

1 BUREAU OF REAL ESTATE
2 320 West 4th Street, Suite 350
3 Los Angeles, California 90013-1105
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FILED

MAR 16 2018

BUREAU OF REAL ESTATE

By *[Signature]*

BEFORE THE BUREAU OF REAL ESTATE

DEPARTMENT OF CONSUMER AFFAIRS

STATE OF CALIFORNIA

* * * *

11 In the Matter of the Accusation against) CalBRE No. H-40774 LA
12 CHRISTIAN MICHAEL DAVEY, individually,) OAH No. 2017100431
13 and as designated officer of Empire Management)
Company,) STIPULATION AND
14 Respondent.) AGREEMENT IN SETTLEMENT
15) AND ORDER
16)

17 It is hereby stipulated by and between Respondent CHRISTIAN MICHAEL DAVEY,
18 individually, and as designated officer of Empire Management Company ("Respondent") and
19 Complainant, acting by and through Lissete Garcia, Counsel for the Bureau of Real Estate
20 ("Bureau"), as follows for the purpose of settling and disposing the Accusation filed on
21 September 1, 2017, with Bureau Case No. H-40774 LA ("Accusation") in this matter:

22 1. All issues which were to be contested and all evidence which was to be presented by
23 Complainant and Respondent at a formal hearing on the Accusation, which hearing was to be
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Stipulation and Agreement
H-40774 LA

1 held in accordance with the provisions of the Administrative Procedure Act ("APA"), shall
2 instead and in place thereof be submitted on the basis of the provisions of this Stipulation and
3 Agreement in Settlement and Order ("Stipulation").

4 2. Respondent has received, read, and understands the Statement to Respondent, the
5 Discovery Provisions of the APA, and Accusation filed by the Bureau in this proceeding.

6 3. Respondent filed a Notice of Defense pursuant to Section 11506 of the Government
7 Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondent
8 hereby freely and voluntarily withdraws said Notice of Defense. Respondent acknowledges and
9 understands that by withdrawing said Notice of Defense, Respondent will thereby waive
10 Respondent's rights to require the Real Estate Commissioner ("Commissioner") to prove the
11 allegations in the Accusation at a contested hearing held in accordance with the provisions of the
12 APA and that Respondent will waive other rights afforded to Respondent in connection with the
13 hearing such as the right to present evidence in defense of the allegations in the Accusation and
14 the right to cross-examine witnesses.

15 4. Respondent, pursuant to the limitations set forth below, hereby admits that the factual
16 allegations in Paragraphs 16(a) through 16(g) of the Accusation filed in this proceeding are true
17 and correct and the Real Estate Commissioner shall not be required to provide further evidence
18 of such allegations.

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

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

7 7. Respondent understands that by agreeing to this Stipulation, Respondent agrees to
8 pay, pursuant to Section 10148 of the California Business and Professions Code ("Code"), the
9 cost of the audit which resulted in the determination that Respondent committed the violations
10 found in the "Determination of Issues" below. The amount of said cost is \$5,213.82.

11 8. Respondent understands that by agreeing to this Stipulation, the findings set forth
12 below in the Determination of Issues become final, and the Commissioner may charge
13 Respondent for the cost of any subsequent audit conducted pursuant to Business and Professions
14 Code Section 10148 to determine if the violations have been corrected. The maximum cost of
15 the subsequent audit will not exceed \$6,517.27.

16 9. Respondent further understands that by agreeing to this Stipulation, Respondent
17 agrees to pay, pursuant to Section 10106(a) of the Code, investigative and enforcement costs of
18 \$2,549.90 which led to this disciplinary action.

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1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulation and agreement and solely for the purpose of
3 settlement of the pending Accusation without a hearing, it is stipulated and agreed that the
4 following determination of issues shall be made:

5 I.

6 The conduct, acts and/or omissions of Respondent CHRISTIAN MICHAEL DAVEY as
7 set forth in Paragraphs 16(a) through 16(g) of the Accusation, constitute cause for the suspension
8 or revocation of all real estate licenses and license rights of Respondent under the provisions of
9 Sections 10177(d) and 10176(g) of the Business and Professions Code ("Code") for violation of
10 Code Sections 10145, 10159.5, 10176(g), and Regulations 2832, 2834, and 2731 of the
11 Regulations of the Real Estate Commissioner, Title 10, Chapter 6, California Code of
12 Regulations ("Regulations"), as set forth in Paragraph 17 of the Accusation.

13 ORDER

14 I.

15 All licenses and licensing rights of Respondent CHRISTIAN MICHAEL DAVEY under
16 the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall
17 be issued to Respondent pursuant to Section 10156.5 of the Code if Respondent makes
18 application therefor and pays to the Bureau the appropriate fee for the restricted license within 90
19 days from the effective date of this Decision and Order. The restricted license issued to
20 Respondent shall be subject to all of the provisions of Section 10156.7 of the Code and to the
21 following limitations, conditions and restrictions imposed under authority of Section 10156.6 of
22 that Code:
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1 1. The restricted license issued to Respondent may be suspended prior to hearing by
2 Order of the Commissioner in the event of Respondent's conviction or plea of nolo contendere to
3 a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

4 2. The restricted license issued to Respondent may be suspended prior to hearing by
5 Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that
6 Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
7 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted
8 license.

9 3. Respondent shall not be eligible to petition for the issuance of any unrestricted
10 real estate license nor for removal of any of the conditions, limitations or restrictions of a
11 restricted license until two (2) years have elapsed from the effective date of this Decision and
12 Order. Respondent shall not be eligible to apply for any unrestricted licenses until all restrictions
13 attaching to the license have been removed.

14 4. All licenses and licensing rights of Respondent are indefinitely suspended unless
15 or until Respondent provides proof satisfactory to the Commissioner, of having taken and
16 successfully completed the continuing education course on trust fund accounting and handling
17 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions
18 Code. Proof of satisfaction of this requirement includes evidence that Respondent has
19 successfully completed the trust fund account and handling continuing education course, no
20 earlier than 120 days prior to the effective date of the Decision and Order in this matter. **Proof**
21 **of completion of the trust fund accounting and handling course must be delivered to the**
22 **Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by**
23 **fax at 916-263-8758, prior to the effective date of this Decision and Order.**
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1 5. All licenses and licensing rights of Respondent are indefinitely suspended unless
2 or until Respondent pays the sum of \$2,549.90 for the Commissioner's reasonable cost of the
3 investigation and enforcement which led to this disciplinary action. Said payment shall be in the
4 form of a cashier's check made payable to the Bureau of Real Estate. **The investigative and**
5 **enforcement costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box**
6 **137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.**
7 **Payment of investigation and enforcement costs should not be made until the Stipulation**
8 **has been approved by the Commissioner.**

9 6. Respondent shall, within nine (9) months from the effective date of this
10 **Decision and Order, present evidence satisfactory to the Commissioner that Respondent has,**
11 **since the most recent issuance of an original or renewal real estate license, taken and successfully**
12 **completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate**
13 **Law for renewal of a real estate license. If Respondent fails to satisfy this condition,**
14 **Respondent's real estate license shall automatically be suspended until Respondent presents**
15 **evidence satisfactory to the Commissioner of having taken and successfully completed the**
16 **continuing education requirements. Proof of completion of the continuing education courses**
17 **must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box 137013,**
18 **Sacramento, CA 95813-7013.**

19 7. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
20 \$5,213.82 for the Commissioner's cost of the audit which led to this disciplinary action.
21 **Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from**
22 **the Commissioner. Payment of audit costs should not be made until Respondent receives**
23 **the invoice. If Respondent fails to satisfy this condition in a timely manner as provided for**
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1 herein, Respondent's real estate licenses shall automatically be suspended until payment is made
2 in full, or until a decision providing otherwise is adopted following a hearing held pursuant to
3 this condition.

4 8. Pursuant to Section 10148 of the Code, Respondent shall pay the Commissioner's
5 reasonable cost, not to exceed \$6,517.27, for any subsequent audit to determine if Respondent
6 has corrected the violations found in the Determination of Issues. In calculating the amount of
7 the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly
8 salary for all persons performing audits of real estate brokers, and shall include an allocation for
9 travel time to and from the auditor's place of work. **Respondent shall pay such cost within**
10 **sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of the**
11 **audit costs should not be made until Respondent receives the invoice.** If Respondent fails to
12 satisfy this condition in a timely manner as provided for herein, Respondent's real estate licenses
13 shall automatically be suspended until payment is made in full, or until a decision providing
14 otherwise is adopted following a hearing held pursuant to this condition.

15 DATED: 2/21/2018


Lissete Garcia, Counsel
Bureau of Real Estate

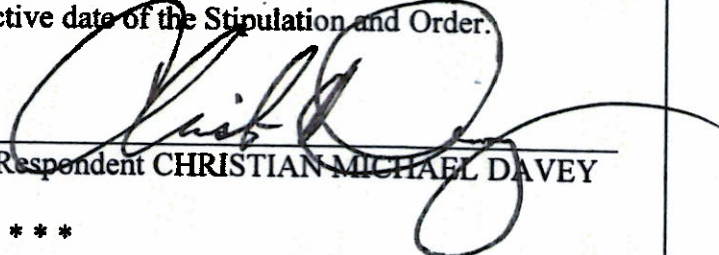
17 * * *

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

2 Respondent can signify acceptance and approval of the terms and conditions of this
3 Stipulation and Agreement by electronically e-mailing a copy of the signature page, as actually
4 signed by Respondent, to the Bureau. Respondent agrees, acknowledges, and understands that
5 by electronically sending to the Bureau an electronic copy of Respondent's actual signature, as it
6 appears on the Stipulation, that receipt of the emailed copy by the Bureau shall be as binding on
7 Respondent as if the Bureau had received the original signed Stipulation. By signing this
8 Stipulation, Respondent understands and agrees that Respondent may not withdraw
9 Respondent's agreement or seek to rescind the Stipulation prior to the time the Commissioner
10 considers and acts upon it or prior to the effective date of the Stipulation and Order.

11 DATED: 2/20/2018

12 
Respondent CHRISTIAN MICHAEL DAVEY

13 * * *

14 The foregoing Stipulation and Agreement in Settlement and Order is hereby
15 adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on
16 _____, 2018.

17 IT IS SO ORDERED _____, 2018.

18 WAYNE S. BELL
19 REAL ESTATE COMMISSIONER

20
21 _____
22 By: DANIEL J. SANDRI
23 Chief Deputy Commissioner
24

1 and mitigation of the charges.

2 Respondent can signify acceptance and approval of the terms and conditions of this
3 Stipulation and Agreement by electronically e-mailing a copy of the signature page, as actually
4 signed by Respondent, to the Bureau. Respondent agrees, acknowledges, and understands that
5 by electronically sending to the Bureau an electronic copy of Respondent's actual signature, as it
6 appears on the Stipulation, that receipt of the emailed copy by the Bureau shall be as binding on
7 Respondent as if the Bureau had received the original signed Stipulation. By signing this
8 Stipulation, Respondent understands and agrees that Respondent may not withdraw
9 Respondent's agreement or seek to rescind the Stipulation prior to the time the Commissioner
10 considers and acts upon it or prior to the effective date of the Stipulation and Order.

11 DATED: _____

12 Respondent CHRISTIAN MICHAEL DAVEY

13 * * *

14 The foregoing Stipulation and Agreement in Settlement and Order is hereby
15 adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on
16 APR 04 2018, 2018.

17 IT IS SO ORDERED March 12, 2018.

18 WAYNE S. BELL
19 REAL ESTATE COMMISSIONER

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