FILED
AUG 17 2022
DEPT. OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of WALTER ROY MITCHELL, Respondent.	No. H-42074 LA OAH No. 2022050989 **STIPULATION AND AGREEMENT**

It is hereby stipulated by and between Respondent WALTER ROY MITCHELL ("Respondent"), represented by counsel Edward O. Lear of Century Law Group, LLP., and the Complainant, acting by and through Kathy Yi, Counsel for the Department of Real Estate ("Department"), as follows for the purpose of settling and disposing of the Second Amended Accusation filed on June 1, 2022, 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 Second Amended 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 Second Amended Accusation filed by the Department of Real Estate in this proceeding.

3. Respondent filed a Notice of Defense pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Second Amended Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent acknowledges that Respondent understands that by withdrawing said Notice of Defense, Respondent will thereby waive Respondent's right to require the Real Estate Commissioner ("Commissioner") to prove the allegations in the Second Amended Accusation at a contested hearing held in accordance with the provisions of the APA and that Respondent will waive other rights afforded to Respondent in connection with the hearing such as the right to present evidence in defense of the allegations in the Second Amended Accusation and the right to cross-examine witnesses.

4. Respondent, pursuant to the limitations set forth below, hereby admits that the factual allegations in the Second Amended Accusation filed in this proceeding are true and correct and the Commissioner shall not be required to provide further evidence to prove such allegations.

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

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

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DETERMINATION OF ISSUES

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

The conduct, acts, or omissions of Respondent WALTER ROY MITCHELL, as described in the Second Amended Accusation, constitute cause for the suspension or revocation of all real estate licenses and license rights of Respondent WALTER ROY MITCHELL under California Business and Professions Code ("Code") section 10177(f).

ORDER

All licenses and licensing rights of Respondent WALTER ROY MITCHELL under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the Code if Respondent makes application therefor and pays to the Department the appropriate fee for the restricted license within ninety (90) days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Code and to the following limitations, conditions, and restrictions imposed under Section 10156.6 of the Code:

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

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

3. Respondent shall not be eligible to apply for the issuance of an

unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until at least **two (2) years** have elapsed from the effective date of this Decision and Order.

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

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

6. Respondent shall pay the sum of **$1,933.65** for the Commissioner's reasonable cost of the investigation and enforcement which led to this disciplinary action. Said payment shall be in the form of a cashier's check made payable to the Department of Real Estate. **The investigative and enforcement costs 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 investigation and enforcement costs should not be made until the Stipulation has been approved by the Commissioner.**

7. If Respondent fails to satisfy condition 6, above, Respondent's restricted license shall be suspended until Respondent presents evidence of payment. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence that payment was timely made. The suspension shall remain in effect until payment is made in full or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

DATED: 07/22/2022

Kathy Yi, Counsel
Department of Real Estate

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Respondent has read the Stipulation and Agreement and understands that Respondent is waiving rights given to Respondent by the California Administrative Procedure Act, (including but not limited to Sections 11521 and 11523 of the Government Code), and Respondent willingly, intelligently, and voluntarily waives those rights, including the right to seek reconsideration and the right to seek judicial review of the Commissioner's Decision and Order by way of a writ of mandate.

Respondent agrees, acknowledges, and understands that Respondent cannot rescind or amend this Stipulation and Agreement. Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by electronically e-mailing a copy of the signature page, as actually signed by Respondent, to the Department. Respondent agrees, acknowledges, and understands that by electronically sending to the Department an electronic copy of Respondent's actual signature, as it appears on the Stipulation, that receipt of the emailed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation. By signing this Stipulation, Respondent understands and agrees that Respondent may not withdraw Respondent's agreement or seek to rescind the Stipulation prior to the time the Commissioner

considers and acts upon it or prior to the effective date of the Stipulation and Order.

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by mailing the original signed Stipulation and Agreement to: Kathy Yi, Department of Real Estate, 320 West 4th Street, Suite 350, Los Angeles, California 90013-1105.

DATED: 7/19/2022

WALTER ROY MITCHELL
Respondent

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

DATED: 7/22/2022

Edward O. Lear
Counsel for Respondent

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The foregoing Stipulation and Agreement is hereby adopted by me as my Decision in this matter as to Respondent WALTER ROY MITCHELL and shall become effective at 12 o'clock noon on SEP 19 2022.

IT IS SO ORDERED 8.12.22

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER