

FILED

JUN 30 2020

DEPARTMENT OF REAL ESTATE

By m dew

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

Telephone: (916) 576-8700
Fax: (916) 263-3767

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of	)	No. H-6871 SAC
	)	
HOLT & COMPANY INC	)	
and DONALD LEE HOLT,	)	<u>STIPULATION AND AGREEMENT</u>
	)	<u>IN SETTLEMENT AND ORDER</u>
Respondents.	)	

It is hereby stipulated by and between HOLT & COMPANY INC (HCI) and DONALD LEE HOLT (HOLT), collectively Respondents, represented by Trevor M. Holt, and the Complainant, acting by and through Megan Lee Olsen, Counsel for the Department of Real Estate (Department); as follows for the purpose of settling and disposing of the Accusation filed on November 26, 2019, in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents 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).

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

4 3. Respondents 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. Respondents
7 acknowledge and understand that by withdrawing said Notice of Defense they will thereby waive
8 their right to require the Real Estate Commissioner (Commissioner) to prove the allegations in
9 the Accusation at a contested hearing held in accordance with the provisions of the APA and that
10 they will waive other rights afforded to them in connection with the hearing such as the right to
11 present evidence in defense of the allegations in the Accusation and the right to cross-examine
12 witnesses.

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

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

26 6. The Order or any subsequent Order of the Commissioner made pursuant to
27 this Stipulation shall not constitute an estoppel, merger, or bar to any further administrative or

1 civil proceedings by the Department of Real Estate with respect to any matters which were not
2 specifically alleged to be causes for Accusation in this proceeding.

3 7. Respondents understand that by agreeing to this Stipulation, Respondents
4 agree to pay, pursuant to Section 10148 of the Business and Professions Code (Code), the cost of
5 the audit which resulted in the violations found in the "Determination of Issues". The amount of
6 such costs is \$5,138.46.

7 8. Respondents further understand that by agreeing to this Stipulation, the
8 findings set forth below in the "Determination of Issues" become final, and that the
9 Commissioner may charge said Respondents for the costs of any audit conducted pursuant to
10 Section 10148 of the Code to determine if the violations have been corrected. The maximum
11 cost of said audit shall not exceed \$6,423.07.

12 DETERMINATION OF ISSUES

13 HOLT & COMPANY INC and DONALD LEE HOLT

14 By reason of the foregoing stipulations, admissions and waivers, and solely for
15 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed
16 that the acts and/or omissions of Respondents, as described in the Accusation, constitute grounds
17 for the suspension or revocation of the licenses and license rights of Respondents under the
18 provisions of Sections 10176 (e), 10177(d) and 10177 (g) of the Code, in conjunction with
19 Section 10145 of the Code, and Sections 2832.1 and 2835 of Title 10 of the California Code of
20 Regulations (Regulations).

21 DONALD LEE HOLT

22 By reason of the foregoing stipulations, admissions and waivers, and solely for
23 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed
24 that the acts and/or omissions of Respondent HOLT, as described in the Accusation, constitute
25 grounds for the suspension or revocation of the licenses and license rights of Respondent HOLT
26 under the provisions of Sections 10177 (d), 10177 (g) and 10177 (h) of the Code, in conjunction
27 with Section 10159.2 of the Code, and Section 2725 of the Regulations.

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1 (a) HCI shall obey all laws, rules and regulations governing the rights,
2 duties and responsibilities of a real estate licensee in the State of California; and,

3 (b) That no final subsequent determination be made, after hearing or upon
4 stipulation, that cause for disciplinary action occurred within two (2) years from the effective
5 date of this Order. Should such a determination be made, the Commissioner may, in her
6 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
7 suspension. Should no such determination be made, the stay imposed herein shall become
8 permanent.

9 DONALD LEE HOLT

10 All licenses and licensing rights of DONALD LEE HOLT, under the Real Estate
11 Law are suspended for a period of ninety (90) days from the effective date of this Order;
12 provided, however, that:

13 3. Thirty (30) days of said suspension shall be stayed, upon the condition that
14 HOLT petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to
15 Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total monetary
16 penalty of \$1,500.

17 (a) Said payment shall be in the form of a cashier's check made payable
18 to the Department of Real Estate. Said check must be delivered to the Department of Real
19 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective
20 date of this Order.

21 (b) No further cause for disciplinary action against the Real Estate licenses
22 of HOLT occurs within two (2) years from the effective date of the decision in this matter.

23 (c) If HOLT fails to pay the monetary penalty as provided above prior to
24 the effective date of this Order, the stay of the suspension shall be vacated as to HOLT and the
25 order of suspension shall be immediately executed, under this Order, in which event that HOLT
26 shall not be entitled to any repayment nor credit, prorated or otherwise, for the money paid to the
27 Department under the terms of this Order.

1 (d) If HOLT pays the monetary penalty and any other moneys due under
2 this Stipulation and if no further cause for disciplinary action against the real estate license of
3 said HOLT occurs within two (2) years from the effective date of this Order, the entire stay
4 hereby granted in this Order, as to HOLT only, shall become permanent.

5 4. Sixty (60) days of said suspension shall be stayed for two (2) years upon
6 the following terms and conditions:

7 (a) HOLT shall obey all laws, rules and regulations governing the
8 rights, duties and responsibilities of a real estate licensee in the State of California; and,

9 (b) That no final subsequent determination be made, after hearing or upon
10 stipulation, that cause for disciplinary action occurred within two (2) years from the effective
11 date of this Order. Should such a determination be made, the Commissioner may, in her
12 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
13 suspension. Should no such determination be made, the stay imposed herein shall become
14 permanent.

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

24 6. All licenses and licensing rights HOLT are indefinitely suspended
25 unless or until HOLT provides proof satisfactory to the Commissioner, of having taken and
26 successfully completed the continuing education course on trust fund accounting and handling
27 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of

1 satisfaction of these requirements includes evidence that HOLT has successfully completed the
2 trust fund account and handling continuing education courses, no earlier than 120 days prior to
3 the effective date of the Decision and Order in this matter. Proof of completion of the trust fund
4 accounting and handling course must be delivered to the Department of Real Estate, Flag Section
5 at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the
6 effective date of this Decision and Order.

7 HOLT & COMPANY INC and DONALD LEE HOLT

8 7. Pursuant to Section 10148 of the Code, Respondents shall, jointly and
9 severally, pay the sum of \$5,138.46 for the Commissioner's cost of the audit which led to this
10 disciplinary action. Respondents shall pay such cost within sixty (60) days of receiving an
11 invoice therefore from the Commissioner. Payment of audit costs should not be made until
12 Respondents receive the invoice. If Respondents fail to satisfy this condition in a timely manner
13 as provided for herein, Respondents' real estate licenses shall automatically be suspended until
14 payment is made in full, or until a decision providing otherwise is adopted following a hearing
15 held pursuant to this condition.

16 8. Pursuant to Section 10148 of the Code, Respondents shall, jointly and
17 severally, pay the Commissioner's reasonable cost, not to exceed \$6,423.07 for an audit to
18 determine if Respondents have corrected the violations found in the "Determination of Issues".
19 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the
20 estimated average hourly salary for all persons performing audits of real estate brokers, and shall
21 include an allocation for travel time to and from the auditor's place of work. Respondents shall
22 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.
23 Payment of the audit costs should not be made until Respondents receive the invoice. If
24 Respondents fail to satisfy this condition in a timely manner as provided for herein,
25 Respondents' real estate licenses shall automatically be suspended until payment is made in full,
26 or until a decision providing otherwise is adopted following a hearing held pursuant to this
27 condition.

9. All licenses and licensing rights of Respondents are indefinitely suspended unless or until Respondents, jointly and severally, pay the sum of \$1,500.00 for the Commissioner's reasonable cost of the investigation 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, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Stipulation.

6/4/20

DATED

M. L. L.

MEGAN LEE OLSEN, Counsel
DEPARTMENT OF REAL ESTATE

* * *

I have read the Stipulation and Agreement In Settlement and Order, discussed it with my counsel, 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.

Respondents and Respondents attorney further agree to send the original signed Stipulation by mail to the following address no later than one (1) week from the date the Stipulation is signed by Respondents and Respondents' attorney: *Department of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-7007.* Respondents and

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1 Respondents' attorney understand and agree that if they fail to return the original signed
2 Stipulation by the due date, Complainant retains the right to set this matter for hearing.

4 4/23/20

5 DATED

4 Donald Lee Holt

6 HOLT & COMPANY INC

7 Respondent

8 By: DONALD LEE HOLT

9 Designated Officer

9 4/23/20

10 DATED

9 Donald Lee Holt

11 DONALD LEE HOLT

12 Respondent

13 ***

13 I have reviewed the Stipulation and Agreement as to form and content and have advised my
14 clients accordingly.

16 4-23-20

17 DATED

16 Trevor M. Holt

18 TREVOR M. HOLT

19 Attorney for Respondent

19 The foregoing Stipulation and Agreement In Settlement and Order is hereby
20 adopted by the Real Estate Commissioner as her Decision and Order and shall become
21 effective at 12 o'clock noon on JUL 20 2020

22 IT IS SO ORDERED 6-26-20

23 DOUGLAS R. McCAULEY
24 REAL ESTATE COMMISSIONER

25 Douglas R. McCauley