

1 BUREAU OF REAL ESTATE
2 P. O. Box 137007
3 Sacramento, CA 95813-7007

4 Telephone: (916) 263-8670

FILED

NOV 24 2015

BUREAU OF REAL ESTATE

By L. J. [Signature]

7
8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

NO. H-11829 SF

12 RONALD KIRK BRADY,)

STIPULATION AND
AGREEMENT

13 Respondent.)
14

15 It is hereby stipulated by and between Respondent RONALD KIRK BRADY
16 ("Respondent"), and the Complainant, acting by and through Annette E. Ferrante, Esq., Counsel
17 for the Bureau of Real Estate ("Bureau"), as follows for the purpose of settling and disposing of
18 the Accusation filed on March 20, 2015, in this matter:

19 1. On June 30, 2015, a formal hearing was held on the Accusation in
20 accordance with the provisions of the Administrative Procedure Act ("APA") before
21 Administrative Law Judge Adrienne J. Miller ("ALJ") wherein, after evidence and testimony
22 were received, the record was closed and the matter was submitted for decision.

23 2. On July 7, 2015, the ALJ issued a Proposed Decision ("Proposed
24 Decision").

25 3. On August 11, 2015, the Commissioner rejected the Proposed Decision.

26 4. The parties wish to settle this matter without further proceedings by way
27 of the provisions of this Stipulation and Agreement ("Stipulation").

1 5. Respondent, pursuant to the limitations set forth below, hereby admits that
2 the factual allegations in the Accusation filed in this proceeding are true and correct and the
3 Commissioner shall not be required to provide further evidence to prove such allegations.

4 6. It is understood by the parties that the Commissioner may adopt this
5 Stipulation as his decision in this matter, thereby imposing the penalty and sanctions on
6 Respondent's real estate license and license rights as set forth in the "Order" below. In the event
7 that the Commissioner in his discretion does not adopt this Stipulation, it shall be void and of no
8 effect, and the Commissioner will proceed pursuant to California Government Code Section
9 11517(c)(2)(e).

10 7. The Order or any subsequent Order of the Commissioner made pursuant
11 to this Stipulation shall not constitute an estoppel, merger or bar to any further administrative
12 or civil proceedings by the Bureau with respect to any matters which were not specifically
13 alleged to be causes for accusation in this proceeding.

14 FACTUAL FINDINGS AND LEGAL CONCLUSIONS

15 The factual findings and legal conclusions set forth in the Proposed Decision
16 (attached hereto as Exhibit "A"), are incorporated herein by this reference.

17 ORDER

18 1. All licenses and licensing rights of Respondent under the Real Estate Law
19 are revoked; provided, however, a restricted real estate salesperson license shall be issued to
20 Respondent pursuant to Section 10156.5 of the Code if Respondent makes application therefor
21 and pays to the Bureau the appropriate fee for the restricted license within ninety (90) days from
22 the effective date of this Decision and Order. The restricted license issued to Respondent shall
23 be subject to all of the provisions of Section 10156.7 of the Code and to the following
24 limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

25 a. The restricted license issued to Respondent may be suspended
26 prior to hearing by Order of the Commissioner in the event of Respondent's conviction or plea of

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1 nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a
2 real estate licensee.

3 **b. The restricted license issued to Respondent may be suspended**
4 prior to hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that
5 Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
6 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted
7 license.

8 **c. Respondent shall not be eligible to apply for the issuance of an**
9 unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions
10 of a restricted license until three (3) years have elapsed from the effective date of this Decision
11 and Order.

12 **2. Respondent shall submit with any application for license under an**
13 employing broker, or any application for transfer to a new employing broker, a statement signed
14 by the prospective employing real estate broker on a form approved by the Bureau which shall
15 certify:

16 **a. That the employing broker has read the Decision and Order of the**
17 Commissioner which granted the right to a restricted license; and

18 **b. That the employing broker will exercise close supervision over the**
19 performance by the restricted licensee relating to activities for which a real estate license is
20 required.

21 **3. Respondent shall, within nine (9) months from the effective date of this**
22 **Decision and Order**, present evidence satisfactory to the Commissioner that Respondent has,
23 since the most recent issuance of an original or renewal real estate license, taken and successfully
24 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
25 Law for renewal of a real estate license. If Respondent fails to satisfy this condition,
26 Respondent's real estate license shall automatically be suspended until Respondent presents

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1 evidence satisfactory to the Commissioner of having taken and successfully completed the
2 continuing education requirements. **Proof of completion of the continuing education courses**
3 **must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box 137013,**
4 **Sacramento, CA 95813-7013.**

5 4. Respondent shall notify the Commissioner in writing within 72 hours of
6 any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Flag
7 Section, P.O. Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the date of
8 Respondent's arrest, the crime for which Respondent was arrested and the name and address of
9 the arresting law enforcement agency. Respondent's failure to timely file written notice shall
10 constitute an independent violation of the terms of the restricted license and shall be grounds for
11 the suspension or revocation of that license.

12 5. All licenses and licensing rights of Respondent are indefinitely suspended
13 unless or until Respondent pays the sum of \$1,736.75 for the Commissioner's reasonable cost of
14 the investigation and enforcement which led to this disciplinary action. Said payment shall be in
15 the form of a cashier's check made payable to the Bureau of Real Estate. **The investigation and**
16 **enforcement costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box**
17 **137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.**

18
19 9/17/15

20 DATED

21 

22 Annette E. Ferrante, Counsel
23 Bureau of Real Estate
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* * *

I have read this Stipulation 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. Respondent can signify acceptance and approval of the terms and conditions of this Stipulation by faxing a copy of the signature page, as actually signed by Respondent, to the Bureau at fax number (916) 263-3767. Respondent agrees, acknowledges and understands that by electronically sending to the Bureau a fax copy of Respondent's actual signature as it appears on this Stipulation, that receipt of the faxed copy by the Bureau shall be as binding on Respondent as if the Bureau had received the original signed Stipulation.

10/21/15

DATED

Ronald K Brady

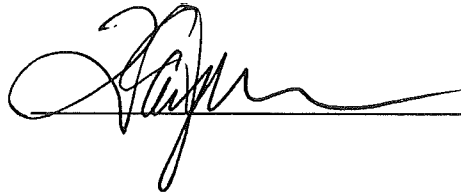
RONALD KIRK BRADY,
Respondent

The foregoing Stipulation and Agreement and Order is hereby adopted by me as
my Decision and Order in this matter as to Respondent RONALD KIRK BRADY, and shall
become effective at 12 o'clock noon on DEC 14 2015.

IT IS SO ORDERED

11/12/2015

WAYNE S. BELL
REAL ESTATE COMMISSIONER



FLB

FILED
AUG 12 2015
BUREAU OF REAL ESTATE
By L. L. L. L.

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA
* * *

In the Matter of the Accusation of)	No. H-11829 SF
)	
RONALD KIRK BRADY,)	OAH No. 2015040749
)	
Respondent.)	

NOTICE

TO: RONALD KIRK BRADY, Respondent.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated July 7, 2015, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated July 7, 2015, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on June 30, 2015, and any written argument hereafter submitted on behalf of Respondent and Complainant.

Written argument of Respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of June 30, 2015, at the Sacramento

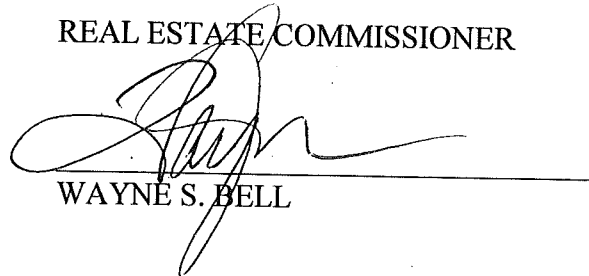
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1 office of the Bureau of Real Estate unless an extension of the time is granted for good cause
2 shown.

3 Written argument of Complainant to be considered by me must be submitted
4 within 15 days after receipt of the argument of Respondent at the Sacramento office of the
5 Bureau of Real Estate unless an extension of the time is granted for good cause shown.

6 DATED: 8/11/2015

7 REAL ESTATE COMMISSIONER

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10 WAYNE S. BELL
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BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

RONALD KIRK BRADY,

Respondent.

Case No. H-11829 SF

OAH No. 2015040749

PROPOSED DECISION

Administrative Law Judge Adrienne J. Miller, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on June 30, 2015.

Annette E. Ferrante, Real Estate Counsel, represented complainant Robin S. Tanner, a Deputy Real Estate Commissioner of the State of California.

Respondent Ronald Kirk Brady appeared and represented himself.

The matter was submitted on June 30, 2015.

FACTUAL FINDINGS

1. Complainant Robin S. Tanner filed the accusation in her official capacity as a Deputy Real Estate Commissioner for the Bureau of Real Estate (bureau).
2. Respondent Ronald Kirk Brady is licensed and has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) as a real estate broker. Respondent was originally licensed on July 13, 1988, as a real estate salesperson. On March 31, 1989, the bureau issued a broker license to respondent. Respondent's broker license has been renewed through September 10, 2017.

Cause for Discipline

CONVICTION

3. On June 18, 2012, in the Criminal District Court of Orleans Parish, State of Louisiana, Case No. 511-412, respondent was convicted on his plea of guilty, of violating

Section RS 40 966, subdivision (A)(2) (willful and unlawful possession of marijuana with intent to distribute), a felony. Imposition of sentence was suspended and respondent was placed on two years' probation. Conditions of probation included serving five years at hard labor at the department of corrections, five years suspended, paying \$2,500 fine and \$191.50 court costs. Respondent's probation was transferred to California after respondent paid all fines and fees.

4. The facts and circumstances underlying respondents' conviction occurred on March 13, 2012. Respondent was traveling on Amtrak from California to New Orleans, when the police searched his carry-on bag and found 25 clear plastic bags, each containing marijuana. The total weight of the marijuana was 26 pounds.

REPORTING OF CONVICTION

5. Pursuant to Business and Professions Code section 10186.2, subdivision (a)(1)(B), effective January 1, 2012, a licensee must notify the bureau in writing of any felony conviction within 30 days of the conviction.

6. Respondent did not notify the bureau in writing within 30 days of his felony conviction. Respondent stated that he did not know the law and failed to notify the bureau; however, when he applied to renew his license he discovered the law and fully disclosed his conviction on the confidential interview information statement.

Respondent's Evidence

7. Respondent testified credibly that in 2012, his adult son was trying to start a legal marijuana dispensing business, when he became involved with drug dealers and found himself owing a debt of approximately \$15,000 to the drug dealers, which he could not repay. Respondent initially advised his son to report the drug dealers to the police, but his son was afraid of what the drug dealers would do to him if he reported them to the police. Respondent, who was severely depressed over the sudden death of his daughter in 2011, made a terrible decision to help repay his son's debt to the drug dealers by deciding to meet with them and agreeing to transfer drugs for them to various locations in the United States. Respondent admitted that he transferred drugs four times over a four-month period, and was relieved when the police finally caught him in New Orleans. Upon respondent's arrest, respondent cooperated with the police and pled guilty to his crime. Neither his son nor respondent have heard from the drug dealers since respondent's arrest and conviction. Respondent was relieved when he was arrested and stated that he was glad that his involvement with the drug dealers would be over and done with.

8. After respondent's conviction respondent helped his son start a new gardening business and is currently advising his son on his business and is working with him.

9. Respondent is a 59-year-old divorced man with five adult children. His youngest child is 21-years old. Respondent financially helps his one daughter who is

attending nursing school, but all of his other children are self-supporting. Respondent recently sold his house and downsized his living situation to help pay off his back taxes and live a more frugal lifestyle.

10. Respondent graduated from Brigham Young University in 1981 and received a Master's Degree in Business from the University of California, Berkeley in 1983. He has been self-employed as both a mortgage broker and a business consultant his entire professional career. He is interested in acquiring a mortgage loan originator endorsement so that he can broker loans for the public.

11. Respondent has had his real estate license suspended twice, first on September 18, 2000, and again on June 18, 2011, under Welfare and Institutions Code section 11350.6, and Family Code section 17520, for failure to pay his child support obligation. His license was released on October 10, 2009, and on November 21, 2011, when he paid his child support obligation. Respondent did owe back taxes to the Internal Revenue Service in the amount of \$5,300, but this debt has been paid.

12. Respondent does not drink or use drugs. He has been diagnosed with depression due to complicated bereavement of his daughter's death in 2011. Currently respondent is being treated for chronic kidney disease, but is otherwise healthy and looking forward to establishing a successful career as a loan originator in the real estate field.

Costs

13. The complainant requests reimbursement for the costs of investigation and enforcement of this matter. The costs include \$1,104.85 in investigative costs and \$631.90 in enforcement costs, for a total amount of \$1,736.75. In support of the request for investigative costs and enforcement costs, complainant submitted certified declarations. In the absence of evidence to the contrary, this amount is found to be reasonable.

LEGAL CONCLUSIONS

1. The burden of proof in this matter is on complainant to show by clear and convincing evidence that respondent's license should be suspended or revoked. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855-856.)

Cause for Discipline

2. Business and Professions Code section 490, subdivision (a), authorizes the suspension or revocation of a license if the licensee has been convicted of a crime that is substantially related to the qualifications, functions or duties of the licensed business or profession. Business and Professions Code section 10177, subdivision (b), which is specific to real estate licenses, authorizes the suspension or revocation of a license if the licensee has

been convicted of a crime that is substantially related to the qualification, functions and duties of a licensee of the Bureau of Real Estate.

3. California Code of Regulations, title 10, section 2910, sets forth criteria for determining whether a crime is substantially related to the qualifications, functions or duties of a real estate licensee. A crime is deemed to be substantially related if it involves doing an unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another (subd. (a)(8).) Respondent's conviction for willful and unlawful possession of marijuana with intent to distribute, is substantially related to the qualifications, functions or duties of a real estate licensee under California Code of Regulations, title 10, section 2910, subdivisions (a)(8). By reason of the matters set forth in Findings 3 and 4, the conviction constitutes cause to revoke respondent's real estate broker's license pursuant to Business and Professions Code sections 490, subdivision (a), and 10177, subdivision (b).

4. Business and Professions Code section 10177, subdivision (d), authorizes the commissioner to suspend or revoke the license of a real estate licensee who has willfully disregarded or violated the Real Estate Law, or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law. Business and Professions Code section 10186.2 requires a licensee to report to the bureau any felony conviction within 30 days. Failure to make a written report within 30 days constitutes a cause for discipline.

5. Respondent's failure to notify the bureau in writing of his June 18, 2012 felony conviction within 30 days, as set forth in Factual Findings 5 and 6, constitutes cause for discipline. Respondent was not aware of the law and his responsibility to notify the bureau, however it is his responsibility to know the law and abide by the law and he did not do so.

Assessment of Rehabilitation

6. California Code of Regulations, title 10, section 2912, sets forth criteria for determining the rehabilitation of a licensee in a disciplinary proceeding. Factors to be considered in evaluating rehabilitation include the following: The passage of two years since the date of the most recent criminal conviction (subd. (a)); the expungement of the conviction (subd. (c)); the successful completion of probation (subd. (e)); the payment of fines imposed in connection with the criminal conviction (subd. (g)); and a change in attitude from that which existed at the time of the conviction (subd. (l)).

7. Respondent's conviction was three years ago and he has complied with all the terms of his June 18, 2012, conviction by paying his fines, and completing his probation as of June 18, 2014. His conviction was also pardoned pursuant to the requirements for Louisiana's automatic first offender pardon, as outlined in R.S. 15:572. Respondent's sentence was therefore discharged as provided by Article 1, Section 20, and Article 4, Section 5 (e)(1), of the Louisiana Constitution.

8. At hearing respondent accepted the serious nature of his conviction and he was sincerely remorseful for his actions. Respondent's testimony was credible when he stated that he tried to help and protect his son. However, due to respondent's severe depression over the recent death of his daughter, he made a bad decision. It appears unlikely that respondent will engage in criminal conduct in the future. The purpose of this proceeding is not to further punish respondent for his criminal conduct, but to ensure that real estate licensees will be worthy of the fiduciary responsibilities they bear. Although it would be against the public interest to allow respondent to keep his real estate broker license at this time, it would not be against the public interest to grant respondent a restricted real estate salesperson license, under appropriate terms and conditions. These terms and conditions shall be in force for three years. This period of restriction is appropriate given the serious nature of his conviction and that respondent has only recently completed probation. This will protect the public as respondent continues with his rehabilitation.

Costs

9. Complainant requests reimbursement of the costs of investigation and enforcement pursuant to Business and Professions Code section 10106. Section 10106 provides that in any order issued in resolution of a disciplinary proceeding, the commissioner may ask the administrative law judge to direct a licensee found to have committed a violation to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth guidelines for determining whether the costs should be assessed in the particular circumstances of each case. Respondent did not establish a basis for reducing the costs.

ORDER

All licenses and licensing rights of respondent Ronald Kirk Brady, under the Real Estate Law, are revoked; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to Business and Professions Code section 10156.5, if respondent makes application therefor and pays to the Bureau of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all the provisions of Business and Professions Code section 10156.7, and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that Code:

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

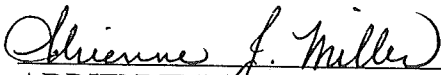
Not Adopted

2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent 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.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until three years have elapsed from the effective date of this Decision.
4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the bureau which shall certify:
 - (a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and
 - (b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.
5. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the bureau of Real Estate, Post Office Box 187000, Sacramento, CA 95818-7000. The letter shall set forth the date of respondent's arrest, the crime for which respondent was arrested and the name and address of the arresting law enforcement agency. Respondent's failure to timely file written notice shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.
6. Respondent shall pay the bureau's costs associated with its investigation and enforcement pursuant to Business and Professions Code section 10106, in the amount of \$1,736.75.

Respondent shall be permitted to pay these costs in a payment plan approved by the bureau. Respondent's failure to make payments in accordance with any formal agreement entered into with the bureau or pursuant to any Decision by the bureau shall constitute an independent violation of the terms of the

restricted license and shall be grounds for the suspension or revocation of that license.

DATED: 7-7-15


ADRIENNE J. MILLER
Administrative Law Judge
Office of Administrative Hearings