

**FILED**

**DEC 08 2022**

**DEPT. OF REAL ESTATE**

By 

1 Department of Real Estate  
2 320 West 4th Street, Suite 350  
3 Los Angeles, California 90013

4 Telephone: (213) 576-6982  
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8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

No. H-05279 SD

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23 Respondents.

STIPULATION AND  
AGREEMENT FOR  
EXP REALTY OF  
CALIFORNIA, INC. AND  
DEBORAH LYNN PENNY

24 It is hereby stipulated by and between Respondents EXP REALTY OF  
25 CALIFORNIA, INC. ("EROCI") and DEBORAH LYNN PENNY ("PENNY"), individually and  
26 as designated officer of eXp Realty of California, Inc., both represented by Brian Slome, Esq.,  
27

1 and the Complainant, acting by and through Diane Lee, Counsel for the Department of Real  
2 Estate, as follows for the purpose of settling and disposing of the First Amended Accusation filed  
3 on August 9, 2022, in this matter:

4 1. All issues which were to be contested and all evidence which were to be  
5 presented by Complainant and Respondents EROCI and PENNY at a formal hearing on the First  
6 Amended Accusation, which hearing was to be held in accordance with the provisions of the  
7 California Administrative Procedure Act ("APA"), shall instead and in place thereof be  
8 submitted solely on the basis of the provisions of this Stipulation and Agreement (Stipulation").

9 2. Respondents EROCI and PENNY received and read, and understand the  
10 Statement to Respondent, the Discovery Provisions of the APA, and the First Amended  
11 Accusation filed by the Department of Real Estate in this proceeding.

12 3. Respondents EROCI and PENNY filed Notices of Defense pursuant to  
13 California Government Code section 11506 for the purpose of requesting a hearing on the  
14 allegations in the First Amended Accusation, and objected to the First Amended  
15 Accusation. Respondents EROCI and PENNY hereby freely and voluntarily withdraw said  
16 Notices of Defense and their objection to the First Amended Accusation. Respondents EROCI  
17 and PENNY acknowledge that they understand that by withdrawing said Notices of  
18 Defense they thereby waive their right to require the Commissioner to prove the allegations in  
19 the First Amended Accusation at a contested hearing held in accordance with the provisions of  
20 the APA, and that Respondents EROCI and PENNY will waive other rights afforded to them in  
21 connection with the hearing such as the right to present evidence in their defense and the right to  
22 cross-examine witnesses.

23 4. This Stipulation is based on the factual allegations contained in the First  
24 Amended Accusation. In the interest of expedience and economy, Respondents EROCI and  
25 PENNY choose not to contest these allegations, and understand that, as a result thereof, these  
26 factual allegations will serve as a prima facie basis for the disciplinary action stipulated to  
27

1 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove  
2 said factual allegations.

3 5. It is understood by the parties that the Real Estate Commissioner may adopt  
4 this Stipulation as his Decision in this matter thereby imposing the penalties and sanctions on  
5 the real estate licenses and license rights of Respondents EROCI and PENNY as set forth in the  
6 below "Order." In the event that the Commissioner in his discretion does not adopt this  
7 Stipulation, it shall be void and of no effect, and Respondents EROCI and PENNY shall retain  
8 the right to a hearing and proceeding on the First Amended Accusation under the provisions of  
9 the APA and shall not be bound by this Stipulation herein.

10 6. The Order or any subsequent Order of the Real Estate Commissioner made  
11 pursuant to this Stipulation herein shall not constitute an estoppel, merger, or bar to any further  
12 administrative or civil proceedings by the Department of Real Estate with respect to any matters  
13 which were not specifically alleged to be causes for First Amended Accusation in this  
14 proceeding, but do constitute a bar, estoppel, and merger as to any allegations specifically and  
15 actually contained in the First Amended Accusation against Respondents EROCI and PENNY  
16 herein.

17 7. Respondents EROCI and PENNY understand that by agreeing to this  
18 Stipulation, Respondents EROCI and PENNY agree to pay, pursuant to California Business and  
19 Professions Code section 10106, the cost of the investigation and enforcement. The amount of  
20 investigation and enforcement cost is \$9,138.10.

21  
22 DETERMINATION OF ISSUES

23 By reason of the foregoing, it is stipulated and agreed that the following  
24 determination of issues shall be made:

25 The conduct, acts, or omissions of Respondents EXP REALTY OF  
26 CALIFORNIA, INC. and DEBORAH LYNN PENNY, as described in the First Amended  
27 Accusation and Paragraph 4, above, are a basis for discipline of Respondent EROCI's and

1 PENNY's licenses and license rights pursuant to California Business and Professions  
2 Code section 10177(h) and Title 10, Chapter 6 of the California Code of Regulations, section  
3 2725.

4  
5 ORDER

6 WHEREFORE, THE FOLLOWING ORDER is hereby made:

7  
8 (EXP REALTY OF CALIFORNIA, INC.: STAYED SUSPENSION)

9 I.

10 All licenses and licensing rights of Respondent EROCI under the Real Estate Law  
11 are suspended for a period of ninety (90) days from the effective date of this Decision; provided,  
12 however, that the ninety (90) days of said suspension shall be stayed for three (3) years upon the  
13 following terms and conditions:

14 1. Respondent EROCI pays a monetary penalty pursuant to California Business  
15 and Professions Code section 10175.2 at the rate of \$100.00 per day for a monetary penalty of  
16 \$9,000.00 total.

17 a. Said payment shall be in the form of a cashier's check or certified check made  
18 payable to the Recovery Account of the Real Estate Fund. Said check must be received by the  
19 Department of Real Estate prior to the effective date of the Decision in this matter.

20 b. If Respondent EROCI fails to pay the monetary penalty in accordance with the  
21 terms of the Decision, the Commissioner may, without a hearing, order the immediate execution  
22 of all or any part of the stayed suspension, in which event Respondent EROCI shall not be  
23 entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department of  
24 Real Estate under the terms of this Decision.

25 2. Within forty-five (45) days of the effective date of this Decision, EROCI shall  
26 revise its process for onboarding new real estate licensees as follows: EROCI shall provide its  
27 new real estate licensees with a packet that must be signed and initialed by the new real estate

1 licensees. This packet will include Real Estate Laws and Regulations pertaining to “first point of  
2 contact” (i.e., advertising and marketing) materials, and relative examples for both print and  
3 online content. In addition, EROCI will require its new real estate licensees to identify their  
4 websites and social media (including the URL and/or username/handle if applicable) that are  
5 governed by the Real Estate Laws and Regulations, and certify that they have reviewed their  
6 websites and social media in light of the Real Estate Laws and Regulations within thirty (30)  
7 days of onboarding.

8           3. Within forty-five (45) days of the effective date of this Decision, EROCI shall  
9 designate at least one full-time staff responsible for proactively checking the online websites and  
10 social media of its existing real estate licensees (i.e., broker associates and salespersons) and  
11 making a list of such websites and social media, answering its real estate licensees’ questions  
12 about “first point of contact” materials, compiling a database of its real estate licensees’ websites  
13 and social media, and documenting any and all instances where its licensees violated EROCI’s  
14 “first point of contact” policies and the resulting correction(s) and/or consequence(s).

15           4. Within sixty (60) days of the effective date of this Decision, EROCI will send  
16 to all of its real estate licensees:

17           a. The name(s), e-mail address(es), and phone number(s) of its full-time staff  
18 described in Paragraph 3, above, to all of its real estate licensees, so its real estate licensees can  
19 contact staff with questions and concerns about “first point of contact” materials. If the staff  
20 and/or their contact information changes, EROCI shall notify all of its licensees of such  
21 change(s) within thirty (30) days of the change(s).

22           b. A copy of RE559.

23           5. Effective no later than the effective date of this Decision, EROCI will enforce  
24 violations of its “first point of contact” policies with the first violation resulting in the real estate  
25 licensee losing privileges to be paid directly from escrow for either thirty (30) days from when  
26 EROCI first discovered the violation(s) or until the licensee corrects the violation(s) and submits  
27 proof satisfactory to EROCI of the correction(s), whichever results in the greater amount of time.

1 Depending on severity, a second violation may result in the requirement that the real estate  
2 licensee use EROCI's transaction coordinators. A third violation may result in off-boarding.

3 6. If Respondent EROCI meets the terms stated in Paragraph nos. 1 to 5,  
4 inclusive, which immediately precede this paragraph and include, but are not limited to, paying  
5 the monetary penalty, revising its on-boarding policies, and hiring full-time staff, the stay hereby  
6 granted shall become permanent three (3) years from the effective date of the Decision.

7  
8 (DEBORAH LYNN PENNY: STAYED SUSPENSION)

9 II.

10 All licenses and licensing rights of Respondent PENNY under the Real Estate  
11 Law are suspended for a period of fifteen (15) days from the effective date of this Decision;  
12 provided, however, that the fifteen (15) days of said suspension shall be stayed for three (3) years  
13 if Respondent PENNY pays a monetary penalty pursuant to California Business and Professions  
14 Code section 10175.2 at the rate of \$250.00 per day for a monetary penalty of \$3,750.00 total.

15 1. Said payment shall be in the form of a cashier's check or certified check made  
16 payable to the Recovery Account of the Real Estate Fund. Said check must be received by the  
17 Department of Real Estate prior to the effective date of the Decision in this matter.

18 2. If Respondent PENNY fails to pay the monetary penalty in accordance with  
19 the terms of the Decision, the Commissioner may, without a hearing, order the immediate  
20 execution of all or any part of the stayed suspension, in which event Respondent PENNY shall  
21 not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the  
22 Department of Real Estate under the terms of this Decision.

23 3. If Respondent PENNY pays the monetary penalty and if there is no cause for  
24 disciplinary action involving any term and/or condition of Respondent EROCI's suspension as  
25 stated above on pages 4 to 6, inclusive, while Respondent PENNY is the designated officer of  
26 Respondent EROCI, the stay hereby granted shall become permanent three (3) years from the  
27 effective date of the Decision.

1 (EROCI AND PENNY: INVESTIGATION AND ENFORCEMENT COSTS)

2 III.

3 Respondents EROCI and PENNY shall, within thirty (30) days from the effective  
4 date of this Decision and Order, pay the sum of \$9,138.10 with joint and several liability for the  
5 Commissioner's reasonable cost for investigation and enforcement which led to this disciplinary  
6 action. Said payment shall be in the form of a cashier's check made payable to the Department of  
7 Real Estate. The investigative and enforcement costs must be delivered to the Department of  
8 Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, within thirty (30)  
9 days from the effective date of this Decision and Order. If the costs of investigation and  
10 enforcement are not paid within thirty (30) days from the effective date of this Decision and  
11 Order, the licenses and license rights of Respondents EROCI and PENNY shall automatically be  
12 suspended until full payment is made.

13  
14 DATED: 11/11/2022

  
\_\_\_\_\_  
15 DIANE LEE,  
16 Counsel for Department of Real Estate

17 \* \* \*

18 EXECUTION OF THE STIPULATION

19 I, DEBORAH LYNN PENNY, individually and as designated officer of eXp  
20 Realty of California, Inc., have read the Stipulation and discussed it with our attorney, Brian  
21 Slome, Esq. Its terms are understood by me and eXp Realty of California, Inc., and are agreeable  
22 and acceptable to me and eXp Realty of California, Inc. I understand that I am waiving rights  
23 given to me and eXp Realty of California, Inc. by the California APA (including, but not limited  
24 to, California Government Code sections 11506, 11508, 11509, and 11513), and I, individually  
25 and as designated officer of eXp Realty of California, Inc., willingly, intelligently, and  
26 voluntarily waive those rights, including, but not limited to, the right of requiring the  
27 Commissioner to prove the allegations in the First Amended Accusation at a hearing at

1 which eXp Realty of California, Inc. and I would have the right to cross-examine witnesses  
2 against me and eXp Realty of California, Inc. and to present evidence in defense and mitigation  
3 of the charges.

