

BEFORE THE REAL ESTATE COMMISSION

STATE OF COLORADO

Complaint No. 80355820

Case No. 80356706

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STIPULATION AND FINAL AGENCY ORDER

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IN THE MATTER OF THE DISCIPLINARY ACTION AGAINST THE REAL ESTATE BROKER'S LICENSE OF DONALD DAMIAN, LICENSE NO. FA 1319000,

Respondent.

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IT IS HEREBY STIPULATED by and between the Colorado Real Estate Commission (the "Commission") and the Respondent, Donald Damian ("Respondent"), as follows:

1. At all times relevant hereto, Respondent was a licensed real estate broker in the State of Colorado.

2. The Commission has jurisdiction over the Respondent and the subject matter of this action.

3. The Commission commenced an investigation of Respondent's activities based upon a complaint filed on the Commission's own motion.

4. The Commission notified the Respondent of the investigation and Respondent was given the opportunity to give written data, views and arguments concerning the investigation.

5. At its regularly scheduled public meetings on December 5, 2006 and December 4, 2007, the Commission considered the investigative report and found probable cause to refer the Respondent to hearing for violation of the real estate licensing law. The Commission authorized the preparation of this Stipulation and Final Agency Order, including the disciplinary terms contained in paragraph 8 below, as a means to settle and resolve this matter.

6. Respondent was provided with a copy of the investigative report and was given an opportunity to meet with the Commission's staff regarding this matter.

7. Respondent admits the following facts: On or about March 20, 1997, in case no. 1996CR4693, District Court, Denver County, Colorado, Respondent was

convicted of one Class 1 Misdemeanor count of Third Degree Assault in violation of § 18-3-204, C.R.S. and one Class 2 Misdemeanor count of Criminal Mischief in violation of § 18-4-501, C.R.S.; on or about June 26, 2002, in case no. 2002M812, County Court, Jefferson County, Colorado, Respondent pled guilty to one Class 1 Misdemeanor count of Third Degree Assault in violation of § 18-3-204, C.R.S.; and, on or about September 16, 2005, in case no. 2004CR4776, District Court, Denver County, Colorado, Respondent pled guilty to one Class 5 Felony count of Felony menacing with a simulated weapon in violation of § 18-3-206(1)(a)/(b), C.R.S. The Respondent failed to notify the Real Estate Commission of the conviction and the guilty pleas. Respondent further admits that these facts constitute violation of §§ 12-61-113(l)(m), (m.6) and (k), C.R.S.

8. The Respondent accepts the following discipline:

a. Respondent's real estate broker's license shall be and is hereby permanently revoked. Such revocation shall commence immediately upon execution of this Stipulation and Final Agency Order.

Upon the effective date of the revocation Respondent shall refrain from engaging in any act requiring a real estate license as set forth in Subsection § 12-61-101 and 102, C.R.S. Respondent shall return to the Commission all of his licenses and pocket cards and those of any individuals licensed to the Respondent no later than the effective date of the revocation. Notwithstanding the provision of paragraph 9 below the Commission reserves the right, to review the allegations and charges raised by the investigation which is identified in paragraphs 3 and 4 above should the Respondent ever apply for any license issued by the Commission.

9. It is the intent and purpose of this Stipulation to provide for the settlement of the particular issues, allegations and charges raised by the Commission's investigation of the Respondent's activities as set forth in paragraphs 3 and 4 above.

10. The Commission expressly reserves the right to publish this Stipulation and Final Agency Order or a summary of the disciplinary terms provided for herein in the "Real Estate News," a Commission publication, and to treat this Stipulation and Final Agency Order as a public record in the custody of the Commission.

11. Respondent acknowledges that he has had the opportunity to discuss the terms of this Stipulation and Final Agency Order with counsel of his choosing. Respondent understands the effect of, and knowingly and voluntarily enters into, this Stipulation and Final Agency Order. The Respondent further knowingly and voluntarily waives the following rights:

a. the right to a formal disciplinary hearing on the merits of the matters forming the basis of this Stipulation and Final Agency Order and the right to require the Commission to meet its burden of proof in the formal hearing;

b. the right to confront and cross-examine all witnesses against the Respondent at the formal hearing;

c. the right to subpoena witnesses, present evidence and to testify on the Respondent's own behalf at the formal hearing;

d. the right to be represented by counsel of the Respondent's own choosing and at the Respondent's expense at any stage of this proceeding;

e. the right to engage in pre-hearing discovery of the Commission's evidence; and

f. the right to appeal the Final Agency Order provided for by this Stipulation.

12. On the date upon which this Stipulation is executed by an authorized representative of the Commission, it shall become the Final Agency Order of the Commission.

13. Upon execution of this Stipulation and Final Agency Order by the Commission, the Commission will file a motion to dismiss OAC Case No. RC20080002, *Real Estate Commission v. Donald Damien*.


Executed by the Commission this 25<sup>th</sup> day of August <sup>2008</sup> ~~May~~ 2008

RESPONDENT --LICENSEE

COLORADO REAL ESTATE COMMISSION



Donald Damien  
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