

FILED

AUG 14 2023

DEPT. OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of) DRE No. H-05337 SD
)
KHASHAYAR FAILY,)
)
Respondent.)

ORDER NUNC PRO TUNC MODIFYING DECISION

It having been called to the attention of the Real Estate Commissioner that there is an error in the Stipulation and Agreement in Settlement and Order filed on May 31, 2023, and good cause appearing therefor, the following correction is made to the Decision pursuant to California Government Code section 11517(c)(2). Respondent's NMLS number on page 5, line 18 is corrected to be 236159.

The Decision nunc pro tunc to May 31, 2023 is effective immediately.

IT IS SO ORDERED 8/14/23.

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER



By: Marcus L. McCarther
Chief Deputy Real Estate Commissioner

FILED

MAY 31 2023

DEPT. OF REAL ESTATE

By _____

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

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation Against)	DRE No. H-05337 SD
)	
)	
KHASHAYAR FAILY,)	<u>STIPULATION AND AGREEMENT</u>
)	<u>IN SETTLEMENT AND ORDER</u>
Respondent.)	

It is hereby stipulated by and between KHASHAYAR FAILY (“Respondent”), represented by Negin Yamini, Esq., and the Complainant, acting by and through Diane Lee, Esq., Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on September 20, 2022, 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 received, read, and understands the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate (“Department”) in this proceeding.

1 3. Respondent understands by signing this Stipulation and Agreement, provided this
2 Stipulation and Agreement is accepted and signed by the Real Estate Commissioner, Respondent
3 is waiving Respondent's right to require the Commissioner to prove the allegations in the
4 Accusation at a contested hearing held in accordance with the provisions of the APA, and that
5 Respondent will waive other rights afforded to Respondent in connection with the hearing, such
6 as the right to present evidence in her defense and the right to cross-examine witnesses.

7 4. This Stipulation is based on the factual allegations contained in the Accusation filed in
8 this proceeding. In the interest of expedience and economy, Respondent chooses not to contest
9 these factual allegations, but to remain silent and understands that, as a result thereof, these
10 factual statements, will serve as a prima facie basis for the disciplinary action stipulated to
11 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove
12 such allegations.

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

20 6. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to
21 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 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 the
3 purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed
4 that the following determination of issues shall be made:

5 The conduct, acts or omissions of Respondent KHASHAYAR FAILY, as set forth in the
6 Accusation, are a basis for discipline of Respondent’s real estate license, mortgage loan
7 originator (“MLO”) license endorsement, and license rights pursuant to the Real Estate Law, Part
8 1 of Division 4 of the California Business and Professions Code (“Code”) sections 10166.05(c),
9 10166.051(a), 10166.051(b), 10177(d), and 10177(g) and/or 10177(j).

10
11 ORDER

12 WHEREFORE, THE FOLLOWING ORDER is hereby made:

13
14 I. SUSPENSION OF MLO LICENSE ENDORSEMENT

15 1. All MLO license endorsements and endorsement rights of Respondent under the Real
16 Estate Law are suspended for a period of ninety (90) days from the effective date of this
17 Decision and Order.

18 2. If the suspension of the MLO license endorsement expires, Respondent may submit a
19 renewal application for an MLO license endorsement through the NMLS during the renewal
20 and/or reinstatement periods, with the understanding that the Department reserves the rights to
21 fully investigate such renewal application for MLO license endorsement and may either approve
22 or deny such application pursuant to the normal process for endorsement investigations.

23 3. Respondent understands that if Respondent fails to submit a renewal application before
24 March 1, 2023, Respondent must submit a new application through NMLS, and may be subject
25 to payment of filing fees, background and credit checks, fingerprinting, and other NMLS
26 requirements.


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1 no such determination be made, the stay imposed herein shall become permanent.

2
3 V. INVESTIGATION AND ENFORCEMENT COSTS

4 Respondent shall, within three (3) months of the effective date of this Decision and
5 Order, pay the sum of \$1,211.90 for the Commissioner's reasonable costs of the investigation
6 (\$539.90) and enforcement (\$672.00), which led to this disciplinary action. Said payment shall
7 be in the form of a cashier's check made payable to the Department of Real Estate. The payment
8 of the investigative and enforcement costs must be delivered to the Department of Real Estate,
9 Flag Section, at P.O. Box 137013, Sacramento, CA 95813-7013, within three (3) months from
10 the effective date of this Decision and Order. If the costs of investigation and enforcement are
11 not paid within three (3) months from the effective date of this Decision and Order, the license
12 and license rights of Respondent shall automatically be suspended until full payment is made.

13
14 DATED: 05/09/2023

15 
16 Diane Lee, Counsel for
17 Department of Real Estate

18 EXECUTION OF THE STIPULATION

19 I have read the Stipulation and its terms are understood by me and are agreeable and
20 acceptable to me. I understand that I am waiving rights given to me by the California
21 Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and
22 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights,
23 including the right of requiring the Commissioner to prove the allegations in the Accusation at a
24 hearing at which I would have the right to cross-examine witnesses against me and to present
25 evidence in defense and mitigation of the charges.

26 Respondent shall mail the original signed signature page of the stipulation herein to
27 Diane Lee, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350,
Los Angeles, California 90013-1105.

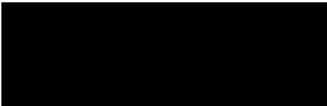
1 In the event of time constraints before an administrative hearing, Respondent can signify
2 acceptance and approval of the terms and conditions of this Stipulation and Agreement by
3 emailing a scanned copy of the signature page, as actually signed by Respondent, to the
4 Department counsel assigned to this case. Respondent agrees, acknowledges, and understands
5 that by electronically sending the Department a scan of Respondent's actual signature as it
6 appears on the Stipulation and Agreement that receipt of the scan by the Department shall be
7 binding on Respondent as if the Department had received the original signed Stipulation and
8 Agreement.

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

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15 DATED: 5/9/2023 _____

16 
17 KHASHAYAR FAILY
18 Respondent

19 DATED: 5/9/2023 _____

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21 NEGIN YAMINI, ESQ.
22 Attorney for Respondent KHASHAYAR FAILY
23 *Approved as to Form*

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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent KHASHAYAR FAILY and shall become effective at 12 o'clock noon on June 20, 2023.

IT IS SO ORDERED 5.26.23.

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

