

FILED

MAY 20 2009

DEPARTMENT OF REAL ESTATE

By R. Henry

Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of) NO. H-5137 SAC
)
) STIPULATION AND WAIVER
STEPHEN JAMES MCMULLEN,)
)
Respondent.)

It is hereby stipulated by and between STEPHEN JAMES MCMULLEN (hereinafter "Respondent") and Respondent's Attorney BRECK JONES, and the Complainant, acting by and through KENNETH C. ESPELL, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Statement of Issues filed on January 23, 2009 in this matter:

Respondent acknowledges that Respondent has received and reviewed the Statement of Issues and Statement to Respondent filed by the Department of Real Estate in connection with Respondent's application for a real estate salesperson license. Respondent understands that the Real Estate Commissioner may hold a hearing on this Statement of Issues for the purpose of requiring further proof of Respondent's honesty and truthfulness and to prove other allegations therein, or that he may in his discretion waive the hearing and grant Respondent a restricted real estate salesperson license. Respondent further understands that by entering into

1 this Stipulation and Waiver Respondent will be stipulating that the Real Estate Commissioner
2 has found that Respondent failed to make such a showing, thereby justifying denial of the
3 issuance to Respondent of an unrestricted real estate salesperson license.

4 Respondent hereby admits that the allegations of the Statement of Issues filed
5 against Respondent are true and correct and requests that the Real Estate Commissioner in his
6 discretion issue a restricted real estate salesperson license to Respondent under the authority of
7 Section 10156.5 of the Business and Professions Code.

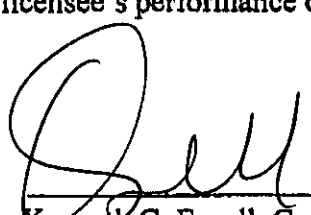
8 Respondent is aware that by signing this Stipulation and Waiver, Respondent is
9 waving Respondent's right to a hearing and the opportunity to present evidence at the hearing to
10 establish Respondent's rehabilitation in order to obtain an unrestricted real estate salesperson
11 license if this Stipulation and Waiver is accepted by the Real Estate Commissioner. However,
12 Respondent is not waiving Respondent's right to a hearing and to further proceedings to obtain a
13 restricted or unrestricted license of this Stipulation and Waiver is not accepted by the
14 Commissioner.

15 Respondent further understands that the following conditions, limitations and
16 restrictions will attach to a restricted license issued by the Department of Real Estate pursuant
17 hereto:

- 18 1. The license shall not confer any property right in the privileges to be
19 exercised including the right to renewal, and the Real Estate
20 Commissioner may by appropriate order suspend the right to exercise any
21 privileges granted under this restricted license in the event of:
 - 22 a. Respondent's conviction (including a plea of nolo contendere) of
23 a crime which bears a substantial relationship to Respondent's
24 fitness or capacity as a real estate licensee; or
 - 25 b. The receipt of evidence that respondent has violated provisions of
26 the California Real Estate Law, the Subdivided Lands Law,
27 Regulations of the Real Estate Commissioner or conditions
attaching to this restricted license.

- 1 2. Respondent shall not be eligible to apply for the issuance of an
2 unrestricted real estate salesperson license nor the removal of any of the
3 conditions, limitations, or restrictions attaching to the restricted license
4 until four (4) years have elapsed from the date of the issuance of the
5 restricted license to Respondent.
- 6 3. Respondent shall, on at least a weekly basis, attend Alcoholic Anonymous
7 meetings and upon seeking removal of the conditions, limitations or
8 restrictions attached to the restricted license provide the Department of
9 Real Estate with written proof of attendance in a form that is acceptable to
10 the Department of Real Estate.
- 11 4. On at least a bi-monthly basis, attend counseling sessions with Michael
12 Streit, and upon seeking removal of the conditions, limitations or
13 restrictions attached to the restricted license, provide the Department of
14 Real Estate with written proof of attendance that is in a form
15 acceptable to the Department of Real Estate.
- 16 5. Respondent shall, within 180 days from the date of the issuance of the
17 restricted license to Respondent, take and pass the Professional
18 Responsibility Examination administered by the Department of Real
19 Estate including the payment of the appropriate examination fee. If
20 Respondent fails to satisfy this condition, the Commissioner may order
21 suspension of Respondent's license until Respondent passes the
22 examination.
- 23 6. With the application for license, or with the application for transfer to a
24 new employing broker, Respondent shall submit a statement signed by the
25 prospective employing broker on a form approved by the Department of
26 Real Estate wherein the employing broker shall certify as follows:
27 a. That broker has read the Statement of Issues which is the basis for
 the issuance of the restricted license; and,

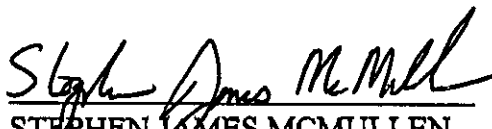
- b. That broker will carefully review all transaction documents
prepared by the restricted licensee and otherwise exercise close
supervision over the licensee's performance of acts for which a
license is required.

