 Respondent SPMI shall, within two (2) months from the effective date of this  
4 Decision and Order, pay the sum of \$4,126.40 for the Commissioner's reasonable cost for  
5 investigation and enforcement which led to this disciplinary action. Said payment shall be in the  
6 form of a cashier's check made payable to the Department of Real Estate. The investigative and  
7 enforcement costs must be delivered to the Department of Real Estate, Flag Section at P.O. Box  
8 137013, Sacramento, CA 95813-7013, within two (2) months from the effective date of this  
9 Decision and Order. If the costs of investigation and enforcement are not paid within two (2)  
10 months from the effective date of this Decision and Order, the licenses and license rights of  
11 Respondent SPMI shall automatically be suspended until full payment is made.

12  
13 (AUDIT COSTS)


14 III.

15 1. Pursuant to California Business and Professions Code section 10148,  
16 Respondent SPMI shall pay \$14,008.00 for the Commissioner's cost of the audit which led to  
17 this disciplinary action. Respondent SPMI shall pay this \$14,008.00 within thirty (30) days of  
18 receiving an invoice therefore from the Commissioner. Payment of audit costs should not be  
19 made until Respondent PERRY receives the invoice. If Respondent SPMI fails to satisfy this  
20 condition in a timely manner as provided for herein, the real estate license of Respondent SPMI  
21 shall automatically be suspended until payment is made in full, or until a decision providing  
22 otherwise is adopted following a hearing held pursuant to this condition.

23 2. Pursuant to California Business and Professions Code section 10148,  
24 Respondent SPMI shall pay the Commissioner's reasonable cost, not to exceed \$17,510.00, for  
25 an audit to determine if Respondent SPMI has corrected the violations found in the  
26 Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the  
27 Commissioner may use the estimated average hourly salary for all persons performing audits of

1 real estate broker(s), and shall include an allocation for travel time to and from the auditor's  
2 place of work. Respondent SPMI shall pay such cost within thirty (30) days of receiving an  
3 invoice therefor from the Commissioner. Payment of the audit costs should not be made until  
4 Respondent SPMI receives the invoice. If Respondent SPMI fails to satisfy this condition in a  
5 timely manner as provided for herein, the real estate license of Respondent SPMI shall  
6 automatically be suspended until payment is made in full, or until a decision providing otherwise  
7 is adopted following a hearing held pursuant to this condition.

8  
9 DATED: 10/10/2018

  
\_\_\_\_\_  
DIANE LEE, Counsel for  
Department of Real Estate

11 \* \* \*

12 EXECUTION OF THE STIPULATION

13 I, JOHN B. KISS, as designated officer of SUMMIT PROPERTY  
14 MANAGEMENT, INC., have read the Stipulation. Its terms are understood by SPMI and me,  
15 and are agreeable and acceptable to SPMI and me. I understand that SPMI and I are waiving  
16 rights given to SPMI and me by the California APA (including, but not limited to, California  
17 Government Code sections 11506, 11508, 11509, and 11513), and SPMI and I willingly,  
18 intelligently, and voluntarily waive those rights, including, but not limited to, the right of  
19 requiring the Commissioner to prove the allegations in the Accusation at a hearing at which  
20 SPMI and I would have the right to cross-examine witnesses against SPMI and me, and to  
21 present evidence in defense and mitigation of the charges.

22  
23 MAILING AND FACSIMILE

24 Respondent SPMI (1) shall mail the original signed signature page of this  
25 Stipulation herein to Department of Real Estate, Attention: Legal Section – Diane Lee, 320 West  
26 Fourth Street, Suite 350, Los Angeles, California 90013-1105. Respondent SPMI shall also (2)  
27

1 facsimile a copy of signed signature page, to the Department of Real Estate at the following  
2 telephone/fax number: (213) 576-6917, Attention: Diane Lee.

3 A facsimile constitutes acceptance and approval of the terms and conditions of  
4 this Stipulation. Respondent SPMI agrees, acknowledges, and understands that by electronically  
5 sending to the Department of Real Estate a facsimile copy of the actual signature of JOHN B.  
6 KISS, as designated officer of SPMI, as it appears on the Stipulation that receipt of the facsimile  
7 copy by the Department of Real Estate shall be as binding on Respondent SPMI as if the  
8 Department of Real Estate had received the original signed Stipulation.

9  
10 DATED: 2 Oct 18   
11 SUMMIT PROPERTY MANAGEMENT, INC.,  
12 by John B. Kiss (designated officer)

13 \* \* \*

14 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to  
15 Respondent SUMMIT PROPERTY MANAGEMENT, INC., and shall become effective at 12  
16 o'clock noon on November 28, 2018.

17 IT IS SO ORDERED October 25, 2018.

18 DANIEL J. SANDRI  
19 ACTING REAL ESTATE COMMISSIONER

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