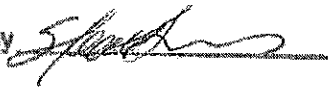


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**FILED**

APR 25 2016

BUREAU OF REAL ESTATE

BY 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

\*\*\*\*

In the Matter of the Accusation

No. H-39859 LA

No. L-2015080521

**DAYMARK PROPERTIES REALTY, )**  
**INC.; TODD ANTHONY MIKLES, )**  
designated officer for Daymark )  
Properties Realty, Inc.; and )  
RICHARD G. BURNETT, former )  
designated officer for Daymark )  
Properties Realty, Inc., )  
Respondents. )

ORDER STAYING EFFECTIVE DATE

On 3/25/16, a Decision pursuant to Stipulation and Agreement was rendered in the above-entitled matter to become effective 4/25/16.

IT IS HEREBY ORDERED that the effective date of the Decision of 3/25/16, is stayed for a period of 30 days (1) to allow Respondents to file a petition for reconsideration.

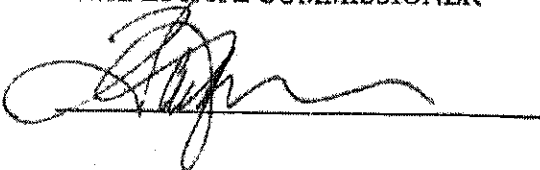
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The Decision of 3/25/16 shall become effective at 12 o' clock noon on 5/25/16.

DATED: 4/24/2016

WAYNE S. BELL  
REAL ESTATE COMMISSIONER

A handwritten signature in black ink, appearing to read "Wayne S. Bell", is written over a horizontal line. The signature is cursive and somewhat stylized.

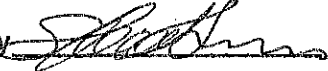
1 Bureau of Real Estate  
2 320 West 4th Street, Suite 350  
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

**FILED**

APR 05 2016

BUREAU OF REAL ESTATE

By 

8  
9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation

No. H-39859 LA

No. L-2015080521

13 **DAYMARK PROPERTIES REALTY,** )

14 **INC.; TODD ANTHONY MIKLES,** )

15 designated officer for Daymark )

16 Properties Realty, Inc.; and )

17 RICHARD G. BURNETT, former )

designated officer for Daymark )

18 Properties Realty, Inc., )

19 Respondents. )

STIPULATION AND AGREEMENT

20 It is hereby stipulated by and between Respondents DAYMARK PROPERTIES  
21 REALTY, INC. ("DAYMARK") and TODD ANTHONY MIKLES ("MIKLES"), designated  
22 officer of Daymark Properties Realty, Inc., (sometimes referred to as "Respondents") and the  
23 Complainant, acting by and through Cheryl Keily, Counsel for the Bureau of Real Estate, as  
24 follows for the purpose of settling and disposing of the Accusation filed on June 9, 2015, in this  
25 matter.  
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1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents 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. Respondents have received, read and understand the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Bureau of Real Estate ("Bureau") in this proceeding.

3. On August 7, 2015, Respondents filed Notices of Defense, pursuant to Section 11506 of the Government Code, for the purpose of requesting a hearing on the allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notices of Defense. Respondents acknowledge that they understand that by withdrawing said Notices of Defense they will thereby waive their right to require the Commissioner of Real Estate ("Commissioner") to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that they will waive other rights afforded to them in connection with the hearing, such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

4. This Stipulation is based on the factual allegations contained in the Accusation. In the interest of expedience and economy, Respondents choose not to contest these allegations, but to remain silent and understand that, as a result thereof, these factual allegations, without being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to herein. The Commissioner shall not be required to provide further evidence to prove said factual allegations.

5. This Stipulation is made for the purpose of reaching an agreed disposition of this proceeding and is expressly limited to this proceeding and any other proceeding or case in

1 which the Bureau, the state or federal government, or any agency of this state, another state or  
2 the federal government is involved, and otherwise shall not be admissible in any other criminal  
3 or civil proceedings.  
4

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

12 7. The Order or any subsequent Order of the Commissioner made pursuant to  
13 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any  
14 further administrative or civil proceedings by the Bureau with respect to any matters which  
15 were not specifically alleged to be causes for accusation in this proceeding.

16 8. Respondents understand that by agreeing to this Stipulation, Respondents  
17 agree to pay, pursuant to Business and Professions Code ("Code") Section 10148, the cost of  
18 the original (\$6,350.00) and follow-up audit (\$7,937.50) which led to this disciplinary action.  
19 The total amount of said cost is \$14,287.50.

20 9. Respondents have received, read, and understand the "Notice Concerning  
21 Costs of Subsequent Audit." Respondents further understand that by agreeing to this  
22 Stipulation, the findings set forth below in the Determination of Issues become final, and the  
23 Commissioner may charge Respondents for the cost of any subsequent audit conducted pursuant  
24 to Code Section 10148 to determine if the violations have been corrected. The maximum cost of  
25 the subsequent audit shall not exceed \$7,937.50.

26 10. Respondents understand that by agreeing to this Stipulation, Respondents  
27

1 agree to be jointly and severally liable, along with the other respondent herein, to pay, pursuant  
2 to Code Section 10106, the cost of the investigation and enforcement of this matter. The amount  
3 of the investigation costs is \$605.50; the amount of the enforcement costs is \$2,291.75.  
4

5 DETERMINATION OF ISSUES

6 1. The conduct, acts or omissions of Respondents DAYMARK and MIKLES, as  
7 set forth in the Accusation, is in violation of Code Section 10145 and Sections 2831, 2832, and  
8 2834 of Title 10, Chapter 6, Code of Regulations (“Regulations”) and constitutes cause to  
9 suspend or revoke the real estate licenses and license rights of Respondents DAYMARK and  
10 MIKLES under the provisions of Code Section 10177(g).

11 2. The conduct, acts or omissions of Respondent MIKLES, as set forth in the  
12 Accusation, constitutes cause to suspend or revoke the real estate licenses and license rights of  
13 Respondent MIKLES under the provisions of Code Section 10177(g) for violation of Code  
14 Section 10159.2

15 ORDER

16 WHEREFORE, THE FOLLOWING ORDER is hereby made:

17 ALL licenses and licensing rights of Respondents DAYMARK and MIKLES,  
18 under the Real Estate Law are revoked; provided, however, restricted real estate broker licenses  
19 shall be issued to Respondents pursuant to Section 10156.5 of the Code if Respondents make  
20 application therefor and pay to the Bureau the appropriate fee for the restricted licenses within  
21 90 days from the effective date of this Decision.

22 The restricted licenses issued to Respondents shall be subject to all of the  
23 provisions of Section 10156.7 of the Code and to the following conditions, limitations and  
24 restrictions imposed under the authority of Section 10156.6 of the Code:

25 1. The restricted license issued to Respondent MIKLES may be suspended prior  
26 to hearing by Order of the Commissioner in the event of Respondent’s conviction or plea of  
27

1 nolo contendere to a crime which is substantially related to a Respondent's fitness or capacity  
2 as a real estate broker licensee.

3  
4 2. The restricted licenses issued to Respondents DAYMARK and MIKLES may  
5 be suspended prior to hearing by Order of the Commissioner on evidence satisfactory to the  
6 Commissioner that Respondents have violated provisions of the Real Estate law, the  
7 Subdivided Lands Law, the Regulations of the Real Estate Commissioner or conditions  
8 attaching to the restricted license.

9 3. Respondents DAYMARK and MIKLES shall not be eligible to apply for  
10 issuance of an unrestricted real estate broker license nor for the removal of any of the  
11 conditions, limitations or restrictions of a restricted license until two (2) years have elapsed  
12 from the effective date of this Decision.

13 4. Respondent MIKLES shall, within nine (9) months from the effective date of  
14 this Decision, present evidence satisfactory to the Commissioner that Respondent has, since the  
15 most recent issuance of an original or renewal real estate broker license, taken and successfully  
16 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate  
17 Law for renewal of a real estate broker license. If Respondent fails to satisfy this condition, the  
18 Commissioner may order the suspension of the restricted license until Respondent presents  
19 such evidence. The Commissioner shall afford Respondent the opportunity for a hearing  
20 pursuant to the APA to present such evidence.

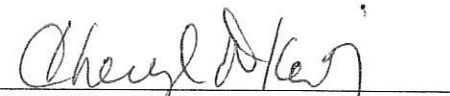
21 II. Pursuant to Section 10148 of the Business and Professions Code,  
22 Respondents DAYMARK and MIKLES shall pay the sum of \$6,350.00 for the  
23 Commissioner's cost of the audit which led to this disciplinary action. Respondents shall pay  
24 such cost within six months of the effective date of the Decision. If Respondents fail to satisfy  
25 this condition in a timely manner as provided for herein, Respondents' real estate licenses shall  
26 automatically be suspended until payment is made in full, or until a decision providing  
27

1 otherwise is adopted following a hearing held pursuant to this condition.

2  
3 Pursuant to Section 10148 of the Code, Respondents DAYMARK and MIKLES  
4 shall pay the Commissioner's reasonable cost, not to exceed \$7,937.50 for an audit to  
5 determine if Respondents have corrected the violation(s) found in the Determination of Issues.  
6 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use  
7 the estimated average hourly salary for all persons performing audits of real estate brokers, and  
8 shall include an allocation for travel time to and from the auditor's place of work. Respondents  
9 shall pay such cost within sixty (60) days of receiving an invoice therefor from the  
10 Commissioner. Payment of the audit costs shall not be made until Respondents receive the  
11 invoice. If Respondents fail to satisfy this condition in a timely manner as provided for herein,  
12 Respondents' real estate licenses shall automatically be suspended until payment is made in  
13 full, or until a decision providing otherwise is adopted following a hearing held pursuant to this  
14 condition.

15 III. All licenses and licensing rights of Respondents DAYMARK and MIKLES  
16 are indefinitely suspended unless or until the sum of \$2,897.25 is paid for the Commissioner's  
17 reasonable costs of the investigation and enforcement which lead to the disciplinary action.  
18 Said payment shall be in the form of a cashier's check made payable to the Bureau of Real  
19 Estate. The investigative and enforcement costs must be delivered to the Bureau of Real Estate,  
20 Flag Section at P.O. Box 137013, Sacramento, California 95813-7013, prior to the effective  
21 date of this Decision and Order. Respondents may pay the costs of investigation and  
22 enforcement by credit card using the Bureau's Credit Card Payment form (RE 909).

23  
24 DATED: March 14, 2016

  
Cheryl D. Keily, Counsel  
BUREAU 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.

Respondents can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by sending a copy of its signature page, as actually signed by Respondents, to the Bureau at the following telephone/fax number (213) 576 6917 or e-mail address: chery.keily@dre.ca.gov. Respondents agree, acknowledge, and understand that by electronically sending to the Bureau an electronic copy of their actual signatures as they appear on the Stipulation and Agreement, that receipt of the electronic copy by the Bureau shall be as binding on Respondents as if the Bureau had received the original signed Stipulation and Agreement.

DATED: 3/11/10

  
DAYMARK PROPERTIES REALTY,  
INC.  
Respondent  
By: Todd Anthony Mikles

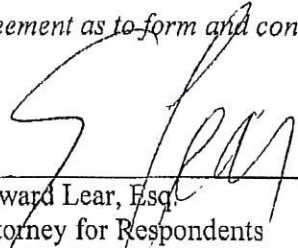
DATED: 3/11/10

  
TODD ANTHONY MIKLES  
Respondent

///  
///

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

3 DATED: 3/11/16


  
Edward Lear, Esq.  
Attorney for Respondents  
DAYMARK PROPERTIES REALTY,  
INC. and TODD ANTHONY MIKLES

7 \* \* \*

8 The foregoing Stipulation and Agreement is hereby adopted as my Decision in  
9 APR 25 2016  
10 this matter and shall become effective at 12 o'clock noon on \_\_\_\_\_

11 IT IS SO ORDERED MARCH 25, 2016

12 WAYNE S. BELL  
13 REAL ESTATE COMMISSIONER

  
14  
15 By: JEFFREY MASON  
16 Chief Deputy Commissioner