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APR 23 2019

DEPARTMENT OF REAL ESTATE

BY 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:) Case No. H-6474 SAC
AAA ADVANTAGE REALTY, INC.) OAH No. 2017010238
and SANDRA STEVENSON,)
Respondents.)

STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

On December 20, 2017, a Decision After Rejection was rendered herein revoking the real estate broker licenses and license rights of AAA ADVANTAGE REALTY, INC. ("AAA") and SANDRA STEVENSON ("STEVENSON"), (collectively referred to herein as "Licensees") and granting STEVENSON the right to apply for and be issued a restricted real estate broker license.

On January 15, 2018, Licensees filed a Petition for Reconsideration asking the Real Estate Commissioner ("Commissioner") to Reconsider the Decision After Rejection.

On January 16, 2018 the Commissioner issued an Order Staying the Effective Date of Decision for 30 days allowing Licensees to file a Petition for Reconsideration.

1 On July 19, 2018, the Commissioner issued a Decision After Granting Reconsideration
2 revoking Licensees' real estate broker licenses and license rights, and granting STEVENSON the
3 right to apply for and be issued a restricted real estate broker license.

4 On August 8, 2018, Licensees petitioned the Superior Court of the State of California in
5 and for the County of Modoc ("Modoc Court"), in Case No. CU-18-107, for a Writ of
6 Administrative Mandamus ("Writ") challenging the penalty imposed by the Decision After
7 Granting Reconsideration.
8

9 In consideration for the dismissal with prejudice of the Writ filed by Licensees, and in
10 complete, full, and final settlement of: (1) Licensees' Writ, with each party to bear its own
11 attorney's fees and costs associated with the Writ; and (2) DRE Case No. H-6474 SAC, with
12 STEVENSON to pay the Department's enforcement and audit costs, as set forth in the Order
13 below, the parties agree to the following terms and conditions.
14

15 Contemporaneous with the signing of this Stipulation and Agreement in Settlement and
16 Order, Licensees' counsel shall execute a Stipulation and Order of Dismissal regarding Modoc
17 County Case No. CU-18-107, a copy of which is attached hereto, and fully incorporated herein,
18 as Exhibit "A." Failure by Licensees' counsel to execute the Stipulation and Order of Dismissal
19 regarding Modoc County Case No. CU-18-107 shall void this Stipulation and Agreement in
20 Settlement and Order.
21

22 ORDER

23 I.

24 AS TO AAA

25 1. The corporate real estate broker license and license rights of AAA under the
26 Real Estate Law are revoked; provided, however, a restricted corporate real estate broker license
27 shall be issued to AAA pursuant to Section 10156.5 of the Code if AAA makes application

1 therefore and pays to the Department the appropriate fee for the restricted license within 90 days
2 from the effective date of this Decision.

3 2. The restricted license issued to AAA shall be subject to all of the provisions of
4 Section 10156.7 of the Code as to the following limitations, conditions and restrictions imposed
5 under authority of Section 10156.6 of that Code: The restricted license issued to AAA shall be
6 suspended prior to hearing by Order of the Commissioner on evidence satisfactory to the
7 Commissioner that AAA has violated provisions of the California Real Estate Law, the
8 Subdivided Lands Law, Regulations of the Real Estate Commissioner, or conditions attaching to
9 the restricted license.

10 3. AAA shall not be eligible to apply for the issuance of an unrestricted real
11 estate license nor for removal of any of the conditions, limitations or restrictions of a restricted
12 license until four (4) years have elapsed from the effective date of this Decision.

13 II.

14 AS TO STEVENSON

15 All licenses and licensing rights of STEVENSON under the Real Estate Law are
16 revoked; provided, however, a restricted real estate broker license shall be issued to
17 STEVENSON pursuant to Section 10156.5 of the Code if STEVENSON makes application
18 therefore and pays to the Department the appropriate fee for the restricted license within 90 days
19 from the effective date of this Decision.

20 1. The restricted license issued to STEVENSON shall be subject to all of the
21 provisions of Section 10156.7 of the Code as to the following limitations, conditions and
22 restrictions imposed under authority of Section 10156.6 of that Code:

- 23 (a) The restricted license issued to STEVENSON shall be suspended prior to
24 hearing by Order of the Commissioner in the event of STEVENSON's
25 conviction (including by plea of guilty or nolo contendere) to a crime
26 which is substantially related to STEVENSON 's fitness or capacity as a
27 real estate licensee; and,

1 (b) The restricted license issued to STEVENSON shall be suspended prior to
2 hearing by Order of the Commissioner on evidence satisfactory to the
3 Commissioner that STEVENSON has violated provisions of the California
4 Real Estate Law, the Subdivided Lands Law, Regulations of the Real
5 Estate Commissioner, or conditions attaching to the restricted license.

6 2. STEVENSON shall not be eligible to apply for the issuance of an unrestricted
7 real estate license nor for removal of any of the conditions, limitations or restrictions of a
8 restricted license until four (4) years have elapsed from the effective date of this Decision.

9 3. STEVENSON shall notify the Commissioner in writing within 72 hours of any
10 arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Legal
11 Section at Post Office Box 137007, Sacramento, CA 95813-7007. The letter shall set forth the
12 date of STEVENSON 's arrest, the crime for which STEVENSON was arrested and the name
13 and address of the arresting law enforcement agency. STEVENSON's failure to timely file
14 written notice shall constitute an independent violation of the terms of the restricted license and
15 shall be grounds for the suspension or revocation of that license.

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

24 5. Notwithstanding any other provision of this Order, all licenses and license
25 rights of STEVENSON are suspended unless and until she provides proof satisfactory to the
26 Commissioner that she has taken and successfully completed the continuing education course
27 on Trust Fund Accounting and Handling specified in Section 10170.5(a)(3) of the Code. The

1 course must have been completed no earlier than one hundred twenty (120) days prior to the
2 effective date of this Order, and proof must be submitted prior to the effective date of this
3 Order, to prevent suspension of her license pursuant to this condition.

4 6. STEVENSON shall, within six (6) months from the issuance of the Order,
5 take and pass the Professional Responsibility Examination administered by the Department,
6 including the payment of the appropriate examination fee. All licenses and licensing rights of
7 STEVENSON shall be indefinitely suspended unless or until STEVENSON passes the
8 examination.

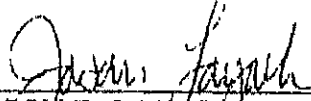
9 7. STEVENSON shall pay the sum of \$6,740.00 for the Commissioner's cost
10 of the audit which led to this disciplinary action. STEVENSON shall pay such cost within
11 sixty (60) days of receiving an invoice therefore from the Commissioner. The Commissioner
12 shall indefinitely suspend all licenses and licensing rights of STEVENSON pending a hearing
13 held in accordance with Section 11500, et seq., of the Government Code, if payment is not
14 timely made as provided for herein, or as provided for in a subsequent agreement between
15 STEVENSON and the Commissioner. The suspension shall remain in effect until payment is
16 made in full or until STEVENSON enters into an agreement satisfactory to the Commissioner
17 to provide for payment, or until a decision providing otherwise is adopted following a hearing
18 held pursuant to this condition.

19 8. STEVENSON shall pay the Commissioner's costs, not to exceed \$8,425.00,
20 of any audit conducted pursuant to Section 10148 of the Code to determine if STEVENSON
21 has corrected the violations described in the Determination of Issues, above, and any other
22 violations found in the audit which led to this disciplinary action. In calculating the amount of
23 the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly
24 salary for all persons performing audits of real estate brokers, and shall include an allocation
25 for travel time to and from the auditor's place of work. STEVENSON shall pay such cost
26 within sixty (60) days of receiving an invoice therefore from the Commissioner detailing the
27 activities performed during the audit and the amount of time spent performing those activities.

1 If STEVENSON fail to pay such cost within the sixty (60) days, the Commissioner shall
2 indefinitely suspend all licenses and licensing rights of STEVENSON under the Real Estate
3 Law until payment is made in full or until STEVENSON enters into an agreement satisfactory
4 to the Commissioner to provide for payment. Upon full payment, the indefinite suspension
5 provided for in this paragraph shall be stayed.


6 3-21-19

7 DATED

8 
JASON D. LAZARK
Counsel for the Department

9 3-21-19

10 DATED

11 
SANDRA J. STEVENSON
Designated Officer for Respondent
AAA ADVANTAGE REALTY, INC.

12 3/21/19

13 DATED

14 
SANDRA J. STEVENSON
Respondent

15 *I have reviewed the Stipulation and Agreement as to form and content and
16 have advised my client accordingly.*

17 3-21-19

18 DATED


19 
TOM GIFFORD
Attorney for Licensees
SANDRA J. STEVENSON and
AAA ADVANTAGE REALTY, INC.

20 * * *

21 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
22 this matter and shall become effective at 12 o'clock noon on _____

23 IT IS SO ORDERED _____, 2019.


24 ACTING REAL ESTATE COMMISSIONER

25
26
27 
DANIEL J. SANDRI

1 If STEVENSON fail to pay such cost within the sixty (60) days, the Commissioner shall
2 indefinitely suspend all licenses and licensing rights of STEVENSON under the Real Estate
3 Law until payment is made in full or until STEVENSON enters into an agreement satisfactory
4 to the Commissioner to provide for payment. Upon full payment, the indefinite suspension
5 provided for in this paragraph shall be stayed.

6 3-21-19

7 DATED

8 
JASON D. LAZARK
Counsel for the Department

9 DATED

10 SANDRA J. STEVENSON
11 Designated Officer for Respondent
AAA ADVANTAGE REALTY, INC.

12 DATED

13 SANDRA J. STEVENSON
Respondent

14 *I have reviewed the Stipulation and Agreement as to form and content and*
15 *have advised my client accordingly.*

16 DATED

17 TOM GIFFORD
18 Attorney for Licensees
SANDRA J. STEVENSON and
19 AAA ADVANTAGE REALTY, INC.

20 * * *

21 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
22 this matter and shall become effective at 12 o'clock noon on May 6, 2019.

23 IT IS SO ORDERED April 22, 2019.

24 ACTING REAL ESTATE COMMISSIONER

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26 DANIEL J. SANDRI
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FILED

JUL 25 2018

DEPARTMENT OF REAL ESTATE

By

B. Nicholas

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

AAA ADVANTAGE REALTY, INC. and
SANDRA STEVENSON,

Respondents.

) Case No. H-6474 SAC
) OAH No. 2017010238
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DECISION AFTER GRANTING RECONSIDERATION

This matter was heard by Administrative Law Judge, Jonathan Lew, of the Sacramento Office of Administrative Hearings, on April 10, 2017, and May 4, 2017. Real Estate Counsel Jason D. Lazark represented Complainant Tom Cameron in his official capacity as Supervising Auditor for the Department. Respondents, AAA ADVANTA REALTY, INC. ("AAA") and SANDRA STEVENSON ("STEVENSON"), (collectively "Respondents"), were represented by Tom Gifford, Esq. of the Law Offices of Tom Gifford.

Evidence was received and the hearing concluded on May 4, 2017. After the conclusion of the last day of hearing, the record remained open until May 17, 2017, so as to give Respondents an opportunity to submit additional argument regarding cost recovery and to give Complainant an opportunity to respond. On May 19, 2017, Judge Lew rendered a Proposed Decision ("PD") revoking AAA's corporate real estate license, but issued "respondent" a

restricted real estate broker license for two years, subject to the limitations, conditions, and restrictions imposed under the authority of section 10156.6 of the Business and Professions Code ("Code").¹ The following was Judge Lew's Order:

"All licenses and licensing rights of AAA Advantage Realty, Inc., and Sandra Stevenson under the Real Estate Law are revoked; provided, however, a restricted real estate broker license be issued to respondent pursuant to Section 10156.6 of the (Code)...The restricted license issued to respondent shall be subject to all of the following provisions of Section 10156.7 of the (Code) and to the following limitations, conditions and restrictions imposed under the authority of Section 10156.6 of that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by order of the (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 hearings by the (Commissioner) on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law....
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 two years have passed from the effective date of this Decision.
4. Respondent shall, within nine months from the effective date of this Decision, present evidence....that respondent has...taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license....
5. Respondent shall, prior to and as a condition of the issuance of the restricted license, submit proof ...of having taken and successfully completed the continuing education courses on trust fund accounting and handling....
6. Respondent shall pay audit and enforcement costs to the Department in the amount of \$6,000...."

(PD pp. 17-18.)

¹ On page two, paragraph 2, of the PD, Judge Lew makes the following factual finding: "Sandra STEVENSON (respondent) was initially issued a real estate broker license (license) on May 19, 1995." Judge Lew refers to STEVENSON as "respondent" throughout the remainder of the PD.

1 On August 1, 2017, Respondents were served with the Notice of the Real Estate
2 Commissioner's determination not to adopt Judge Lew's PD. Respondents were notified the
3 case would be decided by the Real Estate Commissioner ("Commissioner") in accordance with
4 Section 11517(c) of the Government Code upon the record, transcripts, and written arguments
5 from the parties. A briefing schedule was established for the submission of arguments.