DATED: 4/23/09
Kenneth C. Espell, Counsel
DEPARTMENT OF REAL ESTATE

* * *

I have read the Stipulation and Waiver, have discussed it with my counsel, 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 a hearing on the Statement
of Issues at which I would have the right to cross-examine witnesses against me and to present
evidence in defense and mitigation of the charges.

Respondent can signify acceptance and approval of the terms and conditions of
this Stipulation and Waiver by faxing a copy of the signature page, as actually signed by
Respondent, to the Department at number (916) 227-9458. Respondent agrees, acknowledges
and understands that by electronically sending to the Department a fax copy of his actual
signature as it appears on the Stipulation and Waiver, that receipt of the faxed copy by the
Department shall be as binding on Respondent as if the Department had received the original
signed Stipulation and Waiver.

DATED: 4/23/09
STEPHEN JAMES MCMULLEN
Respondent

1 I have reviewed the Stipulation and Waiver as to form and content and have
2 advised my client accordingly.

3
4 DATED: April 23, 2009

Breck Jones
BRECK JONES
Attorney for Respondent

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7 I have read the Statement of Issues filed herein and the foregoing Stipulation and
8 Waiver signed by Respondent. I am satisfied that the hearing for the propose of requiring further
9 proof as to the honesty and truthfulness of Respondent need not be called and that it will not be
10 inimical to the public interest to issue a restricted real estate salesperson license to Respondent.

11 Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson
12 license be issued to Respondent, if Respondent has otherwise fulfilled all of the statutory
13 requirements for licensure. The restricted license shall be limited, conditioned, and restricted as
14 specified in the foregoing Stipulation and Waiver.

15 This Order is effective immediately.

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17 It is so ordered 5/15, 2009.

18 JEFF DAVI
19 Real Estate Commissioner

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21 Jeff Davi
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1 KENNETH C. ESPELL, Counsel (SBN 178757)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789
6 -or- (916) 227-0868 (Direct)

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[Signature]

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)

) NO. H-5137 SAC

12)
13 STEPHEN JAMES McMULLEN;)

) STATEMENT OF ISSUES

14)
15 Respondent.)

16 The Complainant, JOE M. CARRILLO, in his official capacity as a Deputy
17 Real Estate Commissioner of the State of California, for this Statement of Issues against
18 STEPHEN JAMES McMULLEN, (hereinafter "Respondent"), is informed and alleges as
19 follows:

20 1

21 On or about June 13, 2007, the California Department of Real Estate, in case
22 number H-4615 SAC, denied Respondent's application for a real estate salesperson license
23 based, in part, on Respondent's failure to disclose all his criminal convictions as required by
24 Business and Professions Code Section 10153.4.

25 2

26 On or about June 6, 2008, Respondent made application to the Department of
27 Real Estate of the State of California for a real estate salesperson license.

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On or about May 7, 1990, in the Municipal Court of Sacramento, State of California, in case number 90M50628, Respondent was convicted of violating Section 484 of the California Penal Code (Petty Theft) a misdemeanor and crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations (hereinafter "Regulations") to the qualifications, functions, or duties of a real estate licensee.

4

On or about October 22, 1992, in the Municipal Court of Sacramento, State of California, in case number CR037605A, Respondent was convicted of violating Section 23152(a) of the California Vehicle Code (Driving Under the Influence of Alcohol) a misdemeanor which bears a substantial relationship under Section 2910 of the Regulations to the qualifications, functions, or duties of a real estate licensee.

5

On or about May 20, 1996, in the Municipal Court of Sacramento, State of California, in case number 96T02367, Respondent was convicted of violating Section 23152(a) of the California Vehicle Code (Driving Under the Influence of Alcohol with 1 prior DUI Conviction) a misdemeanor which bears a substantial relationship under Section 2910 of the Regulations to the qualifications, functions, or duties of a real estate licensee.

6

On or about May 18, 2000, in the Municipal Court of Sacramento, State of California, in case number 99T03872, Respondent was convicted of violating Section 23152(a) of the California Vehicle Code (Driving Under the Influence of Alcohol) a misdemeanor which bears a substantial relationship under Section 2910 of the Regulations to the qualifications, functions, or duties of a real estate licensee.

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On or about December 5, 2003, in the Placer County Superior Court, State of California, in case number 62-37072, Respondent was convicted of violating Section 2800.2(a) of the California Vehicle Code (Recklessly Evading a Peace Officer) a felony which bears a substantial relationship under Section 2910 of the Regulations to the qualifications, functions, or duties of a real estate licensee.

The crimes of which Respondent was convicted, as alleged in Paragraphs 3 through 7 above, constitute cause for denial of Respondent's application for a real estate license under Sections 480(a) and 10177(b) of the California Business and Professions Code.

WHEREFORE, the Complainant prays that the above-entitled matter be set for hearing and, upon proof of the charges contained herein, that the Commissioner refuse to authorize the issuance of, and deny the issuance of, a real estate salesperson license to Respondent, and for such other and further relief as may be proper under other provisions of law.



JOE M. CARRILLO

Deputy Real Estate Commissioner

Dated at Sacramento, California,

this 5 day of January, 2009.