

1 Department of Real Estate
2 320 West Fourth Street, #350
3 Los Angeles, California 90013
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10 (213) 576-6982

FILED

OCT 15 2018

DEPT. OF REAL ESTATE
By *Angela Danner*

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

10 * * *

11 In the Matter of the Accusation of) No. H-41099 LA
12)
13 **DAVID SCOTT NEWMAN,**) **STIPULATION AND AGREEMENT**
14 Respondent.)
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16 It is hereby stipulated by and between DAVID SCOTT NEWMAN (hereinafter
17 "Respondent"), representing himself, and the Complainant, acting by and through Julie L. To,
18 counsel for the Department of Real Estate, as follows for the purpose of settling and disposing
19 of the Accusation filed on July 12, 2018 in Case No. H-41099 LA, in this matter:

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

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27 CalBRE Stipulation & Agreement, H-41099 LA

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

4 3. On July 17, 2018, Respondent filed a Notice of Defense pursuant to Section
5 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the
6 Accusation. Respondent hereby withdraws said Notice of Defense. Respondent acknowledges
7 that he understands that by withdrawing said Notice of Defense he will thereby waive his right
8 to require the Commissioner to prove the allegations in the Accusation at a contested hearing
9 held in accordance with the provisions of the APA and that he will waive other rights afforded
10 to him in connection with the hearing such as the right to present evidence in defense of the
11 allegations in the Accusation and the right to cross-examine witnesses.

12 4. This Stipulation is based on the factual allegations contained in the Accusation.
13 In the interest of expedience and economy, Respondent chooses not to contest these allegations,
14 but to remain silent, and without admitting any fault, violation or other liability, understands that
15 as a result thereof, these factual allegations will serve as a prima facie basis for the disciplinary
16 action stipulated to herein. The Real Estate Commissioner shall not be required to provide
17 further evidence to prove said factual allegations.

18 5. Respondent understands that by agreeing to this Stipulation and Agreement,
19 Respondent agrees to pay, pursuant to Section 10106 of the California Business and Professions
20 Code (Code), the cost of the investigation and enforcement which resulted in the determination
21 that Respondent committed the violations found in the Determination of Issues. The amount of
22 said costs is \$1,072.80.

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

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

9 **DETERMINATION OF ISSUES**

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

13 Respondent's failure to timely report the Felony Complaint filed against him in
14 Los Angeles County Case No. PA075672 (filed January 23, 2013) and Respondent's failure to
15 timely report the resulting conviction (felony conviction date: July 1, 2013, and reduction to
16 misdemeanor on or about August 1, 2014), constitutes grounds for the suspension or revocation
17 of Respondent's real estate broker license under the provisions of Section 10186.2 of the
18 Business and Professions Code.

19 Respondent's failure to disclose on his January 18, 2016 real estate broker
20 renewal application the conviction in Los Angeles County Case No. PA075672 constitutes
21 grounds for the suspension or revocation of Respondent's real estate broker license under the
22 provisions of Section 10177 (a) of the Business and Professions Code.

23 **ORDER**

24 **WHEREFORE, THE FOLLOWING ORDER is hereby made:**

25 **All licenses and licensing rights of Respondent DAVID SCOTT NEWMAN**
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1 under the Real Estate Law are revoked; provided, however, a restricted real estate broker license
2 shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code
3 if Respondent makes application therefor and pays to the Department of Real Estate the
4 appropriate fee for the restricted license within 90 days from the effective date of this Decision.

5 The restricted license issued to Respondent shall be subject to all of the provisions of Section
6 10156.7 of the Business and Professions Code and to the following limitations, conditions and
7 restrictions imposed under authority of that Code:

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

12 2. The restricted license issued to Respondent may be suspended prior to hearing
13 by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that
14 Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
15 Law, Regulations of the Real Estate Commissioner, or conditions attaching to this restricted
16 license.

17 3. Respondent shall not be eligible to apply for the issuance of an unrestricted
18 real estate license nor for the removal of any of the conditions, limitations or restrictions
19 of a restricted license until two (2) years have elapsed from the effective date of this Decision.

20 4. Respondent shall, within nine (9) months from the effective date of this
21 Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has,
22 since the most recent issuance of an original or renewal real estate license, taken and successfully
23 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
24 Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the
25 Respondent's real estate license shall automatically be suspended until Respondent presents
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1 evidence satisfactory to the Commissioner of having taken and successfully completed the
2 continuing education requirements. Proof of completion of the continuing education courses
3 must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013,
4 Sacramento, CA 95813-7013.

5 6. Respondent shall, prior to the issuance of the restricted license and as a
6 condition of the issuance of said restricted license, pay the sum of \$1,072.80 for the
7 Commissioner's reasonable cost of the investigation and enforcement which led to this
8 disciplinary action. Said payment shall be in the form of a cashier's check made payable to the
9 Department of Real Estate. The investigative and enforcement costs must be delivered to the
10 Department of Real Estate, Flag Section, P.O. Box 137013, Sacramento, CA 95813-7013, prior
11 to the effective date of this Order.

12 (a) If Respondent DAVID SCOTT NEWMAN fails to satisfy this
13 condition, the Commissioner shall order the suspension of the restricted license until the
14 Respondent presents evidence of payment. The Commissioner shall afford Respondent the
15 opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence
16 that payment was timely made. The suspension shall remain in effect until payment is made in
17 full or until a decision providing otherwise is adopted following a hearing held pursuant to this
18 condition.

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1 7. Respondent shall notify the Commissioner in writing within seventy-two (72)
2 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real
3 Estate, Flags Section, Post Office Box 137013, Sacramento, CA 95813-7013. The letter shall set
4 forth the date of Respondent's arrest, the crime for which Respondent was arrested, and the name
5 and address of the arresting law enforcement agency. Respondent's failure to timely file written
6 notice shall constitute an independent violation of the terms of the restricted license and shall be
7 grounds for the suspension or revocation of that license.

8 DATED: 9-13-18



Julie L. To, Counsel for Complainant

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

18 Respondent shall send a hard copy of the original signed Stipulation and
19 Agreement to: Julie L. To, Legal Section, Department of Real Estate, 320 West Fourth Street,
20 Suite 350, Los Angeles, CA 90013. In the event of time constraints before an administrative
21 hearing, Respondent can signify acceptance and approval of the terms and conditions of this
22 Stipulation and Agreement by emailing a scanned copy of the signature page, as actually signed
23 by Respondent, to the Department counsel assigned to this case. Respondent agrees,
24 acknowledges and understands that by electronically sending the Department a scan of
25 Respondent's actual signature as it appears on the Stipulation and Agreement, that receipt of the
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1 scan by the Department shall be binding on Respondent as if the Department had received the
2 original signed Stipulation and Agreement.

3 DATED: 09-13-2018



4 DAVID SCOTT NEWMAN, Respondent

5 * * *

6 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
7 this matter and shall become effective at 12 o'clock noon on NOV 05 2018

8 IT IS SO ORDERED October 5, 2018

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10 DANIEL J. SANDRI
11 ACTING REAL ESTATE COMMISSIONER

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