6 Written argument was timely submitted by Respondents on October 4, 2017, and by
7 Complainant on October 20, 2017. The Commissioner issued a Decision After Rejection, which
8 became effective January 17, 2018, wherein the Commissioner adopted the factual findings and
9 legal conclusions of Judge Lew's PD and ordered as follows:

10 "All licenses and licensing rights of AAA Advantage Realty, Inc., and Sandra
11 STEVENSON under the Real Estate Law are revoked; provided, however, a
12 restricted real estate broker license be issued to STEVENSON pursuant to Section
13 10156.6 of the (Code)...The restricted license issued to STEVENSON shall be
14 subject to all of the following provisions of Section 10156.7 of the (Code) and to
the following limitations, conditions and restrictions imposed under the authority
of Section 10156.6 of that Code:

- 15 1. The restricted license issued to STEVENSON may be
16 suspended prior to hearing by order of the (Commissioner) in
17 the event of STEVENSON'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.
- 18 2. The restricted license issued to STEVENSON may be
19 suspended prior to hearings by the (Commissioner) on
evidence satisfactory to the Commissioner that STEVENSON
has violated provisions of the California Real Estate Law...
- 20 3. STEVENSON shall not be eligible to apply for the issuance of
21 an unrestricted real estate license nor for the removal of any of
the conditions, limitations or restrictions of a restricted license
22 until two years have passed from the effective date of this
Decision.
- 23 4. STEVENSON shall, within nine months from the effective
date of this Decision, present evidence...that respondent
24 has...taken and successfully completed the continuing
education requirements of Article 2.5 of Chapter 3 of the Real
25 Estate Law for renewal of a real estate license....
- 26 5. STEVENSON shall, prior to and as a condition of the issuance
of the restricted license, submit proof...of having taken and
27 successfully completed the continuing education courses on
trust fund accounting and handling....

6. STEVENSON shall pay audit and enforcement costs to the Department in the amount of \$6,000....”

(Decision After Rejection, pp. 2-4.)

On January 15, 2018, Mr. Gifford emailed Mr. Lazark the following documents: Request for Stay of Execution (Govt Code §11519), Request for Stay (Govt Code §11521 subd.(a)), and Petition for Reconsideration. On January 16, 2018, the Commissioner issued an Order Staying Effective Date of Decision for 30 days and allowed Respondents to file a petition for reconsideration by noon on February 16, 2018. Respondents’ Brief After Order for Reconsideration Granted was timely submitted on March 4, 2018. Complainant’s Argument on Reconsideration was timely submitted on March 11, 2018.

FACTUAL FINDINGS

1. AAA is presently licensed by the Department and/or has licensing rights under the Real Estate Law, Part 1 Division 4 of the Code (“Real Estate Law”), as a corporate real estate broker, CREB License No. 01375178. (Ex. 3.)

2. STEVENSON is presently licensed by the Department under the Real Estate Law as a real estate broker, REB License No. 01197151. (Ex. 2.)

3. At all relevant times, STEVENSON was the Designated Officer for AAA. (Ex. 2 and 3.)

4. Jessica Burns (“Ms. Burns”) was employed by AAA on two separate occasions. First, as a real estate salesperson prior to 2007, and then a second time as bookkeeper in 2010. (PD p. 5, par. 15.)

5. From 1999 to 2007, Ms. Burns was licensed as a real estate salesperson, RES License No. 01267914. (PD p.5, par. 15.)

6. Ms. Burns was hired by AAA in 2010 to handle all bookkeeping, including QuickBooks entries and writing checks. (PD p. 5, par. 15.)

7. STEVENSON maintained an Office Policy Manual, which included a section on property management. (PD p. 10.)

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1 8. The section on property management discussed verbatim the Department's
2 language on property management. (PD p. 10.)

3 9. STEVENSON required all employees, including Ms. Burns, to read the Policy
4 Manual. (PD p. 10.)

5 10. STEVENSON met with all agents and employees every two weeks. (PD p. 10.)

6 11. STEVENSON testified that in 2010, she was injured in a car accident and, as a
7 result, suffered headaches and other symptoms that made it difficult for her to maintain her
8 focus, oversight, and supervision of all business operations. (PD p. 11.)

9 12. The injuries from the 2010 car accident caused STEVENSON to increase her
10 reliance on others to manage the AAA business. (PD p. 11.)

11 13. On March 8-9, 2016, auditor Karen Dogra ("Mr. Dogra") conducted an audit of
12 the books and records of the real estate activities of AAA. (Ex. 6, p. 2.)

13 14. The audit was conducted at AAA's main office located at 1023 N. Court Street,
14 Alturas, California 96101. (Ex. 6, p. 2.)

15 15. Mr. Dogra examined records for the period of January 1, 2014, to January 31,
16 2016 ("audit period"). (Ex. 6, p. 2.)

17 16. On December 20, 2016, as a result of Mr. Dogra's findings, the Department filed
18 an Accusation against STEVENSON and AAA. (Ex. 1, p. 1.)

19 17. On April 13, 2017, the Department filed a First Amended Accusation against
20 STEVENSON and AAA. (Ex. 1A, p.1.)

21 18. During the audit period, AAA managed approximately 35 units for 30 owners.
22 (Ex. 6, p.3.)

23 19. AAA collected approximately \$264,000 in annual property management trust
24 funds. (Ex. 6, p. 3.)

25 20. AAA maintained one trust account used to collect trust funds during the audit
26 period. The trust account was maintained with Plumas Bank, Acct. No. 9784, located at 35 S.
27 Lindan Ave., Quincy, CA 96130 ("Trust Account"). (Ex. 6, p.3.)

1 21. STEVENSON was the sole signatory on the Trust Account. (Ex. 6, p. 3.)

2 22. At all relevant times, Ms. Burns had access to the Plumas Bank online electronic
3 system, which included access to the Trust Account. (RT, May 4, 2017, p. 136:5-25.)

4 23. STEVENSON and AAA authorized Ms. Burns to have access to the Plumas Bank
5 online electronic system. (RT, May 4, 2017, p. 136:5-25.)

6 24. On November 8, 2014, at 11:51 a.m., Ms. Burns made an online transfer of
7 \$10,000 from the Trust Account to the brokerage account. Ms. Burns testified the transfer was
8 made in error. (PD p. 5, par. 16.)

9 25. On December 24, 2014, STEVENSON performed a bank account reconciliation
10 and discovered a discrepancy of \$10,000 in the Trust Account. (RT, May 4, 2017, p. 99:19-24.)

11 26. STEVENSON testified she was determined to find out how the discrepancy
12 occurred and was "looking for anything she could find that had \$10,000 attached to it..."
13 (Reporter's Transcript of Proceedings ("RT"), May 4, 2017, p. 101:3-9.)

14 27. On December 30, 2014, at 2:43 p.m., Ms. Burns made a second online transfer of
15 \$10,000 from the Trust Account to the brokerage account. Ms. Burns testified the transfer was
16 made in error. (PD p. 5, par.16.)

17 28. As of January 5, 2015, STEVENSON and AAA knew there was a discrepancy of
18 \$20,000. (RT, May 4, 2017, p. 102: 21-25.)

19 29. On February 4, 2015, at 1:14 a.m., Ms. Burns made a third online transfer of
20 \$10,000 from the Trust Account to the brokerage account. Ms. Burns testified the transfer was
21 made in error. (PD p. 5, par. 16.)

22 30. As of February 2015, STEVENSON and AAA knew there was a discrepancy of
23 \$30,000 in the Trust Account. (RT, May 4, 2017, pp.103: 21-25, 104:1.)

24 31. STEVENSON testified that as of February 2015 she had spent "close to 100
25 hours" going through QuickBooks trying to figure out what happened. (RT, May 4, 2017, p.
26 104:18-20.)

27 ///

32. STEVENSON and AAA did not obtain prior written consent from any of the beneficiaries of the funds maintained in the Trust Account before allowing the balance of the funds in the Trust Account to be reduced to an amount less than its existing aggregate liability. (RT, May 10, 2017, p. 44:15-25.)

33. On April 23, 2015, STEVENSON transferred \$15,000 back into the Trust Account reducing the shortage in the Trust Account from \$30,000 to \$15,000. (RT, April 10, 2017, p. 41:17-20.)

34. STEVENSON assumed the \$30,000 shortage was caused by a double entry. (RT, May 4, 2017, p. 140:2-8.)

35. STEVENSON provided no explanation for why she believed the \$30,000 shortage was caused by a double entry. (RT, May 4, 2017, p. 140:9-11.)

36. As of January 31, 2016, AAA's Trust Account contained a shortage of \$15,000. (Ex. 6, p. 10.)

37. On March 18, 2016, STEVENSON transferred the balance of \$15,000 to the Trust Account. (PD p. 7, par. 17.)

38. STEVENSON and AAA knowingly maintained a shortage from December 2014 to March 2016. (See RT, May 4, 2017, p. 99:19-24; p. 102: 21-25; and pp.103: 21-25, 104:1.)

39. No written consent was obtained from any of the beneficiaries of the Trust Account for STEVENSON and AAA's continued action of maintaining a shortage for more than a year. (RT, April 10, 2017, p. 44:15-24.)

40. At all relevant times, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the meaning of Section 10131(b) of the Code including the operation and conduct of a property management business with the public, wherein, on behalf of others, for compensation or in expectation of compensation, Respondents leased or rented or offered to lease or rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

41. While engaging in the real estate activities described above, pursuant to the requirements of Section 10159.2 of the Code and Section 2725 of Title 10 of the Regulations of the Real Estate Commissioner ("Regulations"), STEVENSON was responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to ensure full compliance with the Real Estate Law. This includes exercising reasonable supervision over the activities of AAA and its employees and/or associates, including, but not limited to Ms. Burns.

LEGAL CONCLUSION

A. Standard of Review

When a case is up for reconsideration the case may be reconsidered by the agency on all the pertinent parts of the record and such additional evidence and argument as may be permitted, or may be assigned to an administrative law judge. (Gov. Code § 1152, subd.(b).) Upon review of the proposed decision, the commissioner must "give great weight" to the determination of the credibility of the witnesses if the factual basis for the decision includes a determination based substantially on the credibility of witnesses. (Gov. Code § 11425.50 subd.(b).) However, great weight need not be given to testimony that is so inherently improbable as to warrant disbelief. (*Flowers v. State Personnel Board* (1985) 174 Cal.App.3d 753, 759.)

B. Burden of Proof

The Department has the burden of proving the grounds alleged in the First Amended Accusation by clear and convincing evidence to a reasonable certainty. (*Realty Projects, Inc. v. Smith* (1973) 32 Cal.App.3d 204, 2012.) Clear and convincing evidence is defined as evidence that leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478.) Respondents have the burden to show rehabilitation. (*Feinstein v. State Bar* (1952) 39 Cal.2d 541; *Tardiff v. State Bar* (1990) 27 Cal.3d 395.)

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1 C. Trust Account Shortage

2 On January 31, 2014, Mr. Dogra conducted a reconciliation of AAA's Trust Account.
3 He did so by comparing the adjusted bank balance of the Trust Account to the sum of all the
4 balances for the separate beneficiary records. Mr. Dogra determined there was a shortage of
5 \$15,000 in the Trust Account, which was caused by three transfers of \$10,000 made from the
6 Trust Account to the brokerage account. The transfers were made on November 8, 2014,
7 December 30, 2014, and February 4, 2015. The three transfers caused the Trust Account to be
8 short \$30,000. On April 23, 2015, STEVENSON transferred \$15,000 back into the Trust
9 Account. The Trust Account continued to be short \$15,000 until March 18, 2016, when
10 STEVENSON transferred the remaining balance of \$15,000 back to the Trust Account.

11 Section 10145(a) of the Code provides, in part, that a real estate broker, who accepts
12 funds belonging to another, must place those funds into a trust fund account maintained by the
13 broker. The funds must be maintained in trust until disbursed by the broker in accordance with
14 instruction from the beneficiaries. Prior written consent from the beneficiaries is required
15 before the balance of the funds in the trust account is reduced to an amount less than the
16 existing aggregate trust fund liability.

17 At hearing, STEVENSON acknowledged that as of January 31, 2015, there was a
18 shortage of \$15,000 in the Trust Account. She further acknowledged that neither she, nor any
19 other employee of AAA, obtained prior written consent from the beneficiaries of the Trust
20 Account before allowing the balance of the trust funds to fall below its aggregate liability.
21 Similarly, the beneficiaries were never informed of the shortage at any point during the time
22 when STEVENSON and AAA knowingly and willingly maintained a shortage in the Trust
23 Account.

24 **Finding:** The Department met its burden by clear and convincing evidence that
25 STEVENSON and AAA caused, suffered, or permitted to occur a shortage of \$15,000 in the
26 Trust Account without prior written consent from the beneficiaries of the trust funds.

27 ///

1 D. Failure to Perform Monthly Trust Account Reconciliations

2 Section 2831.2 of the Regulations requires a broker to perform monthly trust account
3 reconciliations. This means that the balance of all separate beneficiary or transaction records
4 must be reconciled with the record of all trust funds received and disbursed, at least once a
5 month, except in those months when the bank account did not have any activities.

6 Mr. Dogra testified that STEVENSON and AAA did not to comply with the
7 requirements of Section 2831.2 of the Regulations because they failed to reconcile the Trust
8 Account on a monthly basis. (RT, April 10, 2017, p.45:8-17.) STEVENSON and AAA
9 claimed that the Trust Account was, in fact, reconciled on a monthly basis and they even
10 submitted documents titled "Reconciliation Summary" and "Reconciliation Details" to support
11 their contention. However, these reconciliations were for the aggregate totals in the Trust
12 Account and were not individualized, as is required by Section 2831.2 of the Regulations. (RT,
13 April 10, 2017, p. 45:19-22.) STEVENSON and AAA provided no evidence to contradict Mr.
14 Dogra's finding that the reconciliations were not individualized.

15 **Finding:** The Department established by clear and convincing evidence that
16 STEVENSON and AAA failed to perform, maintain, and retain monthly trust account
17 reconciliations, in violation of Section 2831.2 of the Regulation.

18 E. Improper Designation of Trust Account

19 Trust fund accounts must be maintained "in the name of the broker, or in a fictitious
20 business name, if the broker is the holder of a license bearing such fictitious business name..."
21 (Bus. & Prof. Code, § 2832, subd. (a).) Mr. Dogra reviewed AAA's trust account statements
22 issued by Plumas Bank and there was no indication that the account was designated as a trust
23 account. Mr. Dogra also reviewed the signature card and there was no specific reference to the
24 account being a trust account.

25 **Finding:** The Department demonstrated by clear and convincing evidence that AAA's
26 Trust Account was not properly designated pursuant to the requirements set forth in Section
27 2832 of the Regulations.

1 F. Unauthorized Withdrawals from the Trust Account

2 Pursuant to Regulation 2834, withdrawals from a broker trust account may only be
3 made upon the signature of the broker or one or more of the following persons: (1) a
4 salesperson licensed to the broker; (2) a persons licensed as a broker who has entered into a
5 written agreement with the broker; or (3) an unlicensed employee of the broker with fidelity
6 bind coverage at least equal to the maximum amount of the fund to which the employee has
7 access.

8 Complainant alleged that Ms. Burns was required to have fidelity bond coverage equal
9 to the amounts of the trust funds to which she had access at the time she made the tree
10 transfers. It was further alleged that Ms. Burns was required to have written permission from
11 STEVENSON to make withdraws from the Trust Account. Ms. Burns had neither.
12 STEVENSON and AAA argued that because STEVENSONS did not authorize Ms. Burns to
13 make withdraws from the Trust Account, there was no violation of Section 2834 of the
14 Regulations. The Department finds this argument unavailing.

15 Section 2834 was enacted for the protection of real estate consumers. Although
16 STEVENSONS did not directly authorized Ms. Burns to access the Trust Account, she gave
17 Ms. Burns access to the Plumas Bank online electronic system from which the Trust Account
18 could easily be accessed through a drop-down menu. Once inside the online electronic system,
19 there were no further security measures to protect the Trust Account.

20 As real estate licensees, STEVENSON and AAA had an obligation to maintain the
21 Trust Account in accordance with the requirements of the Real Estate Law. It was their
22 responsibility to put in place the proper safeguards to ensure that only those individuals who
23 meet the requirements of Section 2834 have access to the Trust Account. Here, although Ms.
24 Burns did not have direct authority to access the Trust Account, it was foreseeable that she
25 may, either erroneously and intentionally, access the Trust Account, which she did. For these
26 reasons, STEVENSON and AAA are not absolved of their responsibility to ensure that only
27 those unlicensed employees, who are properly bonded, have access to the trust funds.

1 **Finding:** The Department established by clear and convincing evidence that
2 STEVENSON and AAA were in violation Section 2834 of the Regulations.

3 G. Failure to Supervise

4 As designated officer for AAA, STEVENSON was required to exercise reasonable
5 supervision over the activities of AAA, its officers and employee so as to secure full
6 compliance with the Real Estate Law. (Bus. & Prof. Code, § 10159.2; Cal. Code Regs.,
7 §2725.) Reasonable supervision includes the establishment of policies, rules, procedures, and
8 a reasonable system of review so as to review, oversee, inspect, and manage any real estate
9 activities conducted by the salesperson. (Cal. Code Regs., §2725.)

10 STEVENSON purportedly maintained an Office Policy Manual from the time she
11 opened the business. After AAA commenced property management activities, the policy
12 manual was amended to include a section on property management. Pages 51 through 57 of
13 the seventh edition of the Policy Manual were dedicated to property management. These pages
14 included verbatim the Department's language on property management, including: the
15 requirement that a separate trust account be maintained; that a fidelity bond be carried for all
16 employees whose duties included the handling of fund; and that disbursements from the trust
17 account not be made absent client disclosure. STEVENSON required all employees, including
18 Ms. Burns, to read the Policy Manual. She also met with all agents and employees every two
19 weeks.

20 STEVENSON also testified that she suffered from a serious injury that prevented her
21 from managing her business. The injury occurred when she was rear-ended while she sat in
22 her car during a winter storm. As a result, she suffered headaches and other symptoms that
23 made it difficult for her to maintain her focus, oversight, and supervision of all business
24 operations. This caused her to increase her reliance upon others to manage the business,
25 including Ms. Burns.

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STEVENSON's defense to the Department's allegation regarding her failure to provide reasonable supervision over the employees of AAA is contradictory. On the one hand, STEVENSON argued that she did provide reasonable supervision because she had a Policy Manual in place and met with all employees every two weeks. On the other hand, she argued that the injury she suffered in November 2010 made it difficult for her to maintain focus and provide supervision over the business activities and operations of her employees.

STEVENSON's testimony is not only incongruent, but it is an admission that she failed to provide reasonable supervision. It is not enough to have policies in place if the broker enforcing the policies does not have the mental stamina to oversee their application. It is also troubling that AAA allowed STEVENSON to continue in her role as designated officer when the 2010 injury made it difficult for her to focus and provide supervision over the activities of the brokerage. Even if STEVENSON increased her reliance on others to help her run the AAA business after her injury, she never relinquished her role as designated officer and was, therefore, solely responsible for the supervision of AAA.

Additionally, STEVENSON should have inquired further into Ms. Burns' activities as part of her supervisory responsibility. Ms. Burns was the sole bookkeeper handling AAA's brokerage business. She had access to QuickBooks and regularly performed QuickBooks entries. In fact, Ms. Burns was authorized to access to the Plumas Bank online banking system from which the Trust Account could easily be reached through a drop-down menu. Yet, at no time during the "hundreds of hours" STEVENSON purportedly spent trying to locate the cause of the shortage did she think to track Ms. Burns' entries and transactions.

Finding: The Department established by clear and convincing evidence that STEVENSON failed to exercise reasonable supervision over the employees of AAA.

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1 H. Negligence

2 The Restatement Second of Torts, Section 282, defines negligence as conduct that falls
3 below the standard of care established by the law for the protection of others against
4 unreasonable risk of harm. The purpose of the Real Estate Law and the Regulations is to
5 protect the public through establishing a uniform standard of care by which all real estate
6 licensees must abide. (Bus. & Prof. Code, §§ 10000-10024, 10050.1.) The real estate law is
7 designed to protect the public not only from conniving real estate licensees, but also from
8 uninformed, negligent, or unknowledgeable licensees. (*Handeland v. Dept. of Real Estate*
9 (1976) 98 Cal.App.3d 513, 518.)

10 It is undisputed that, as of January 31, 2016, there was a shortage of \$15,000 in the
11 Trust Account. It is also undisputed that prior to STEVENSON depositing \$15,000 in the
12 Trust Account on April 23, 2015, the shortage was \$30,000. No prior written consent was
13 obtained from the beneficiaries before permitting the trust funds to fall below the aggregate
14 account liability. The acts of STEVENSON and AAA with regard to causing and/or permitting
15 the Trust Account to be short without obtaining prior written consent from the beneficiaries is a
16 violation of Real Estate Law and constitutes negligence per se.

17 It is also negligent that STEVENSON and AAA maintained a significant shortage in
18 the Trust Account from December 2014 to March 18, 2016. Real estate licensees have a duty
19 to safeguard all funds belonging to the beneficiaries in accordance to the provisions set forth in
20 the Real Estate Law. By willingly and knowingly maintaining a shortage in the Trust Account
21 for more than a year, STEVENSON and AAA put their own interest above that of their
22 beneficiaries. Instead of assuming the financial risk of the shortage, STEVENSON and AAA
23 placed all risk on the beneficiaries. Such acts are a clear departure from the standard of
24 practice expected from a real estate licensee and are a clear breach of their fiduciary
25 obligations.

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1 STEVENSON's failure to provide reasonable supervision over the activities of AAA
2 and its employees also constitutes negligence on the part of STEVENSON. As discussed
3 above, Ms. Burns was AAA's sole bookkeeper and had accesses to the Plumas Bank online
4 electronic system. As part of her supervisory responsibilities, STEVENSON should have
5 looked further into Ms. Burns' activities and prevented her from having access to the Trust
6 Account.

7 **Finding:** The Department established by clear and convincing evidence that the acts of
8 STEVENSON and AAA with regard to the Trust Account shortage did constitute negligence.

9 I. Fraud or Dishonest Dealings

10 The Commissioner may investigate, suspend, or revoke a real estate licensee who,
11 while acting in the capacity of a real estate licensee, engaged in fraud or dishonest dealing.
12 (Bus. & Prof. Code, §10176, subd. (i).) Under California law fraud can be characterized as
13 actual or constructive. (Civ. Code, §§ 1572-1573.) An agent may be liable for either type of
14 fraud. (*Warren v. Merrill* (2006) 143 Ca.App.4th 96, 109-111.) Dishonest dealings necessarily
15 include an element of bad faith. (*Hogg v. Real Estate* (1942) 54 Cal.App.2d 712.)
16 "'Dishonesty' denotes an absence of integrity; a disposition to cheat, deceive, or defraud;
17 deceive and betray." (*Id.* citing *Alsup v. State* (1921) 91 Tex.CR.R. 224, 238.)

18 a. Actual Fraud and/or Dishonest Dealings

19 Actual fraud requires an intentional misrepresentation, concealment, or a deliberate
20 deception made with the intent to deceive. (Civ. Code, §1572.) According to Ms. Burns'
21 testimony, she caused the shortage by erroneously transferring, on three occasions, \$10,000
22 from the Trust Account. STEVENSON claimed she had no knowledge of the transfers at the
23 time they were made. STEVENSON further testified that, even though she was aware there
24 was a shortage in the Trust Account as of December 24, 2014, she did not discover what
25 caused the shortage until after Mr. Dogra concluded his audit in March 2016. Complainant
26 did not present any direct evidence to contradict this testimony.

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1 However, the circumstantial evidence raises doubt as to the credibility of
2 STEVENSON's testimony for several reasons. First, AAA's annual property management
3 trust funds were \$264,000. Thus, as of February 2015, the shortage was more than 10% of the
4 total annual trust funds. A shortage of this size constitutes a substantial amount of the total
5 trust funds maintained by AAA and should have been noticed and corrected sooner.

6 Second, STEVENSON was aware there was a shortage of \$10,000 in the Trust Account
7 as of December 24, 2014. She then became "determined" to find its cause, but missed the
8 second \$10,000 transfer made only six days after STEVENSON discovered the initial \$10,000
9 shortage. Then, less than six weeks later, STEVENSON missed a third \$10,000 transfer made
10 on February 4, 2015. STEVENSON must have known the shortage was caused by something
11 that occurred during the four-month window between November 2014 and February 2015.
12 Yet, after spending "hundreds of hours" trying to figure out what happened and using a ruler to
13 go through the bank statements line-by-line, while specifically looking for transactions of
14 \$10,000, she still could not see the three \$10,000 transfers made from the Trust Account by
15 Ms. Burns. This shows gross incompetence on the part of STEVENSON.

16 Even more troubling is that STEVENSON could not provide a plausible explanation for
17 how she missed the three transfers made by Ms. Burns. When asked about this at hearing, she
18 testified as follows:

19 Q: Did you look at the bank accounts when you were reconciling those
20 accounts?

21 A: When the bank statements came in, I pull up my QuickBooks. I use
22 rulers to line through, and I would select on QuickBooks the checks and
23 the income per the bank statement, and I was short.

24 Q: So, look, let's go to 288 in Exhibit A. You are using a ruler, you are
25 going down this bank statement. It pops onto your ruler, November 10th,
26 2014, DDA funds transferred, debit transfer to, gives an account number
27 which is the number to the brokerage account, 10,000 bucks.

 A: I missed it. I missed it three times, sir. I did.

 Q: Okay. You didn't miss it three times. You missed it six times, right,
 because you were going over the statements from the brokerage account,
 and you see a lump sum of \$10,000 that comes in from the trust
 account?

 A: I missed it on the bank statement....

1 (RT, May 4, 2017, pp. 141:18-25; 142:4-10.)

2 Finally, STEVENSON knew Ms. Burns had access to the Plumas Bank online
3 electronic system, which included access to the Trust Account and the brokerage account, but
4 at no point during her quest to find the cause of the shortage did she think to ask Ms. Burns
5 about the shortage. In fact, when Ms. Burns was hired for a second time in 2010 her sole role
6 was to handle the bookkeeping for AAA, including making QuickBooks entries. It is,
7 therefore, incomprehensible that STEVENSON did not discuss the shortage with Ms. Burns at
8 the time.

9 STEVENSON's explanation regarding her efforts to find the cause of the shortage
10 lacks credibility and is unconvincing. When all of facts are considered, the only logical
11 explanation for STEVENSON and AAA's failure to find and cure the shortage sooner, and/or
12 her failure to prevent the shortage from reaching \$30,000, is gross incompetence.

13 **Finding:** Complainant could not establish by clear and convincing evidence that the
14 actions of STEVENSON and AAA constituted fraud or dishonest dealings. However, when
15 considering all of the circumstantial evidence, STEVENSON's explanation regarding the
16 nature and cause of the shortage is, at best, dubious.

17 b. Constructive Fraud

18 In addition to traditional liability for intentional or actual fraud, a fiduciary is liable to
19 his or her principal for constructive fraud. (*Michel v. Palos Verdes Network Group, Inc.* (2007)
20 156 Cal.App.4th 756, 762-763.) Constructive fraud comprises any act, omission or
21 concealment involving a breach of a legal or equitable duty of trust or confidence. (Civ. Code,
22 § 1573.) It is not necessary to establish that the fiduciary acted with the intent to deceive. (*Id.*)
23 Constructive fraud is a unique species of fraud applicable only to a fiduciary or a confidential
24 relationship. (*Salahutdin v. Valley of California, Inc.* (1994) 24 Cal.App.4th 555, 562.) Most
25 acts by an agent in breach of a fiduciary duty constitute constructive fraud. (*Id.*)

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1 An agency establishes a fiduciary relationship, and as a fiduciary the agent has the same
2 obligations of diligence and faithful service as a trustee, including the duty to act with the
3 highest good faith and undivided service and loyalty. (Civ. Code, § 2322; *Field v. Century 21*
4 *Klowden-Forness Realty* (1998) 63 Cal.App.4th 18, 25.) Fiduciary duties are imposed on
5 agents because the principal has reposed trust and confidence in the agent's integrity and
6 fidelity. (*In re. Cover's Estate* (1922) 188 Cal. 133, 143.) A real estate broker becomes a
7 fiduciary in relations to the principal and assumes the duties, obligations, and high standards of
8 good faith imposed on a person in a fiduciary relationship. (*Ward v. Taggart* (1959) 51 Cal.2d
9 736, 741.) The broker must at all time act towards the principal in the highest good faith. (*Id.*)
10 As a fiduciary, the agent must disclose to the principal all information that may affect the
11 principal's affairs or decisions. (Miller & Starr, California Real Estate (4th ed. 2017) §§ 3:40 to
12 3:45 (discussing disclosure to the principal).) The broker must act solely for the benefit of the
13 principal in matters connected with the agent. (Restatement Third, Agency §§ 8:01, 8:06.)

14 As explained above, STEVENSON and AAA acted with negligence and gross
15 incompetence with regard to the Trust Account shortage. An agent must not act adversely
16 towards the principal. The agent must at all times perform solely for the beneficiary in matters
17 related to the agency. Here, the circumstances surrounding the cause of the shortage and
18 STEVENSON and AAA's failure to find it sooner could only be explained by their negligence
19 and/or incompetence.

20 More concerning is that STEVENSON and AAA knew there was a shortage in the
21 Trust Account as of December 24, 2014, and continued to maintain the shortage until March
22 2016. Their choice to maintain the Trust Account short for more than a year placed all risk of
23 loss on the beneficiaries, and it is an example of how STEVENSON and AAA put their own
24 interest above that of their beneficiaries. Moreover, at no time during the more than one year
25 when the Trust Account was short, were the beneficiaries informed about the ongoing shortage.
26 Such acts by STEVENSON and AAA are a clear violation of their duty to act with the highest
27 good faith and undivided service and loyalty.

1 **Findings:** The record supports by clear and convincing evidence that STEVENSON
2 and AAA committed constructive fraud.

3 J. Costs

4 The Department is entitled for the costs of its investigation, enforcement, and audits.
5 (Bus. & Prof. Code, §§ 10106 and 10148, subd. (b).) In *Zuckerman v. Board of Chiropractic*
6 *Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be
7 considered when determining the reasonableness of costs sought pursuant to Section 10106 and
8 10148 of the Code. These factors include: (a) whether the licensee has been successful at
9 hearing in getting charges dismissed; (b) the licensee's subjective good faith belief in the
10 merits of his or her own position; (c) whether the licensee has raised a colorable challenge to
11 the proposed discipline, (d) the financial ability of the licensee to pay; and (e) whether the
12 scope of the investigation was appropriate in light of the alleged misconduct.

13 Complainant seeks a total of \$7,959.30 in audit and enforcement costs. Respondents
14 were successful in defending against the allegations of intentional fraud and dishonest dealing.
15 In his PD, Judge Lew found that Complainant's requested audit and enforcement costs should
16 be reduced to \$6,000.

17 **Finding:** The Department is entitled to receive \$6,000 for the costs of its audit,
18 investigation, and enforcement.

19 ORDER

20 All licenses and licensing rights of AAA are revoked outright. All licenses and
21 licensing rights of STEVENSON under the Real Estate Law are revoked; provided, however, a
22 restricted real estate broker license shall be issued to STEVENSON pursuant to Section 10156.5
23 of the Business and Professions Code ("Code"), if STEVENSON makes application therefore
24 and pays to the Department the appropriate fee for the restricted license within 90 days from the
25 effective date of this Decision. The restricted license issued to STEVENSON shall be subject to
26 all of the provisions of Section 10156.7 of the Code and to the following limitations, conditions,
27 and restrictions imposed under authority of Section 10156.6 of that Code:

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

5 2. The restricted license issued to STEVENSON may be suspended prior to
6 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Real Estate
7 Commissioner that STEVENSON has violated provisions of the California Real Estate Law, the
8 Subdivided Lands Law, Regulations of the Real Estate Commissioner, or conditions attached to
9 the restricted license.

10 3. STEVENSON shall not be eligible to petition for the issuance of any
11 unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions
12 of a restricted license until two (2) years has elapsed from the effective date of this Decision.

13 4. STEVENSON shall, within nine (9) months from the effective date of this
14 Decision, present evidence satisfactory to the Real Estate Commissioner that STEVENSON has,
15 since the most recent issuance of an original or renewal real estate license, taken and successfully
16 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
17 Law for renewal of a real estate license. If STEVENSON fails to satisfy this condition,
18 STEVENSON's real estate license shall automatically be suspended until STEVENSON presents
19 evidence satisfactory to the Real Estate Commissioner of having taken and successfully
20 completed the continuing education requirement.

21 5. STEVENSON shall, prior to and as a condition of the issuance of the
22 restricted license, submit proof satisfactory to the Commissioner of having taken and
23 successfully completed the continuing education course on trust fund accounting and handling
24 specified in subdivision (a) of Section 10170.5 of the Code. Proof of satisfaction of this
25 requirement includes evidence that STEVENSON has successfully completed the trust fund
26 account and handling continuing education course within 120 days prior to the effective date of
27 the Decision.

1 6. STEVENSON shall pay the Department the amount of \$6,000.00, as
2 reimbursement for the costs of investigation and enforcement of this matter. Payment shall be
3 made by certified or cashier's check made payable to the Department within 60 days from the
4 effective date of the Decision.

5 This Decision shall become effective at 12 o'clock noon on AUG 15 2018.

6 IT IS SO ORDERED July 19, 2018

7 DANIEL J. SANDRI
8 ACTING REAL ESTATE COMMISSIONER

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FILED

FEB 13 2018

BUREAU OF REAL ESTATE

By B. Nicholas

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

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| In the Matter of the Accusation of |) | CalBRE No. H-6474 SAC |
| |) | |
| AAA ADVANTAGE REALTY INC., |) | OAH No. 2017010238 |
| and SANDRA STEVENSON, |) | |
| |) | |
| Respondents. |) | |
| |) | |

ORDER GRANTING RECONSIDERATION

On, December 20, 2017 a Decision revoking Respondent's real estate broker license was signed in the above-entitled matter. Said Decision was to become effective on January 17, 2018, and was stayed by separate Order to February 16, 2018.

On January 15, 2018, Respondents petitioned for reconsideration of the Decision of December 20, 2017.

I find that there is good cause to reconsider the Decision of December 20, 2017. Reconsideration is granted.

Reconsideration is granted for the limited purpose of determining whether the action imposed against Respondent by said Order should be reduced.

1 Respondent shall have 15 days from the date of this Order in which to file written
2 argument in further support of his petition for reconsideration. Counsel for the Bureau of Real
3 Estate shall submit any written reply to said argument within ten (10) days thereafter.

4 IT IS SO ORDERED 2/13/18.

5 WAYNE S. BELL
6 REAL ESTATE COMMISSIONER

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FILED

JAN 16 2018

BUREAU OF REAL ESTATE

By B. Nicholas

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

| | | |
|------------------------------------|---|-----------------------|
| In the Matter of the Accusation of |) | CalBRE NO. H-6474 SAC |
| |) | |
| AAA ADVANTAGE REALTY INC., AND |) | OAH NO. 2017010238 |
| SANDRA STEVENSON , |) | |
| |) | |
| Respondent(s). |) | |

ORDER STAYING EFFECTIVE DATE

On December 20, 2017, a Decision was rendered in the above-entitled matter to become effective January 17, 2018.

IT IS HEREBY ORDERED that the effective date of January 17, 2018, is stayed for a period of 30 days to allow Respondents to file a petition for reconsideration.

The Decision of December 20, 2017, shall become effective at 12 o' clock noon on February 16, 2018.

DATED: 1/16/18.

WAYNE S. BELL
REAL ESTATE COMMISSIONER

By: [Signature]
STEPHEN LERNER
Assistant Commissioner – Legal

FILED

DEC 27 2017

BUREAU OF REAL ESTATE

By B. Nicholas

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

AAA ADVANTAGE REALTY, INC.
and SANDRA STEVENSON,

No. H-6474 SAC

OAH No. 2017010238

Respondents.

DECISION AFTER REJECTION

This matter came on for hearing before Jonathan Lew, Administrative Law Judge (“ALJ”), Office of Administrative Hearings, State of California, in Sacramento, California, on April 10, and May 4, 2017. Real Estate Counsel Jason D. Lazark represented Complainant Tom Cameron, Supervising Auditor of the Bureau of Real Estate (“Bureau”). Attorney at Law, Tom Gifford, represented AAA ADVANTAGE REALTY, INC. (“AAA”) and SANDRA STEVENSON (“Stevenson”).

Oral and documentary evidence was received, the hearing concluded, and the record remained open to allow respondents to submit additional argument regarding cost recovery, and to allow complainant the opportunity to respond. Respondents filed a letter dated May 11, 2017, which was received of May 15, 2017. Complainant filed a response on May 17, 2017. The record was closed and the matter was submitted for decision on May 17, 2017. The ALJ rendered a Proposed Decision (“Proposed Decision”) which the Real Estate Commissioner

1 declined to adopt as his Decision. Pursuant to Section 11517 of the Government Code of the
2 State of California, Respondents were served with notice of the Real Estate Commissioner's
3 determination not to adopt the Proposed Decision, along with a copy of the Proposed Decision.
4 Respondents were notified that the case would be decided by the Real Estate Commissioner
5 based on the record, the transcript of the proceeding, and the written argument offered by
6 Respondents and Complainant.

7 Respondents submitted written argument on October 2, 2017. Complainant
8 submitted written argument on October 20, 2017.

9 The following constitutes the Decision of the Real Estate Commissioner in this
10 proceeding:

11 FACTUAL FINDINGS

12 The Factual Findings of the Proposed Decision are adopted as part of this
13 Decision.

14 LEGAL CONCLUSIONS

15 The Legal Conclusions of the Proposed Decision are adopted as part of this
16 Decision.

17 ORDER

18 All licenses and licensing rights of AAA and Stevenson under the Real Estate
19 Law are revoked; provided, however, a restricted real estate broker license shall be issued to
20 Stevenson pursuant to Section 10156.5 of the Business and Professions Code ("Code"), if
21 Stevenson makes application therefor and pays to the Bureau the appropriate fee for the restricted
22 license within 90 days from the effective date of this Decision. The restricted license issued to
23 Stevenson shall be subject to all of the provisions of Section 10156.7 of the Code and to the
24 following limitations, conditions, and restrictions imposed under authority of Section 10156.6 of
25 that Code:

26 1. The restricted license issued to Stevenson may be suspended prior to
27 hearing by Order of the Real Estate Commissioner in the event of Stevenson's conviction or plea

1 of nolo contendere to a crime that is substantially related to Stevenson's fitness or capacity as a
2 real estate licensee.

3 2. The restricted license issued to Stevenson may be suspended prior to
4 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Real Estate
5 Commissioner that Stevenson has violated provisions of the California Real Estate Law, the
6 Subdivided Lands Law, Regulations of the Real Estate Commissioner, or conditions attached to
7 the restricted license.

8 3. Stevenson shall not be eligible to petition for the issuance of any
9 unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions
10 of a restricted license until two (2) years has elapsed from the effective date of this Decision.

11 4. Stevenson shall, within nine (9) months from the effective date of this
12 Decision, present evidence satisfactory to the Real Estate Commissioner that Stevenson has,
13 since the 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 Stevenson fails to satisfy this condition, Stevenson's
16 real estate license shall automatically be suspended until Stevenson presents evidence
17 satisfactory to the Real Estate Commissioner of having taken and successfully completed the
18 continuing education requirement.

19 5. Stevenson shall, prior to and as a condition of the issuance of the restricted
20 license, submit proof satisfactory to the Commissioner of having taken and successfully
21 completed the continuing education course on trust fund accounting and handling specified in
22 subdivision (a) of Section 10170.5 of the Code. Proof of satisfaction of this requirement includes
23 evidence that Stevenson has successfully completed the trust fund account and handling
24 continuing education course within 120 days prior to the effective date of the Decision.

25 6. Stevenson shall pay the Bureau the amount of \$6,000.00, as
26 reimbursement for the costs of investigation and enforcement of this matter. Payment shall be
27

1 made by certified or cashier's check made payable to the Bureau within 60 days from the
2 effective date of the Decision.

3 This Decision shall become effective at 12 o'clock noon on JAN 17 2018

4 IT IS SO ORDERED 12/20/17

5 WAYNE S. BELL
6 REAL ESTATE COMMISSIONER

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9 By: DANIEL J. SANDRI
10 Chief Deputy Commissioner
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