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JUL 20 2021

DEPT. OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of:

CANTER BROKERAGE, INC;
JUSTIN ANTHONY DECESARE, individually
and as designated officer of Canter Brokerage, Inc;
WARREN L. SHARKEY;
JEFFREY CHARLES GRAHN

Respondents.

) DRE No. H-05151 SD

) OAH No. 2021010203

DECISION

The Proposed Decision dated June 4, 2021, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

Pursuant to Section 11517(c)(2) of the Government Code, the following corrections are made to the Proposed Decision.

Page 12, Paragraph 7: "...unlicensed activity when during the period..." shall be corrected as, "...unlicensed activity during the period..."

Page 14, Paragraph 12, line 11: "...he did not recall if he had if he renewed his license..." shall be corrected as, "...he did not recall if he had renewed his license..."

The Decision suspends or revokes one or more real estate licenses, but the right to a restricted salesperson license is granted to Respondent.

Pursuant to Government Code Section 11521, the Department of Real Estate may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain

why it was not previously presented.

The Department's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first.

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The right to reinstatement of a revoked real estate license or to the reduction of a penalty is controlled by Section 11522 of the Government Code. A copy of Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on AUG -9 2021.

IT IS SO ORDERED 7.15.21

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley

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

In the Matter of the Accusation Against:

**CANTER BROKERAGE, INC.; JUSTIN ANTHONY DESESARE,
individually and as former designated officer of Canter
Brokerage, Inc.; WARREN L. SHARKEY; JEFFREY CHARLES
GRAHN, Respondents**

Agency Case No. H-05151 SD

OAH No. 2021010203

PROPOSED DECISION

Marion Vomhof, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter via telephone and video on May 4, 2021, due to the ongoing COVID-19 pandemic.

Judith B. Vasan, Staff Counsel, represented complainant, Veronica Kilpatrick, Supervising Special Investigator, Department of Real Estate (department), State of California.

Warren L. Sharkey and Jeffrey Charles Grahn, respondents, appeared and represented themselves. Canter Brokerage, Inc. (Canter), respondent, defaulted and its license was revoked, effective December 10, 2020. Justin Anthony Decesare,

individually and as designated broker of record for Canter, respondent, executed a Stipulation and Agreement, which was adopted by the Real Estate Commissioner (commissioner) in a Decision and Order effective March 4, 2021.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on May 4, 2021.

FACTUAL FINDINGS

Jurisdictional Matters

LICENSING HISTORY

1. On January 16, 2014, Mr. Sharkey was issued salesperson license no. 01943666 and he became affiliated with responsible broker Jesse Daniel Mendez. From December 23, 2015, through January 15, 2018, his responsible broker was Canter. On January 15, 2018, Mr. Sharkey's salesperson license expired, and his license remained expired through November 5, 2018. On November 6, 2018, Mr. Sharkey's salesperson license was renewed and he again became affiliated with Canter; he remained affiliated with Canter through July 2, 2019. On April 30, 2020, Mr. Sharkey discontinued his affiliation with his then broker, Compass California III. Mr. Sharkey's current salesperson license will expire as of November 2, 2022, if not renewed or revoked.

2. On July 29, 2015, Mr. Grahm was issued salesperson license no. 01975770 with responsible broker Real Estate of the Pacific, Inc.; this affiliation was discontinued as of December 28, 2015. From December 29, 2015, through February 27, 2019, Mr. Grahm was not employed by a licensed real estate broker. On February 28, 2019, Mr.

Grahn became affiliated with responsible broker Canter. Mr. Grahn's salesperson license will expire on July 28, 2023, unless renewed or revoked.

THE ACCUSATION

3. On April 30, 2020, complainant signed the accusation in her official capacity. The accusation alleged three causes for discipline against Mr. Sharkey in that from January 16, 2018, through November 5, 2018, while his salesperson license was expired, he engaged in: 1) unlicensed activity when he conducted real estate activities and collected compensation; 2) misrepresentation or material misstatement on his November 6, 2018, salesperson renewal application; and 3) unlawful employment or payment of compensation.

4. The accusation alleged two causes for discipline against Mr. Grahn in that, for an unknown period of time, including April 1, 2017, through March 23, 2018, while he was not authorized by the department to conduct real estate activity under the employment of a licensed real estate broker, Mr. Grahn engaged in: 1) unlicensed activity when he performed real estate activities and collected compensation as dual agent for the Knotty Oak Circle property, as selling agent for the Jamaica Court property, and as second listing agent for the Iluminado Property; and 2) unlawful employment or payment of compensation when he accepted compensation for activity requiring a real estate license from Canter, a broker with whom he was not licensed.

5. Complainant requested the costs of investigation and enforcement against Mr. Sharkey and Mr. Grahn.

6. Mr. Sharkey and Mr. Grahn each filed a notice of defense and this hearing followed.

Evidence Presented at Hearing

7. Kathryn Stanbra has been a special investigator for the department for 18 years. She provided a declaration and testified at hearing, and her declaration was consistent with her testimony.

MR. SHARKEY

8. On September 24, 2018, an anonymous complaint was filed with the department, alleging the following regarding Mr. Sharkey:

Salesperson has an expired license and closed transactions after the expiration. License expired on 1/15/2018. [Jamaica Court property], San Diego 92109 closed 1/17/18, [Illuminado property], San Diego 92127 closed 3/22/2018, [Southernwood Court property], San Diego 92106 closed 5/23/2018. All transactions closed under the supervision of Canter Brokerage 01927052, Justin Decesare 01828532.

9. Investigator Stanbra was assigned to investigate the complaint. She contacted Canter, and at her request, Mr. Decesare provided her with a list of Canter's closed transactions from November 1, 2015 to October 31, 2018. A review of the transactions confirmed that during the period January 16, 2018, through November 5, 2018, while Mr. Sharkey's salesperson license was expired, he was involved in, and received compensation for, two real estate transactions as follows:

- Mr. Sharkey acted as listing agent on the Illuminado property, with an offer date of March 1, 2018, and closing date of March 23, 2018, resulting in commissions of \$29,966.35 to Mr. Sharkey and \$16,333.65 to Canter.

- Mr. Sharkey acted as selling agent on the Southernwood Way property, with an offer date of May 3, 2018, and closing date of May 23, 2018, resulting in commissions of \$39,912.50 to Mr. Sharkey and \$6,962.50 to Canter.

10. On February 12, 2019, the department wrote to Mr. Sharkey, requesting details on the above transactions and clarification on his November 6, 2018, renewal application. The letter stated, in part:

On 11/06/18, you indicated on your renewal application, you had not engaged in or been compensated for any real estate business as an agent in the last twelve months. You certified your application as true and correct under penalty of perjury via eLicensing and then requested Canter Brokerage Inc. also certify your renewal application via eLicensing.

11. On February 26, 2019, Mr. Sharkey responded in pertinent part:

I did not realize that my license was not active and was told by an employee at SDAR [San Diego Association of Realtors] when I called in to pay my dues that I needed to complete my continuing education. She instructed me on how to do the online classes and then submit my certificate. I did the classes as fast as possible and submitted the information. I accidentally checked the wrong box (I did not realize I had done at the time) because I was in such a rush to get the certificate in and my license activated. I did not

read what the box said. I have moved three times in the past year due to a divorce and did not receive anything in the mail or to my new email address. While I was paying my dues I had [sic] Sdar employee update my contact information and my new home address. I represented my parents on the buyers side for [the Southernwood property] and I represented my parents again on the listing side for [the Iluminado property]. I am not writing this as an excuse, this is just what happened during a very stressful time of my life. I have no other complaints, marks or any other negative issues [sic] on my license. I apologize and accept full responsibility. Broker of record will be furnishing all other documentation requested.

12. Mr. Sharkey stated that he was going through a "nasty" divorce and had not been receiving his mail at the time his license expired, and for a time thereafter. He first became aware that his license had expired when he called the department and was told he needed Continuing Education Units (CEUs), which he completed. He said it was also during this call that he learned that his license needed to be renewed every four years. On November 6, 2018, he met with Mr. Decesare "to try to get things in order." He recalled handing "the information" to Mr. Decesare and sitting with him in his office, "while I understood the documents were being processed."

Investigator Stanbra provided a copy of the November 6, 2018, Salesperson Renewal Application. The application requested a change of address and change of broker. A box was checked in front of the words "Certified by licensee via eLicensing," and a second box was checked in front of the words "Certified by employing broker via

eLicensing." Regarding his statement to the department that "I accidentally checked the wrong box," complainant asked Mr. Sharkey if he thought that he had filled out the application, and he responded, "Yes, but I don't know what form. I didn't realize I had been paid during this time." Mr. Sharkey later said that he did not recall if he renewed his license through eLicensing or if his "admin" renewed it for him. He does not have a "log in" to eLicensing.

13. Mr. Sharkey's testimony that he did not know that he was paid commission during the period his license was expired was not persuasive. He is humiliated by these events and does not believe he will be able to get a job if his license is restricted. He said this would be extremely harsh punishment. Mr. Sharkey said, "I made a mistake." "This is not an excuse; it is just the truth."

MR. GRAHN

14. During her review of Canter's transactions, Investigator Stanbra discovered that, during the period from April 1, 2017, through March 23, 2018, Mr. Grahn was not affiliated with a real estate broker, and not acting under the supervision and control of that broker. However, Mr. Grahn conducted these real estate transactions and collected compensation during that period as follows:

- Mr. Grahn acted as dual agent on the Knotty Oak Circle property, with an offer date of April 1, 2017, and closing date of April 26, 2017, resulting in commissions of \$28,327.50 to Mr. Grahn and an unknown amount to Canter.
- Mr. Grahn acted as selling agent for the Jamaica Court property, with an offer date of January 1, 2018, and a closing date of January 17, 2018,

resulting in commissions of \$11,448.75 to Mr. Grahn and \$2,662.50 to Canter.

- Mr. Grahn acted as second listing agent, along with Mr. Sharkey, for the Iluminado property, with an offer date of March 1, 2018, and closing date of March 23, 2018, resulting in a commission of \$400 to Mr. Grahn.

15. When Mr. Grahn became affiliated with Real Estate of the Pacific in August 2015, he completed an onboarding package provided by the broker. He left that firm in December 2015. At hearing Mr. Grahn was shown a letter dated December 31, 2015, addressed to him from the department. The letter stated that: Real Estate of the Pacific requested that the department remove Mr. Grahn's name from the firm's records as he was no longer affiliated with them; Mr. Grahn would need to obtain a new affiliation before conducting transactions; and the quickest way to affiliate was through online eLicensing, or he could submit a salesperson change application. Mr. Grahn said he does not recall receiving this letter and pointed out that it was mailed to an old address.

16. In February 2016, Mr. Grahn completed an onboarding package with Canter. On February 28, 2019, a Salesperson Change Application was filed with the department, with Mr. Grahn as applicant. This application provided the first notice to the department of Mr. Grahn's affiliation with Canter. Mr. Grahn reviewed this document at hearing and said that he has never seen this before, and he has never logged on to the department website. The form states "certified by licensee" but Mr. Grahn has no knowledge of this.

The department confirmed that they have no record of a submission by Mr. Grahn of a Salesperson Change Application from August 27, 2015, through February

27, 2019. Mr. Grahn said, "This was an administrative error on the part of Canter." He said, "This was my first year of real estate transactions." He thought Mr. Decesare "was taking care of it."

Mr. Grahn had no intent to deceive or defraud the department. He said he was never made aware that he was required to affiliate with a broker. However, he understands that he is ultimately responsible for his license.

Costs of Investigation and Enforcement

17. Complainant submitted a Certified Statement of Investigative Costs, reflecting that the department incurred costs of \$1,215.15 for the services of a special investigator, a supervising special investigator, and a program technician. Complainant submitted a Certified Statement of Enforcement Costs, reflecting that the department incurred costs of \$1,440 for the services of real estate counsel. The total costs of investigation and enforcement are \$2,655.15, and these costs are reasonable pursuant to Business and Professions Code section 10106.

LEGAL CONCLUSIONS

1. The purpose of administrative proceedings involving the discipline of a professional license is to protect the public. (*Small v. Smith* (1971) 16 Cal.App.3d 450, 457.)

Burden and Standard of Proof

2. In an action seeking to impose discipline against the holder of a real estate license, the burden of proof is on complainant to establish the charging

allegations by clear and convincing evidence. (*Realty Projects, Inc. v. Smith* (1973) 32 Cal.App.3d 204, 212.)

Applicable Disciplinary Law

3. Business and Professions Code section 10130 provides:

It is unlawful for any person to engage in the business of, act in the capacity of, advertise as, or assume to act as a real estate broker or a real estate salesperson within this state without first obtaining a real estate license from the department, or to engage in the business of, act in the capacity of, advertise as, or assume to act as a mortgage loan originator within this state without having obtained a license endorsement.

4. Business and Professions Code section 10131 provides that a real estate broker is a person who, for compensation or in expectation of compensation, does or negotiates to do any of the following acts:

- (a) Sells or offers to sell, buys or offers to buy, solicits prospective sellers or buyers of, solicits or obtains listings of, or negotiates the purchase, sale, or exchange of real property or a business opportunity.

5. Business and Professions Code section 10137 provides:

It is unlawful for any licensed real estate broker to retain, compensate, directly or indirectly, any person for performing any of the acts within the scope of this chapter

who is not a licensed real estate broker, or a real estate salesperson licensed under the responsible broker retaining or compensating him or her, or to retain or compensate, directly or indirectly, any licensee for engaging in any activity for which a mortgage loan originator license endorsement is required, if that licensee does not hold a mortgage loan originator license endorsement; provided, however, that a licensed real estate broker may pay a commission to a broker of another state.

No real estate salesperson shall accept compensation for activity requiring a real estate license from any person other than the broker under whom he or she is at the time licensed.

It is unlawful for any licensed real estate salesperson to pay any compensation for performing any of the acts within the scope of this chapter to any real estate licensee except through the broker under whom he or she is at the time licensed. A licensee may enter into an agreement with another licensee to share that compensation provided that any compensation is paid through the responsible broker.

For a violation of any of the provisions of this section, the commissioner may temporarily suspend or permanently revoke the license of the real estate licensee, in accordance with the provisions of this part relating to hearings.

6. Business and Professions Code section 10177 states, in part, that the commissioner may suspend or revoke the license of a real estate licensee who has done any of the following:

(a) Procured, or attempted to procure, a real estate license or license renewal, for himself or herself or a salesperson, by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a real estate license, license renewal, or reinstatement.

[11] . . . [11]

(d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000) of Part 2.

[11] . . . [11]

(g) Demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license.

Cause Exists to Discipline Mr. Sharkey's License

7. Cause exists to discipline Mr. Sharkey's license under Business and Professions Code sections 10130 and 10131 because he engaged in unlicensed activity ~~when~~ during the period January 16, 2018, through November 5, 2018, while his

salesperson license was expired, he conducted real estate activities and collected compensation as listing agent for the Iluminado property and as selling agent for the Southernwood Way property.

8. Cause exists to discipline Mr. Sharkey's license under Business and Professions Code section 10177, subdivision (a), because he engaged in misrepresentation or material misstatement when, on November 6, 2018, he submitted a salesperson renewal application and failed to disclose his real estate transactions and compensation, and failed to disclose his real estate transactions as a listing agent and selling agent, during the period January 16, 2018, through November 5, 2018, while his salesperson license was expired.

9. Cause exists under Business and Professions Code section 10137 to discipline Mr. Sharkey's license because he engaged in unlawful employment or payment of compensation when, during the period January 16, 2018, through November 5, 2018, while his salesperson license was expired, he accepted compensation for activity requiring a real estate license from Canter, a broker with whom he was not licensed.

Cause Exists to Discipline Mr. Grahn's License

10. Cause exists to discipline Mr. Grahn's license under Business and Professions Code sections 10130 and 10131 because he engaged in unlicensed activity when, during the period April 1, 2017, through March 23, 2018, while he was not authorized to conduct real estate activity under the employment of a licensed real estate broker, performed real estate activities and collected compensation as dual agent for the Knotty Oak Circle property, as selling agent for the Jamaica Court property, and as second listing agent for the Iluminado property.

11. Cause exists to discipline Mr. Grahn's license under Business and Professions Code section 10137 because he engaged in unlawful employment or payment of compensation when, during the period April 1, 2017, through March 23, 2018, while he was not authorized to conduct real estate activity under the employment of a licensed real estate broker, he accepted compensation for activity requiring a real estate license from Canter, a broker with whom he was not licensed.

Evaluation

12. Mr. Sharkey conducted real estate transactions and accepted compensation for those transactions during a period of time in which he was not licensed with the department. He provided the various reasons why he was not aware that his license had expired, but he also acknowledged his personal responsibility for his license.

In November 2018, Mr. Sharkey failed to disclose to the department that he had acted as agent and received compensation for transactions during the time his license was expired. His testimony regarding completion of the November 6, 2018, application was confusing and concerning. He said he believed Mr. Decesare had completed the application, but when asked about his statement that he had "checked the wrong box," he said he may have completed it himself but he didn't realize he had been paid during this time. Still later he said he did not recall if he had ~~if he~~ renewed his license through eLicensing or if his "admin" renewed it for him.

Mr. Sharkey's explanation that he had "checked the wrong box" was not credible, and his statement that he was not aware that he received compensation while his license was expired was not persuasive.

13. Mr. Grahn accepted compensation from Canter for three real estate transactions while he was not affiliated with Canter. He was a new salesperson and believed that Mr. Decesare provided the needed documents to the department; but he also acknowledged his personal responsibility for his license.

14. As licensed salespersons, Mr. Sharkey and Mr. Grahn each have a responsibility to be aware of and to abide by the department's rules and regulations. The department has a responsibility to protect the public and to ensure that each licensed salesperson is following the department's rules and regulations. The public will be sufficiently protected by placing Mr. Sharkey's license on probation for a period of two years and placing Mr. Grahn's license on probation for a period of two years.

Recovery of Reasonable Costs of Investigation and Enforcement

15. Business and Professions Code section 10106 authorizes the department to seek its investigation and enforcement costs.

16. In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court dealt with the issue of cost recovery, and noted that because a licensee with limited financial resources might forego a hearing for fear that a board might erroneously sustain the charges and order the licensee to reimburse costs, discretion must be used to ensure that a licensee with a meritorious claim is not deterred from exercising his or her right to a hearing. (*Id.* at p. 44.) The Court determined that five factors should be considered in determining whether a particular licensee should be ordered to pay the reasonable costs of investigation and prosecution under statutes like Business and Professions Code section 125.3: Whether the licensee has been successful at hearing in having charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his or her position, whether

the licensee raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct. (*Ibid.*)

17. Here, both Mr. Sharkey and Mr. Grahn engaged in the conduct that was the primary focus of the accusation. They each appeared to have a subjective good faith belief in the merits of their position. This was not a case in which the department conducted a disproportionately large investigation and prosecution to prove relatively innocuous misconduct.

