

1 DEPARTMENT OF REAL ESTATE
2 320 West 4th Street, Suite 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6982

FILED

AUG 16 2023

DEPT. OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-05753 SD
12) OAH No. 2023060781
13 ERIC DONALD YOSHIMURA,)
14 Respondent.) STIPULATION AND AGREEMENT
) IN SETTLEMENT AND ORDER

15 It is hereby stipulated by and between Respondent ERIC DONALD
16 YOSHIMURA, a.k.a. "Eric Donald Yoshimur" ("Respondent"), in pro per, and the
17 Complainant, acting by and through Kathy Yi, Counsel for the Department of Real Estate
18 ("Department"), as follows for the purpose of settling and disposing of the Accusation filed on
19 June 7, 2023, in this matter:

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

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

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. This Stipulation is made for the purpose of reaching an agreed
14 disposition of this proceeding and is expressly limited to the said proceeding and any other
15 proceedings or cases in which the Department or another licensing agency of this state, another
16 state, or if the federal government is involved, and otherwise shall not be admissible in any
17 other criminal or civil proceeding.

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

25 7. The Order or any subsequent Order of the Commissioner made pursuant
26 to this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or
27 civil proceedings by the Department with respect to any matters which were not specifically

1 alleged to be causes for the Accusation in this proceeding.

2 DETERMINATION OF ISSUES

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

6 The conduct, acts, or omissions of Respondent ERIC DONALD YOSHIMURA,
7 as described in the Accusation, constitute cause for the suspension or revocation of all real
8 estate licenses and license rights of ERIC DONALD YOSHIMURA under California Business
9 and Professions Code (“Code”) sections 490 and 10177(b)(1).

10 ORDER

11 WHEREFORE, THE FOLLOWING ORDER is hereby made:

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

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

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

1 attaching to this restricted license.

2 3. Respondent shall not be eligible to apply for the issuance of an
3 unrestricted real estate license nor for the removal of any of the conditions, limitations or
4 restrictions of a restricted license until at least **one (1) year** has elapsed from the effective date
5 of this Decision and Order.

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

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

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

12 (b) That the employing broker will exercise close supervision over the

13 performance by the restricted licensee relating to activities for which

14 a real estate license is required.

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


25 6. Respondent shall notify the Commissioner in writing within 72 hours of
26 any arrest by sending a certified letter to the Commissioner at the Department of Real Estate,
27 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the

1 date of Respondent's arrest, the crime for which Respondent was arrested and the name and
2 address of the arresting law enforcement agency. Respondent's failure to timely file written
3 notice shall constitute an independent violation of the terms of the restricted license and shall
4 be grounds for the suspension or revocation of that license.

5 7. Respondent shall pay the sum of \$835.75 for the Commissioner's
6 reasonable cost of the investigation and enforcement which led to this disciplinary action. Said
7 payment shall be in the form of a cashier's check made payable to the Department of Real
8 Estate. **The investigative and enforcement costs must be delivered to the Department of
9 Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, within twelve
10 (12) months from the effective date of this Decision and Order."** Payment of investigation
11 and enforcement costs should not be made until the Stipulation has been approved by the
12 Commissioner.

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

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20 DATED: 07/17/2023


Kathy Yi, Counsel
Department of Real Estate

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24 EXECUTION OF THE STIPULATION


25 Respondent has read the Stipulation and Agreement and understands that
26 Respondent is waiving rights given to Respondent by the California Administrative Procedure
27 Act, (including but not limited to Sections 11521 and 11523 of the Government Code), and

1 Respondent willingly, intelligently, and voluntarily waives those rights, including the right to
2 seek reconsideration and the right to seek judicial review of the Commissioner's Decision and
3 Order by way of a writ of mandate.

4 Respondent agrees, acknowledges, and understands that Respondent cannot
5 rescind or amend this Stipulation and Agreement. By signing this Stipulation, Respondent
6 understands and agrees that Respondent may not withdraw Respondent's agreement or seek to
7 rescind the Stipulation prior to the time the Commissioner considers and acts upon it or prior to
8 the effective date of the Stipulation and Order.

9 Respondent can signify acceptance and approval of the terms and conditions of
10 this Stipulation and Agreement by electronically e-mailing a copy of the signature page, as
11 actually signed by Respondent, to the Department. Respondent agrees, acknowledges, and
12 understands that by electronically sending to the Department an electronic copy of
13 Respondent's actual signature, as it appears on the Stipulation, that receipt of the emailed copy
14 by the Department shall be as binding on Respondent as if the Department had received the
15 original signed Stipulation. Alternatively, Respondent can signify acceptance and approval of
16 the terms and conditions of this Stipulation and Agreement by mailing the original signed
17 Stipulation and Agreement to: Kathy Yi, Department of Real Estate, 320 West 4th Street, Suite
18 350, Los Angeles, California 90013-1105.

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20 DATED: 7/17/2023 _____

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23 ERIC DONALD YOSHIMURA
24 Respondent

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The foregoing Stipulation and Agreement is hereby adopted by me as my
Decision in this matter as to Respondent ERIC DONALD YOSHIMURA and shall become
effective at 12 o'clock noon on SEP 06 2023.

IT IS SO ORDERED 8-11-23.

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

