

FILED

MAR 11 2022

DEPT. OF REAL ESTATE
By *ad Selau*

Department of Real Estate
320 W. 4th Street, Suite 350
Los Angeles, CA 90013-1105

Telephone: (213) 576-6982

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	No. H-42039 LA
MATTHEW DOUGLAS MC PHERSON,	)	<u>STIPULATION</u>
	)	<u>AND</u>
Respondent.	)	<u>AGREEMENT</u>

It is hereby stipulated by and between Respondent MATTHEW DOUGLAS MC PHERSON ("Respondent"), acting by and through Adam Brown, Counsel for Respondent, and Complainant, acting by and through Andrea Bentler, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on August 20, 2021, in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent 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").

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

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

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

15 5. This Stipulation is made for the purpose of reaching an agreed disposition of
16 this proceeding and is expressly limited to this proceeding and not any other proceeding or case
17 in which the Department of Real Estate ("Department"), or another licensing agency of this state,
18 another state, or the federal government is involved, and otherwise shall not be admissible in any
19 criminal or civil proceeding.

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

27 7. The Order or any subsequent Order of the Real Estate Commissioner made

1 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
2 administrative or civil proceedings by the Department of Real Estate with respect to any matters
3 which were not specifically alleged to be causes for accusation in this proceeding.

4 8. Respondent understands that by agreeing to this Stipulation, Respondent
5 agrees to pay, pursuant to Business and Professions Code Section 10106, the cost of the
6 investigation of this matter. The amount of said cost is \$853.75.

7 DETERMINATION OF ISSUES

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

10 The conduct, acts or omissions of MATTHEW DOUGLAS MC PHERSON, as
11 described in Paragraph 4, above, are a basis for discipline of Respondent's license and license
12 rights as a violation of the Real Estate Law, Part 1 of Division 4 of the Business and Professions
13 Code ("Code"), pursuant to Code Sections 490, 10177(b) and 10186.2.

14 ORDER

15 WHEREFORE, THE FOLLOWING ORDER is hereby made:

16 All licenses and licensed rights of Respondent MATTHEW DOUGLAS
17 MC PHERSON under the Real Estate Law are revoked; provided, however, a restricted real
18 estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the
19 Business and Professions Code if Respondent makes application therefor and pays to the
20 Department of Real Estate the appropriate fee for the restricted license within 90 days from the
21 effective date of this Decision. The restricted license issued to Respondent shall be subject to all
22 of the provisions of Section 10156.7 of the Business and Professions Code and to the following
23 limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

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

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

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

11 4. Respondent shall notify the Commissioner in writing within 72 hours of any
12 arrest by sending a certified letter to the Commissioner at Department of Real Estate, Post Office
13 Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the date of Respondent's
14 arrest, the crime for which Respondent was arrested, and the name and address of the arresting
15 law enforcement agency. Respondent's failure to timely file written notice shall constitute an
16 independent violation of the terms of the restricted license and shall be grounds for the
17 suspension or revocation of that license.

18 5. Respondent shall submit with any application for license under an employing
19 broker, or any application for transfer to a new employing broker, a statement signed by the
20 prospective employing real estate broker on a form approved by the Department of Real Estate
21 which shall certify:

22 (a) That the employing broker has read the Decision and Order of the
23 Commissioner which granted the right to a restricted license; and

24 (b) That the employing broker will exercise close supervision over the
25 performance by the restricted licensee relating to activities for which a real estate
26 license is required.

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6. Prior to the effective date of this Decision, and pursuant to Section 10106 of the Business and Professions Code, Respondent shall pay the Commissioner's reasonable cost for the investigation which led to this disciplinary action in the amount of \$853.75. 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, P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.** If Respondent fails to satisfy this condition in a timely manner as provided for herein, Respondent's real estate license shall automatically be suspended until payment is made in full, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

02/08/2022
Dated

Andrea Bentler
Attorney for Department of Real Estate

* * *

EXECUTION OF THE STIPULATION

I have read the Stipulation. Its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (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.

MAILING

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

1 In the event of time constraints before an administrative hearing, Respondent can signify
2 acceptance and approval of the terms and conditions of this Stipulation and Waiver by emailing a
3 copy of the signature page, as actually signed by Respondent, to the Department counsel
4 assigned to this case. Respondent agrees, acknowledges and understands that by electronically
5 sending the Department a copy of Respondent's actual signature as it appears on the Stipulation
6 and Waiver, that receipt of the copy by the Department shall be binding on Respondent as if the
7 Department had received the original signed Stipulation and Waiver. Respondent's signature
8 below constitutes acceptance and approval of the terms and conditions of this Stipulation.
9 Respondent agrees, acknowledges and understands that by signing this Stipulation Respondent is
10 bound by its terms as of the date of such signature and that this agreement is not subject to
11 rescission or amendment at a later date except by a separate Decision and Order of the Real
12 Estate Commissioner.

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

18
19 2/7/22

20
21 Dated

Matthew Douglas Mc Pherson
Respondent

22
23 I have reviewed this Stipulation and Agreement as to form and content and have
24 advised my client accordingly.

25 2/8/22

26 Dated

Adam Brown
Attorney for Respondent

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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent MATTHEW DOUGLAS MC PHERSON and shall become effective at 12 o'clock noon on MAR 31 2022.

IT IS SO ORDERED 3.4.22

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley