

FILED

AUG 18 2014

BUREAU OF REAL ESTATE

By ST Blech

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

BRAD LYLE DUNCAN,

Respondent.

No. H-11585 SF

OAH No. 2013110889

STIPULATION AND AGREEMENT

The California Bureau of Real Estate (Complainant) filed an Accusation against BRAD LYLE DUNCAN (Respondent), on September 23, 2013. On March 11, 2014, a hearing was held and evidence was received, the record was closed, and the matter was submitted.

On April 10, 2014, the Proposed Decision of the Administrative Law Judge was issued revoking Respondent's real estate broker license, with the right to apply for a restricted broker license.

On May 19, 2014, the Commissioner rejected the Proposed Decision of April 10, 2014.

The parties wish to settle this matter without further proceedings.

IT IS HEREBY STIPULATED by and between Respondent, his counsel, Delphine S. Adams, and the Complainant, acting by and through Richard K. Uno, Counsel for the Bureau, as follows for the purpose of settling and disposing of the Accusation filed by Complainant.

1. It is understood by the parties that the Real Estate Commissioner may adopt the Stipulation and Agreement as his Decision in this matter, thereby imposing the penalty and sanctions on Respondent's application for a real estate license as set forth in the Order. In the event the Commissioner in his discretion does not adopt the Stipulation and Agreement, the Stipulation shall be void and of no effect; the Commissioner will review the transcript and the evidence in the case, and will then issue his Decision after Rejection as his Decision in this matter.

2. Respondent understands that by agreeing to this Stipulation and Agreement, Respondent agrees to pay, pursuant to Section 10148 of the Business and Professions Code (Code), the cost of the audit which led to this disciplinary action. The amount of said cost is \$5,926.51.

3. Respondent has received, read and understands the "Notice Concerning Costs of Subsequent Audits". Respondent understands that by agreeing to this Stipulation and Agreement in Settlement and Order, the findings set forth below in the DETERMINATION OF ISSUES become final, and that the Commissioner may charge Respondent for the cost of any audit conducted pursuant to Section 10148 of the Code to determine if the violations have been corrected. The maximum costs of said audit will not exceed \$5,926.51.

4. Respondent understands that by agreeing to this Stipulation and Agreement in Settlement and Order, Respondent agrees to pay, pursuant to Section 10106 of the Code, the cost of the investigation and enforcement which resulted in the determination that Respondent committed the violations found in the Determination of Issues. The amount of said costs is \$2,440.60.

DETERMINATION OF ISSUES

By reason of the foregoing stipulations, admissions and waivers, and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the acts and/or omissions of Respondent, as described in the Accusation, constitute grounds for the suspension or revocation of the licenses and license rights of Respondent under the

provisions of Sections 2831, 2831.1, 2831.2 and 2832(a) of the Regulations and Sections 10137,
10145, 10177(d) and 10177(g) of the Code.

ORDER

1. All licenses and licensing rights of Respondent BRAD LYLE DUNCAN under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall issue subject to the requirements of Section 10153.4 of the Business and Professions Code. The restricted license issued to the Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions, and restrictions imposed under authority of Section 10156.6 of said Code:

a. The restricted license issued to Respondent shall be suspended prior to hearing by order of the Real Estate commissioner in the event of his conviction or plea of nolo contendere to a crime that is substantially related to his fitness or capacity as a real estate licensee.

b. The restricted license issued to Respondent shall be suspended prior to hearing by order of the Real Estate Commission on evidence satisfactory to the Commissioner that he has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

c. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations, or restrictions attaching to the restricted license until two (2) years have elapsed from the date of issuance of the restricted license to Respondent.

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

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

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

5 **3. Respondent shall, within nine (9) months from the effective date of this**
6 Order, present evidence satisfactory to the Commissioner that Respondent has, since the most
7 recent issuance of an original or renewal real estate license, taken and successfully completed the
8 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal
9 of a real estate license. If Respondent fails to satisfy this condition, Respondent's real estate
10 license shall automatically be suspended until Respondent presents evidence satisfactory to the
11 Commissioner of having taken and successfully completed the continuing education
12 requirements. Proof of completion of the continuing education courses must be delivered to the
13 Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.

14 **4. Respondent shall, within six (6) months from the effective date of this**
15 Order, take and pass the Professional Responsibility Examination administered by the Bureau
16 including the payment of the appropriate examination fee. If Respondent fails to satisfy this
17 condition, respondent's real estate license shall automatically be suspended until Respondent
18 passes the examination.

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1 5. All licenses and licensing rights of Respondent are indefinitely suspended
2 unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and
3 successfully completed the continuing education course on trust fund accounting and handling
4 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions
5 Code. Proof of satisfaction of these requirements includes evidence that respondent has
6 successfully completed the trust fund account and handling continuing education courses, no
7 earlier than 120 days prior to the effective date of the Order in this matter. Proof of completion
8 of the trust fund accounting and handling course must be delivered to the Bureau of Real Estate,
9 Legal Section at P.O. Box 137007, Sacramento, CA 95813-7007 or by fax at 916-263-3767, prior
10 to the effective date of this Order.

11 6. All licenses and licensing rights of Respondent are indefinitely
12 suspended unless or until Respondent pays the sum of \$2,440.60 for the Commissioner's
13 reasonable cost of the investigation and enforcement which led to this disciplinary action. Said
14 payment shall be in the form of a cashier's check made payable to the Bureau of Real Estate.
15 The investigative and enforcement costs must be delivered to the Bureau of Real Estate, Legal
16 Section at P.O. Box 137007, Sacramento, CA 95813-7007, prior to the effective date of this
17 Order.

18 7. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
19 \$5,926.51 for the Commissioner's cost of the audit which led to this disciplinary action.
20 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the
21 Commissioner. Payment of audit costs should not be made until Respondent receives the
22 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
23 respondent's real estate license shall automatically be suspended until payment is made in full,
24 or until a decision providing otherwise is adopted following a hearing held pursuant to this
25 condition.

26 8. Pursuant to Section 10148 of the Code, Respondent shall pay the
27 Commissioner's reasonable cost, not to exceed \$5,926.51, for an audit to determine if

1 Respondent has corrected the violation(s) found in the Determination of Issues. In calculating
2 the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated
3 average hourly salary for all persons performing audits of real estate brokers, and shall include an
4 allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost
5 within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of the
6 audit costs should not be made until Respondent receives the invoice. If Respondent fails to
7 satisfy this condition in a timely manner as provided for herein, respondent's real estate license
8 shall automatically be suspended until payment is made in full, or until a decision providing
9 otherwise is adopted following a hearing held pursuant to this condition.

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12 7/29/14

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14 DATED

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RICHARD K. UNO, Counsel III
BUREAU OF REAL ESTATE

28 I have read the Stipulation and Agreement and its terms are understood by me and
29 are agreeable and acceptable to me. I willingly and voluntarily agree to enter into this
30 Stipulation.

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DATED

BRAD LYLE DUNCAN
Respondent

1 I have reviewed this Stipulation and Agreement as to form and content and have
2 advised my clients accordingly.

3
4 July 24, 2014
5 DATED

Delphine S Adams
6 DELPHINE S. ADAMS

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11 The foregoing Stipulation and Agreement is hereby adopted by the Real Estate
12 Commissioner as his Decision and Order.

13 This Order shall become effective at 12 o'clock noon on SEP 08 2014

14 IT IS SO ORDERED 8/14/2014

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16 REAL ESTATE COMMISSIONER

17 Wayne S. Bell

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19 Wayne S. Bell
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