

1 2. Respondent understands that by voluntarily surrendering his real estate
2 salesperson license, Respondent may only be reinstated by filing a petition with the Department
3 pursuant to Government Code section 11522. Respondent further understands that, by
4 voluntarily surrendering his real estate salesperson license, he represents, and agrees to, the
5 following:
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7 A. The filing of this Stipulation and Agreement to Surrender ("Stipulation
8 and Agreement") shall be deemed as Respondent's petition for the voluntary surrender of his real
9 estate salesperson license.
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11 B. Respondent agrees that, upon acceptance by the Real Estate Commissioner
12 ("Commissioner"), and as evidenced by an appropriate order, all affidavits and all relevant
13 evidence obtained by the Department in this matter prior to August 30, 2019, and after the
14 Commissioner's acceptance, and all allegations in the Accusation, may be considered by the
15 Department to be true and correct for the purpose of deciding whether or not to grant re-licensure
16 or reinstatement of Respondent's real estate salesperson license pursuant to Government Code
17 section 11522.
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19 C. Respondent freely and voluntarily surrenders all of his licenses and license
20 rights under the Real Estate Law.
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22 D. It is understood by the parties hereto that the Commissioner may adopt
23 this Stipulation and Agreement as her Decision and Order in this matter thereby imposing the
24 penalty and sanctions on Respondent's real estate licenses and license rights as set forth in the
25 below "Order." In the event that the Commissioner in her discretion does not adopt this
26 Stipulation and Agreement, this Stipulation and Agreement shall be void and of no effect, and
27 Respondent shall retain the right to a hearing and proceed on the Accusation under all the
provisions of the APA and shall not be bound by any stipulation, admission or waiver made

1 herein.


2 E. This Decision and Order or any subsequent Decision and Order of the
3 Commissioner made pursuant to this Stipulation and Agreement shall not constitute an estoppel,
4 merger or bar to any further administrative or civil proceedings by the Department with respect
5 to any matters that were not specifically alleged in the Accusation.
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7 ORDER

8 WHEREFORE, THE FOLLOWING ORDER is hereby made:

9 The petition of Respondent ANDREW BERRY for the voluntary surrender of his real
10 estate salesperson license is accepted as of the effective date of this Decision and Order, and is
11 based upon the understandings and agreements as set forth in this Stipulation and Agreement and
12 as further expressed in Respondent's declaration attached hereto and incorporated herein as a
13 part of this Stipulation and Agreement.

14
15 DATED April 17, 2020


16 DAVID EDWARD BRUCE, Counsel
17 Department of Real Estate

18 * * * *

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

26 Respondent can signify acceptance and approval of the terms and conditions of this
27 Stipulation and Agreement by faxing a copy of the signature page, as actually signed by
Respondent, to the Department at fax number (916) 263-3767 or by e-mail to

1 david.bruce@dre.ca.gov. Respondent agrees, acknowledges and understands that by
2 electronically sending to the Department a faxed copy of Respondent's actual signature as it
3 appears on this Stipulation and Agreement, that receipt of the faxed copy by the Department
4 shall be as binding on Respondent as if the Department had received the originally-signed
5 Stipulation and Agreement.

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7 DATED _____

(A)

ANDREW BERRY
Respondent

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10 * * * *

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

13
14 DATED _____

(J)

JOHN BELSHER
Attorney for Respondent

15
16 * * * *

17 The foregoing Stipulation and Agreement in Settlement and Order is hereby adopted by
18 the Real Estate Commissioner as her Decision and Order, and shall become effective at 12
19 o'clock noon on JUN 08 2020

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21 IT IS SO ORDERED May 8, 2020

22 DOUGLAS R. MCCAULEY
23 REAL ESTATE COMMISSIONER

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25 Douglas R. McCauley
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DECLARATION OF ANDREW BERRY

1. I, ANDREW BERRY, am currently licensed as a real estate salesperson, License No. 01857081, with the Department of Real Estate ("Department").

2. The filing of this Declaration shall be deemed as my petition for the voluntary surrender of my real estate salesperson license.

3. The filing of this Declaration shall also be deemed to be an understanding and agreement by me that I waive all rights that I have to require the Real Estate Commissioner ("Commissioner") to prove the allegations contained in the First Amended Accusation filed by the Department on June 12, 2019, in this matter ("Accusation") at a contested hearing held in accordance with the provisions of the Administrative Procedures Act (Government Code sections 11400 *et seq.*).

4. I agree to waive other rights afforded to me in connection with the hearing on the allegations in the Accusation such as the right to discovery, the right to present evidence in defense of the allegations made by the Department in the Accusation, and the right to cross-examine witnesses.

5. I also agree that, upon acceptance by the Commissioner, and as evidenced by an appropriate order, all affidavits and all relevant evidence obtained by the Department in this matter prior to August 30, 2019, and after the Commissioner's acceptance, and all allegations in the Accusation, may be considered by the Department to be true and correct for the purpose of deciding whether or not to grant re-licensure or reinstatement of my real estate salesperson license pursuant to Government Code section 11522.

6. I further agree that, prior to and only as a condition of a petition for reinstatement of my real estate salesperson license made pursuant to Government Code section 11522 being

1 granted, I will pay my 1/3 pro rata share of \$14,570 (FOURTEEN THOUSAND FIVE
2 HUNDRED SEVENTY DOLLARS) for the Commissioner's reasonable costs of the
3 investigation and enforcement that led to the disciplinary action being sought by the Department
4 as described in the Accusation; such payment shall be in the form of a cashier's check or
5 certified check made payable to the Department. The investigative and enforcement costs must
6 be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento,
7 California, 95813-7013, prior to such a petition being granted.
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9 7. I declare under penalty of perjury under the laws of the State of California that the
10 foregoing is true and correct and that I freely and voluntarily surrender my real estate salesperson
11 license and all license rights attached thereto.
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14 DATED _____



ANDREW BERRY
Respondent

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Respondent shall retain the right to a hearing and proceed on the Accusation under all the provisions of the APA and shall not be bound by any stipulation, admission or waiver made herein.

F. This Decision and Order or any subsequent Decision and Order of the 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 Department with respect to any matters that were not specifically alleged in the Accusation.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The petition of Respondent ANDREW BERRY for the voluntary surrender of his real estate salesperson license is accepted as of the effective date of this Decision and Order, and is based upon the understandings and agreements as set forth in this Stipulation and Agreement and as further expressed in Respondent's declaration attached hereto and incorporated herein as a part of this Stipulation and Agreement.

DATED _____ DAVID EDWARD BRUCE, Counsel
Department of Real Estate

I have read this Stipulation and Agreement, have discussed it with my counsel, and its terms and conditions 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 contained therein.

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by Respondent, to the Department at fax number (916) 263-3767 or by e-mail to ~~and.berry@tre.ca.gov~~. Respondent agrees, acknowledges and understands that by electronically sending to the Department a faxed copy of Respondent's actual signature as it appears on this Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the originally-signed Stipulation and Agreement.

4/16/2020

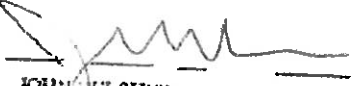
DATED ANDREW BERRY
Respondent



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

4/16/20

DATED JOHN BELSILVER
Attorney for Respondent



The foregoing Stipulation and Agreement in Settlement and Order is hereby adopted by the Real Estate Commissioner as her Decision and Order, and shall become effective at 12 o'clock noon on _____

IT IS SO ORDERED _____

SANDRA KNATH
ACTING REAL ESTATE COMMISSIONER

DECLARATION OF ANDREW BERRY

1. I, ANDREW BERRY, am currently licensed as a real estate salesperson, License No. 01857081, with the Department of Real Estate ("Department").
2. The filing of this Declaration shall be deemed as my petition for the voluntary surrender of my real estate salesperson license.
3. The filing of this Declaration shall also be deemed to be an understanding and agreement by me that I waive all rights that I have to require the Real Estate Commissioner ("Commissioner") to prove the allegations contained in the First Amended Accusation filed by the Department on June 12, 2019, in this matter ("Accusation") at a contested hearing held in accordance with the provisions of the Administrative Procedures Act (Government Code sections 11400 *et seq.*).
4. I agree to waive other rights afforded to me in connection with the hearing on the allegations in the Accusation such as the right to discovery, the right to present evidence in defense of the allegations made by the Department in the Accusation, and the right to cross-examine witnesses.
5. I also agree that, upon acceptance by the Commissioner, and as evidenced by an appropriate order, all affidavits and all relevant evidence obtained by the Department in this matter prior to August 30, 2019, and after the Commissioner's acceptance, and all allegations in the Accusation, may be considered by the Department to be true and correct for the purpose of deciding whether or not to grant re-licensure or reinstatement of my real estate salesperson license pursuant to Government Code section 11522.
6. I further agree that, prior to and only as a condition of a petition for reinstatement of my real estate salesperson license made pursuant to Government Code section 11522 being granted, I will pay my 1/3 pro rata share of \$14,570 (FOURTEEN THOUSANT FIVE HUNDRED SEVENTY DOLLARS) for the Commissioner's reasonable costs of the investigation and enforcement that led to the disciplinary action being sought by the Department as described in the Accusation; such payment shall be in the form of a cashier's check or certified check made payable to the Department. The investigative and enforcement costs must be delivered to the Department of Real Estate, Flag Section at P.O. Box 117013, Sacramento, California, 95813-7013, prior to such a petition being granted.
7. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I freely and voluntarily surrender my real estate salesperson license and all license rights attached thereto.

4/16/2020
DATED ANDREW BERRY
Respondent

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STIPULATION AND AGREEMENT TO SURRENDER