

**FILED**

**NOV 09 2022**

**DEPARTMENT OF REAL ESTATE**

By           *By dew*          

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 137007  
3 Sacramento, CA 95813-7007  
4  
5 Telephone: (916) 576-8700  
6

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

10 \* \* \*

11 In the Matter of the Accusation of: ) Case No. H-12575 SF  
12 )  
13 NITEEN NILESH SHARMA, ) STIPULATION AND AGREEMENT  
14 ) IN SETTLEMENT AND ORDER  
15 Respondent. )  
16 )

17 It is hereby stipulated by and between Respondent NITEEN NILESH SHARMA,  
18 (“Respondent”), acting by and through counsel Ryan F. Thomas of Johnston Thomas Attorneys  
19 at Law, PC, and the Complainant, acting by and through Adriana Z. Badilas, Counsel for the  
20 Department of Real Estate (“Department”), as follows for the purpose of settling and disposing  
21 of the Accusation filed on March 7, 2022, in this matter:

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

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

///

1                   3. On April 5, 2022, Respondent filed a Notice of Defense pursuant to Section  
2 11505 of the Government Code for the purpose of requesting a hearing on the allegations made  
3 in the Accusation. Respondent hereby freely and voluntarily withdraws said Notices of  
4 Defense. Respondent acknowledges that he understand that by withdrawing said Notice of  
5 Defense he will thereby waive his rights to require the Commissioner to prove the allegations  
6 in the Accusation at a contested hearing held in accordance with the provisions of the APA and  
7 that he will waive other rights afforded to him in connection with the hearing such as the right  
8 to present evidence in defense of the allegations in the Accusation and the right to cross-  
9 examine witnesses.

10                   4. This Stipulation is based on the factual allegations contained in the  
11 Accusation. In the interest of expediency and economy, Respondent chooses not to contest  
12 these factual allegations, but to remain silent and understand that, as a result thereof, these  
13 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 is made for the purpose of reaching an  
17 agreed disposition of this proceeding and is expressly limited to this proceeding and any other  
18 proceeding or case in which the Department, the state or federal government, any agency of  
19 this state, or an agency of another state is involved.

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

27 ///



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

- b) No further cause for disciplinary action against the real estate license of Respondent occurs within two (2) years from the effective date of the Order in this matter.
- c) If Respondent fails to pay the monetary penalty as provided above prior to the effective date of this Order, the stay of the suspension shall be vacated as to Respondent and the order of suspension shall be immediately executed, under this Order, in which event Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for the money paid to the Department under the terms of this Order.
- d) If Respondent pays the monetary penalty and any other moneys due under this Stipulation and if no further cause for disciplinary action against the real estate license of Respondent occurs within two (2) years from the effective date of this Order, the entire stay hereby granted in this Order shall become permanent.

2. Fifteen (15) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

- a) Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and,
- b) That no final subsequent determination be made, after hearing or upon stipulation that cause for disciplinary action occurred within two (2) years from the effective date of this Order. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

///  
///

1           3. All licenses and licensing rights of Respondent, are indefinitely suspended  
2 unless or until Respondent pays the sum of \$2,776.00 for the Commissioner's reasonable cost of  
3 the investigation and enforcement which led to this disciplinary action. Said payment shall be in  
4 the form of a cashier's check or certified check made payable to the Department of Real Estate.  
5 The investigative and enforcement costs must be delivered to the Department of Real Estate,  
6 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this  
7 Order.

8           4. Respondent shall pay the sum of \$4,238.00 for the Commissioner's cost of  
9 the audit which led to this disciplinary action. Respondent shall pay such cost within sixty (60)  
10 days of receiving an invoice therefore from the Commissioner. The Commissioner shall  
11 indefinitely suspend all licenses and licensing rights of Respondent pending a hearing held in  
12 accordance with Section 11500, et seq., of the Government Code, if payment is not timely  
13 made as provided for herein, or as provided for in a subsequent agreement between Respondent  
14 and the Commissioner. The suspension shall remain in effect until payment is made in full or  
15 until Respondent enter into an agreement satisfactory to the Commissioner to provide for  
16 payment, or until a decision providing otherwise is adopted following a hearing held pursuant  
17 to this condition.

18           5. Respondent shall pay the Commissioner's costs, not to exceed \$5,297.50, of  
19 any audit conducted pursuant to Section 10148 of the Code to determine if Respondent has  
20 corrected the violations described in the Determination of Issues, above, and any other  
21 violations found in the audit which led to this disciplinary action. In calculating the amount of  
22 the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly  
23 salary for all persons performing audits of real estate brokers, and shall include an allocation  
24 for travel time to and from the auditor's place of work. Respondent shall pay such cost within  
25 sixty (60) days of receiving an invoice therefore from the Commissioner detailing the activities  
26 performed during the audit and the amount of time spent performing those activities. If  
27 Respondent fails to pay such cost within the sixty (60) days, the Commissioner shall

1 indefinitely suspend all licenses and licensing rights of Respondent under the Real Estate Law  
2 until payment is made in full or until Respondent enters into an agreement satisfactory to the  
3 Commissioner to provide for payment. Upon full payment, the indefinite suspension provided  
4 for in this paragraph shall be stayed.

5  
6 9-8-22

7 DATED

8   
ADRIANA Z. BADILAS, Counsel  
Department of Real Estate

9 \* \* \*

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

17 Respondent and Respondent's attorney further agree to send the original signed  
18 Stipulation and Agreement by mail to the following address no later than one (1) week from the  
19 date the Stipulation and Agreement is signed by Respondent and Respondent's attorney:

20 *Department of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-*  
21 *7007.*

22 ///

23 ///

24 ///

25 ///

26 ///

27

1 Respondent and Respondent's attorney understand and agree that if they fail to  
2 return the original signed Stipulation and Agreement by the due date, Complainant retains the  
3 right to set this matter for hearing.


4  
5 9/3/2022  
6 DATED

  
7  
8 NITEEN NILESH SHARMA  
9 Respondent

10 \* \* \*

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

13 9/4/2022  
14 DATED

  
15 RYAN F. THOMAS  
16 Attorney for Respondent

17 \* \* \*

18 The foregoing Stipulation and Agreement is hereby adopted as my Decision in  
19 this matter and shall become effective at 12 o'clock noon on NOV 30 2022.

20 IT IS SO ORDERED 10-28-22, 2022.

21 REAL ESTATE COMMISSIONER

  
22 DOUGLAS R. McCAULEY