4  
5 MAILING AND E-MAIL

6 Respondents EROCI and PENNY shall mail the original signed signature page of  
7 this Stipulation herein to Department of Real Estate, Attention: Legal Section – Diane Lee, 320  
8 West Fourth Street, Suite 350, Los Angeles, California 90013-1105.

9 In the event of time constraints before an administrative hearing, Respondents  
10 EROCI and PENNY can signify acceptance and approval of the terms and conditions of this  
11 Stipulation and Agreement by emailing a scanned copy of the signature page, as actually signed  
12 by Respondents EROCI and PENNY, to the Department counsel assigned to this case.  
13 Respondents EROCI and PENNY agree, acknowledge, and understand that by electronically  
14 sending the Department a scan of Respondents EROCI's and PENNY's actual signatures  
15 as they appear on the Stipulation and Agreement that receipt of the scan by the Department shall  
16 be binding on Respondents EROCI and PENNY as if the Department had received the original  
17 signed Stipulation.

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1 Respondents EROCI's and PENNY's signatures below constitute acceptance and  
2 approval of the terms and conditions of this Stipulation. Respondents EROCI and PENNY agree,  
3 acknowledge, and understand that by signing this Stipulation, Respondents EROCI and PENNY  
4 are bound by its terms as of the date of such signatures and that this agreement is not subject to  
5 rescission or amendment at a later date except by a separate Decision and Order of the Real  
6 Estate Commissioner.

7  
8 DATED: 11 / 08 / 2022

*Deborah Penny*

EXP REALTY OF CALIFORNIA, INC., by Deborah Lynn Penny, designated officer of eXp Realty of California, Inc.

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11 DATED: 11 / 08 / 2022

*Deborah Penny*

DEBORAH LYNN PENNY, individually and as designated officer of eXp Realty of California, Inc.

12  
13  
14 DATED: 11/10/2022

*Brian Slove*

BRIAN SLOME, ESQ.,  
Attorney for Respondents EXP REALTY OF CALIFORNIA, INC. and DEBORAH LYNN PENNY  
*As to form*

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18  
19 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to  
20 Respondents EXP REALTY OF CALIFORNIA, INC. and DEBORAH LYNN PENNY,  
21 and shall become effective at 12 o'clock noon on \_\_\_\_\_.

22 IT IS SO ORDERED \_\_\_\_\_.

23  
24 DOUGLAS R. McCAULEY  
25 REAL ESTATE COMMISSIONER  
26  
27 \_\_\_\_\_

1 Respondents EROCI's and PENNY's signatures below constitute acceptance and  
2 approval of the terms and conditions of this Stipulation. Respondents EROCI and PENNY agree,  
3 acknowledge, and understand that by signing this Stipulation, Respondents EROCI and PENNY  
4 are bound by its terms as of the date of such signatures and that this agreement is not subject to  
5 rescission or amendment at a later date except by a separate Decision and Order of the Real  
6 Estate Commissioner.

7  
8 DATED: \_\_\_\_\_

EXP REALTY OF CALIFORNIA, INC., by Deborah Lynn  
Penny, designated officer of eXp Realty of California, Inc.

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10  
11 DATED: \_\_\_\_\_

DEBORAH LYNN PENNY, individually and as  
designated officer of eXp Realty of California, Inc.

12  
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14 DATED: \_\_\_\_\_

BRIAN SLOME, ESQ.,  
Attorney for Respondents EXP REALTY OF  
CALIFORNIA, INC. and DEBORAH LYNN PENNY  
*As to form*

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17 \* \* \*

18  
19 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to  
20 Respondents EXP REALTY OF CALIFORNIA, INC. and DEBORAH LYNN PENNY,  
21 and shall become effective at 12 o'clock noon on December 28, 2022.

22 IT IS SO ORDERED 12.2.22.

23  
24 DOUGLAS R. McCAULEY  
25 REAL ESTATE COMMISSIONER

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27 