

FILED

MAR 29 2018

BUREAU OF REAL ESTATE

By H. Diaz

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of:

LINDSAY MICHELLE SMITH,

Respondent.

No. H-12069 SF

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between LINDSAY MICHELLE SMITH ("Respondent") and her attorney, Delphine S. Adams, and the Complainant, acting by and through Kyle T. Jones, Counsel for the Bureau of Real Estate ("Bureau"), as follows for the purpose of settling and disposing of the Accusation filed on April 8, 2017, in this matter:

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

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

3. Respondent filed a Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent

1 acknowledges that Respondent will waive Respondent's right to require the Real Estate
2 Commissioner ("Commissioner") to prove the allegations in the Accusation at a contested hearing
3 held in accordance with the provisions of the APA and that Respondent will waive other rights
4 afforded to Respondent in connection with the hearing such as the right to present evidence in
5 defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

9 5. It is understood by the parties that the Commissioner may adopt the
10 Stipulation and Agreement as his Decision and Order in this matter thereby imposing the penalty
11 and sanctions on Respondent's real estate license and license rights as set forth in the below "Order."
12 In the event the Commissioner in his discretion does not adopt the Stipulation and Agreement, it
13 shall be void and of no effect, and Respondent shall retain the right to a hearing and proceeding on
14 the Accusation under all the provisions of the APA, and shall not be bound by any admission or
15 waiver made herein.

16 6. This Decision and Order or any subsequent Order of the Commissioner made
17 pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any
18 further administrative or civil proceedings by the Bureau with respect to any matters which were not
19 specifically alleged in Accusation H-12069 SF.

20 DETERMINATION OF ISSUES

21 By reason of the foregoing stipulations, admissions, and waivers and solely for the
22 purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed that the
23 following Determination of Issues shall be made:

24 The acts and/or omissions of Respondent as described in the Accusation violate
25 Sections 490 and 10177(b) of the Business and Professions Code ("Code").

26 ORDER

1 All real estate licenses(s) and licensing rights of Respondent are revoked; provided,
2 however, a restricted real estate salesperson license shall be issued to Respondent pursuant to
3 Section 10156.5 of the Code if Respondent makes application thereof and pays to the Bureau the
4 appropriate fee for the restricted license within ninety (90) days from the effective date of this Order.

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

8 1. The restricted license issued to Respondent may be suspended prior to
9 hearing by order of the Real Estate commissioner in the event of Respondent's conviction or plea of
10 nolo contendere to a crime that is substantially related to Respondent's fitness or capacity as a real
11 estate licensee.

12 2. The restricted license issued to Respondent may be suspended prior to
13 hearing by order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that
14 Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law,
15 Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

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

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

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

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

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

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

17 7. Respondent shall notify the Commissioner in writing within seventy-two
18 (72) hours of any arrest by sending a certified letter to the Commissioner at the Bureau of Real
19 Estate, P.O. Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of
20 Respondent's arrest, the crime for which Respondent was arrested and the name and address of the
21 arresting law enforcement agency. Respondent's failure to timely file written notice shall constitute
22 an independent violation of the terms of the restricted license and shall be grounds for the
23 suspension or revocation of that license.

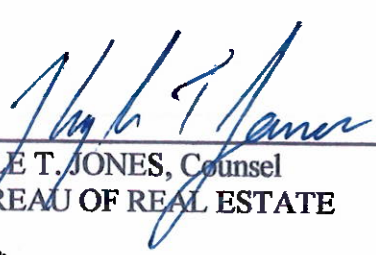
24 8. Within ninety (90) days of the effective date of this Order, Respondent shall
25 pay \$780.80 to the Bureau for the costs of investigation and enforcement of this matter.

26 Respondent's failure to pay the Bureau shall constitute an independent violation of the terms of the
27

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

2
3 1/31/18

4 DATED


KYLE T. JONES, Counsel
BUREAU OF REAL ESTATE

6 * * *

7 I have read the Stipulation and Agreement, have discussed it with my counsel, and
8 its terms are understood by me and are agreeable and acceptable to me. I understand that I am
9 waiving rights given to me by the APA (including but not limited to Sections 11506, 11508,
10 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive
11 those rights, including the right of requiring the Commissioner to prove the allegations in the
12 Accusation at a hearing at which I would have the right to cross-examine witnesses against me and
13 to present evidence in defense and mitigation of the charges.

14 Respondent can signify acceptance and approval of the terms and conditions of this
15 Stipulation and Agreement by faxing a copy of the signature page, as actually signed by
16 Respondent, to the Bureau at fax number (916) 263-3767 or by e-mail to
17 kyle.jones@DRE.ca.gov. Respondent agrees, acknowledges, and understands that by
18 electronically sending to the Bureau a fax copy of Respondent's actual signature as it appears on
19 the Stipulation and Agreement, that receipt of the faxed copy by the Bureau shall be as binding on
20 Respondent as if the Bureau had received the original signed Stipulation and Agreement.

21
22 1/5/18

23 DATED


LINDSAY MICHELLE SMITH
Respondent

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25 ///

26 *I have reviewed the Stipulation and Agreement as to form and content and have*
27 *advised my client accordingly.*

1
2
3 January 6, 2018
4 DATED

Delphine S. Adams
DELPHINE S. ADAMS
Attorney for Respondent

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7 The foregoing Stipulation and Agreement is hereby adopted by the Real Estate
8 Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on

9 APR 19 2018

10 IT IS SO ORDERED March 28, 2018

11
12 WAYNE S. BELL
13 Real Estate Commissioner

14 Daniel J. Sandri

15 By: DANIEL J. SANDRI
16 Chief Deputy Commissioner