APR 0 4 2019 DEPARTMENT OF REAL ESTATE By_

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:

DRE No. H-12345 SF

MICHAEL WILLIAM MARR,

Respondent(s).

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on March 28, 2019, and the Findings of Fact set forth herein, which are based on one or more of the following: (1) The express admissions of Respondent, MICHAEL WILLIAM MARR ("Respondent"); (2) affidavits; and (3) other evidence.

This Decision revokes one or more real estate licenses and/or license rights on grounds of conviction of crimes that are substantially related to the qualifications, functions or duties of a real estate licensee.

Pursuant to Government Code Section 11521, the California Department of Real Estate ("the Department") may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license, or to the reduction of a penalty, is controlled by Section 11522 of the Government Code. A copy of Government Code Sections 11521 and 11522 and a copy of the Commissioner's <u>Criteria of Rehabilitation</u> are attached hereto for the information of respondent.

FINDINGS OF FACT

1.

On December 24, 2018, Robin S. Tanner made the Accusation in her official capacity as a Supervising Special Investigator of the Department. The Accusation, Statement to

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and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondent's last known mailing address on file with the Department on January 17, 2019.

On March 28, 2019, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2.

Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("the Code") as a real estate broker.

3.

Attached as Exhibit "A" is a true and correct copy of the Accusation filed on January 17, 2019, which is incorporated herein as part of this Decision.

DETERMINATION OF ISSUES

1.

The allegations contained in the Accusation, constitute cause under Sections <u>490</u>, <u>10177(b)</u> (conviction of a crime substantially related to the qualifications, functions or duties of a real estate licensee) and <u>10177(j)</u> (fraud or dishonest dealing) of the Code for the suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

2.

The standard of proof applied was clear and convincing evidence to a reasonable certainty.

ORDER

All licenses and licensing rights of Respondent MICHAEL WILLIAM MARR under the provisions of Part I of Division 4 of the Business and Professions Code are revoked. APR 25 2019

This Decision shall become effective at 12 o'clock noon on

DATED: <u>April 3, 2019</u>

DANIEL J. SANDRI ACTING REAL ESTATE COMMISSIONER

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	FILED
1	Department of Real Estate
2	1651 Exposition, Blvd. March 28, 2019 Sacramento, CA, 95815 March 28, 2019
3	DEPARTMENT OF REAL ESTATE
4	CHA-
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8	BEFORE THE DEPARTMENT OF REAL ESTATE
9	STATE OF CALIFORNIA
10	* * *
11	In the Matter of the Accusation of:) DRE NO. H-12345 SF
12	MICHAEL WILLIAM MARR,) <u>DEFAULT ORDER</u>
1,3	Respondent.
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15	Respondent MICHAEL WILLIAM MARR, having failed to file a Notice of
16	Defense within the time required by Section 11506 of the Government Code, is now in
17	default. It is, therefore, ordered that a default be entered on the record in this matter.
18	IT IS SO ORDERED MARCH 28, 2019.
19 20	DANIEL J. SANDRI ACTING REAL ESTATE COMMISSIONER
20	
22	By: Jan M. Courset
23	JOSEPH M. CARRILLO Managing Deputy Commissioner IV
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1	KYLE T. JONES, Counsel (SBN 300751)
2	Department of Real Estate FILED
3	Sacramento, CA 95813-7007 JAN 1 7 2019
4	Telephone: (916) 263-8672 DEPARTMENT OF REAL ESTATE
5	(916) 263-3767 (Fax) (916) 263-7303 (Direct)
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8	BEFORE THE DEPARTMENT OF REAL ESTATE
9	STATE OF CALIFORNIA
10	* * *
11	In the Matter of the Accusation of)
12) No. H-12345 SF MICHAEL WILLIAM MARR,)
13) <u>ACCUSATION</u> Respondent.
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15	The Complainant, ROBIN S. TANNER, acting in her official capacity as a
16	Supervising Special Investigator of the State of California, for this Accusation against
17	MICHAEL WILLIAM MARR ("Respondent"), is informed and alleges as follows:
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19	Respondent is presently licensed and/or has license rights under the Real Estate
20	Law, Part 1 of Division 4 of the Business and Professions Code ("Code") as a real estate broker.
21	CRIMINAL CONVICTION
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23	On or about March 21, 2018, in the United States District Court, Northern District
24	of California, Case No. 4:14-cr-00580-PJH, Respondent was convicted of two counts of violating
25	Section 1 (bid rigging), Title 15, of the United States Code, felonies and crimes that bear a
26	substantial relationship to the qualifications, functions or duties of a real estate licensee pursuant
27	to Section 2910, Title 10, of the California Code of Regulations.
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GROUNDS FOR DISCIPLINE

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3 The facts alleged in Paragraph 2, above, constitute cause under Sections 490 4 (conviction of substantially related crime), 10177(b) (conviction of substantially related crime), 5 and 10177(j) (fraud or dishonest dealing) of the Code for the suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law. 6 7 COST RECOVERY 8 4 9 The Department will seek to recover cost of the investigation and prosecution of this case pursuant to section 10106 of the Code which provides, in pertinent part, that in any 10

order issued in resolution of a disciplinary proceeding before the Department, the Commissioner 11 12 may request the administrative law judge to direct a licensee found to have committed a violation 13 of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement 14 of the case.

15 WHEREFORE, Complainant prays that a hearing be conducted on the allegations 16 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary 17 action against all licenses and license rights of Respondent under the Real Estate Law, for the 18 cost of investigation and enforcement as permitted by law, and for such other and further relief as 19 may be proper under other provisions of law.

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20 21 22 23 24 Dated at Oakland, California, 25

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day of Decemb

2018.

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ROBIN S. TANNER Supervising Special Investigator

DISCOVERY DEMAND

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2	Pursuant to Sections 11507.6, et seq. of the Administrative Procedure Act, the
3	Department hereby makes demand for discovery pursuant to the guidelines set forth in the
4	Administrative Procedure Act. Failure to provide Discovery to the Department may result in the
5	exclusion of witnesses and documents at the hearing or other sanctions that the Office of
6	Administrative Hearings deems appropriate.
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