

FILED

DEC 09 2021

DEPARTMENT OF REAL ESTATE
By J. Taggart

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

ERIK MARTIN WINKLER,

Respondent.

No. H-12543 SF

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between ERIK MARTIN WINKLER ("Respondent"), represented by Jacob Reinhardt, and the Complainant, acting by and through Kyle Jones, Counsel for the Department of Real Estate ("Department"), as follows for the purpose of settling and disposing of the Accusation filed on May 19, 2021, 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 Department in this proceeding.

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

9 4. Respondent, pursuant to the limitations set forth below and solely for the
10 purpose of this Stipulation and Agreement, waives any requirement that the Commissioner be
11 required to provide further evidence to prove the factual allegations in the Accusation filed in this
12 proceeding and stipulates that the Commissioner may properly impose discipline as set forth
13 herein as if the evidence in the Commissioner's possession and any allegations based thereon had
14 been proven.

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

22 6. This Decision and Order or any subsequent Order of the Commissioner
23 made pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar
24 to any further administrative or civil proceedings by the Department with respect to any matters
25 which were not specifically alleged in Accusation H-12543 SF.

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1 of a restricted license until two (2) years have elapsed from the effective date of this Decision
2 and Order.

3 4. Respondent shall submit with any application for license under an
4 employing broker, or any application for transfer to a new employing broker, a statement signed
5 by the prospective employing real estate broker on a form approved by the Department which
6 shall certify:

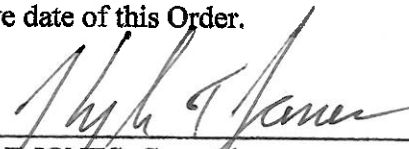
7 (a) That the employing broker has read the Decision and Order of the
8 Commissioner which granted the right to a restricted license; and

9 (b) That the employing broker will exercise close supervision over the
10 performance by the restricted licensee relating to activities for which a real
11 estate license is required.

12 5. Respondent shall notify the Commissioner in writing within 72 hours of
13 any arrest by sending a certified letter to the Commissioner at the Department of Real Estate,
14 Post Office Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of
15 Respondent's arrest, the crime for which Respondent was arrested and the name and address of
16 the arresting law enforcement agency. Respondent's failure to timely file written notice shall
17 constitute an independent violation of the terms of the restricted license and shall be grounds for
18 the suspension or revocation of that license.

19 6. All licenses and licensing rights of Respondent are indefinitely suspended
20 unless or until Respondent pays the sum of \$1,554.00 for the Commissioner's reasonable cost of
21 the investigation and enforcement which led to this disciplinary action. Said payment shall be in
22 the form of a cashier's check made payable to the Department. The investigative and
23 enforcement costs must be delivered to the Department, Flag Section at P.O. Box 137013,
24 Sacramento, CA 95813-7013, prior to the effective date of this Order.

25
26 10/20/21
27 DATED


KYLE JONES, Counsel
DEPARTMENT OF REAL ESTATE

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I have read the Stipulation and Agreement 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 APA (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 and Agreement by faxing a copy of the signature page, as actually signed by Respondent, to the Department at fax number (916) 576-7840 or by e-mail to kyle.jones@dre.ca.gov. Respondent agrees, acknowledges, and understands that by electronically sending to the Department a copy of Respondent's actual signature as it appears on the Stipulation and Agreement, that receipt of the copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

10/14/2021
DATED


ERIK MARTIN WINKLER
Respondent

* * *

I have reviewed this Stipulation and Agreement as to form and content and have advised my client accordingly.

10/14/21
DATED


JACOB REINHARDT
Attorney for Respondent

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The foregoing Stipulation and Agreement is hereby adopted by the Real Estate
Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on
DEC 29 2021

IT IS SO ORDERED 12.8.21

DOUGLAS R. McCAULEY
Real Estate Commissioner

Douglas R. McCauley