

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

FILED
OCT 19 2022
DEPT. OF REAL ESTATE
By 

8 **DEPARTMENT OF REAL ESTATE**
9 **STATE OF CALIFORNIA**

10 ***

11 In the Matter of the Accusation of)

DRE No. H-42089 LA

12 WISH PROPERTIES, INC., and ERNEST)
13 ALLEN WISH, individually and as designated)
14 officer of Wish Properties, Inc.,)

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

15 Respondents.)
16

17 It is hereby stipulated by and between Respondents WISH PROPERTIES, INC. and
18 ERNEST ALLEN WISH (collectively “Respondents”) and their attorney of record, Joshua A.
19 Rosenthal, and the Complainant, acting by and through Kevin H. Sun, Counsel for the Department
20 of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on
21 August 13, 2021, in this matter (Case No. H-42089 LA):

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

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

4 3. On August 18, 2021, Respondents filed Notices of Defense pursuant to Section
5 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the
6 Accusation. Respondents hereby freely and voluntarily withdraw said Notices of Defense.
7 Respondents acknowledge that they understand that by withdrawing said Notices of Defense they
8 will thereby waive their rights to require the Commissioner to prove the allegations in the
9 Accusation at a contested hearing held in accordance with the provisions of the APA and that they
10 will waive other rights afforded to them in connection with the hearing such as the right to present
11 evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

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

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

1 made herein.

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

6 **DETERMINATION OF ISSUES**

7 By reason of the foregoing stipulations, admissions and waivers and solely for the
8 purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that
9 the following determination of issues shall be made:

10 The conduct of Respondents, as described in the Accusation, are in violation of
11 California Business and Professions Code (“Code”) Sections 10141.6, 10145, 10159.2, 10159.5,
12 and 10161.8, and Title 10, Chapter 6, California Code of Regulations (“Regulations”) Sections
13 2725, 2731, 2752, 2831, 2831.1, 2831.2, 2832.1, 2834, 2950, and 2951, and are grounds for the
14 suspension or revocation of all of the real estate license and license rights of Respondents under the
15 provision of Code Sections 10177(d), (g), and (h) (as to ERNEST ALLEN WISH) of the Code.

16 **ORDER**

17 WHEREFORE, THE FOLLOWING ORDER is hereby made:

18 I.

19 (WISH PROPERTIES, INC.)

20 All licenses and license rights of Respondent WISH PROPERTIES, INC.
21 under the Real Estate Law are suspended for a period of ninety (90) days from the effective date of
22 this Decision;

23 A. Provided, however, that the initial thirty (30) days of said suspension shall be
24 stayed for two (2) years upon the following terms and conditions:

25 1. Respondent WISH PROPERTIES, INC. shall pay a monetary penalty
26 pursuant to Code section 10175.2 at the rate of \$50.00 per day for each of the thirty (30) days of
27 suspension for a total monetary penalty of \$1,500.00.

1 2. Said payment shall be in the form of a cashier's check made payable to the
2 Department of Real Estate. Said check must be delivered to the Department of Real Estate, Flag
3 Section, P.O. Box 137013, Sacramento, CA 95813-7013, **prior to the effective date of this**

4 **Decision and Order.**

5 3. No further cause for disciplinary action against the real estate license of
6 Respondent WISH PROPERTIES, INC. occurs within two (2) years from the effective date of the
7 Decision in this matter.

8 4. If Respondent WISH PROPERTIES, INC. fails to pay the monetary penalty
9 in accordance with the terms and conditions of the Decision, the suspension shall go into effect
10 automatically with regard to said Respondent. Respondent WISH PROPERTIES, INC. shall not be
11 entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under
12 the terms of this Decision and Order.

13 5. If Respondent WISH PROPERTIES, INC. pays the monetary penalty and if
14 no further cause for disciplinary action against the real estate license of Respondent occurs within
15 two (2) years from the effective date of the Decision, the stay hereby granted shall become
16 permanent.

17 B. The remaining sixty (60) days of the ninety (90) day suspension shall be stayed
18 for two (2) years upon the following terms and conditions:

19 1. That Respondent WISH PROPERTIES, INC. shall obey all laws, rules and
20 regulations governing the rights, duties and responsibilities of a real estate licensee in the State of
21 California; and

22 2. That no final subsequent determination be made after hearing or upon
23 stipulation, that cause for disciplinary action occurred within two (2) years from the effective date
24 of this Decision. Should such a determination be made, the Commissioner may, in his discretion,
25 vacate and set aside the stay order and re-impose all or a portion of the stayed suspension. Should
26 no such determination be made under this section, the stay imposed herein shall become permanent.

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1 II.

2 (ERNEST ALLEN WISH)

3 All licenses and license rights of Respondent ERNEST ALLEN WISH under
4 the Real Estate Law are suspended for a period of ninety (90) days from the effective date of this
5 Decision;

6 A. Provided, however, that the initial thirty (30) days of said suspension shall be
7 stayed for two (2) years upon the following terms and conditions:

8 1. Respondent ERNEST ALLEN WISH shall pay a monetary penalty
9 pursuant to Code section 10175.2 at the rate of \$50.00 per day for each of the thirty (30) days of
10 suspension for a total monetary penalty of \$1,500.00.

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

15 3. No further cause for disciplinary action against the real estate license of
16 Respondent ERNEST ALLEN WISH occurs within two (2) years from the effective date of the
17 Decision in this matter.

18 4. If Respondent ERNEST ALLEN WISH fails to pay the monetary penalty in
19 accordance with the terms and conditions of the Decision, the suspension shall go into effect
20 automatically with regard to said Respondent. Respondent ERNEST ALLEN WISH shall not be
21 entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under
22 the terms of this Decision and Order.

23 5. If Respondent ERNEST ALLEN WISH pays the monetary penalty and if no
24 further cause for disciplinary action against the real estate license of Respondent occurs within two
25 (2) years from the effective date of the Decision, the stay hereby granted shall become permanent.

26 B. The remaining sixty (60) days of the ninety (90) day suspension shall be stayed
27 for two (2) years upon the following terms and conditions:

1 1. That Respondent ERNEST ALLEN WISH shall obey all laws, rules and
2 regulations governing the rights, duties and responsibilities of a real estate licensee in the State of
3 California; and

4 2. That no final subsequent determination be made after hearing or upon
5 stipulation, that cause for disciplinary action occurred within two (2) years from the effective date
6 of this Decision. Should such a determination be made, the Commissioner may, in his discretion,
7 vacate and set aside the stay order and re-impose all or a portion of the stayed suspension. Should
8 no such determination be made under this section, the stay imposed herein shall become permanent.

9 C. All licenses and licensing rights of Respondent ERNEST ALLEN WISH are
10 indefinitely suspended unless or until Respondent provides proof satisfactory to the Commissioner,
11 of having taken and successfully completed the continuing education course on trust fund
12 accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the
13 Business and Professions Code. Proof of satisfaction of these requirements includes evidence that
14 Respondent has successfully completed the trust fund account and handling continuing education
15 courses, no earlier than 120 days prior to the effective date of the Decision and Order in this matter.
16 Proof of completion of the trust fund accounting and handling course must be delivered to the
17 Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at
18 916-263-8758, prior to the effective date of this Decision and Order.

19 III.

20 (WISH PROPERTIES, INC. and ERNEST ALLEN WISH)


21 A. All licenses and licensing rights of Respondents are indefinitely suspended unless
22 or until Respondents pays the sum of \$2,369.50 for the Commissioner's reasonable costs of the
23 investigation and enforcement which led to this disciplinary action. Said payment shall be in the
24 form of a cashier's check made payable to the Department of Real Estate. **The payment for the**
25 **investigative and enforcement costs must be delivered to the Department of Real Estate, Flag**
26 **Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this**
27 **Decision and Order.** If Respondents fails to satisfy this condition, the Commissioner shall order

1 suspension of Respondents' licenses and license rights until the sum is paid.

2 B. All licenses and licensing rights of Respondents are indefinitely suspended unless
3 or until Respondents pays the sum of \$8,242.00, or shows proof of payment, for the
4 Commissioner's reasonable costs of the audit which led to this disciplinary action. Said payment
5 shall be in the form of a cashier's check made payable to the Department of Real Estate. **The**
6 **payment for the investigative and enforcement costs must be delivered to the Department of**
7 **Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the**
8 **effective date of this Decision and Order.** If Respondents fail to satisfy this condition, the
9 Commissioner shall order suspension of Respondents' licenses/license rights until the sum is paid.

10 C. Pursuant to Code section 10148 of the Code, Respondents shall pay the
11 Commissioner's reasonable costs, not to exceed \$10,302.50, for a subsequent audit to determine if
12 Respondents have corrected the violations found in the Determination of Issues. In calculating the
13 amount of the Commissioner's reasonable costs, the Commissioner may use the estimated average
14 hourly salary for all persons performing audits of real estate brokers, and shall include an allocation
15 for travel time to and from the auditor's place of work. Respondents shall pay such costs within
16 sixty (60) days of receiving an invoice therefor from the Commissioner. Payment of the audit costs
17 should not be made until Respondents receive the invoice. If Respondents fail to satisfy this
18 condition in a timely manner as provided for herein, Respondents' real estate licenses shall
19 automatically be suspended until payment is made in full, or until a decision, providing otherwise,
20 is adopted following a hearing held pursuant to this condition.

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22 DATED: 8/30/2022



Kevin H. Sun, Counsel for
Department of Real Estate

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EXECUTION OF THE STIPULATION

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

9 Respondents shall mail the original signed signature page of the stipulation herein to
10 Kevin H. Sun, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350,
11 Los Angeles, California 90013-1105.

12 In the event of time constraints before an administrative hearing, Respondents can
13 signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by
14 emailing a scanned copy of the signature page, as actually signed by Respondents, to the
15 Department counsel assigned to this case. Respondents agree, acknowledge and understand that by
16 electronically sending the Department a scan of Respondents' actual signature as it appears on the
17 Stipulation and Agreement that receipt of the scan by the Department shall be binding on
18 Respondents as if the Department had received the original signed Stipulation. Respondents shall
19 also mail the original signed signature page of this Stipulation to the Department counsel.

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


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7 DATED: 8/29/2022


WISH PROPERTIES, INC.
Respondent
By: ERNEST ALLEN WISH
PRESIDENT

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10 DATED: 8/29/2022


ERNEST ALLEN WISH
Respondent

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13 DATED: 8/28/22

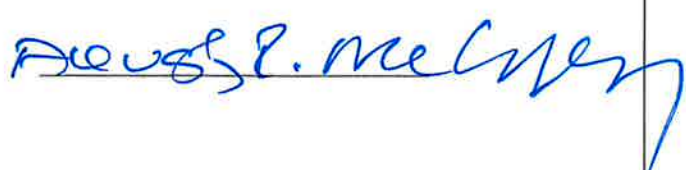

Joshua A. Rosenthal, Esq.
Counsel for Respondents
Approved as to Form

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18 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
19 Respondents WISH PROPERTIES, INC. and ERNEST ALLEN WISH in this matter and shall
20 become effective at 12 o'clock noon on NOV 18 2022, 2022.

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22 IT IS SO ORDERED 10.14.22, 2022.

23 DOUGLAS R. McCAULEY
24 REAL ESTATE COMMISSIONER

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