18. Cause exists under Business and Professions Code section 10106 to direct Mr. Sharkey and Mr. Grahn to reimburse the department its reasonable costs of investigation and enforcement in the amount of \$2,655.15; Mr. Sharkey and Mr. Grahn shall each reimburse the department \$1,327.58.

ORDER

RESPONDENT WARREN L. SHARKEY

1. All licenses and licensing rights issued to respondent Warren L. Sharkey under the Real Estate Law are revoked; provided, however, that a restricted real estate salesperson license shall be issued to respondent under Business and Professions Code section 10156.5 if respondent makes application therefor and pays to the department the appropriate fee for the issuance of such a restricted license and \$1,327.58 in investigation and enforcement costs within 90 days from the effective date of this decision and order, unless otherwise ordered by the department through a payment plan. The restricted license issued to respondent shall be subject to all the provisions of Business and Professions Code section 10156.7 and shall be subject to

the following limitations, conditions and restrictions imposed under authority of Business and Professions Code section 10156.6:

- A. During the period of restriction, respondent shall report any arrest to the department within 72 hours of the occurrence of the arrest, or if incarcerated following arrest, within 72 hours of release from incarceration.
- B. The restricted license issued to respondent may be suspended prior to hearing by order of the commissioner in the event of respondent's conviction or plea of nolo contendere to a crime that is substantially related to respondent's fitness or capacity as a real estate licensee.
- C. The restricted license issued to respondent may be suspended prior to hearing by order of the commissioner on evidence satisfactory to the commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or conditions attaching to the restricted license.
- D. Respondent 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 two years have elapsed from the effective date of this decision and order.
- E. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the department certifying that:

(1) the employing broker has read the decision and order in this matter; and

(2) the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

F. Respondent shall, within nine months from the effective date of this decision and order, take and pass the Professional Responsibility Examination administered by the department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the commissioner may order the suspension of the restricted license until respondent passes the examination.

RESPONDENT JEFFREY CHARLES GRAHN

2. All licenses and licensing rights issued to respondent Jeffrey Charles Grahn under the Real Estate Law are revoked; provided, however, that a restricted real estate salesperson license shall be issued to respondent under Business and Professions Code section 10156.5 if respondent makes application therefor and pays to the department the appropriate fee for the issuance of such a restricted license and \$1,327.58 in investigation and enforcement costs within 90 days from the effective date of this decision and order, unless otherwise ordered by the department through a payment plan. The restricted license issued to respondent shall be subject to all the provisions of Business and Professions Code section 10156.7 and shall be subject to the following limitations, conditions and restrictions imposed under authority of Business and Professions Code section 10156.6:

A. During the period of restriction, respondent shall report any arrest to the department within 72 hours of the occurrence of the arrest, or if incarcerated following arrest, within 72 hours of release from incarceration. Respondent's failure to timely

notify the department shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

B. The restricted license issued to respondent may be suspended prior to hearing by order of the commissioner in the event of respondent's conviction or plea of nolo contendere to a crime that is substantially related to respondent's fitness or capacity as a real estate licensee.

C. The restricted license issued to respondent may be suspended prior to hearing by order of the commissioner on evidence satisfactory to the commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or conditions attaching to the restricted license.

D. Respondent 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 two years have elapsed from the effective date of this decision and order.

E. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the department certifying that:

- (1) the employing broker has read the decision and order in this matter; and
- (2) the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

F. Respondent shall, within nine months from the effective date of this decision and order, take and pass the Professional Responsibility Examination administered by the department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the commissioner may order the suspension of the restricted license until respondent passes the examination.

DATE: June 4, 2021

Marion J. Vomhof

MARION J. VOMHOF

Administrative Law Judge

Office of Administrative Hearings