

FILED

MAR 28 2022

DEPARTMENT OF REAL ESTATE
By Andrew

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

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6

7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of) No. H-12497 SF
12 MYND MANAGEMENT, INC.)
13 and DARRYL JOHN WILLIS,) STIPULATION AND AGREEMENT
14 Respondents.) IN SETTLEMENT AND ORDER
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16 It is hereby stipulated by and between MYND MANAGEMENT, INC. (MMI) and
17 DARRYL JOHN WILLIS (WILLIS), collectively Respondents, represented by Joshua A.
18 Rosenthal, and the Complainant, acting by and through Megan Lee Olsen, Counsel for the
19 Department of Real Estate (Department); as follows for the purpose of settling and disposing of
20 the Accusation filed on March 10, 2021, in this matter:

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

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1 2. Respondents have received, read, and understands the Statement to
2 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department in
3 this proceeding.

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

13 4. This Stipulation is based on the factual allegations contained in the
14 Accusation. In the interest of expediency and economy, Respondents choose not to contest these
15 factual allegations, but to remain silent and understands that, as a result thereof, these factual
16 statements will serves as a prima facie basis for the "Determination of Issues" and "Order" set
17 forth below. The Commissioner shall not be required to provide further evidence to prove such
18 allegations.

19 5. It is understood by the parties that the Commissioner may adopt the
20 Stipulation as his Decision and Order in this matter, thereby imposing the penalty and sanctions
21 on Respondents' real estate licenses and license rights as set forth in the below "Order". In the
22 event that the Commissioner in his discretion does not adopt the Stipulation, it shall be void and
23 of no effect, and Respondents shall retain the rights to a hearing and proceeding on the
24 Accusation under all the provisions of the APA and shall not be bound by any admission or
25 waiver made herein.

26 6. This Decision and Order or any subsequent Order of the Commissioner
27 made pursuant to this Stipulation shall not constitute an estoppel, merger, or bar to any further

1 administrative or civil proceedings by the Department with respect to any matters which were not
2 specifically alleged to be causes for Accusation in this proceeding.

3 7. Respondents understand that by agreeing to this Stipulation, Respondents
4 agrees to pay, pursuant to Section 10148 of the Business and Professions Code (Code), the cost
5 of the audit which resulted in the violations found in the Determination of Issues. The amount of
6 such costs is \$6,123.00.

7 8. Respondents further understand that by agreeing to this Stipulation, the
8 findings set forth below in the "Determination of Issues" become final, and that the
9 Commissioner may charge said Respondents for the costs of any audit conducted pursuant to
10 Section 10148 of the Code to determine if the violations have been corrected. The maximum
11 cost of said audit shall not exceed \$7,658.75.

12 DETERMINATION OF ISSUES

13 MYND MANAGEMENT, INC. and DARRYL JOHN WILLIS

14 By reason of the foregoing stipulations, admissions and waivers, and solely for
15 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed
16 that the acts and/or omissions of Respondents, as described in the Accusation, constitute grounds
17 for the suspension or revocation of the licenses and license rights of Respondents under the
18 provisions of Sections 10177(d) and 10177 (g) of the Code, in conjunction with Sections 10145
19 and 10176 (g) of the Code, and Section 2832.1 of Title 10 of the California Code of Regulations
20 (Regulations).

21 DARRYL JOHN WILLIS

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

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1 the provisions of Sections 10177(d), 10177 (g) and 10177 (h) of the Code, in conjunction with
2 Section 10159.2 of the Code, and Section 2725 of the Regulations.

3 ORDER

4 MYND MANAGEMENT, INC.

5 All licenses and licensing rights of MYND MANAGEMENT, INC., under the
6 Real Estate Law are suspended for a period of sixty (60) days from the effective date of this
7 Order; provided, however, that:

8 1. Thirty (30) days of said suspension shall be stayed, upon the condition that
9 MMI petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to
10 Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total monetary
11 penalty of \$1,500.

12 (a) Said payment shall be in the form of a cashier's check made payable
13 to the Department of Real Estate. Said check must be delivered to the Department of Real
14 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective
15 date of this Order.

16 (b) No further cause for disciplinary action against the real estate licenses
17 of MMI occurs within two (2) years from the effective date of the decision in this matter.

18 (c) If MMI fails to pay the monetary penalty as provided above prior to
19 the effective date of this Order, the stay of the suspension shall be vacated as to MMI and the
20 order of suspension shall be immediately executed, under this Order, in which event that MMI
21 shall not be entitled to any repayment nor credit, prorated or otherwise, for the money paid to the
22 Department under the terms of this Order.

23 (d) If MMI pays the monetary penalty and any other moneys due under
24 this Stipulation and if no further cause for disciplinary action against the real estate license of
25 said MMI occurs within two (2) years from the effective date of this Order, the entire stay hereby
26 granted in this Order, as to MMI only, shall become permanent.

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1 2. Thirty (30) days of said suspension shall be stayed for two (2) years upon
2 the following terms and conditions:

3 (a) MMI shall obey all laws, rules and regulations governing the rights,
4 duties and responsibilities of a real estate licensee in the State of California; and,

5 (b) That no final subsequent determination be made, after hearing or upon
6 stipulation, that cause for disciplinary action occurred within two (2) years from the effective
7 date of this Order. Should such a determination be made, the Commissioner may, in his
8 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
9 suspension. Should no such determination be made, the stay imposed herein shall become
10 permanent.

11 DARRYL JOHN WILLIS

12 All licenses and licensing rights of DARRYL JOHN WILLIS, under the Real
13 Estate Law are suspended for a period of sixty (60) days from the effective date of this Order;
14 provided, however, that:

15 3. Thirty (30) days of said suspension shall be stayed, upon the condition that
16 WILLIS petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant
17 to Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total
18 monetary penalty of \$1,500.

19 (a) Said payment shall be in the form of a cashier's check made payable
20 to the Department of Real Estate. Said check must be delivered to the Department of Real
21 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective
22 date of this Order.

23 (b) No further cause for disciplinary action against the real estate licenses
24 of WILLIS occurs within two (2) years from the effective date of the decision in this matter.

25 (c) If WILLIS fails to pay the monetary penalty as provided above prior to
26 the effective date of this Order, the stay of the suspension shall be vacated as to WILLIS and the
27 order of suspension shall be immediately executed, under this Order, in which event that WILLIS

1 shall not be entitled to any repayment nor credit, prorated or otherwise, for the money paid to the
2 Department under the terms of this Order.

3 (d) If WILLIS pays the monetary penalty and any other moneys due under
4 this Stipulation and if no further cause for disciplinary action against the real estate license of
5 said WILLIS occurs within two (2) years from the effective date of this Order, the entire stay
6 hereby granted in this Order, as to WILLIS only, shall become permanent.

7 4. Thirty (30) days of said suspension shall be stayed for two (2) years upon
8 the following terms and conditions:

9 (a) WILLIS shall obey all laws, rules and regulations governing the rights,
10 duties and responsibilities of a real estate licensee in the State of California; and,

11 (b) That no final subsequent determination be made, after hearing or upon
12 stipulation, that cause for disciplinary action occurred within two (2) years from the effective
13 date of this Order. Should such a determination be made, the Commissioner may, in his
14 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
15 suspension. Should no such determination be made, the stay imposed herein shall become
16 permanent.

17 (c) All licenses and licensing rights WILLIS are indefinitely suspended
18 unless or until WILLIS provides proof satisfactory to the Commissioner, of having taken and
19 successfully completed the continuing education course on trust fund accounting and handling
20 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of
21 satisfaction of these requirements includes evidence that WILLIS has successfully completed the
22 trust fund account and handling continuing education courses, no earlier than 120 days prior to
23 the effective date of the Decision and Order in this matter. Proof of completion of the trust fund
24 accounting and handling course must be delivered to the Department of Real Estate, Flag Section
25 at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the
26 effective date of this Decision and Order.

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1 MYND MANAGEMENT, INC. and DARRYL JOHN WILLIS

2 5. Pursuant to Section 10148 of the Code, Respondents shall, jointly and
3 severally, pay the sum of \$6,123.00 for the Commissioner's cost of the audit which led to this
4 disciplinary action. Respondents shall pay such cost within sixty (60) days of receiving an
5 invoice therefore from the Commissioner. Payment of audit costs should not be made until
6 Respondents receive the invoice. If Respondent fail to satisfy this condition in a timely manner
7 as provided for herein, Respondents' real estate licenses shall automatically be suspended until
8 payment is made in full, or until a decision providing otherwise is adopted following a hearing
9 held pursuant to this condition.

10 6. Pursuant to Section 10148 of the Code, Respondents shall, jointly and
11 severally, shall pay the Commissioner's reasonable cost, not to exceed \$7,658.75 for an audit to
12 determine if Respondents have corrected the violations found in the "Determination of Issues".
13 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the
14 estimated average hourly salary for all persons performing audits of real estate brokers, and shall
15 include an allocation for travel time to and from the auditor's place of work. Respondents shall
16 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.
17 Payment of the audit costs should not be made until Respondents receive the invoice. If
18 Respondents fails to satisfy this condition in a timely manner as provided for herein,
19 Respondents' real estate licenses shall automatically be suspended until payment is made in full,
20 or until a decision providing otherwise is adopted following a hearing held pursuant to this
21 condition.

22 7. All licenses and licensing rights of Respondents are indefinitely suspended
23 unless or until Respondents, jointly and severally, pay the sum of \$4,075.65 for the
24 Commissioner's reasonable cost of the investigation which led to this disciplinary action. Said
25 payment shall be in the form of a cashier's check made payable to the Department of Real Estate,
26 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
27 Stipulation.

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2 12/9/21

3 DATED



MEGAN LEE OLSEN, Counsel
DEPARTMENT OF REAL ESTATE

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

14 Respondents and Respondents attorney further agree to send the original signed
15 Stipulation by mail to the following address no later than one (1) week from the date the
16 Stipulation is signed by Respondents and Respondents' attorney: *Department of Real Estate,*
17 *Legal Section, P.O. Box 137007, Sacramento, California 95813-7007.* Respondents and
18 Respondents' attorney understand and agree that if they fail to return the original signed
19 Stipulation by the due date, Complainant retains the right to set this matter for hearing.

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22 12/7/2021


DATED



MYND MANAGEMENT, INC.
Respondent
By: DARRYL JOHN WILLIS
Designated Officer

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26 12/7/2021

DATED



DARRYL JOHN WILLIS
Respondent

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I have reviewed the Stipulation and Agreement as to form and content and have advised my clients accordingly.

12/8/21

DATED



JOSHUA A. ROSENTHAL
Attorney for Respondent

The foregoing Stipulation and Agreement In Settlement and Order is hereby adopted by the Real Estate Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on APR 18 2022.

IT IS SO ORDERED 3.14.22.



DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER