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MAY 19 2021

DEPT. OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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In the Matter of the Accusation of

No. H-41533-LA

DIAMOND PROPERTY
INVESTMENTS INC, BRIAN
MOOYOUN KIM, individually and as
designated officer of Diamond Property
Investments Inc, JOSEPH YONG
BUM LEE, and JI YOUN KIM,

**STIPULATION AND AGREEMENT
AS TO DIAMOND PROPERTY
INVESTMENTS INC. AND BRIAN
MOOYOUN KIM**

Respondents.

It is hereby stipulated and agreed by and between Respondents DIAMOND
PROPERTY INVESTMENTS INC. ("DPII"), and BRIAN MOOYOUN KIM ("KIM"),
individually and as designated officer of DPII ("Respondents"), and their attorney of record,
Mary Work, Esq., and the Complainant, acting by and through Laurence Haveson, Counsel for
the Department of Real Estate ("Department"), as follows for the purpose of settling and
disposing of the Accusation filed on May 20, 2020 ("Accusation") in this matter:

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 ("Stipulation").

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

4 3. On May 29, 2020, Respondents DPII and KIM each filed a Notice of Defense
5 pursuant to section 11506 of the Government Code for the purpose of requesting a hearing on the
6 allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notices
7 of Defense. Respondents acknowledge that Respondents understand that by withdrawing said
8 Notices of Defense, Respondents will thereby waive Respondents' right to require the Real Estate
9 Commissioner ("Commissioner") to prove the allegations in the Accusation at a contested hearing
10 held in accordance with the provisions of the APA and that Respondents will waive other rights
11 afforded to Respondents in connection with the hearing such as the right to present evidence in
12 defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

19 5. This Stipulation and Respondents' decision not to contest the Accusation are made
20 for the purpose of reaching an agreed disposition of this proceeding and are expressly limited to
21 this proceeding and any other proceeding or case in which the Department, or another licensing
22 agency of this state, another state, or if the federal government is involved, and otherwise shall not
23 be admissible in any other criminal or civil proceedings.

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

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

7 8. Respondents understand that by agreeing to this Stipulation, Respondents agree to
8 pay, pursuant to Business and Professions Code Section 10148, the cost of the original audit which
9 led to this disciplinary action. The amount of said cost is \$8,683.06.

10 9. Respondents have received, read, and understand the "Notice Concerning Costs of
11 Subsequent Audit." Respondents further understand that by agreeing to this Stipulation, the
12 findings set forth below in the Determination of Issues become final, and the Commissioner may
13 charge Respondents for the cost of any subsequent audit conducted pursuant to Business and
14 Professions Code Section 10148 to determine if the violations have been corrected. The
15 maximum cost of the subsequent audit shall not exceed 125% of cost of the original audit, or
16 \$10,853.83.

17 10. Respondents understand that by agreeing to this Stipulation, Respondents agree to
18 pay, pursuant to Business and Professions Code Section 10106, 50% of the cost of the
19 investigation and enforcement of this matter. The amount of the investigation costs is \$5,988.20
20 and the amount of the enforcement costs is \$525.10, for a total of \$6,513.30; therefore,
21 Respondents agree to pay, pursuant to Code Section 10106, 50% of the total amount, or \$3,256.65.

22 DETERMINATION OF ISSUES

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

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I.

The conduct, acts, and/or omissions of Respondent DPII as described in the Accusation, constitute cause for the suspension or revocation of all real estate licenses and license rights of Respondent DPII under California Business and Professions Code ("Code") Sections 10141.6, 10145, 10145(a), 10159.5, 10176(e), 10177(d), and 10177(g), and Title 10, Chapter 6, California Code of Regulations ("Regulations") Sections 2731, 2831, 2831.1, 2831.2, 2832, 2832.1, 2950(d), 2950(g), 2950(h), and 2951.

II.

The conduct, acts, and/or omissions of Respondent KIM, as described in the Accusation, constitute cause for the suspension or revocation of all real estate licenses and license rights of Respondent KIM under Code Sections 10159.2 and 10177(h), and Regulation 2725.

ORDER

I.

All licenses and licensing rights of Respondent DPII under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Decision and Order; provided, however, that:

1. Thirty (30) days of said suspension shall be stayed upon the condition that Respondent DPII petitions pursuant to Code Section 10175.2 and pays a monetary penalty pursuant to Code Section 10175.2 at a rate of one hundred dollars (\$100.00) for each day of the suspension for a total monetary penalty of \$3,000 (\$100.00 per day X thirty (30) days = \$3,000), and upon the following terms and conditions:

a. Said payment shall be in the form of a cashier's check made payable to the Department of Real Estate. Said check must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order. **Payment of said monetary penalty should not be made until the Stipulation has been approved by the Commissioner.**

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1 b. No further cause for disciplinary action against the Real Estate license(s) of
2 Respondent DPII occurs within two (2) years from the effective date of the Decision and
3 Order in this matter.

4 c. If Respondent DPII fails to pay the monetary penalty in accordance with the
5 terms and conditions of this Decision and Order, the suspension shall go into effect
6 automatically. Respondent DPII shall not be entitled to any repayment nor credit, prorated
7 or otherwise, for money paid to the Department under the terms of this Decision and
8 Order.

9 d. If Respondent DPII pays the monetary penalty under this Stipulation and
10 Agreement and if no further cause for disciplinary action against the Real Estate license(s)
11 of Respondent DPII occurs within two (2) years from the effective date of this Decision
12 and Order, the entire stay hereby granted pursuant to this Decision and Order, shall become
13 permanent.

14 2. The remaining thirty (30) days of said suspension shall be stayed for two (2) years
15 upon the following terms and conditions:

16 a. Respondent DPII shall obey all laws, rules and regulations governing the
17 rights, duties and responsibilities of a real estate licensee in the State of California; and,

18 b. That no final subsequent determination be made, after hearing or upon
19 stipulation, that cause of disciplinary action occurred within two (2) years from the
20 effective date of this Decision and Order. Should such a determination be made, the
21 Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all
22 or a portion of the stayed suspension. Should no such determination be made, the stay
23 imposed herein shall become permanent.

24 3. Respondent DPII shall pay, severally or jointly with Respondent KIM, the sum of
25 \$3,256.65, amounting to 50% of the Commissioner's reasonable cost of the investigation and
26 enforcement which led to this disciplinary action, **within one-hundred and eighty (180) days**
27 **from the effective date of this Decision and Order.** Said payment shall be in the form of a
28 cashier's check made payable to the Department of Real Estate. **The investigative and**

1 enforcement costs must be delivered to the Department of Real Estate, Flag Section at P.O.
2 Box 137013, Sacramento, CA 95813-7013. Payment of investigation and enforcement costs
3 should not be made until the Stipulation has been approved by the Commissioner. If

4 Respondents fail to satisfy this condition in a timely manner as provided for herein, Respondents'
5 real estate licenses shall automatically be suspended until payment is made in full, or until a
6 decision providing otherwise is adopted following a hearing held pursuant to this condition.

7 4. Pursuant to section 10148 of the Code, Respondent DPII shall pay, severally or
8 jointly with Respondent KIM, the sum of \$8,683.06 for the Commissioner's cost of the audit
9 which led to this disciplinary action. Respondents shall pay such cost within sixty (60) days of
10 receiving an invoice therefore from the Commissioner. Payment of audit costs should not be
11 made until Respondents receive the invoice. If Respondents fail to satisfy this condition in a
12 timely manner as provided for herein, Respondents' real estate licenses shall automatically be
13 suspended until payment is made in full, or until a decision providing otherwise is adopted
14 following a hearing held pursuant to this condition.

15 5. Respondents understand that by agreeing to this Stipulation, the findings set forth
16 below in the Determination of Issues become final, and the Commissioner may charge
17 Respondents for the cost of any subsequent audit, if a subsequent audit is conducted, pursuant to
18 Code section 10148 to determine if the violations have been corrected and that Respondents are in
19 compliance with trust fund handling requirements of the Real Estate Law. The maximum cost of
20 the follow-up audit will not exceed one-hundred twenty-five percent (125%) of the cost of the
21 original audit; in the instant case, the cost of the original audit is \$8,683.06 and the maximum cost
22 of the follow-up audit will not exceed \$10,853.83. Therefore, Respondents may be charged a
23 maximum of \$10,853.83 in the event of a subsequent audit.

24 6. Pursuant to Section 10148 of the Code, Respondents shall pay the Commissioner's
25 reasonable cost, not to exceed \$10,853.83, for any subsequent audit, if one is performed, to
26 determine if Respondents have corrected the violations found in the Determination of Issues and
27 that Respondents are in compliance with trust fund handling requirements of the Real Estate Law.
28 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the

1 estimated average hourly salary for all persons performing audits of real estate brokers, and shall
2 include an allocation for travel time to and from the auditor's place of work. Respondents shall
3 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.

4 **Payment of the audit costs should not be made until Respondents receive the invoice.** If
5 Respondents fail to satisfy this condition in a timely manner as provided for herein, Respondents'
6 real estate licenses shall automatically be suspended until payment is made in full, or until a
7 decision providing otherwise is adopted following a hearing held pursuant to this condition.

8 II.

9 All licenses and licensing rights of Respondent KIM under the Real Estate Law are
10 suspended for a period of sixty (60) days from the effective date of this Decision and Order;
11 provided, however, that:

12 1. Thirty (30) days of said suspension shall be stayed upon the condition that
13 Respondent KIM petitions pursuant to Code Section 10175.2 and pays a monetary penalty
14 pursuant to Code Section 10175.2 at a rate of one hundred dollars (\$100.00) for each day of the
15 suspension for a total monetary penalty of \$3,000 (\$100.00 per day X thirty (30) days = \$3,000),
16 and upon the following terms and conditions:

17 a. Said payment shall be in the form of a cashier's check made payable to the
18 Department of Real Estate. Said check must be delivered to the Department of Real
19 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the
20 effective date of this Decision and Order. **Payment of said monetary penalty should not**
21 **be made until the Stipulation has been approved by the Commissioner.**

22 b. No further cause for disciplinary action against the Real Estate license(s) of
23 Respondent KIM occurs within two (2) years from the effective date of the Decision and
24 Order in this matter.

25 c. If Respondent KIM fails to pay the monetary penalty in accordance with the
26 terms and conditions of this Decision and Order, the suspension shall go into effect
27 automatically. Respondent KIM shall not be entitled to any repayment nor credit, prorated
28 or otherwise, for money paid to the Department under the terms of this Decision and

1 Order.

2 d. If Respondent KIM pays the monetary penalty under this Stipulation and
3 Agreement and if no further cause for disciplinary action against the Real Estate license(s)
4 of Respondent KIM occurs within two (2) years from the effective date of this Decision
5 and Order, the entire stay hereby granted pursuant to this Decision and Order, shall become
6 permanent.

7 2. The remaining thirty (30) days of said suspension shall be stayed for two (2) years
8 upon the following terms and conditions:

9 a. Respondent KIM shall obey all laws, rules and regulations governing the
10 rights, duties and responsibilities of a real estate licensee in the State of California; and,

11 b. That no final subsequent determination be made, after hearing or upon
12 stipulation, that cause of disciplinary action occurred within two (2) years from the
13 effective date of this Decision and Order. Should such a determination be made, the
14 Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all
15 or a portion of the stayed suspension. Should no such determination be made, the stay
16 imposed herein shall become permanent.

17 3. Respondent KIM shall pay, severally or jointly with Respondent DP11, the sum of
18 \$3,256.65, amounting to 50% of the Commissioner's reasonable cost of the investigation and
19 enforcement which led to this disciplinary action, **within one-hundred and eighty (180) days**
20 **from the effective date of this Decision and Order**. Said payment shall be in the form of a
21 cashier's check made payable to the Department of Real Estate. **The investigative and**
22 **enforcement costs must be delivered to the Department of Real Estate, Flag Section at P.O.**
23 **Box 137013, Sacramento, CA 95813-7013. Payment of investigation and enforcement costs**
24 **should not be made until the Stipulation has been approved by the Commissioner.** If
25 Respondents fail to satisfy this condition in a timely manner as provided for herein, Respondents'
26 real estate licenses shall automatically be suspended until payment is made in full, or until a
27 decision providing otherwise is adopted following a hearing held pursuant to this condition.

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1 4. Respondents understand that by agreeing to this Stipulation, the findings set forth
2 below in the Determination of Issues become final, and the Commissioner may charge
3 Respondents for the cost of any subsequent audit, if a subsequent audit is conducted, pursuant to
4 Code section 10148 to determine if the violations have been corrected and that Respondents are in
5 compliance with trust fund handling requirements of the Real Estate Law. The maximum cost of
6 the follow-up audit will not exceed one-hundred twenty-five percent (125%) of the cost of the
7 original audit; in the instant case, the cost of the original audit is \$8,683.06 and the maximum cost
8 of the follow-up audit will not exceed \$10,853.83. Therefore, Respondents may be charged a
9 maximum of \$10,853.83 in the event of a subsequent audit.

10 5. Pursuant to Section 10148 of the Code, Respondents shall pay the Commissioner's
11 reasonable cost, not to exceed \$10,853.83, for any subsequent audit, if one is performed, to
12 determine if Respondents have corrected the violations found in the Determination of Issues and
13 that Respondents are in compliance with trust fund handling requirements of the Real Estate Law.
14 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the
15 estimated average hourly salary for all persons performing audits of real estate brokers, and shall
16 include an allocation for travel time to and from the auditor's place of work. Respondents shall
17 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.
18 **Payment of the audit costs should not be made until Respondents receive the invoice.** If
19 Respondents fail to satisfy this condition in a timely manner as provided for herein, Respondents'
20 real estate licenses shall automatically be suspended until payment is made in full, or until a
21 decision providing otherwise is adopted following a hearing held pursuant to this condition.

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23 DATED: 1/25/2021



24 Laurence D. Haverson
25 Counsel for Complainant

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2 EXECUTION OF THE STIPULATION

3 We have read this Stipulation and its terms are understood by us and are agreeable and
4 acceptable to us. We understand that we are waiving rights given to us by the California APA
5 (including, but not limited to, sections 11506, 11508, 11509, and 11513 of the Government Code),
6 and we willingly, intelligently, and voluntarily waive those rights, including the right of requiring
7 the Commissioner to prove the allegations in the Accusation at a hearing at which we would have
8 the right to cross-examine witnesses against us and to present evidence in defense and mitigation
9 of the charges.

10 Respondents can signify acceptance and approval of the terms and conditions of this
11 Stipulation and Agreement by electronically e-mailing a copy of the signature pages, as actually
12 signed by Respondents, to the Department. Respondents agree, acknowledge, and understand that
13 by electronically sending to the Department an electronic copy of Respondents' actual signatures,
14 as they appear on the Stipulation, that receipt of the emailed copy by the Department shall be as
15 binding on Respondents as if the Department had received the original signed Stipulation. By
16 signing this Stipulation, Respondents understand and agree that Respondents may not withdraw
17 their agreement or seek to rescind the Stipulation prior to the time the Commissioner considers
18 and acts upon it or prior to the effective date of the Stipulation and Order.

19 MAILING

20 Respondents and their counsel shall, within five (5) business days from signing the
21 Stipulation, mail the original signed signature page(s) of the Stipulation herein to Laurence
22 Haveson, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Room 350,
23 Los Angeles, California 90013-1105.

24 Respondents' signatures below constitute acceptance and approval of the terms and
25 conditions of this Stipulation. Respondents agree, acknowledge, and understand that by signing
26 this Stipulation Respondents are bound by its terms as of the date of such signature and that this
27 agreement is not subject to rescission or amendment at a later date except by a separate Decision
28 and Order of the Real Estate Commissioner.

1 DATED: 1/22/2021


Respondent DIAMOND PROPERTY
INVESTMENTS INC.

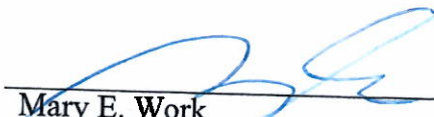
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4 By (Printed Name): Brian M. Kim

5 Title: President

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7 DATED: 1/22/2021


Respondent BRIAN MOOYOUN KIM

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10 DATED: 2/2/2021


Mary E. Work
Mary E. Work, A Professional Corporation
Attorney for Respondents DIAMOND PROPERTY
INVESTMENTS INC. and BRIAN MOOYOUN KIM
Approved as to Form

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16 The foregoing Stipulation and Agreement in Settlement and Order is hereby adopted by me
17 as my Decision in this matter and shall become effective at 12 o'clock noon on
18 June 18, 2021.

19 IT IS SO ORDERED 5.4.21, 2021.

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21 DOUGLAS R. McCAULEY
22 REAL ESTATE COMMISSIONER

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