

1 Department of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0781

FILED

JUL 18 2019

DEPARTMENT OF REAL ESTATE
By B. Nicholas

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

10 * * *

11 In the Matter of the Accusation of)

12 RHONDA ELAINE DRAKEFORD,)

13 Respondent.)

No. H-12322 SF

STIPULATION AND
AGREEMENT

14 It is hereby stipulated by and between RHONDA ELAINE DRAKEFORD
15 (Respondent), and the Complainant, acting by and through Truly Sughrue, Counsel for the
16 Department of Real Estate (Department), as follows for the purpose of settling and disposing
17 the Accusation filed on October 18, 2018, in this matter:

18 1. All issues which were to be contested and all evidence which was to be
19 presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing
20 was to be held in accordance with the provisions of the Administrative Procedure Act (APA),
21 shall instead and in place thereof be submitted solely on the basis of the provisions of this
22 Stipulation and Agreement.

23 2. Respondent has received, read, and understands the Statement to
24 Respondent, and the Discovery Provisions of the APA filed by the Department in this
25 proceeding.

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1 3. Respondent filed a Notice of Defense pursuant to Section 11505 of the
2 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
3 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
4 acknowledges that Respondent understands that by withdrawing said Notice of Defense
5 Respondent will thereby waive Respondent's rights to require the Real Estate Commissioner
6 (Commissioner) to prove the allegations in the Accusation at a contested hearing held in
7 accordance with the provisions of the APA, and that Respondent will waive other rights afforded
8 to Respondent in connection with the hearing such as the right to present evidence in defense of
9 the allegations in the Accusation and the right to cross-examine witnesses.

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

16 5. This Stipulation and Agreement and Respondent's decision not to contest
17 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and
18 are expressly limited to this proceeding and any other proceeding or case in which the
19 Department, the state or federal government, an agency of this state, or an agency of another state
20 is involved.

21 6. Respondent understands that by agreeing to this Stipulation and
22 Agreement, Respondent agrees to pay, pursuant to Section 10148 of the California Business and
23 Professions Code (Code), the cost of the audit, which resulted in the determination that
24 Respondent committed the trust fund handling violation(s) found in the Determination of Issues.
25 The amount of said costs is \$10,271.50.

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1 8. Respondent further understand that by agreeing to this Stipulation and
2 Agreement, the findings set forth below in the Determination of Issues become final, and that
3 the Commissioner may charge said Respondents for the costs of any audit conducted pursuant to
4 Section 10148 of the Code to determine if the violations have been corrected. The maximum
5 costs of said audit shall not exceed \$12,839.38.

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

13 10. The Order or any subsequent Order of the Commissioner made pursuant to
14 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further
15 administrative or civil proceedings by the Department with respect to any matters which were not
16 specifically alleged to be causes for action in Accusation H-12322 SF.

17 * * *

18 DETERMINATION OF ISSUES

19 By reason of the foregoing stipulations and waivers and solely for the purpose of
20 settlement of the pending Accusation without a hearing, it is stipulated and agreed that the
21 following determination of issues shall be made:

22 The acts and omissions of Respondent as described in the Accusation are
23 grounds for the suspension or revocation of Respondent's licenses and license rights under the
24 following sections of the Code and Title 10 of the California Code of Regulations (Regulations)

25 As to Paragraph 8(a), under Sections 10177(d) and/or 10177(g) of the Code in
26 conjunction with Section 10145 of the Code and Section 2832 of the Regulations;
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1 As to Paragraph 8(b), under Sections 10177(d) and/or 10177(g) of the Code in
2 conjunction with Section 2831 of the Regulations;

3 As to Paragraph 8(c), under Sections 10177(d) and/or 10177(g) of the Code in
4 conjunction with Section 2831.1 of the Regulations;

5 As to Paragraph 8(d), under Sections 10177(d) and/or 10177(g) of the Code in
6 conjunction with Section 2831.2 of the Regulations;

7 As to Paragraph 8(e), under Sections 10177(d) and/or 10177(g) of the Code in
8 conjunction with Section 2834 of the Regulations and Section 10145 of the Code; and

9 As to Paragraph 8(f), under Sections 10177(d) and/or 10177(g) of the Code in
10 conjunction with Section 2731 of the Regulations and Section 10159.5 of the Code.

11 * * *

12 ORDER

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

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

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

5 3. Respondent shall not be eligible to apply for the issuance of an
6 unrestricted real estate license nor for removal of any of the conditions, limitations, or
7 restrictions of a restricted license until three (3) years have elapsed from the effective date of this
8 Decision and Order. Respondent shall not be eligible to apply for any unrestricted licenses until
9 all restrictions attaching to the license have been removed.

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

20 5. All licenses and licensing rights of Respondent are indefinitely suspended
21 unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and
22 successfully completed the continuing education course on trust fund accounting and handling
23 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of
24 satisfaction of these requirements includes evidence that Respondent has successfully completed
25 the trust fund account and handling continuing education course, no earlier than 120 days prior to
26 the effective date of the Decision and Order in this matter. Proof of completion of the trust fund
27 accounting and handling course must be delivered to the Department of Real Estate, Flag Section

1 at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the
2 effective date of this Decision and Order.

3 6. All licenses and licensing rights of Respondent are indefinitely suspended
4 unless or until Respondent provides proof satisfactory to the Commissioner, of having corrected
5 the violation described in Paragraph 8(f) of the Accusation. Proof of correction may include
6 submission of Broker Change Application (RE 204) and required paperwork to the Department,
7 and/or declaration signed by Respondent under penalty of perjury that the fictitious business
8 name is no longer being used. Proof of correction must be delivered to the Department of Real
9 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-
10 8758, prior to the effective date of this Decision and Order.

11 7. All licenses and licensing rights of Respondents are indefinitely suspended
12 unless or until Respondents provides proof satisfactory to the Commissioner, of having deposited
13 all trust funds into one or more trust funds accounts in the name of Respondent as trustee at a
14 bank or other financial institution, in conformance with Section 10145 of the Code and Section
15 2832 of the Regulations. Proof of satisfaction must be delivered to the Department of Real
16 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-
17 8758, prior to the effective date of this Decision and Order.

18 8. All licenses and licensing rights of Respondents are indefinitely suspended
19 unless or until Respondents provides a trust account reconciliation report showing the trust
20 account to be reconciled, in conformance with Section 2831.2 of the Regulations. Proof of
21 satisfaction must be delivered to the Department of Real Estate, Flag Section at P.O. Box
22 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the effective date of
23 this Decision and Order.

24 9. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
25 \$10,271.50 for the Commissioner's cost of the audit which led to this disciplinary action.
26 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the
27 Commissioner. Payment of audit costs should not be made until Respondent receives the

1 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
2 Respondent's real estate license shall automatically be suspended until payment is made in full,
3 or until a decision providing otherwise is adopted following a hearing held pursuant to this
4 condition.

5 10. Pursuant to Section 10148 of the Code, Respondent shall pay the
6 Commissioner's reasonable cost, not to exceed \$12,839.38, for an audit to determine if
7 Respondent has corrected the violation(s) found in the Determination of Issues. In calculating
8 the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated
9 average hourly salary for all persons performing audits of real estate brokers, and shall include an
10 allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost
11 within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of the
12 audit costs should not be made until Respondent receives the invoice. If Respondent fails to
13 satisfy this condition in a timely manner as provided for herein, Respondent's real estate license
14 shall automatically be suspended until payment is made in full, or until a decision providing
15 otherwise is adopted following a hearing held pursuant to this condition.

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17
18 DATED

24-April-19

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18 TRULY SUGHRUE
19 Counsel for Complainant

20 * * *

21 I have read the Stipulation and Agreement, and its terms are understood by me
22 and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the
23 California Administrative Procedure Act, and I willingly, intelligently and voluntarily waive
24 those rights, including the right of requiring the Commissioner to prove the allegations in the
25 Accusations at a hearing at which I would have the right to cross-examine witnesses against me
26 and to present evidence in defense and mitigation of the charges.
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1 Respondent further agrees to send the original signed Stipulation by mail to the
2 following address no later than one (1) week from the date the Stipulation is signed by
3 Respondent: *Department of Real Estate, Legal Section, P.O. Box 137007, Sacramento,*
4 *California 95813-7007.* Respondent understands and agrees that if Respondent fails to return the
5 original signed Stipulation by the due date, Complainant retains the right to set this matter for
6 hearing.

7
8 4/23/2019
9 DATED


10 RHONDA ELAINE DRAKEFORD
Respondent

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12 The foregoing Stipulation and Agreement is hereby adopted as my Decision and
13 Order and shall become effective at 12 o'clock noon on AUG 0 8 2019.

14 IT IS SO ORDERED July 15, 2019.

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16 DANIEL J. SANDRI
ACTING REAL ESTATE COMMISSIONER

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