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1	DEC 0 9 2019	
2	DEPARTMENT OF REAL ESTATE	
3	By Pydew	
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6	DEEODE THE DEDADTMENT OF DEAL FOTATE	
7	BEFORE THE DEPARTMENT OF REAL ESTATE	
8	STATE OF CALIFORNIA	
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10	In the Matter of the Accusation of: No. H-3162 FR	
11	FAR WEST PROPERTIES & FINANCIAL, INC.	
12	and MICHELLE A. LUNG, <u>SETTLEMENT AND ORDER</u>	
13	Respondents.	
14	It is hereby stipulated by and between FAR WEST PROPERTIES &	
15	FINANCIAL, INC. ("FAR WEST") and MICHELLE A. LUNG ("LUNG") (collectively	
16	"Respondents") and their attorney Douglas V. Thornton of the Thornton Law Group, P.C. and	
17	Complainant, acting by and through Adriana Z. Badilas, Counsel for the Department of Real	
18	Estate ("Department"), as follows for the purpose of settling and disposing of the Second	
19	Amended Accusation filed on October 10, 2019, in this matter:	
20	1. All issues which were to be contested and all evidence which was to be	
21	presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing	
22	was to be held in accordance with the provisions of the Administrative Procedure Act ("APA"),	
23	shall instead and in place thereof be submitted solely on the basis of the provisions of this	
24	Stipulation and Agreement.	
25	2. Respondents have received, read, and understand the Statement to	
26	Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department in	
27	this proceeding.	
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Respondents filed a Notice of Defense pursuant to Section 11505 of the 1 3. Government Code for the purpose of requesting a hearing on the allegations in the Accusation. 2 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents 3 acknowledge that Respondents will waive Respondents' right to require the Real Estate 4 5 Commissioner ("Commissioner") to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that Respondents will waive other 6 7 rights afforded to Respondents in connection with the hearing, such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses. 8

9 4. This Stipulation and Agreement and Respondents' decision not to contest
10 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and
11 are expressly limited to this proceeding and any other proceeding or case in which the
12 Department, the state or federal government, an agency of this state, or an agency of another state
13 is involved.

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

Chis Decision and Order or any subsequent Order of the Commissioner
 made pursuant to this Stipulation and Agreement 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 in Accusation H-3162 FR.

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1	DETERMINATION OF ISSUES			
2	By reason of the foregoing stipulations, admissions, and waivers and solely for the			
3	purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed that			
4	the following Determination of Issues shall be made:			
5	I			
6	The acts and/or omissions of LUNG, as described in the Accusation, are grounds			
7	for the suspension or revocation of the licenses and license rights of LUNG under Business and			
8	Professions Code ("Code") Sections 10145, 10177(d), 10177(g), 10177(h), and 10159.2, in			
9	conjunction with the California Code of Regulations ("Regulations"), Title 10, Sections 2725,			
10	2831.1, 2831.2, 2832, 2832.1, and 2834.			
11	I			
12	The acts and/or omissions of FAR WEST, as described in the Accusation, are			
13	grounds for the suspension or revocation of the licenses and license rights of FAR WEST under			
14	Business and Professions Code ("Code") Sections 10145, 10177(d), and 10177(g), in conjunction			
15	with the California Code of Regulations ("Regulations"), Title 10, Sections 2831.1, 2831.2,			
16	2832, 2832.1, and 2834.			
17	ORDER AS TO LUNG			
18	I			
19	All licenses and licensing rights of LUNG under the Real Estate Law are revoked;			
20	provided, however, a restricted real estate broker license shall be issued to LUNG pursuant to			
21	Section 10156.5 of the Code if LUNG makes application therefore for the restricted license			
22	within ninety (90) days from the effective date of this Decision and Order. The restricted license			
23	issued to LUNG shall be subject to all of the provisions of Section 10156.7 of the Code and to			
24	the following limitations, conditions and restrictions imposed under authority of Section 10156.6			
25	of that Code:			
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The restricted license issued to LUNG may be suspended prior to
 hearing by Order of the Commissioner in the event of LUNG's conviction or plea of nolo
 contendere to a crime which is substantially related to LUNG's fitness or capacity as a real
 estate licensee.

5 2. The restricted license issued to LUNG may be suspended prior to hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that 6 7 LUNG has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license. 8 9 3. LUNG shall not be eligible to petition for the issuance of any unrestricted 10 real estate license nor for removal of any of the conditions, limitations or restrictions of a 11 restricted license until three (3) years have elapsed from the effective date of this Decision and 12 Order. LUNG shall not be eligible to apply for any unrestricted license until all restrictions 13 attaching to the license have been removed.

14 4. All licenses and licensing rights of LUNG are indefinitely suspended 15 unless or until LUNG provides proof satisfactory to the Commissioner, of having taken and 16 successfully completed the continuing education course on trust fund accounting and handling 17 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of satisfaction 18 of these requirements includes evidence that LUNG has successfully completed the trust fund 19 accounting and handling continuing education course, no earlier than one hundred twenty (120) 20 days prior to the effective date of the Order in this matter. Proof of completion of the trust fund 21 accounting and handling course must be delivered to the Department of Real Estate, Flag Section 22 at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-576-8652, prior to the 23 effective date of this Order.

