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	1 2 3 4 5	DEPARTMENT OF REAL ESTATE P. O. Box 187007 Sacramento, CA 95818-7007 Telephone: (916) 227-0789 DEC 1 3 2011 DEPARTMENT OF REAL ESTATE By
	. 7	
	8 9 10	BEFORE THE DEPARTMENT OF REAL ESTATE
	11	STATE OF CALIFORNIA
	. 12	* * *
	13	In the Matter of the Accusation of )
	15	) NO. H-5562 SAC KIRK ALLEN ALDERSON, )
·	16 17 18	Respondent. ) )
	19	It is hereby stipulated by and between KIRK ALLEN ALDERSON
	20	(herein "Respondent") and his attorney Paul Chan, and the Complainant, acting by and through
	21	Annette E. Ferrante, Counsel for the Department of Real Estate, as follows, for the purpose of
	22	settling and disposing the Accusation filed on March 11, 2011, in this matter.
	23	1. All issues which were to be contested and all evidence which was to be
	24	presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing
	25	was to be held in accordance with the provisions of the Administrative Procedures Act (APA),
	26	shall instead and in place thereof be submitted solely on the basis of the provisions of this
	27	Stipulation and Agreement.
	·· ·	FILE NO. H-5562 SAC - 1 - KIRK ALLEN ALDERSON

Respondent has received, read and understands the Statement to Respondent,
 and the Discovery Provisions of the APA filed by the Department of Real Estate (herein the
 "Department") in this proceeding.

4 3. Respondent filed his Notice of Defense pursuant to Section 11505 of the 5 Government Code for the purpose of requesting a hearing on the allegations in this matter. 6 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent 7 acknowledges that he understands that by withdrawing said Notice of Defense he will thereby 8 waive his right to require the Real Estate Commissioner (herein the "Commissioner") to prove 9 the allegations in the Accusation at a contested hearing held in accordance with the provisions of 10 the APA, and that he will waive other rights afforded to him in connection with the hearing such 11 as the right to present evidence in defense of the allegations pertaining to him in the Accusation 12 and the right to cross-examine witnesses.

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

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

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

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KIRK ALLEN ALDERSON

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2	DETERMINATION OF ISSUES
3	By reason of the foregoing stipulations, admissions and waivers, and for the
. 4	purpose of settlement of the pending Accusation, without a hearing, it is stipulated and agreed
5	that the following Determination of Issues shall be made:
6	The acts and/or omissions of Respondent as described in the Accusation violate
7	Sections <u>490</u> and <u>10177(b</u> ) of the California Business and Professions Code (herein the "Code").
8	***
9	ORDER
10	1. The real estate broker license and license rights of Respondent KIRK ALLEN
11	ALDERSON are hereby revoked; provided, however, a restricted real estate broker license shall
12	be issued to Respondent pursuant to Section 10156.6 of the Code, if Respondent makes
13	application therefore and pays to the Department of Real Estate the appropriate fee for said
. 14	license within ninety (90) days from the effective date of this Decision.
15	2. The restricted license issued to Respondent shall be subject to all of the
16	provisions of Section 10156.7 of the Code and to the following limitations, conditions, and
17	restrictions imposed under authority of Section 10156.6 of the Code:
18	(a) The restricted license issued to Respondent may be suspended
19	prior to hearing by Order of the Commissioner in the event of Respondent's conviction
- 20	(including by plea of guilty or nolo contendere) to a crime which is substantially related
21	to Respondent's fitness or capacity as a real estate licensee; and,
22	(b) The restricted license issued to Respondent may be suspended
23	prior to hearing by Order of the Commissioner on evidence satisfactory to the
24	Commissioner that Respondent has violated provisions of the California Real Estate Law,
25	the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or conditions
26	attaching to the restricted license.
27	
	FILE NO. H-5562 SAC - 3 - KIRK ALLEN ALDERSON

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

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 real estate license, nor the removal of any of the conditions of the restricted license, until three

 3
 (3) years have elapsed from the effective date of this Decision.

<u>4</u> <u>4. Respondent shall notify the Commissioner in writing within 72 hours of any</u>
arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post
Office Box 187000, Sacramento, CA 95818-7000. The letter shall set forth the date of
Respondent's arrest, the crime for which Respondent was arrested and the name and address of
the arresting law enforcement agency. Respondent's failure to timely file written notice shall
constitute an independent violation of the terms of the restricted license and shall be grounds for
the suspension or revocation of that license.

11 5. Respondent shall, within nine (9) months from the effective date of this 12 Decision, present evidence satisfactory to the Commissioner that Respondent has, since the 13 most recent issuance of an original or renewal real estate license, taken and successfully 14 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate 15 Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the 16 Commissioner may order the suspension of the restricted license until the Respondent presents 17 such evidence. The Commissioner shall afford Respondent the opportunity for hearing pursuant 18 to the Administrative Procedure Act to present such evidence.

19 10/26/11 20 21 Counsel for Complainant /// 22 23 III24 /// 25 III26 27 FILE NO. H-5562 SAC KIRK ALLEN ALDERSON

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I have read the Stipulation and Agreement and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California APA, and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations as to me in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

8 Respondent can signify acceptance and approval of the terms and conditions of 9 this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by 10 Respondent, to the Department at fax number (916) 227-9458. Respondent agrees, 11 acknowledges and understands that by electronically sending to the Department a fax copy of his 12 actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by 13 the Department shall be as binding on Respondent as if the Department had received the original 14 signed Stipulation and Agreement.

16 17

LEN ALDERSON.

18 Respondent 19 20 21 I have reviewed the Stipulation and Agreement as to form and waittent and 22 have advised nev client accordingly. 23 24 25 PAUL (HAN, Attorney for Respondent 26 27 IIIKIRE ALLEN ALDERSON FILE NO. H-5562 SAC



1	JOHN W. BARRON, Counsel (SBN 171246)		
2	Department of Real Estate P. O. Box 187007 MAR 1 1 2011		
3	Sacramento, CA 95818-7007 DEPARTMENT OF REAL ESTATE		
· 4	Telephone: (916) 227-0789 (main)		
5	(916) 227-0792 (direct)		
6			
7.			
8	BEFORE THE DEPARTMENT OF REAL ESTATE		
9	, STATE OF CALIFORNIA		
10	***		
11			
12	In the Matter of the Accusation of ) NO. H-5562 SAC		
13	)		
14	KIRK ALLEN ALDERSON, ) <u>ACCUSATION</u> )		
15	Respondent. )		
16			
17	The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner		
18	of the State of California, for cause of Accusation against KIRK ALLEN ALDERSON,		
19	(hereafter "Respondent"), is informed and alleges as follows:		
20	1		
21	The Complainant makes this Accusation against Respondent in her official		
22	capacity.		
23	2		
24	Respondent is presently licensed and/or has license rights under the Real Estate		
25	Law, Part 1 of Division 4 of the Business and Professions Code, (hereafter "the Code"), as a		
26	real estate broker.		
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2	Respondent is presently licensed and/or has license rights under the Code as the
3	designated broker/officer of Fidelity National Capital, Inc.
4	4
. 5	Respondent presently possesses a mortgage loan originator license endorsement
6	issued by the Department.
7	5
8	On or about September 29, 2009, the Superior Court of the State of California,
9	County of Sacramento, Case No. 09M01647, Respondent was convicted of violating Section
10	647(a) of the California Penal Code (disorderly conduct – engaging in lewd conduct in public
11	place), a misdemeanor and a crime which bears a substantial relationship under Section 2910,
12	Title 10, California Code of Regulations, to the qualifications, functions or duties of a real
13	estate licensee.
14	6
15	The facts alleged in Paragraph 5, above, constitute a cause under Sections 490
16	(conviction of crime) and 10177(b) (conviction of crime substantially related to qualifications,
17	functions or duties of real estate licensee) of the Code for suspension or revocation of all
18	licenses and license rights of Respondent under the Real Estate Law.
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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Code, and for such other and further relief as may be proper under the provisions of law. MA O ML TRIC SOMMERS Deputy Real Estate Commissioner Dated at Sacramento, California, this \ 2011. day of 3 -