

FILED

FEB 12 2021

DEPT. OF REAL ESTATE

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1 Department of Real Estate
2 320 W. 4th Street, Suite 350
3 Los Angeles, CA 90013-1105
4 Telephone: (213) 576-6982

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9 **BEFORE THE DEPARTMENT OF REAL ESTATE**
10 **STATE OF CALIFORNIA**

11 * * *

12 In the Matter of the Accusation of

No. H-05151 SD

13 **CANTER BROKERAGE, INC.;**
14 **JUSTIN ANTHONY DECESARE,**
15 **individually and as former designated**
16 **officer of Canter Brokerage, Inc.;**
17 **WARREN L. SHARKEY;**
18 **JEFFREY CHARLES GRAHN,**

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

19 Respondents.

As to Respondent Justin Anthony
Decesare only

20 It is hereby stipulated by and between Respondent JUSTIN ANTHONY
21 DECESARE (sometimes referred to as "Respondent"), acting by and through his attorney,
22 Shanna Welsh-Levin, Esq., of SoCal Realty Law, and the Complainant, acting by and through
23 Judith B. Vasan, Counsel for the Department of Real Estate, as follows for the purpose of
24 settling and disposing of the Accusation ("Accusation") filed on May 19, 2020, in this matter:

25 1. All issues which were to be contested and all evidence which was to be
26 presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing
27 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

1 Stipulation and Agreement (“Stipulation”).

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

5 3. Respondent filed a Notice of Defense pursuant to Section 11506 of the
6 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
7 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
8 acknowledges that he understands that by withdrawing said Notice of Defense Respondent
9 thereby waives his 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 will waive other rights afforded to him in connection with the hearing such as the right to present
12 evidence in his defense, and the right to cross-examine witnesses.

13 4. Respondent, pursuant to the limitations set forth below, hereby admits that the
14 factual allegations pertaining to Respondent described in the Accusation filed in this proceeding
15 are true and correct and the Real Estate Commissioner shall not be required to provide further
16 evidence of such 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 penalty and sanctions on
19 Respondent’s real estate license and license rights as set forth in the below “Order.” In the event
20 that the Commissioner in his discretion does not adopt the Stipulation, the Stipulation shall be
21 void and of no effect and Respondent shall retain the right to a hearing and proceed on the
22 Accusation under the provisions of the APA and shall not be bound by any stipulation or waiver
23 made herein.

24 6. The Order or any subsequent Order of the Real Estate Commissioner made
25 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
26 administrative or civil proceedings by the Department with respect to any matters which were
27 not specifically alleged to be causes for accusation in this proceeding.

1 **DETERMINATION OF ISSUES**

2 By reason of the foregoing stipulations and solely for the purpose of settlement of
3 the pending Accusation without a hearing, it is stipulated and agreed that the following
4 determination of issues shall be made:

5 The conduct, acts or omissions of Respondent JUSTIN ANTHONY DECESARE,
6 as set forth in the Accusation, are in violation of Business and Professions Code ("Code")
7 sections 10159.2 and 10177(h) and Section 2725 of Title 10, Chapter 6, of the California Code of
8 Regulations and are a basis for discipline of Respondent JUSTIN ANTHONY DECESARE's
9 licenses and license rights pursuant to Code sections 10177(d) and/or 10177(g).

10 **ORDER**

11 WHEREFORE, THE FOLLOWING ORDER is hereby made:

12 I.

13 All licenses and license rights of Respondent JUSTIN ANTHONY DECESARE
14 under the Real Estate Law are suspended for a period of sixty (60) days from the effective date
15 of this Decision and Order; provided, however, that:

16 A. The initial thirty (30) days of said suspension shall be stayed upon the
17 following terms and conditions:

18 1. Respondent shall pay a monetary penalty pursuant to Code section
19 10175.2 at the rate of \$75.00 per day for each of the thirty (30) days of suspension for a total
20 monetary penalty of \$2,250.

21 2. Said payment shall be in the form of a cashier's check made payable to
22 the Department of Real Estate. Said check must be delivered to the Department of Real Estate,
23 Flag Section, P.O. Box 137013, Sacramento, CA 95813-7013, within thirty (30) days of the
24 effective date of this Decision and Order.

25 3. No further cause for disciplinary action against the real estate license of
26 Respondent occurs within two (2) years from the effective date of the Decision in this matter.
27

STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

1 4. If Respondent fails to pay the monetary penalty in accordance with the
2 terms and conditions of the Decision and Order, the suspension shall go into effect automatically.
3 Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money
4 paid to the Department under the terms of this Decision and Order.

5 5. If Respondent pays the monetary penalty and if no further cause for
6 disciplinary action against the real estate license of Respondent occurs within two (2) years from
7 the effective date of the Decision, the entire stay hereby granted pursuant to this Decision and
8 Order shall become permanent.

9 B. The remaining thirty (30) days shall be stayed for two (2) years upon the
10 following terms and conditions:

11 1. That Respondent shall obey all laws, rules and regulations governing the
12 rights, duties and responsibilities of a real estate licensee in the State of California; and

13 2. That no final subsequent determination be made after hearing or upon
14 stipulation, that cause for disciplinary action occurred within two (2) years from the effective
15 date of this Decision and Order. Should such a determination be made, the Commissioner may,
16 in her discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed
17 suspension. Should no such determination be made under this section, the stay imposed herein
18 shall become permanent.

19 II.

20 Respondent shall pay his proportionate share of the Commissioner's reasonable
21 costs of the investigation and enforcement which led to this disciplinary action. The total amount
22 of said investigation and enforcement costs is \$1,695.15. Respondent agrees to pay \$423.78
23 (\$1,695.15 ÷ 4 respondents) as his proportionate share of the total cost. Said payment shall be in
24 the form of a cashier's check made payable to the Department of Real Estate. The payment for
25 the investigative and enforcement costs must be delivered to the Department of Real Estate, Flag
26 Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
27 Decision and Order. If Respondent fails to pay the costs of the investigation and enforcement in

1 accordance with the terms and conditions of the Decision and Order, all licenses and license
2 rights of Respondent shall be automatically suspended unless or until Respondent pays the costs
3 of the investigation and enforcement. Respondent shall not be entitled to any repayment nor
4 credit, prorated or otherwise, for money paid to the Department under the terms of this Decision
5 and Order.


6 III.

7 All licenses and licensing rights of Respondent are indefinitely suspended unless
8 or until Respondent provides proof satisfactory to the Commissioner, of having taken and
9 successfully completed the continuing education course on management and supervision
10 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions
11 Code. Proof of satisfaction of these requirements includes evidence that Respondent has
12 successfully completed the trust fund account and handling continuing education courses, no
13 earlier than 120 days prior to the effective date of the Decision and Order in this matter. Proof of
14 completion of the management and supervision course must be delivered to the Department of
15 Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the
16 effective date of this Decision and Order.

17 IV.

18 Respondent shall, within six (6) months from the effective date of this Decision
19 and Order, take and pass the Professional Responsibility Examination administered by the
20 Department including the payment of the appropriate examination fee. If Respondent fails to
21 satisfy this condition, Respondent's real estate license shall automatically be suspended until
22 Respondent passes the examination.

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25 DATED: 12-29-2020


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Judith B. Vasan, Counsel for
Department of Real Estate

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Respondent's signature below constitutes acceptance and approval of the terms and conditions of this Stipulation. Respondent agrees, acknowledges and understands that by signing this Stipulation, Respondent is bound by its terms as of the date of such signatures and that this agreement is not subject to rescission or amendment at a later date except by a separate Decision and Order of the Real Estate Commissioner.

DATED: 12/28/2020


JUSTIN ANTHONY DECESARE
Respondent

DATED: 12/28/20

Shanna Welsh-Levin
Shanna Welsh-Levin, Esq.
Counsel for Respondent
Approved as to Form

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent JUSTIN ANTHONY DECESARE and shall become effective at 12 o'clock noon on MAR 4 2021.

IT IS SO ORDERED 2.2.21.

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