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1	5. LUNG shall, within six (6) months from the effective date of this Order,		
2	take and pass the Professional Responsibility Examination administered by the Department,		
3	including the payment of the appropriate examination fee. If LUNG fails to satisfy this condition		
4	LUNG's real estate license shall automatically be suspended until LUNG passes the examination		
5	6. LUNG shall notify the Commissioner in writing within 72 hours of any		
6	arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Pos		
7	Office Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of		
8	LUNG's arrest, the crime for which LUNG was arrested and the name and address of the		
9	arresting law enforcement agency. LUNG's failure to timely file written notice shall		
10	constitute an independent violation of the terms of the restricted license and shall be grounds		
11	for the suspension or revocation of that license.		
12	ORDER AS TO FAR WEST		
13	I		
14	All licenses and licensing rights of FAR WEST under the Real Estate Law are		
15	revoked; provided, however, a restricted real estate corporate broker license shall be issued to		
16	FAR WEST pursuant to Section 10156.5 of the Code if FAR WEST makes application therefore		
17	for the restricted license within ninety (90) days from the effective date of this Decision and		
18	Order. The restricted license issued to FAR WEST shall be subject to all of the provisions of		
19	Section 10156.7 of the Code and to the following limitations, conditions and restrictions imposed		
20	under authority of Section 10156.6 of that Code:		
21	1. The restricted license issued to FAR WEST may be suspended prior to		
22	hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that		
23	FAR WEST has violated provisions of the California Real Estate Law, the Subdivided Lands		
24	Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted		
25	license.		
26	2. FAR WEST shall not be eligible to petition for the issuance of any		
27	unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions		
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1	of a restricted license until three (3) years have elapsed from the effective date of this Decision		
2	and Order. FAR WEST shall not be eligible to apply for any unrestricted license until all		
3	restrictions attaching to the license have been removed.		
4	ORDER AS TO LUNG AND FAR WEST		
5	I		
6	1. All licenses and licensing rights of Respondents are indefinitely suspended		
7	unless or until Respondents, jointly and severally, pay the sum of \$4,233.00 for the		
8	Commissioner's reasonable costs of the investigation and enforcement which led to this		
9	disciplinary action. Said payment shall be in the form of a cashier's check or certified check		
10	made payable to the Department. The investigative and enforcement costs must be delivered to		
11	the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013,		
12	prior to the effective date of this Order.		
13	2. Respondents, jointly and severally, shall pay the sum of \$5,145.21 for		
14	the Commissioner's cost of the audit which led to this disciplinary action. Respondents shall		
15	pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.		
16	The Commissioner shall indefinitely suspend all licenses and licensing rights of Respondents		
17	pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if		
18	payment is not timely made as provided for herein, or as provided for in a subsequent		
19	agreement between Respondents and the Commissioner. The suspension shall remain in effect		
20	until payment is made in full or until Respondents enter into an agreement satisfactory to the		
21	Commissioner to provide for payment, or until a decision providing otherwise is adopted		
22	following a hearing held pursuant to this condition.		
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24	10/00/10		
25	DATED ADRIANA Z. BADILAS, Counsel		
26	DATED ADRIANA Z. BADILAS, Counsel Department of Real Estate		
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2	I have read the Stipulation and Agreement, have discussed it with my counsel,		
3	and its terms are understood by me and are agreeable and acceptable to me. I understand that I		
4	am waiving rights given to me by the APA (including but not limited to Sections 11506,		
5	11508, 11509, and 11513 of the Government Code), and I 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 I would have the right to cross-examine		
8	witnesses against me and to present evidence in defense and mitigation of the charges.		
9	Respondent can signify acceptance a	and approval of the terms and conditions of	
10	this Stipulation and Agreement by faxing a copy of	the signature page, as actually signed by	
11	Respondent, to the Department at fax number (916) 263-3767 or by e-mail to		
12	adriana.badilas@DRE.ca.gov. Respondents agree, acknowledge, and understand that by		
13	electronically sending to the Department a fax copy of Respondents' actual signature as it		
14	appears on the Stipulation and Agreement, that receipt of the faxed copy by the Department		
15	shall be as binding on Respondents as if the Department had received the original signed		
16	Stipulation and Agreement.	а.	
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20	DATED	MICHELLE A. LUNG Respondent	
21		Respondent	
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23	10/15/19	Unichellea. Tung	
24	DATED	FAR WEST PROPERTIES & FINANCIAL, INC.	
25 26		By: Michelle A. Lung, Designated Officer	
20		Respondent	
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2	I have reviewed this Stipulation and Agreement as to form and content and have			
3	advised my clients accordingly.			
4	In The The			
5	DATED DOUGLAS V. THORNTON			
6	Attorney for Respondents			
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8	***			
9	The foregoing Stipulation and Agreement In Settlement and Order is hereby			
10 11	adopted by the Real Estate Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on			
12	IT IS SO ORDERED November 22, 2019.			
13	DANIEL J. SANDRI			
14	ACTING REAL ESTATE COMMISSIONER			
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