

FILED

JUL 22 2021

DEPT. OF REAL ESTATE

By *John Aguirre*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	No. H-05186 SD
)	OAH No. 2021040275
HEATHER JULIANNA HENRY,)	
)	<u>STIPULATION AND</u>
Respondent.)	<u>AGREEMENT</u>

It is hereby stipulated by and between Respondent HEATHER JULIANNA HENRY, a.k.a. "Heather Julianna Miller" and "Heather Miller" ("Respondent"), in pro per. and the Complainant, acting by and through Kathy Yi, Counsel for the Department of Real Estate ("Department"), as follows for the purpose of settling and disposing of the Accusation filed on January 15, 2021, in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing 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 ("Stipulation").

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

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

10 4. Respondent, pursuant to the limitations set forth below, hereby admits
11 that the factual allegations in the Accusation filed in this proceeding are true and correct and
12 the Commissioner shall not be required to provide further evidence to prove such allegations.

13 5. It is understood by the parties that the Real Estate Commissioner may
14 adopt the Stipulation as his Decision in this matter, thereby imposing the penalty and sanctions
15 on Respondent's real estate license and license rights as set forth in the below Order. In the
16 event that the Commissioner in his discretion does not adopt the Stipulation, it shall be void
17 and of no effect, and Respondent shall retain the right to a hearing and proceeding on the
18 Accusation under all the provisions of the APA and shall not be bound by any admission or
19 waiver made herein.

20 6. The Order or any subsequent Order of the Commissioner made pursuant
21 to this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or
22 civil proceedings by the Department with respect to any matters which were not specifically
23 alleged to be causes for the Accusation in this proceeding.

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1 DETERMINATION OF ISSUES

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

5 The conduct, acts, or omissions of Respondent HEATHER JULIANNA
6 HENRY, as described in the Accusation, constitute cause for the suspension or revocation of all
7 real estate licenses and license rights of Respondent HEATHER JULIANNA HENRY under
8 California Business and Professions Code ("Code") sections 490 and 10177(b)(1).

9 ORDER

10 All licenses and licensing rights of Respondent HEATHER JULIANNA
11 HENRY under the Real Estate Law are revoked; provided, however, a restricted real estate
12 salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Code if
13 Respondent makes application therefor and pays to the Department the appropriate fee for the
14 restricted license within ninety (90) days from the effective date of this Decision. The
15 restricted license issued to Respondent shall be subject to all of the provisions of Section
16 10156.7 of the Code and to the following limitations, conditions, and restrictions imposed
17 under Section 10156.6 of the Code:

18 1. The restricted license issued to Respondent may be suspended prior to
19 hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction,
20 plea of guilty, or plea of nolo contendere to a crime which is substantially related to
21 Respondent's fitness or capacity as a real estate licensee.

22 2. The restricted license issued to Respondent may be suspended prior to
23 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the
24 Commissioner that Respondent has violated provisions of the California Real Estate Law, the
25 Subdivided Lands Law, Regulations of the Real Estate Commissioner, or the conditions
26 attaching to this restricted license.

27 3. Respondent shall not be eligible to apply for the issuance of an

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1 unrestricted real estate license nor for the removal of any of the conditions, limitations or
2 restrictions of a restricted license until at least **three (3) years** have elapsed from the effective
3 date of this Decision and Order.

4 4. Respondent shall submit with any application for license under an
5 employing broker, or any application for transfer to a new employing broker, a statement
6 signed by the prospective employing real estate broker, on a form approved by the Department
7 of Real Estate, which shall certify:

8 (a) That the employing broker has read the Decision of the

9 Commissioner which granted the right to a restricted license; and

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

13 5. Respondent shall, within nine (9) months from the effective date of this
14 Decision and Order, present evidence satisfactory to the Commissioner that Respondent has,
15 since the most recent issuance of an original or renewal real estate license, taken and
16 successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the
17 Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this
18 condition, Respondent's real estate license shall automatically be suspended until Respondent
19 presents evidence satisfactory to the Commissioner of having taken and successfully completed
20 the continuing education requirements. Proof of completion of the continuing education
21 courses must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013,
22 Sacramento, CA 95813-7013.


23 6. Respondent shall notify the Commissioner in writing within 72 hours of
24 any arrest by sending a certified letter to the Commissioner at the Department of Real Estate,
25 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the
26 date of Respondent's arrest, the crime for which Respondent was arrested and the name and
27 address of the arresting law enforcement agency. Respondent's failure to timely file written

1 notice shall constitute an independent violation of the terms of the restricted license and shall
2 be grounds for the suspension or revocation of that license.

3 7. Respondent shall pay the sum of \$626.70 for the Commissioner's
4 reasonable cost of the investigation and enforcement which led to this disciplinary action. Said
5 payment shall be in the form of a cashier's check made payable to the Department of Real
6 Estate. **The investigative and enforcement costs must be delivered to the Department of**
7 **Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the**
8 **effective date of this Decision and Order. Payment of investigation and enforcement costs**
9 **should not be made until the Stipulation has been approved by the Commissioner.**

10 8. If Respondent fails to satisfy condition 7, above, Respondent's restricted
11 license shall be suspended until Respondent presents evidence of payment. The Commissioner
12 shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure
13 Act to present such evidence that payment was timely made. The suspension shall remain in
14 effect until payment is made in full or until a decision providing otherwise is adopted following
15 a hearing held pursuant to this condition.

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17 DATED: 06/15/2021



Kathy Yi, Counsel
Department of Real Estate

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21 Respondent has read the Stipulation and Agreement and understands that
22 Respondent is waiving rights given to Respondent by the California Administrative Procedure
23 Act, (including but not limited to Sections 11521 and 11523 of the Government Code), and
24 Respondent willingly, intelligently, and voluntarily waives those rights, including the right to
25 seek reconsideration and the right to seek judicial review of the Commissioner's Decision and
26 Order by way of a writ of mandate.

27 Respondent agrees, acknowledges, and understands that Respondent cannot

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1 rescind or amend this Stipulation and Agreement. Respondent can signify acceptance and
 2 approval of the terms and conditions of this Stipulation and Agreement by electronically e-
 3 mailing a copy of the signature page, as actually signed by Respondent, to the Department.
 4 Respondent agrees, acknowledges, and understands that by electronically sending to the
 5 Department an electronic copy of Respondent's actual signature, as it appears on the
 6 Stipulation, that receipt of the emailed copy by the Department shall be as binding on
 7 Respondent as if the Department had received the original signed Stipulation. By signing this
 8 Stipulation, Respondent understands and agrees that Respondent may not withdraw
 9 Respondent's agreement or seek to rescind the Stipulation prior to the time the Commissioner
 10 considers and acts upon it or prior to the effective date of the Stipulation and Order.

11 Respondent can signify acceptance and approval of the terms and conditions of
 12 this Stipulation and Agreement by mailing the original signed Stipulation and Agreement to:
 13 Kathy Yi, Department of Real Estate, 320 West 4th Street, Suite 350, Los Angeles, California
 14 90013-1105.

15 DATED: 06/15/2021

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Heather Henry

HEATHER JULIANNA HENRY

Respondent

16 The foregoing Stipulation and Agreement is hereby adopted by me as my
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 18 Decision in this matter as to Respondent HEATHER JULIANNA HENRY and shall become
 19 effective at 12 o'clock noon on AUG 12 2021

20 IT IS SO ORDERED

7.15.21

21 DOUGLAS R. McCAULEY
 22 REAL ESTATE COMMISSIONER

Douglas R. McCauley

23 H-05186 SD - HEATHER JULIANNA HENRY - STIPULATION AND AGREEMENT