

**FILED**

**MAR 05 2024**

**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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7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11	In the Matter of the Accusation of	)	No. H-05710 SD
		)	
12	DAMIEN DONALD MCNELLIS;	)	
	MISHICOT SERVICES, INC.; and	)	
13	<u>KEVIN H. WONG</u> , individually and	)	STIPULATION AND
	As designated officer of Mishicot	)	AGREEMENT FOR
14	Services, Inc.,	)	KEVIN H. WONG
15		)	
	Respondents.	)	
16		)	

17 It is hereby stipulated by and between Respondent KEVIN H. WONG  
18 (“Respondent”), represented by Joshua W. Miller, Esq., and the Complainant, acting by and  
19 through Diane Lee, Counsel for the Department of Real Estate, as follows for the purpose of  
20 settling and disposing of the First Amended Accusation (“Accusation”) filed on or about April  
21 11, 2023, in this matter:

22 1. All issues which were to be contested and all evidence which were to be  
23 presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing  
24 was to be held in accordance with the provisions of the California Administrative Procedure Act  
25 (“APA”), shall instead and in place thereof be submitted solely on the basis of the provisions of  
26 this Stipulation and Agreement (“Stipulation”).  
27

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

4                   3. Respondent filed a Notice of Defense pursuant to California Government Code  
5 section 11506 for the purpose of requesting a hearing on the allegations in the Accusation.  
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 thereby  
8 waives his right to require the Commissioner to prove the allegations in the Accusation at a  
9 contested hearing held in accordance with the provisions of the APA and that Respondent will  
10 waive other rights afforded to him in connection with the hearing, such as the right to present  
11 evidence in his defense and the right to cross-examine witnesses.

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

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

21                   6. The Order or any subsequent Order of the Real Estate Commissioner made  
22 pursuant to this Stipulation herein shall not constitute an estoppel, merger, or bar to any further  
23 administrative or civil proceedings by the Department of Real Estate with respect to any matters  
24 which were not specifically alleged to be causes for Accusation in this proceeding, but do  
25 constitute a bar, estoppel, and merger as to any allegations specifically and actually contained in  
26 the Accusation against Respondent herein.

27



ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

(RESTRICTED BROKER LICENSE)

I.

All licenses and licensing rights of Respondent, under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent pursuant to California Business and Professions Code section 10156.5 if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within ninety (90) days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of California Business and Professions Code section 10156.7 and to the following limitations, conditions, and restrictions imposed under authority of California Business and Professions Code section 10156.6.

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

2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate 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 this restricted license.

3. 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 three (3) years have elapsed from the date of issuance of the restricted license to Respondent.



(AUDIT COSTS)

III.

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3 1. Pursuant to California Business and Professions Code section 10148,  
4 Respondent owes \$5,631.33 for the Commissioner's cost of the audit which led to this  
5 disciplinary action. Respondent shall pay such cost within thirty (30) days of receiving an  
6 invoice therefore from the Commissioner. Payment of the audit cost should not be made  
7 until Respondent receives the invoice. If Respondent fails to satisfy this condition in a timely  
8 manner as provided for herein, the real estate license(s) of Respondent shall automatically be  
9 suspended until payment is made in full, or until a decision providing otherwise is adopted  
10 following a hearing.

11 2. Pursuant to California Business and Professions Code section 10148,  
12 Respondent shall pay the Commissioner's reasonable cost, not to exceed \$6,757.59, for audit(s)  
13 to determine if Respondent has corrected the violations found in the Determination of Issues. In  
14 calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the  
15 estimated average hourly salary for all persons performing audits of real estate broker(s), and  
16 shall include an allocation for travel time to and from the auditor's place of work. Respondent  
17 shall pay such cost within thirty (30) days of receiving an invoice therefor from the  
18 Commissioner. Payment of the audit costs should not be made until Respondent receives the  
19 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,  
20 the real estate license(s) of Respondent shall automatically be suspended until payment is made  
21 in full, or until a decision providing otherwise is adopted following a hearing held pursuant to  
22 this condition.

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1 (TRUST FUND COURSE)

2 IV.

3 Respondent shall, within six (6) months of the effective date of this Decision and  
4 Order, provide proof satisfactory to the Commissioner, of having taken and successfully  
5 completed the continuing education course on trust fund accounting and handling specified in  
6 California Business and Professions Code section 10170.5(a)(3). Proof of satisfaction of this  
7 requirement includes evidence that Respondent successfully completed the trust fund account  
8 and handling continuing education course no earlier than one hundred twenty (120) days prior to  
9 the effective date of the Decision and Order in this matter. Proof of completion of the trust fund  
10 accounting and handling course must be delivered to the Department of Real Estate, Flag Section  
11 at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at (916) 263-8758, within six (6)  
12 months of the effective date of this Decision and Order. If Respondent fails to satisfy this  
13 condition in a timely manner as provided for herein, the real estate license of Respondent shall  
14 automatically be suspended until this condition is met, or until a decision providing otherwise is  
15 adopted following a hearing held pursuant to this condition.

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17 (PROFESSIONAL RESPONSIBILITY EXAMINATION)

18 V.

19 Respondent shall, within six (6) months from the effective date of this Decision  
20 and Order, take and pass the Professional Responsibility Examination administered by the  
21 Department of Real Estate, including payment of the appropriate examination fee. Proof of  
22 satisfaction of this requirement includes evidence that Respondent successfully took and passed  
23 the Professional Responsibility Examination no earlier than one hundred twenty (120) days prior  
24 to the effective date of the Decision and Order in this matter. If Respondent fails to satisfy this  
25 condition in a timely manner as provided for herein, the real estate license(s) of Respondent shall  
26 automatically be suspended until this condition is met, or until a decision providing otherwise is  
27 adopted following a hearing held pursuant to this condition.

1 (RESTITUTION)

2 VI.

3 All licenses and licensing rights of Respondent are indefinitely suspended unless  
4 or until Respondent pays the following restitution: \$230.00 to Helena Owners' Association, Inc.  
5 and \$1,800.00 to Gail Tompkins. Respondent shall provide proof satisfactory to the  
6 Commissioner that these sums have been paid prior to the effective date of this Decision and  
7 Order. If Respondent fails to satisfy this condition in a timely manner as provided for herein, the  
8 real estate license of Respondent shall automatically be suspended until this condition is met, or  
9 until a decision providing otherwise is adopted following a hearing held pursuant to this  
10 condition.

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12  
13 DATED: 02/05/2024

*Diane Lee*  
\_\_\_\_\_  
DIANE LEE, Counsel for  
Department of Real Estate

15 \* \* \*

16 EXECUTION OF THE STIPULATION

17 I, KEVIN H. WONG, have read the Stipulation and discussed it with my attorney,  
18 Frank Buda, Esq. Its terms are understood by me, and are agreeable and acceptable to me. I  
19 understand that I am waiving rights given to me by the California APA (including, but not  
20 limited to, California Government Code sections 11506, 11508, 11509, and 11513), and I  
21 willingly, intelligently, and voluntarily waive those rights, including, but not limited to, the right  
22 of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I  
23 would have the right to cross-examine witnesses against me, and to present evidence in defense  
24 and mitigation of the charges.

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1 MAILING AND E-MAIL

2 Respondent shall mail the original signed signature page of this Stipulation herein  
3 to Department of Real Estate, Attention: Legal Section – Diane Lee, 320 West Fourth Street,  
4 Suite 350, Los Angeles, California 90013-1105.


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

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

17  
18 DATED: 1/31/2024

19   
20 KEVIN H. WONG

21 DATED: 2/5/24

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23 JOSHUA W. MILLER, ESQ.  
24 Attorney for Respondent KEVIN H. WONG  
25 *Approved as to Form*

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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent KEVIN H. WONG, and shall become effective at 12 o'clock noon on March 25, 2024.

IT IS SO ORDERED 2/26/24.

CHIKA SUNQUIST  
REAL ESTATE COMMISSIONER



By Marcus L. McCarther  
Chief Deputy Real Estate Commissioner