

1 Agreement in Settlement and Order (“Stipulation”).

2 2. Respondents have received, read, and understand the Statement to Respondent, the
3 Discovery Provisions of the APA, and Accusation filed by the Department in this proceeding.

4 3. Respondents filed a Notice of Defense pursuant to Section 11506 of the Government
5 Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents
6 hereby freely and voluntarily withdraw said Notice of Defense. Respondents acknowledge and
7 understand that by withdrawing said Notice of Defense, Respondents will thereby waive
8 Respondents’ rights to require the Real Estate Commissioner (“Commissioner”) to prove the
9 allegations in the Accusation at a contested hearing held in accordance with the provisions of the
10 APA and that Respondents will waive other rights afforded to Respondents in connection with
11 the hearing such as the right to present evidence in defense of the allegations in the Accusation
12 and the right to cross-examine witnesses.

13 4. This Stipulation is based on the factual allegations contained in the Accusation filed in
14 this proceeding. In the interest of expedience and economy, Respondents choose not to contest
15 these factual allegations, but to remain silent and understand that, as a result thereof, these
16 factual statements, will serve as a prima facie basis for the disciplinary action stipulated to
17 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove
18 such allegations.

19 5. This Stipulation and Respondents’ decision not to contest the Accusation are made for
20 the purpose of reaching an agreed disposition of this proceeding and are expressly limited to this
21 proceeding and any other proceeding or case in which the Department, or another licensing
22 agency of this state, another state or if the federal government is involved and otherwise shall not
23 be admissible in any other criminal or civil proceedings.

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1 II.

2 The conduct, acts and/or omissions of Respondent ANGELA SUE DURBIN as set forth
3 herein above in Paragraph 4, constitute cause for the suspension or revocation of all real estate
4 licenses and license rights of Respondent ANGELA SUE DURBIN pursuant to the provisions of
5 Code section 10177, subdivision (h), for violation of Code section 10159.2 and Regulation 2725.

6 ORDER

7 I.

8 All licenses and licensing rights of Respondent D&M REALTY AND MANAGEMENT
9 (“DMRM”) under the Real Estate Law are suspended for a period of sixty (60) days from the
10 effective date of this Decision and Order; provided, however, that:

- 11 1. Said 60-day suspension shall be stayed for two (2) years upon the following terms
12 and conditions:
- 13 2. Respondent shall obey all laws, rules and regulations governing the rights, duties
14 and responsibilities of a real estate licensee in the State of California; and,
- 15 3. That no final subsequent determination be made, after hearing or upon stipulation,
16 that cause for disciplinary action occurred within two (2) years from the effective
17 date of this Decision and Order. Should such a determination be made, the
18 Commissioner may, in his discretion, vacate and set aside the stay order and
19 reimpose all or a portion of the stayed suspension. Should no such determination
20 be made, the stay imposed herein shall become permanent.
- 21 4. Respondent DMRM shall pay, severally or jointly with Respondent ANGELA
22 SUE DURBIN, the sum of \$2,634.15 for the Commissioner’s reasonable cost of
23 the investigation and enforcement which led to this disciplinary action. Said
24 payment shall be in the form of a cashier’s check made payable to the Department

1 of Real Estate. **The investigative and enforcement costs must be delivered to**
2 **the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento,**
3 **CA 95813-7013, within 180 days of the effective date. Payment of**
4 **investigation and enforcement costs should not be made until the Stipulation**
5 **has been approved by the Commissioner.** If Respondents fail to satisfy this
6 condition in a timely manner as provided for herein, Respondents' real estate
7 licenses and mortgage loan originator license endorsement shall automatically be
8 suspended until payment is made in full, or until a decision providing otherwise is
9 adopted following a hearing held pursuant to this condition.

10 5. Pursuant to Section 10148 of the Code, Respondent DMRM shall pay, severally
11 or jointly with Respondent ANGELA SUE DURBIN, the sum of \$12,640.10 for
12 the Commissioner's cost of the audit which led to this disciplinary action.
13 **Respondents shall pay such cost within sixty (60) days of receiving an invoice**
14 **therefore from the Commissioner. Payment of audit costs should not be**
15 **made until Respondents receive the invoice.** If Respondents fail to satisfy this
16 condition in a timely manner as provided for herein, Respondents' real estate
17 licenses and mortgage loan originator license endorsement shall automatically be
18 suspended until payment is made in full, or until a decision providing otherwise is
19 adopted following a hearing held pursuant to this condition.

20 6. Pursuant to Section 10148 of the Code, Respondents shall pay the
21 Commissioner's reasonable costs for any subsequent audit (said costs may not to
22 exceed a maximum of \$15,800.00) to determine if Respondents have corrected
23 the violations found in the Determination of Issues. In calculating the amount of
24 the Commissioner's reasonable cost, the Commissioner may use the estimated

1 average hourly salary for all persons performing audits of real estate brokers, and
2 shall include an allocation for travel time to and from the auditor's place of work.
3 **Respondents shall pay such cost within sixty (60) days of receiving an invoice**
4 **therefore from the Commissioner. Payment of the audit costs should not be**
5 **made until Respondents receive the invoice.** If Respondents fail to satisfy this
6 condition in a timely manner as provided for herein, Respondents' real estate
7 licenses and mortgage loan originator license endorsement shall automatically be
8 suspended until payment is made in full, or until a decision providing otherwise is
9 adopted following a hearing held pursuant to this condition.

10 II.

11 All licenses and licensing rights of Respondent ANGELA SUE DURBIN ("DURBIN")
12 under the Real Estate Law are suspended for a period of sixty (60) days from the effective date
13 of this Decision and Order; provided, however, that:

- 14 1. Said 60-day suspension shall be stayed for two (2) years upon the following terms
15 and conditions:
- 16 2. Respondent shall obey all laws, rules and regulations governing the rights, duties
17 and responsibilities of a real estate licensee in the State of California; and,
- 18 3. That no final subsequent determination be made, after hearing or upon stipulation,
19 that cause for disciplinary action occurred within two (2) years from the effective
20 date of this Decision and Order. Should such a determination be made, the
21 Commissioner may, in his discretion, vacate and set aside the stay order and
22 reimpose all or a portion of the stayed suspension. Should no such determination
23 be made, the stay imposed herein shall become permanent.

- 1 4. All licenses and licensing rights of Respondent DURBIN are indefinitely
2 suspended unless or until Respondent DURBIN provides proof satisfactory to the
3 Commissioner, of having taken and successfully completed the continuing
4 education course on trust fund accounting and handling specified in paragraph (3)
5 of subdivision (a) of Section 10170.5 of the Business and Professions Code.
6 Proof of satisfaction of this requirement includes evidence that Respondent has
7 successfully completed the trust fund account and handling continuing education
8 course, no earlier than 120 days prior to the effective date of the Decision and
9 Order in this matter. **Proof of completion of the trust fund accounting and**
10 **handling course must be delivered to the Department of Real Estate, Flag**
11 **Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-**
12 **263-8758, prior to the effective date of this Decision and Order.**
- 13 5. Respondent DURBIN shall pay, severally or jointly with Respondent DMRM, the
14 sum of \$2,634.15 for the Commissioner's reasonable cost of the investigation and
15 enforcement which led to this disciplinary action. Said payment shall be in the
16 form of a cashier's check made payable to the Department of Real Estate. **The**
17 **investigative and enforcement costs must be delivered to the Department of**
18 **Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013,**
19 **within 180 days of the effective date. Payment of investigation and**
20 **enforcement costs should not be made until the Stipulation has been**
21 **approved by the Commissioner.** If Respondents fail to satisfy this condition in
22 a timely manner as provided for herein, Respondents' real estate licenses and
23 mortgage loan originator license endorsement shall automatically be suspended
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1 until payment is made in full, or until a decision providing otherwise is adopted
2 following a hearing held pursuant to this condition.

- 3 6. Pursuant to Section 10148 of the Code, Respondent DURBIN shall pay, severally
4 or jointly with Respondent DMRM, the sum of \$12,640.10 for the
5 Commissioner's cost of the audit which led to this disciplinary action.


6 **Respondents shall pay such cost within sixty (60) days of receiving an invoice**
7 **therefore from the Commissioner. Payment of audit costs should not be**
8 **made until Respondents receive the invoice.** If Respondents fail to satisfy this
9 condition in a timely manner as provided for herein, Respondents' real estate
10 licenses and mortgage loan originator license endorsement shall automatically be
11 suspended until payment is made in full, or until a decision providing otherwise is
12 adopted following a hearing held pursuant to this condition.

- 13 7. Pursuant to Section 10148 of the Code, Respondents shall pay the
14 Commissioner's reasonable costs for any subsequent audit (said costs may not to
15 exceed a maximum of \$15,800.00) to determine if Respondents have corrected
16 the violations found in the Determination of Issues. In calculating the amount of
17 the Commissioner's reasonable cost, the Commissioner may use the estimated
18 average hourly salary for all persons performing audits of real estate brokers, and
19 shall include an allocation for travel time to and from the auditor's place of work.

20 **Respondents shall pay such cost within sixty (60) days of receiving an invoice**
21 **therefore from the Commissioner. Payment of the audit costs should not be**
22 **made until Respondents receive the invoice.** If Respondents fail to satisfy this
23 condition in a timely manner as provided for herein, Respondents' real estate
24 licenses and mortgage loan originator license endorsement shall automatically be

1 suspended until payment is made in full, or until a decision providing otherwise is
2 adopted following a hearing held pursuant to this condition.

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4 DATED: 8/14/2020


Lissete Garcia, Counsel
Department of Real Estate

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9 We have read this Stipulation and its terms are understood by us and are agreeable and
10 acceptable to us. We understand that we are waiving rights given to us by the California APA
11 (including, but not limited to, Sections 11506, 11508, 11509, and 11513 of the Government
12 Code), and we willingly, intelligently, and voluntarily waive those rights, including the right of
13 requiring the Commissioner to prove the allegations in the Accusation at a hearing at which we
14 would have the right to cross-examine witnesses against us and to present evidence in defense
15 and mitigation of the charges.

16 Respondents can signify acceptance and approval of the terms and conditions of this
17 Stipulation and Agreement by electronically e-mailing a copy of the signature page, as actually
18 signed by Respondents, to the Department. Respondents agree, acknowledge, and understand
19 that by electronically sending to the Department an electronic copy of Respondents' actual
20 signatures, as they appear on the Stipulation, that receipt of the emailed copy by the Department
21 shall be as binding on Respondents as if the Department had received the original signed
22 Stipulation. By signing this Stipulation, Respondents understand and agree that Respondents
23 may not withdraw Respondents' agreement or seek to rescind the Stipulation prior to the time the
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1 Commissioner considers and acts upon it or prior to the effective date of the Stipulation and
2 Order.

3 DATED: 8/14/2020 Angie Durbin
4 Respondent D&M REALTY AND MANAGEMENT

5 By (Printed Name): Angie Durbin
6 Title: President

7 DATED: 8/14/2020 Angie Durbin
8 Respondent ANGELA SUE DURBIN

9 * * *

10 The foregoing Stipulation and Agreement in Settlement and Order is hereby adopted by
11 me as my Decision in this matter and shall become effective at 12 o'clock noon
12 on November 6, 2020.

13 IT IS SO ORDERED 9.24.20

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15 REAL ESTATE COMMISSIONER

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17 Douglas R. McCauley
18 DOUGLAS R. MCCAULEY
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