

FILED

MAR - 1 2023

DEPT. OF REAL ESTATE

By *[Signature]*

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

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

11	In the Matter of the Accusation of)	No. H-42476 LA
12	JOHN O'CONNELL,)	<u>STIPULATION</u>
13	Respondent.)	<u>AND</u>
14)	<u>AGREEMENT</u>

15 It is hereby stipulated by and between Respondent JOHN O'CONNELL
16 ("Respondent"), and Complainant, acting by and through Andrea Bentler, Counsel for the
17 Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation
18 ("Accusation") filed on October 19, 2022 in this matter:

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

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

27 3. Respondent filed a Notice of Defense pursuant to Section 11506 of the

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

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

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

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

26 7. The Order or any subsequent Order of the Real Estate Commissioner made
27 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further

1 administrative or civil proceedings by the Department of Real Estate with respect to any matters
2 which were not specifically alleged to be causes for accusation in this proceeding.

3 8. Respondent understands that by agreeing to this Stipulation, Respondent
4 agrees to pay, pursuant to Business and Professions Code Section 10106, the cost of the
5 investigation of this matter. The amount of said cost is \$646.95.

6 DETERMINATION OF ISSUES

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

9 The conduct, acts or omissions of JOHN O'CONNELL, as described in Paragraph
10 4, above, are a basis for discipline of Respondent's real estate licenses, mortgage loan originator
11 ("MLO") license endorsements, and license rights as a violation of the Real Estate Law, Part 1 of
12 Division 4 of the Business and Professions Code ("Code"), pursuant to Code Sections 10177(b)
13 and 10186.2.

14 ORDER

15 WHEREFORE, THE FOLLOWING ORDER is hereby made:

16 All real estate licenses, mortgage loan originator ("MLO") license endorsements,
17 and license rights of Respondent JOHN O'CONNELL under the Real Estate Law are revoked;
18 provided, however, a restricted real estate broker license and a restricted mortgage loan
19 originator license endorsement shall be issued to Respondent pursuant to Section 10156.5 of the
20 Business and Professions Code if Respondent makes application therefor and pays to the
21 Department of Real Estate the appropriate fee for the restricted license and restricted MLO
22 endorsement within 90 days from the effective date of this Decision. The restricted license and
23 restricted MLO endorsement issued to Respondent shall be subject to all of the provisions of
24 Section 10156.7 of the Business and Professions Code and to the following limitations,
25 conditions and restrictions imposed under authority of Section 10156.6 of that Code:

26 1. The restricted license and restricted MLO endorsement issued to Respondent
27 may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of

1 either Respondent's conviction or plea of nolo contendere to a crime which is substantially
2 related to Respondent's fitness or capacity as a real estate licensee.

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

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

15 4. Respondent shall, within twelve (12) months of the effective date of this
16 Decision and Order, present evidence satisfactory to the Commissioner that Respondent has,
17 since the most recent issuance of an original or renewal real estate license, taken and successfully
18 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
19 Law for renewal of a real estate license. If Respondent fails to satisfy this condition,
20 Respondent's real estate license and/or MLO license endorsement shall automatically be
21 suspended until Respondent presents evidence satisfactory to the Commissioner of having taken
22 and successfully completed the continuing education requirements. Proof of completion of the
23 continuing education courses must be delivered to the Department of Real Estate, Flag Section at
24 P.O. Box 137013, Sacramento, CA 95813-7013.


25 6. Respondent shall notify the Commissioner in writing within 72 hours of any
26 arrest by sending a certified letter to the Commissioner at Department of Real Estate, Post Office
27 Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the date of Respondent's

1 arrest, the crime for which Respondent was arrested, and the name and address of the arresting
2 law enforcement agency. Respondent's failure to timely file written notice shall constitute an
3 independent violation of the terms of the restricted license and/or restricted MLO license
4 endorsement and shall be grounds for the suspension or revocation of that license and/or MLO
5 license endorsement.

6 7. Prior to the effective date of this Decision, and pursuant to Section 10106 of
7 the Business and Professions Code, Respondent shall pay the Commissioner's reasonable cost
8 for the investigation which led to this disciplinary action in the amount of \$646.95. Said payment
9 shall be in the form of a cashier's check made payable to the Department of Real Estate. **Said**
10 **check must be delivered to the Department of Real Estate, Flag Section, P.O. Box 137013,**
11 **Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.** If
12 Respondent fails to satisfy this condition in a timely manner as provided for herein,
13 Respondent's real estate license shall automatically be suspended until payment is made in full,
14 or until a decision providing otherwise is adopted following a hearing held pursuant to this
15 condition.

16 01/23/2023

17 Dated

17 
18 Andrea Bentler, Counsel
19 Department of Real Estate

19 * * *

20 EXECUTION OF THE STIPULATION

21 I have read the Stipulation. Its terms are understood by me and are agreeable and
22 acceptable to me. I understand that I am waiving rights given to me by the California
23 Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and
24 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights,
25 including the right of requiring the Commissioner to prove the allegations in the Accusation at a
26 hearing at which I would have the right to cross-examine witnesses against me and to present
27

1 evidence in defense and mitigation of the charges.

2 MAILING

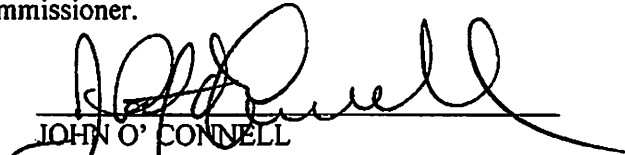
3 Respondent shall mail the original signed signature page of the stipulation herein
4 to Andrea Bentler: Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Suite
5 350, Los Angeles, California 90013-1105.

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

18 * * *

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

24 1/19/2023
25 Dated

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27 JOHN O'CONNELL
Respondent

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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent JOHN O'CONNELL and shall become effective at 12 o'clock noon on MAR 21 2023.

IT IS SO ORDERED 2.16.23

DOUGLAS R. MCCAULEY
REAL ESTATE COMMISSIONER

