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2 Department of Real Estate
3 P.O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 576-8700

FILED

JUN 29 2020

DEPARTMENT OF REAL ESTATE
By B. Nicholas

6
7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of

12 FIRST CALIFORNIA MORTGAGE
13 COMPANY and DAVID WILLIAM
14 ARMSTRONG,

15 Respondents.)

No. H-6850 SAC

STIPULATION AND
AGREEMENT TO
SURRENDER

16 It is hereby stipulated by and between FIRST CALIFORNIA MORTGAGE
17 COMPANY (FCMC/Respondent), represented by Joshua A. Rosenthal, and the Complainant,
18 acting by and through Truly Sughrue, Counsel for the Department of Real Estate
19 (Department), as follows for the purpose of settling and disposing the Accusation filed on
20 June 28, 2019, in this matter:

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

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

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

13 4. This Stipulation and Agreement is based on the factual allegations
14 contained in the Accusation. In the interest of expediency and economy, Respondent chooses not
15 to contest these factual allegations, but to remain silent and understand that, as a result thereof,
16 these factual statements will serve as a prima facie basis for the "Determination of Issues" and
17 "Order" set forth below. The Commissioner shall not be required to provide further evidence to
18 prove such allegations.

19 5. This Stipulation and Agreement and Respondent's decision not to contest
20 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and
21 are expressly limited to this proceeding and any other proceeding or case in which the
22 Department, the state or federal government, an agency of this state, or an agency of another state
23 is involved.

24 6. It is understood by the parties that the Commissioner may adopt the
25 Stipulation and Agreement as his decision in this matter thereby imposing the penalty and
26 sanctions on the real estate licenses and license rights of Respondent as set forth in the below
27 "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and

1 Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing
2 and proceeding on the Accusation under all the provisions of the APA and shall not be bound by
3 any admission or waiver made herein.

4 7. The Order or any subsequent Order of the Commissioner made pursuant to
5 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further
6 administrative or civil proceedings by the Department with respect to any matters which were not
7 specifically alleged to be causes for action in Accusation H-6850 SAC.

8 DECLARATION OF FIRST CALIFORNIA MORTGAGE COMPANY

9 In lieu of proceeding in this matter in accordance with the provisions of the APA,
10 FCMC wishes to voluntarily surrender its corporate real estate broker license issued by the
11 Department, pursuant to Code Section 10100.2. David William Armstrong (Armstrong) is the
12 Designated Officer of FCMC, and is authorized to sign this declaration on behalf of FCMC.

13 Armstrong, on behalf of FCMC, understands that by voluntarily surrendering
14 FCMC's license(s), FCMC may be re-licensed as a corporate broker only by petitioning for
15 reinstatement pursuant to section 11522 of the Government Code. Armstrong, on behalf of
16 FCMC, also understands that by voluntarily surrendering FCMC's license(s), Armstrong agrees
17 to the following:

18 1. The filing of this Declaration shall be deemed as FCMC's petition for
19 voluntary surrender.

20 2. It shall also be deemed to be an understanding and agreement that FCMC
21 waives all rights FCMC has to require the Commissioner to prove the allegations contained in
22 the Accusation filed in this matter at a hearing held in accordance with the provisions of the
23 APA, and that FCMC also waives other rights afforded to FCMC in connection with the hearing
24 such as the right to discovery, the right to present evidence in defense of the allegations in the
25 Accusation and the right to cross-examine witnesses.

26 3. Armstrong, on behalf of FCMC, further agrees that upon acceptance by the
27 Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence

1 obtained by the Department in this matter prior to the Commissioner's acceptance, and all
2 allegations contained in the Accusation filed in the Department Case No. H-6850 SAC may be
3 considered by the Department to be true and correct for the purpose of deciding whether to grant
4 re-licensure or reinstatement pursuant to Government Code section 11522.

5 4. Armstrong freely and voluntarily surrenders all FCMC's licenses and
6 license rights under the Real Estate Law.


7 * * *

8 ORDER

9 FCMC's petition for voluntary surrender of its corporate real estate broker license
10 is accepted as of the effective date of this Order as set forth below, based upon the understanding
11 and agreement expressed in FCMC's Declaration incorporated herein as part of this Stipulation
12 and Agreement. FCMC's license certificates, pocket cards and any branch office license
13 certificates shall be sent to the below listed address so that they reach the Department on or
14 before the effective date of this Order:

15
16 DEPARTMENT OF REAL ESTATE
17 Attn: Licensing Flag Section
18 P. O. Box 137013
19 Sacramento, CA 95815-7013

20 4-Feb-2020
21 DATED

22 
23 TRULY SUGHRUE
24 Counsel for Complainant

25 * * *

26 I have read the Stipulation and Agreement, discussed it with my counsel, and its
27 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, 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

1 right to cross-examine witnesses against me and to present evidence in defense and mitigation of
2 the charges.

3 Respondent and Respondent's attorney further agree to send the original signed
4 Stipulation and Agreement by mail to the following address no later than one (1) week from the
5 date the Stipulation and Agreement is signed by Respondent and Respondent's attorney:

6 *Department of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-*
7 *7007.* Respondent and Respondent's attorney understand and agree that if they fail to return the
8 original signed Stipulation and Agreement by the due date, Complainant retains the right to set
9 this matter for hearing.

10 1/31/2020
11 DATED

12 *David William Armstrong*
13 DAVID WILLIAM ARMSTRONG,
14 Designated Officer
15 FIRST CALIFORNIA MORTGAGE COMPANY,
16 Respondent

17 ***

18 *I have reviewed the Stipulation and Agreement as to form and content and have*
19 *advised my clients accordingly.*

20 1/31/20
21 DATED

22 *Joshua A. Rosenthal*
23 JOSHUA A. ROSENTHAL
24 Attorney for Respondents

25 ***

26 The foregoing Stipulation and Agreement is hereby adopted as my Decision and
27 Order and shall become effective at 12 o'clock noon on JUL 20 2020.

IT IS SO ORDERED 6-24-20

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley