

Bureau of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013

Telephone: (213) 576-6982

FILED

MAR 08 2016

BUREAU OF REAL ESTATE

By *[Signature]*

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	
	)	No. H-39950 LA
DALE DONERKIEL,	)	
	)	
	)	<u>STIPULATION AND AGREEMENT</u>
Respondent.	)	
_____	)	

It is hereby stipulated by and between DALE DONERKIEL ("Respondent") and his attorney of record, Todd F. Stevens, Esq., and the Complainant, acting by and through Diane Lee, Esq., Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on August 27, 2015 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 and read and understands the Statement to

1 Respondent, the Discovery Provisions of the APA, and the Accusation filed by the Bureau of
2 Real Estate in this proceeding.

3 3. On or about September 4, 2015, Respondent filed a Notice of Defense pursuant
4 to California Government Code section 11506 for the purpose of requesting a hearing on the
5 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice
6 of Defense. Respondent acknowledges that he understands that by withdrawing said Notice of
7 Defense, he will thereby waive his right to require the Commissioner to prove the allegations in
8 the Accusation at a contested hearing held in accordance with the provisions of the APA and that
9 he will waive other rights afforded to him in connection with the hearing, such as the right to
10 present evidence in defense of the allegations in the Accusation and the right to cross-examine
11 witnesses.

12 4. Respondent, pursuant to the limitations set forth below, hereby admits that the
13 factual allegations of the Accusation filed in this proceeding are true and correct and the Real
14 Estate Commissioner shall not be required to provide further evidence of such allegations. The
15 factual allegations are as follows: On or about October 27, 2014, the Bureau Chief of the
16 California Bureau of Real Estate Appraisers ("BREA"), case no. 110513-05 and OAH case no.
17 2013040574, adopted the Stipulated Settlement and Disciplinary Order as the Decision and Order
18 effective November 27, 2014. As a result, Respondent's real estate appraiser license was
19 revoked, with revocation stayed, and Respondent was placed on probation for two (2) years
20 pursuant to certain terms and conditions, including, but not limited to, actual suspension for
21 thirty (30) days from January 1, 2015 through January 30, 2015, completing a minimum of
22 twelve (12) appraisals per year, reimburse \$10,000 to BREA for its costs of investigation and
23 prosecution, take and pass 15 hours of BREA approved education courses, and pay a \$10,000
24 fine. The underlying facts are related to the real estate appraisal report that Respondent
25 completed on or about October 25, 2007 for the improved commercial units in a strip center
26

commonly known as 711 Foothill Blvd., United B, C, D, and E, La Canada, California ("Foothill Blvd. Property"). Respondent completed a misleading and inaccurate appraisal report, falsely signed under oath on or about November 4, 2007 that he had "nothing to disclose" regarding the parties to an arbitration when he had a professional relationship with a party, provided false testimony and making misleading statements regarding his appraisal report while testifying under oath in a deposition, failed to include sufficient information in a May 1, 2008 appraisal report, and failed to include a signed certification in his May 1, 2008 appraisal report.

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

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

DETERMINATION OF ISSUES

By reason of the foregoing stipulations, admissions, and waivers and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the following determination of issues shall be made:

The conduct of Respondent, as set forth in the Accusation, is grounds for the suspension or revocation of all of the real estate licenses and license rights of Respondent under

1 the provision of California Business and Professions Code sections 10177(f) and 10177(g).

3 ORDER

4 WHEREFORE, THE FOLLOWING ORDER is hereby made:

5 All licenses and licensing rights of Respondent DALE DONERKIEL, under the
6 Real Estate Law are revoked; provided, however, a restricted real estate designated officer
7 license shall be issued to Respondent pursuant to California Business and Professions Code
8 section 10156.5 if Respondent makes application therefor and pays to the Bureau of Real Estate
9 the appropriate fee for the restricted license within 90 days from the effective date of this
10 Decision. The restricted license issued to Respondent shall be subject to all of the provisions of
11 California Business and Professions Code section 10156.7 and to the following limitations,
12 conditions, and restrictions imposed under authority of the California Business and Professions
13 Code:

14 1. The restricted license issued to Respondent may be suspended prior to hearing
15 by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of
16 nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a
17 real estate licensee.

18 2. The restricted license issued to Respondent may be suspended prior to hearing
19 by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that
20 Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
21 Law, Regulations of the Real Estate Commissioner, or conditions attaching to this restricted
22 license.

23 3. Respondent shall not be eligible to apply for the issuance of an unrestricted
24 real estate license nor for the removal of any of the conditions, limitations, or restrictions

1 of a restricted license until two (2) years have elapsed from the date of issuance of the restricted
2 license to Respondent.

3 4. Prior to renewing a real estate license, Respondent shall present evidence
4 satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance
5 of an original or renewal real estate license, taken and successfully completed the continuing
6 education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real
7 estate license. If Respondent fails to satisfy this condition, the Commissioner shall order the
8 suspension of the real estate license until the Respondent presents such evidence. The
9 Commissioner shall afford Respondent the opportunity for a hearing pursuant to the
10 Administrative Procedure Act to present such evidence.

11 5. Respondent shall, within six (6) months from the effective date of this
12 Decision, take and pass the Professional Responsibility Examination administered by the Bureau
13 of Real Estate including the payment of the appropriate examination fee. If Respondent fails to
14 satisfy this condition, the Commissioner shall order suspension of Respondent's license until
15 Respondent passes the examination. The Commissioner shall afford Respondent the opportunity
16 for a hearing pursuant to the Administrative Procedure Act to present such evidence.

17 6. Respondent shall notify the Commissioner in writing within 72 hours of any
18 arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post Office
19 Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the date of Respondent's
20 arrest, the crime for which Respondent was arrested, and the name and address of the arresting
21 law enforcement agency. Respondent's failure to timely file written notice shall constitute an
22 independent violation of the terms of the restricted license and shall be grounds for the
23 suspension or revocation of that license.

24 7. Pursuant to California Business and Professions Code section 10106,
25 Respondent shall pay the Commissioner's reasonable cost for investigation and enforcement of
26

1 the matter. The investigation and enforcement cost which led to this disciplinary action is
2 \$1,443.70. Said payment shall be made prior to the effective date of the Decision in this matter.
3 Said payment shall be in the form of a cashier's check or certified check made payable to the
4 Bureau of Real Estate.

5 The Commissioner shall suspend the licenses of Respondent pending a hearing
6 held in accordance with California Government Code section 11500, et seq., if payment is not
7 timely made as provided for herein, or as provided for in a subsequent agreement between the
8 Respondent and the Commissioner. The suspension shall remain in effect until payment is
9 made in full or until Respondent enters into an agreement satisfactory to the Commissioner to
10 provide for payment, or until a decision providing otherwise is adopted following a hearing held
11 pursuant to this condition.

12
13 DATED: 02/16/2016



DIANE LEE
Counsel for Complainant

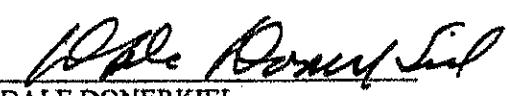
15 * * *

16 I have read the Stipulation and Agreement, have discussed it with my counsel, and
17 its terms are understood by me and are agreeable and acceptable to me. I understand that I am
18 waiving rights given to me by the California Administrative Procedure Act (including but not
19 limited to California Government Code sections 11506, 11508, 11509, and 11513), and I willingly,
20 intelligently, and voluntarily waive those rights, including the right of requiring the
21 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
22 right to cross-examine witnesses against me and to present evidence in defense and mitigation of
23 the charges.

24 Respondent can signify acceptance and approval of the terms and conditions of
25 this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by
26

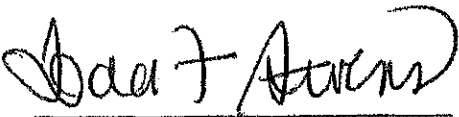
1 Respondent, to the Bureau of Real Estate at fax number (213) 576-6917. Respondent agrees,
2 acknowledges, and understands that by electronically sending to the Bureau of Real Estate a fax
3 copy of him actual signature as it appears on the Stipulation and Agreement, that receipt of the
4 faxed copy by the Bureau of Real Estate shall be as binding on Respondent as if the Bureau of
5 Real Estate had received the original signed Stipulation and Agreement.

6
7 DATED: 2/15/16


DALE DONERKIEL
Respondent

8
9
10 I have reviewed the Stipulation and Agreement as to form and content, and have
11 advised my client accordingly.

12
13 DATED: 2/15/16


TODD F. STEVENS
Respondent's Counsel

14
15
16 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
17 this matter and shall become effective at 12 o'clock noon on _____.

18
19 IT IS SO ORDERED _____, 2016.

20
21 REAL ESTATE COMMISSIONER
22
23 _____
24
25
26
27

Respondent, to the Bureau of Real Estate at fax number (213) 576-6917. Respondent agrees, acknowledges, and understands that by electronically sending to the Bureau of Real Estate a fax copy of his actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Bureau of Real Estate shall be as binding on Respondent as if the Bureau of Real Estate had received the original signed Stipulation and Agreement.

DATED: _____

DALE DONERKIEL
Respondent

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

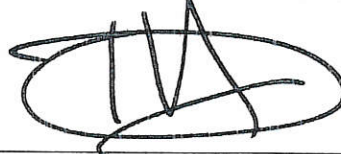
DATED: _____

TODD F. STEVENS
Respondent's Counsel

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on MAR 26 2016.

IT IS SO ORDERED MARCH 1, 2016.

REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner