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1 2 3 4	DEPARTMENT OF REAL ESTATE 320 West 4th Street, Suite 350 Los Angeles, California 90013-1105 Telephone: (213) 620-2072	FILED OCT - 8 2020 DEPT. OF REAL ESTATE By	
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8	BEFORE THE DEPARTMENT OF REAL ESTATE		
9	STATE OF CALIFORNIA		
10	* * * *		
11	In the Matter of the Accusation against	DRE No. H-05144 SD	
12	D&M REALTY AND MANAGEMENT and	OAH No. 2020060621	
13	ANGELA SUE DURBIN, individually and as designated officer for D&M Realty and Management,	STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER	
14	Respondents.		
15			
16	It is hereby stipulated by and between Respond	lents D&M Realty and Management and	
17	Angela Sue Durbin (collectively "Respondents"), and	the Complainant, acting by and through	
18	Lissete Garcia, Counsel for the Department of Real Estate ("Department"), as follows for the		
19	purpose of settling and disposing the Accusation filed on April 2, 2020, with Department Case		
20	No. H-05144 SD ("Accusation") in this matter:		
21	1. All issues which were to be contested and all evidence which was to be presented by		
22	Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be		
23	held in accordance with the provisions of the Administrative Procedure Act ("APA"), shall		
24	instead and in place thereof be submitted on the basis of	of the provisions of this Stipulation and	
	1	Stipulation and Agreement H-05144 SD	

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.

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

- 4. This Stipulation is based on the factual allegations contained in the Accusation filed in
 this proceeding. In the interest of expedience and economy, Respondents choose not to contest
 these factual allegations, but to remain silent and understand that, as a result thereof, these
 factual statements, will serve as a prima facie basis for the disciplinary action stipulated to
 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove
 such allegations.
- 5. This Stipulation and Respondents' decision not to contest the Accusation are made for
 the purpose of reaching an agreed disposition of this proceeding and are expressly limited to this
 proceeding and any other proceeding or case in which the Department, or another licensing
 agency of this state, another state or if the federal government is involved and otherwise shall not
 be admissible in any other criminal or civil proceedings.
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6. It is understood by the parties that the Real Estate Commissioner may adopt the 1 Stipulation and Agreement as the Commissioner's Decision in this matter, thereby imposing the 2 penalty and sanctions on Respondents' real estate licenses and license rights as set forth in the 3 below "Order." In the event that the Commissioner in his discretion does not adopt the 4 Stipulation and Agreement, it shall be void and of no effect, and Respondents shall retain the 5 right to a hearing and proceeding on the Accusation under all the provisions of the APA and 6 7 shall not be bound by any admission or waiver made herein. 7. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to 8 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further 9 administrative or civil proceedings by the Department of Real Estate with respect to any matters 10 which were not specifically alleged to be causes for accusation in this proceeding. 11 12 DETERMINATION OF ISSUES By reason of the foregoing stipulation and agreement and solely for the purpose of 13 settlement of the pending Accusation without a hearing, it is stipulated and agreed that the 14 15 following determination of issues shall be made: 16 I. 17 The conduct, acts and/or omissions of Respondent D&M REALTY AND MANAGEMENT as set forth herein above in Paragraph 4, constitute cause for the suspension or 18 revocation of all real estate licenses, mortgage loan originator license endorsements, and license 19 rights of Respondent D&M REALTY AND MANAGEMENT pursuant to the provisions of 20 Code section 10177, subdivisions (d) and (g), for violation of Code section 10145 and 21 Regulations of the Real Estate Commissioner, Title 10, Chapter 6, California Code of 22 Regulations ("Regulations") 2832.1, 2831, 2831.1, 2831.2, 2832, and 2834. 23 24

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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	<u>ORDER</u>		
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 $\underline{\$2,634.15}$ 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	
		Stipulation and Agreement H-05144 SD	
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· 1	of Rea	Estate. The investigative and enforcement costs must be delivered to
2		epartment of Real Estate, Flag Section at P.O. Box 137013, Sacramento,
3		813-7013, within 180 days of the effective date. Payment of
4		igation and enforcement costs should not be made until the Stipulation
5		en approved by the Commissioner. If Respondents fail to satisfy this
6	condit	on in a timely manner as provided for herein, Respondents' real estate
7	license	s and mortgage loan originator license endorsement shall automatically be
8	suspen	ded until payment is made in full, or until a decision providing otherwise is
9	adopte	d following a hearing held pursuant to this condition.
10	5. Pursua	nt to Section 10148 of the Code, Respondent DMRM shall pay, severally
11	or join	ly with Respondent ANGELA SUE DURBIN, the sum of <u>\$12,640.10</u> for
12	the Co	nmissioner's cost of the audit which led to this disciplinary action.
13	Respo	ndents shall pay such cost within sixty (60) days of receiving an invoice
14	therefo	ore from the Commissioner. Payment of audit costs should not be
15	made	Intil Respondents receive the invoice. If Respondents fail to satisfy this
16	conditi	on in a timely manner as provided for herein, Respondents' real estate
17	license	s and mortgage loan originator license endorsement shall automatically be
18	suspend	led 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. Pursuar	at to Section 10148 of the Code, Respondents shall pay the
21	Commi	ssioner'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 viol	ations found in the Determination of Issues. In calculating the amount of
24	the Con	nmissioner's reasonable cost, the Commissioner may use the estimated
		Stipulation and Agreement

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			forming audits of real estate brokers, and	
	2	shall include an allocation for travel tim	e to and from the auditor's place of work.	
	3	Respondents shall pay such cost withi	in sixty (60) days of receiving an invoice	
	4	therefore from the Commissioner. Pa	yment of the audit costs <u>should not be</u>	
	5	made until Respondents receive the in	voice. If Respondents fail to satisfy this	
	6	condition in a timely manner as provide	d for herein, Respondents' real estate	
	7	licenses and mortgage loan originator licenses and mortgage lo	cense 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 pursua	nt 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 f	or two (2) years upon the following terms	
	15	and conditions:		
	16	2. Respondent shall obey all laws, rules and	d regulations governing the rights, duties	
	17	and responsibilities of a real estate licens	see in the State of California; and,	
	18	3. That no final subsequent determination b	be made, after hearing or upon stipulation,	
	19	that cause for disciplinary action occurre	d 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, vac	cate and set aside the stay order and	
	22	reimpose all or a portion of the stayed su	spension. Should no such determination	
	23	be made, the stay imposed herein shall be	ecome permanent.	
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			Stipulation and Agreement	

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1	4. All	licenses and licensing rights of Respondent DURBIN are indefinitely
2	sus	pended unless or until Respondent DURBIN provides proof satisfactory to the
3	Co	mmissioner, of having taken and successfully completed the continuing
4	edu	cation course on trust fund accounting and handling specified in paragraph (3)
5	ofs	subdivision (a) of Section 10170.5 of the Business and Professions Code.
6	Pro	of of satisfaction of this requirement includes evidence that Respondent has
7	suc	cessfully completed the trust fund account and handling continuing education
8	cou	rse, no earlier than 120 days prior to the effective date of the Decision and
9	Orc	ler in this matter. Proof of completion of the trust fund accounting and
10	har	dling course must be delivered to the Department of Real Estate, Flag
11	Sec	tion 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. Res	pondent DURBIN shall pay, severally or jointly with Respondent DMRM, the
14	sun	n of $\underline{\$2,634.15}$ for the Commissioner's reasonable cost of the investigation and
15	enfo	preement which led to this disciplinary action. Said payment shall be in the
16	forr	n of a cashier's check made payable to the Department of Real Estate. The
17	inv	estigative and enforcement costs must be delivered to the Department of
18	Rea	ll Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013,
19	wit	hin 180 days of the effective date. Payment of investigation and
20	enfo	orcement costs should not be made until the Stipulation has been
21	app	roved by the Commissioner. If Respondents fail to satisfy this condition in
22	a tir	nely manner as provided for herein, Respondents' real estate licenses and
23	mor	tgage loan originator license endorsement shall automatically be suspended
24		
		Stipulation and Agreement

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 <u>\$12,640.10</u> 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
		Stipulation and Agreement

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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
5	Lissete Garcia, Counsel Department of Real Estate
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7	* * *
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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
24	

Commissioner considers and acts upon it or prior to the effective date of the Stipulation and 1 2 Order. DATED: 8142020 3 Respondent D JAGEMENT 4 By (Printed Name): 5 Title: 6 DATED: 8/14/2020 7 Respondent RBIN 8 9 The foregoing Stipulation and Agreement in Settlement and Order is hereby adopted by 10 me as my Decision in this matter and shall become effective at 12 o'clock noon 11 on November 6, 2020. 12 9.24.20 13 IT IS SO ORDERED 14 15 REAL ESTATE COMMISSIONER 16 17 MEL10 DOUGLA 18 19 20 21 22 23 24 Stipulation and Agreement H-05144 SD 10