

FILED

JUL 15 2014

BUREAU OF REAL ESTATE

By 

BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	NO. H-11194 SF
)	
LINDA DALE MILLER,)	<u>STIPULATION AND AGREEMENT</u>
)	
Respondent.)	

It is hereby stipulated by and between LINDA DALE MILLER (Respondent), acting by and through her attorney, Shannon B. Jones, and the Complainant, acting by and through John Van Driel, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Petition for Reinstatement filed on April 23, 2013 in this matter:

1. Procedural History. On January 13, 2012, a decision was rendered revoking Respondent's real estate salesperson license effective as of February 3, 2012. On April 23, 2013, Respondent filed a petition for reinstatement of her real estate salesperson license. On October 25, 2013, Respondent's petition was denied effective November 21, 2013. On December 18, 2013, Respondent requested reconsideration of the Bureau's decision denying reinstatement. Respondent's request for reconsideration was considered untimely, and denied on January 7, 2014. Because the notice concerning the deadline to file a request for reconsideration required by Government Code section 11521 was not included in the Bureau's October 25, 2013 order denying the petition for reinstatement, the Bureau reversed its January 7, 2014 decision, and reconsideration was granted on April 29, 2014.

2. Respondent's petition for reinstatement, and the evidence and arguments submitted in support thereof, have been reconsidered. Respondent has demonstrated to the Commissioner's satisfaction that it would not be against the public interest to issue a restricted real estate salesperson license to Respondent under the terms and conditions set out in the Order below.

3. Respondent waives her right to a hearing held in accordance with the provisions of the Administrative Procedure Act (APA), and her right to file a petition for writ of mandate under Government Code section 11523, to contest or object to this Stipulation and Agreement and the Order based thereon.

4. It is understood by the parties that the Commissioner may adopt this Stipulation and Agreement as his decision in this matter thereby granting a restricted real estate license to Respondent as set forth in the below Order. In the event that the Commissioner in his discretion does not adopt the Stipulation and Agreement, it shall be void and of no effect, and Respondent shall retain any rights she may have to object to or contest this Stipulation and Agreement and the Order based thereon, including her right to file a petition for writ of mandate within the time limits specified in section 11523 of the Government Code, and shall not be bound by any waiver made herein.

DETERMINATION OF ISSUES

By reason of the foregoing stipulations and waivers and solely for the purpose of settlement of the pending petition for reinstatement, it is stipulated and agreed that the following Determination of Issues shall be made.

Based on the evidence and arguments submitted by Respondent, it would not be against the public interest to issue a restricted real estate salesperson license to Respondent under the terms and conditions set out in the Order below.

ORDER

1. The petition for reinstatement filed by Respondent on April 23, 2013, is
denied; however, a restricted real estate salesperson license shall be issued to Respondent

1 pursuant to Section 10156.5 of California Business & Professions Code (the Code) if Respondent
2 satisfies the following requirements:

3 (a) Qualifies for, takes and passes the examination for a real estate
4 salesperson license.

5 (b) Submits a completed application and pays the fee for a real estate
6 salesperson license within the 12 month period following the date of this Order.

7 2. The restricted license issued to Respondent shall be subject to all of the
8 provisions of Section 10156.7 of the Code as to the following limitations, conditions and
9 restrictions imposed under authority of Section 10156.6 of the Code:

10 (a) The restricted license issued to Respondent may be suspended prior to
11 hearing by Order of the Commissioner in the event of Respondent's conviction (including by
12 plea of guilty or nolo contendere) to a crime which is substantially related to Respondent's fitness
13 or capacity as a real estate licensee; and,

14 (b) The restricted license issued to Respondent may be suspended prior to
15 hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that
16 Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
17 Law, Regulations of the Real Estate Commissioner, or conditions attaching to the restricted
18 license.

19 3. Respondent shall not be eligible to apply for the issuance of an unrestricted
20 real estate license nor for removal of any of the conditions, limitations or restrictions of a
21 restricted license until two (2) years have elapsed from the effective date of this Order.

22 4. Respondent shall notify the Commissioner in writing within 72 hours of any
23 arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, P.O. Box
24 137007, Sacramento, CA 95813-7007. The letter shall set forth the date of Respondent's arrest,
25 the crime for which Respondent was arrested and the name and address of the arresting law
26 enforcement agency. Respondent's failure to timely file written notice shall constitute an
27

1 independent violation of the terms of the restricted license and shall be grounds for the
2 suspension or revocation of that license.

3 5. With the application for license, or with the application for transfer to a new
4 employing broker, Respondent shall submit a statement signed by the prospective employing real
5 estate broker on a form approved by the Bureau which shall certify that:

6 (a) The employing broker has read the Accusation in this case filed on
7 August 11, 2011, the Proposed Decision dated December 13, 2011, and the Decision
8 dated January 13, 2012, adopting the Proposed Decision, which, together, form the basis
9 for the issuance of the restricted license; and,

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

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

21
22 7-15-14

23 DATED



23 John Van Driel
24 Counsel for Department of Real Estate

24 Approved as to form:
25
26

27 DATED

Shannon B. Jones
Counsel for Respondent

1
2 I have read the Stipulation and Agreement, have discussed it with my counsel,
3 and its terms are understood by me and are agreeable and acceptable to me. I understand that I
4 am waiving my right to contest or object to this Stipulation and Agreement, including the right
5 to file a petition for writ of mandate to challenge the Order herein, and I willingly,
6 intelligently, and voluntarily waive those rights.

7
8 7-8-14

9 DATED


LINDA DALE MILLER, Respondent

10 ***

11
12 The foregoing Stipulation and Agreement is hereby adopted as my decision in this
13 matter, and the above Order shall be effective immediately.

14 IT IS SO ORDERED

July 15

, 2014.

15
16 REAL ESTATE COMMISSIONER

17 
18

19
20 By: JEFFREY MASON
21 Chief Deputy Commissioner
22
23
24
25
26
27