

FILED

DEC - 2 2020

DEPT. OF REAL ESTATE
By *Cal Elbow*

1 Department of Real Estate
2 320 W. 4th Street, Suite 350
3 Los Angeles, CA 90013-1105
4 Telephone: (213) 576-6982

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7
8 **BEFORE THE DEPARTMENT OF REAL ESTATE**
9 **STATE OF CALIFORNIA**

10 * * *

11 In the Matter of the Accusation against)
12 DANIEL JOEL FISHER, doing)
13 business as Park Place Realty,)
14 Respondent.)

DRE No. H-41621 LA
OAH No. 2020080217

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

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16
17 It is hereby stipulated by and between Respondents DANIEL JOEL FISHER,
18 doing business as Park Place Realty (sometimes referred to as "Respondent"), acting by and
19 through his attorney, Nolan F. King, Esq., and the Complainant, acting by and through Judith B.
20 Vasan, Counsel for the Department of Real Estate, as follows for the purpose of settling and
21 disposing of the Accusation ("Accusation") filed on March 2, 2020, in this matter:

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

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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 (“Department”) in this proceeding.

4 3. On or about April 7, 2020, Respondent filed a Notice of Defense pursuant to
5 Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations
6 in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
7 Respondent acknowledges that Respondent understands that by withdrawing said Notice of
8 Defense Respondent thereby waives his right to require the Commissioner to prove the
9 allegations in the Accusation at a contested hearing held in accordance with the provisions of the
10 APA and that Respondent will waive other rights afforded to him in connection with the hearing
11 such as the right to present evidence in their defense, and the right to cross-examine witnesses.

12 4. Respondent hereby admits that the factual allegations in the Accusation filed in
13 this proceeding are true and correct and the Real Estate Commissioner shall not be required to
14 provide further evidence of such allegations.

15 5. It is understood by the parties that the Real Estate Commissioner may adopt
16 this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on
17 Respondent’s real estate licenses and license rights as set forth in the below “Order.” In the event
18 that the Commissioner in his discretion does not adopt the Stipulation, the Stipulation shall be
19 void and of no effect and Respondent shall retain the right to a hearing and proceed on the
20 Accusation under the provisions of the APA and shall not be bound by any stipulation or waiver
21 made herein.

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

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1 DETERMINATION OF ISSUES

2 By reason of the foregoing, it is stipulated and agreed that the following
3 determination of issues shall be made:

4 The conduct, acts or omissions of DANIEL JOEL FISHER, doing business as
5 Park Place Realty, as set forth in the Accusation, are in violation of Business and Professions
6 Code ("Code") sections 10145, 10159.5, and 10161.8, and Sections 2731, 2831, 2831.1, 2831.2,
7 2832, 2832.1, and 2835(b) of Title 10, Chapter 6, of the California Code of Regulations and are a
8 basis for discipline of Respondent's license and license rights pursuant to Code sections
9 10176(e), 10176(i), 10177(d), 10177(g), and/or 10177(j).

10 ORDER

11 WHEREFORE, THE FOLLOWING ORDER is hereby made:

12 I.

13 All licenses and license rights of Respondent DANIEL JOEL FISHER under the
14 Real Estate Law are suspended for a period of sixty (60) days from the effective date of this
15 Decision; provided, however, that:

16 A. The initial thirty (30) days of said suspension shall be stayed for two (2) years
17 upon the following terms and conditions:

18 1. Respondent shall pay, a monetary penalty pursuant to Code section
19 10175.2 at the rate of \$75.00 per day for each of the thirty (30) days of suspension for a total
20 monetary penalty of \$2,250.00.

21 2. Said payment shall be in the form of a cashier's check made payable to
22 the Department of Real Estate. Said check must be delivered to the Department of Real Estate,
23 Flag Section, P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
24 Decision and Order.

25 3. No further cause for disciplinary action against the real estate licenses of
26 Respondent occurs within two (2) years from the effective date of the Decision in this matter.
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1 III.

2 Pursuant to Code section 10148, Respondent shall pay the Commissioner's
3 reasonable costs, not to exceed \$11,538.38, for a subsequent audit to determine if Respondent
4 has corrected the violations found in the Determination of Issues. In calculating the amount of
5 the Commissioner's reasonable costs, the Commissioner may use the estimated average hourly
6 salary for all persons performing audits of real estate brokers, and shall include an allocation for
7 travel time to and from the auditor's place of work. Respondent shall pay such costs within sixty
8 (60) days of receiving an invoice therefor from the Commissioner. Payment of the audit costs
9 should not be made until Respondent receives the invoice. If Respondent fails to satisfy this
10 condition in a timely manner as provided for herein, Respondent's real estate licenses shall
11 automatically be suspended until payment is made in full, or until a decision providing otherwise
12 is adopted following a hearing held pursuant to this condition.

13 IV.

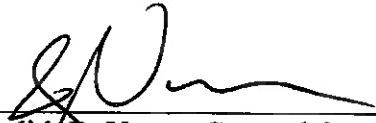
14 All licenses and license rights of Respondent are indefinitely suspended unless or
15 until Respondent pays the total amount of \$1,310.90 (sum of \$776.90 investigation costs plus
16 \$534.00 enforcement costs) for the Commissioner's reasonable costs of the investigation and
17 enforcement, which led to this disciplinary action. Said payment shall be in the form of a
18 cashier's check made payable to the Department of Real Estate. The enforcement costs must be
19 delivered to the Department of Real Estate, Flag Section, at P.O. Box 137013, Sacramento, CA
20 95813-7013, prior to the effective date of this Decision and Order.

21 V.

22 Respondent shall provide proof satisfactory to the Commissioner, of having taken
23 and successfully completed the continuing education course on trust fund accounting and
24 handling as specified in subdivision (a) of Section 10170.5 of the Business and Professions
25 Code. Proof of satisfaction of this requirement includes evidence that Respondent has
26 successfully completed the trust fund accounting and handling continuing education course, no
27 earlier than 120 days prior to the effective date of the Decision and Order in this matter. Proof of

1 completion of the trust fund accounting and handling course must be delivered to the Department
2 of Real Estate, Flag Section, at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the
3 effective date of this Decision and Order. If Respondent fails to provide satisfactory proof prior
4 to the effective date of this Decision, all licenses and license rights of Respondent shall be
5 indefinitely suspended until Respondent provides proof satisfactory to the Commissioner.

6
7 DATED: 10-27-2020


8 Judith B. Vasan, Counsel for
9 Department of Real Estate

10 EXECUTION OF THE STIPULATION

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

18 Respondent shall mail the original signed signature page of the stipulation herein
19 to Judith B. Vasan, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St.,
20 Suite 350, Los Angeles, California 90013-1105.


21 In the event of time constraints before an administrative hearing, Respondent can
22 signify acceptance and approval of the terms and conditions of this Stipulation and Agreement
23 by emailing a scanned copy of the signature page, as actually signed by Respondent, to the
24 Department counsel assigned to this case. Respondent agrees, acknowledges and understands
25 that by electronically sending the Department a scan of Respondent's actual signature as it
26 appears on the Stipulation and Agreement that receipt of the scan by the Department shall be
27 binding on Respondent as if the Department had received the original signed Stipulation.

STIPULATION AND AGREEMENT

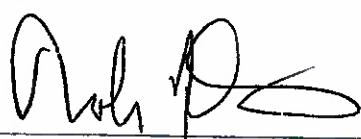
1 Respondent shall also mail the original signed signature page of this Stipulation to the
2 Department counsel.

3 Respondent's signature below constitutes acceptance and approval of the terms and
4 conditions of this Stipulation. Respondent agrees, acknowledges and understands that by signing
5 this Stipulation, Respondent is bound by its terms as of the date of such signatures and that this
6 agreement is not subject to rescission or amendment at a later date except by a separate Decision
7 and Order of the Real Estate Commissioner.

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9 DATED: 10/15/2020


DANIEL JOEL FISHER
Respondent

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12 DATED: 10/16/2020

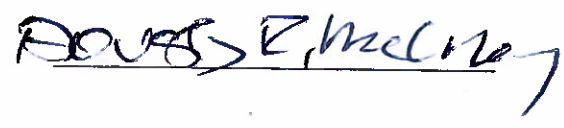

Nolan F. King, Esq.
Counsel for Respondents
Approved as to Form

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17 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
18 Respondent DANIEL JOEL FISHER, doing business as Park Place Realty, and shall become
19 effective at 12 o'clock noon on DEC 22 2020.

20 IT IS SO ORDERED 11.19.20

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22 DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

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