1 2 3 4 5 6 7 8 9	BEFORE THE DEPARTMEN STATE OF CALL	
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11	In the Matter of the Accusation of	) No. H-05236 SD
12	SAN DIEGO HOMES AND ESTATES, INC., doing business as California Desert Escrow,	) <u>STIPULATION AND AGREEMENT</u>
13 14	A Non-Independent Broker Escrow, Catherine Thoreson & Associates, Countywide Escrow,	
14	a Non-Independant Broker Escrow, The DeChamplain Group, Drutman and	)
16	Associates, Gretchen Pagnotta & Associates,	) ) ;
17	Gretchen Pagnotta and Associates, Karen Pado and Associates, The Key Team, Kolker Real	)
18	Estate Group, Legacy Homes & Estates, Lisa Herndon & Associates, Michele	
19	Massion & Associates, Palm Valley Country	
20	Club On Site Sales, Palm Valley County Country Club On-Site Sales, Premier Properties,	)
21	Premier Property, San Diego County Homes, SD County Escrow, a Non-Independent Broker	)
22	Escrow, The Time Team, True North Associates, Valhalla Team, W Collection, Windermere	)
23	Commercial, Windermere Homes & Estates, Windermere Homes and Estates, Windermere	)
24	Real Estate, Windermere Real Estate	)
25	Homes & Estates, Windermere Real Estate Homes and Estates,	)
26	NANCY RICHARDS LAYNE, individually and as designated officer of	)
27	San Diego Homes and Estates, Inc., and	)
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JAMES BERNS, individually and as former designated officer of San Diego Homes and Estates, Inc., Respondents.

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It is hereby stipulated by and between Respondents SAN DIEGO HOMES AND ESTATES, INC., NANCY RICHARDS LAYNE, and JAMES BERNS ("Respondents"), represented by Frank Buda, and the Complainant, acting by and through Steve Chu, Counsel for the Department of Real Estate ("Department"), as follows for the purpose of settling and disposing of the Accusation filed on November 10, 2021, in this matter:

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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").

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

3. On December 3, 2021, Respondents filed Notices of Defense pursuant to 19 Section 11506 of the Government Code for the purpose of requesting a hearing on the 20 allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notices 21 of Defense. Respondents acknowledge that Respondents understand that by withdrawing said 22 Notices of Defense, Respondents will thereby waive Respondents' right to require the Real 23 Estate Commissioner ("Commissioner") to prove the allegations in the Accusation at a 24 contested hearing held in accordance with the provisions of the APA and that Respondents will 25 waive other rights afforded to Respondents in connection with the hearing such as the right to 26 present evidence in defense of the allegations in the Accusation and the right to cross-examine 27 witnesses.

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1 4. Respondents, pursuant to the limitations set forth below, hereby admit 2 that the factual allegations in the Accusation filed in this proceeding are true and correct and the 3 Commissioner shall not be required to provide further evidence to prove such allegations. 4 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 5 on Respondents' real estate licenses and license rights as set forth in the below Order. In the 6 7 event that the Commissioner in his discretion does not adopt the Stipulation, it shall be void 8 and of no effect, and Respondents shall retain the right to a hearing and proceeding on the 9 Accusation under all the provisions of the APA and shall not be bound by any admission or waiver made herein. 10 The Order or any subsequent Order of the Commissioner made pursuant 6. 11 12 to this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or 13 civil proceedings by the Department with respect to any matters which were not specifically 14 alleged to be causes for the Accusation in this proceeding. 15 DETERMINATION OF ISSUES 16 By reason of the foregoing stipulations, admissions, and waivers, and solely for 17 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and 18 agreed that the following Determination of Issues shall be made: 19 I. The conduct, acts, and/or omissions of Respondent SAN DIEGO HOMES AND 20 21 ESTATES, INC., as described in the Accusation, constitute cause for the suspension or 22 revocation of all real estate licenses, license endorsements, and license rights of Respondent 23 SAN DIEGO HOMES AND ESTATES, INC. under California Business and Professions Code 24 ("Code") sections 10177(d) and 10177(g) for violation of Code section 10145 and Title 10, Chapter 6, California Code of Regulations ("Regulations") sections 2831, 2831.1, 2832.1, 25 2834, 2950(d), 2950(g), and 2951. 26 27 111

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1	II.
2	The conduct, acts, and/or omissions of Respondent NANCY RICHARDS
3	LAYNE, as described in the Accusation, constitute cause for the suspension or revocation of all
4	real estate licenses, license endorsements, and license rights of Respondent NANCY
5	RICHARDS LAYNE under Code section 10177(d), 10177(g), and 10177(h) for violation of
6	Code section 10159.2 and Regulations section 2725.
7	III.
8	The conduct, acts, and/or omissions of Respondent JAMES BERNS, as
9	described in the Accusation, constitute cause for the suspension or revocation of all real estate
10	licenses, license endorsements, and license rights of Respondent JAMES BERNS under Code
11	section 10177(d), 10177(g), and 10177(h) for violation of Code section 10159.2 and
12	Regulations section 2725.
13	ORDER
14	Ι.
15	All licenses, license endorsements, and license rights of Respondent
16	SAN DIEGO HOMES AND ESTATES, INC. under the Real Estate Law are suspended for a
17	period of thirty (30) days from the effective date of this Decision and Order; provided, however,
18	that:
19	1. Thirty (30) days of said suspension shall be stayed for two (2) years upon
20	the following terms and conditions:
21	a. Respondent shall obey all laws, rules, and regulations governing
22	the rights, duties, and responsibilities of a real estate licensee in the
23	State of California.
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b. No final determination be made after hearing or upon stipulation that cause for disciplinary action against any of the real estate licenses, license endorsements, and license rights of Respondent occurred within two (2) years from the effective date of this Decision and Order. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

10 2. All licenses, license endorsements, and license rights of SAN DIEGO 11 HOMES AND ESTATES, INC. are indefinitely suspended unless or until Respondent SAN 12 DIEGO HOMES AND ESTATES, INC. pays, jointly and severally with Respondent NANCY 13 RICHARDS LAYNE and Respondent JAMES BERNS, the sum of \$8,242.00 for the 14 Commissioner's cost of the audit which led to this disciplinary action. Respondent SAN 15 DIEGO HOMES AND ESTATES, INC. shall pay such cost within sixty (60) days of receiving 16 an invoice therefore from the Commissioner. Said payment shall be in the form of a cashier's 17 check made payable to the Department of Real Estate. The audit cost must be delivered to the 18 Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.

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19 3. All licenses, license endorsements, and license rights of Respondent 20 SAN DIEGO HOMES AND ESTATES, INC. are indefinitely suspended unless or until 21 Respondent SAN DIEGO HOMES AND ESTATES, INC. pays, jointly and severally with 22 Respondent NANCY RICHARDS LAYNE and Respondent JAMES BERNS, the sum of \$2,596.15 for the Commissioner's reasonable cost of the investigation and enforcement which 23 24 led to this disciplinary action. Said payment shall be in the form of a cashier's check made 25 payable to the Department of Real Estate. The investigative and enforcement costs must be 26 delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, 27 Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.

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1	4. Respondent SAN DIEGO HOMES AND ESTATES, INC. shall pay the
2	Commissioner's reasonable cost, not to exceed \$10,302.50, for any subsequent audit to
3	determine if Respondent SAN DIEGO HOMES AND ESTATES, INC. has corrected the
4	violations found in the Determination of Issues. In calculating the amount of the
5	Commissioner's reasonable cost, 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 SAN DIEGO HOMES AND
8	ESTATES, INC. shall pay such cost within sixty (60) days of receiving an invoice therefore
9	from the Commissioner. If Respondent SAN DIEGO HOMES AND ESTATES, INC. fails to
10	satisfy this condition in a timely manner as provided for herein, Respondent SAN DIEGO
11	HOMES AND ESTATES, INC.'S real estate licenses, license endorsements, and license rights
12	shall automatically be suspended until payment is made in full, or until a decision providing
13	otherwise is adopted following a hearing held pursuant to this condition.
14	II.
15	All licenses, license endorsements, and license rights of Respondent NANCY
16	RICHARDS LAYNE under the Real Estate Law are suspended for a period of thirty (30) days
17	from the effective date of this Decision and Order; provided, however, that:
18	1. Thirty (30) days of said suspension shall be stayed for two (2) years upon
19	the following terms and conditions:
20	a. Respondent shall obey all laws, rules, and regulations governing
21	the rights, duties, and responsibilities of a real estate licensee in the
22	State of California.
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24	///
25	///
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27	///
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1 No final determination be made after hearing or upon stipulation b. 2 that cause for disciplinary action against any of the real estate 3 licenses, license endorsements, and license rights of Respondent 4 occurred within two (2) years from the effective date of this Decision 5 and Order. Should such a determination be made, the Commissioner 6 may, in his discretion, vacate and set aside the stay order and 7 reimpose all or a portion of the stayed suspension. Should no such 8 determination be made, the stay imposed herein shall become 9 permanent. 10 2. All licenses, license endorsements, and license rights of Respondent 11 NANCY RICHARDS LAYNE are indefinitely suspended unless or until Respondent provides proof satisfactory to the Commissioner of having taken and successfully completed the 12 13 continuing education course on trust fund accounting and handling specified in Code 14 section 10170.5(a)(3). Proof of satisfaction of this requirement includes evidence that 15 Respondent has successfully completed the trust fund accounting and handling continuing 16 education course within one hundred twenty (120) days prior to the effective date of this 17 Decision and Order. Proof of completion of the trust fund accounting and handling course must 18 be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, 19 Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order. 20 111 21 111 22 111 23 /// /// 24 25 111 26 111 27 111

1 3. All licenses, license endorsements, and license rights of Respondent 2 NANCY RICHARDS LAYNE are indefinitely suspended unless or until Respondent NANCY 3 RICHARDS LAYNE pays, jointly and severally with Respondent SAN DIEGO HOMES AND 4 ESTATES, INC. and Respondent JAMES BERNS, the sum of \$8,242.00 for the 5 Commissioner's cost of the audit which led to this disciplinary action. Respondent NANCY 6 RICHARDS LAYNE shall pay such cost within sixty (60) days of receiving an invoice 7 therefore from the Commissioner. Said payment shall be in the form of a cashier's check made 8 payable to the Department of Real Estate. The audit cost must be delivered to the Department 9 of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013. 10 4. All licenses, license endorsements, and license rights of Respondent 11 NANCY RICHARDS LAYNE are indefinitely suspended unless or until Respondent NANCY 12 RICHARDS LAYNE pays, jointly and severally with Respondent SAN DIEGO HOMES AND 13 ESTATES, INC. and Respondent JAMES BERNS, the sum of \$2,596.15 for the 14 Commissioner's reasonable cost of the investigation and enforcement which led to this 15 disciplinary action. Said payment shall be in the form of a cashier's check made payable to the 16 Department of Real Estate. The investigative and enforcement costs must be delivered to the 17 Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, 18 prior to the effective date of this Decision and Order. 19 III. 20 All licenses, license endorsements, and license rights of Respondent JAMES 21 BERNS under the Real Estate Law are suspended for a period of thirty (30) days from the 22 effective date of this Decision and Order; provided, however, that: 23 1. Thirty (30) days of said suspension shall be stayed for two (2) years upon 24 the following terms and conditions: 25 Respondent shall obey all laws, rules, and regulations governing a. 26 the rights, duties, and responsibilities of a real estate licensee in the 27 State of California.

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1 b. No final determination be made after hearing or upon stipulation 2 that cause for disciplinary action against any of the real estate 3 licenses, license endorsements, and license rights of Respondent occurred within two (2) years from the effective date of this Decision 4 5 and Order. Should such a determination be made, the Commissioner 6 may, in his discretion, vacate and set aside the stay order and 7 reimpose all or a portion of the stayed suspension. Should no such 8 determination be made, the stay imposed herein shall become 9 permanent. 10 2. All licenses, license endorsements, and license rights of Respondent 11 JAMES BERNS are indefinitely suspended unless or until Respondent provides proof 12 satisfactory to the Commissioner of having taken and successfully completed the continuing 13 education course on trust fund accounting and handling specified in Code 14 section 10170.5(a)(3). Proof of satisfaction of this requirement includes evidence that 15 Respondent has successfully completed the trust fund accounting and handling continuing 16 education course within one hundred twenty (120) days prior to the effective date of this 17 Decision and Order. Proof of completion of the trust fund accounting and handling course must 18 be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, 19 Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order. 20 111 111 21 22 111 23 /// 24 111 25 /// 26 111 27 ///

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1 3. All licenses, license endorsements, and license rights of Respondent 2 JAMES BERNS are indefinitely suspended unless or until Respondent JAMES BERNS pays, 3 jointly and severally with Respondent SAN DIEGO HOMES AND ESTATES, INC. and Respondent NANCY RICHARDS LAYNE, the sum of \$8,242.00 for the Commissioner's cost 4 5 of the audit which led to this disciplinary action. Respondent JAMES BERNS shall pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner. Said 6 7 payment shall be in the form of a cashier's check made payable to the Department of Real 8 Estate. The audit cost must be delivered to the Department of Real Estate, Flag Section at 9 P.O. Box 137013, Sacramento, CA 95813-7013. 10 4. All licenses, license endorsements, and license rights of Respondent 11 JAMES BERNS are indefinitely suspended unless or until Respondent JAMES BERNS pays, jointly and severally with Respondent SAN DIEGO HOMES AND ESTATES, INC. and 12 13 Respondent NANCY RICHARDS LAYNE, the sum of \$2,596.15 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.

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 DATED: <u>3/15/2023</u>

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Steve Chu, Counsel Department of Real Estate

1	* * *
2	We have read the Stipulation and Agreement. We understand that we are
3	waiving rights given to us by the California Administrative Procedure Act, (including but not
4	limited to sections 11521 and 11523 of the Government Code), and we willingly, intelligently,
5	and voluntarily waive those rights, including the right to seek reconsideration and the right to
6	seek judicial review of the Commissioner's Decision and Order by way of a writ of mandate.
7	We agree, acknowledge, and understand that we cannot rescind or amend this
8	Stipulation and Agreement.
9	We can signify acceptance and approval of the terms and conditions of this
10	Stipulation and Agreement by mailing the original signed Stipulation and Agreement to:
11	Steve Chu, Department of Real Estate, 320 West 4th Street, Suite 350, Los Angeles,
12	California 90013-1105. Steve Chu must receive the original signed Stipulation and Agreement
13	or a copy faxed to (213) 576-6917 by March 15, 2023; if not, this Stipulation and Agreement is
14	invalid and void because the sum for the Commissioner's reasonable cost of the investigation
15	and enforcement which led to this disciplinary action will increase.
16	
17	DATED: 3/15/23 SAN DIEGO MOMES AND ESTATES, INC.
18	Respondent
19	By NANCY RICHARDS LAYNE, as designated officer of
20	SAN DIEGO HOMES AND ESTATES, INC.
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22	DATED: 3 15 23
23	NANOT RICHARDS LAYNE Respondent
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25	DATED:
26	JAMES BERNS Respondent
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1	* * *	
2	We have read the Stipulation and Agreement. We understand that we are	
ŝ	waiving rights given to us by the California Administrative Procedure Act, (including but not	
4	limited to sections 11521 and 11523 of the Government Code), and we willingly, intelligently,	
5	and voluntarily waive those rights, including the right to seek reconsideration and the right to	
6	seek judicial review of the Commissioner's Decision and Order by way of a writ of mandate.	
7	We agree, acknowledge, and understand that we cannot rescind or amend this	
â	Stipulation and Agreement.	
9	We can signify acceptance and approval of the terms and conditions of this	
10	Stipulation and Agreement by mailing the original signed Stipulation and Agreement to:	
11	Steve Chu, Department of Real Estate, 320 West 4th Street, Suite 350, Los Angeles,	
12	California 90013-1105. Steve Chu must receive the original signed Stipulation and Agreement	
13	or a copy faxed to (213) 576-6917 by March 15, 2023; if not, this Stipulation and Agreement is	
14	invalid and void because the sum for the Commissioner's reasonable cost of the investigation	
15	and enforcement which led to this disciplinary action will increase.	
15		
17	DATED:	
18	Respondent	
19	By NANCY RICHARDS LAYNE, as designated officer of	
20	SAN DIEGO HOMES AND ESTATES, INC.	
21		
22	DATED:	
23	Respondent	
24		
25	DATED: 3-15-23 JAMES BERNS	
25	Respondent	
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FaxZero.com DATED: 3.20.23 Frank Buda Counsel for Respondents Approved as to Form

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1	* * *
2	The foregoing Stipulation and Agreement is hereby adopted by me as my
3	Decision in this matter as to Respondents SAN DIEGO HOMES AND ESTATES, INC. and
4	NANCY RICHARDS LAYNE, JAMES BERNS, and shall become effective
5	at 12 o'clock noon on 7 13 2023.
6	IT IS SO ORDERED 5.24.23
7	DOUGLAS R. McCAULEY REAL ESTATE COMMISSIONER
8	REAL ESTATE COMMISSIONER
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