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DEPARTMENT OF REAL ESTATE
P. O. Box 137007
Sacramento, CA 95813-7007

Telephone: (916) 263-8670
Fax: (916) 263-3767

FILED

AUG 19 2019

DEPARTMENT OF REAL ESTATE
By L. Koopys

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	BRE No. H-6685 SAC
)	
LEANN SUE SMITH,)	
)	<u>STIPULATION AND AGREEMENT</u>
Respondent.)	<u>IN SETTLEMENT AND ORDER</u>
)	

It is hereby stipulated by and between LEANN SUE SMITH (Respondent), and the Complainant, acting by and through Richard K. Uno, Counsel for the Department of Real Estate (Department); as follows for the purpose of settling and disposing of the Accusation filed on May 16, 2018, in this matter:

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

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

1 3. Respondent filed a Notice of Defense pursuant to Section 11505 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 he understands that by withdrawing said Notice of Defense he will thereby
5 waive his right to require the Real Estate Commissioner (Commissioner) to prove the allegations
6 in the Accusation at a contested hearing held in accordance with the provisions of the APA and
7 that he will waive other rights afforded to him in connection with the hearing such as the right to
8 present evidence in defense of the allegations in the Accusation and the right to cross-examine
9 witnesses.

10 4. This Stipulation is based on the factual allegations contained in the Second
11 Cause of Action of the Accusation. In the interest of expediency and economy, Respondent
12 choses not to contest these factual allegations, but to remain silent and understands that, as a
13 result thereof, these factual statements will serves as a prima facie basis for the "Determination
14 of Issues" and "Order" set forth below. The Commissioner shall not be required to provide
15 further evidence to prove such allegations. It is understood by the parties that the Commissioner
16 will dismiss the First Cause of Action of the Accusation.

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

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

1 7. Respondent understands that by agreeing to this Stipulation, Respondent
2 agrees to pay, pursuant to Section 10106 of the Business and Professions Code (Code), the cost
3 of the investigation (\$1,567.90) and enforcement (\$2,661.10) which resulted in the determination
4 that Respondent committed the violations found in the Determination of Issues. The total
5 amount of said costs is \$4,229.00.

6 DETERMINATION OF ISSUES

7 By reason of the foregoing stipulations, admissions and waivers, and solely for
8 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed
9 that the acts and/or omissions of Respondent, as described in the Accusation, constitute grounds
10 for the suspension or revocation of the licenses and license rights of Respondent under the
11 provisions of Sections 10176(a), 10176(i), 10177(d) and 10177(g) of the Code.

12 ORDER

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

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

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

1 3. Respondent shall not be eligible to apply for the issuance of any
2 unrestricted real estate license nor the removal of any of the conditions, limitations, or
3 restrictions of a restricted until two (2) years have elapsed from the effective date of this
4 Stipulation. Respondent shall not be eligible to apply for any unrestricted licenses until all
5 restrictions attaching to the license have been removed.

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 signed
8 by the prospective employing real estate broker on a form approved by the Department which
9 shall certify:

10 (1) That the employing broker has read the Decision which is
11 the basis for the issuance of a restricted license; and

12 (2) That the employing broker will carefully review all
13 transaction documents prepared by the restricted licensee and otherwise exercise close
14 supervision over the licensee's performance of acts for which a license is required.

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

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6. All licenses and licensing rights of Respondent are indefinitely suspended

unless or until Respondent pays the sum of \$4,229.00 for the Commissioner's reasonable cost of the investigation and enforcement which led to this disciplinary action. Said payment shall be in the form of a cashier's check made payable to the Department of Real Estate. The investigative and enforcement costs must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Stipulation.

3/5/19
DATED

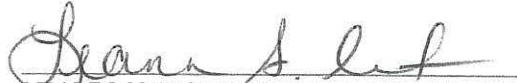

RICHARD K. UNO, Counsel III
DEPARTMENT OF REAL ESTATE

I have read the Stipulation and Agreement in Settlement and Order 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 Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations 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. I understand that I must sign and return this Stipulation by fax to (916) 263-3767 or by email to Richard.Uno@dre.ca.gov. I further agree to mail the original Stipulation no later than five days after signing it to: Department of Real Estate, Legal Section, P.O. Box

1 137007, Sacramento, California 95813-7007. I understand that failure to mail the original
2 back may result in this matter going to hearing.

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2/20/2019
DATED


LEANN SUE SMITH

I have reviewed this Stipulation and Agreement as to form and content and have advised my client accordingly.

2-22-19
DATED


DAVID R. GRIFFITH

The foregoing Stipulation and Agreement In Settlement and Order is hereby
adopted by the Real Estate Commissioner as his Decision and Order and shall become effective
at 12 o'clock noon on SEP 09 2019.

IT IS SO ORDERED August 8, 2019.

DANIEL J. SANDRI
ACTING REAL ESTATE COMMISSIONER

