

FILED  
JUL 14 2005

DEPARTMENT OF REAL ESTATE

By Irvin W. Fegley

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	No. H-9160 SF
	)	
TRUC DUY TRAN, and	)	<u>STIPULATION AND</u>
BRAD HUNG LE,	)	<u>AGREEMENT</u>
	)	
Respondents.	)	

It is hereby stipulated by and between TRUC DUY TRAN (hereafter Respondent) and his attorney, Irvin W. Fegley, and the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing the Accusation filed on March 15, 2005 in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent 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

1 submitted solely on the basis of the provisions of this  
2 Stipulation and Agreement.

3 2. Respondent has received, read and understands the  
4 Statement to Respondent, and the Discovery Provisions of the APA  
5 filed by the Department of Real Estate in this proceeding.

6 3. On March 24, 2005, Respondent filed a Notice of  
7 Defense pursuant to Section 11505 of the Government Code for the  
8 purpose of requesting a hearing on the allegations in the  
9 Accusation. Respondent hereby freely and voluntarily withdraws  
10 said Notice of Defense. Respondent acknowledges that he  
11 understands that by withdrawing said Notice of Defense he will  
12 thereby waive his rights to require the Commissioner to prove the  
13 allegations in the Accusation at a contested hearing held in  
14 accordance with the provisions of the APA, and that he will waive  
15 other rights afforded to him in connection with the hearing such  
16 as the right to present evidence in defense of the allegations in  
17 the Accusation and the right to cross-examine witnesses.

18 4. Respondent, pursuant to the limitations set forth  
19 below, hereby admits that the factual allegations pertaining to  
20 him in Paragraphs I, II, IV, and V of the Accusation filed in  
21 this proceeding are true and correct and the Real Estate  
22 Commissioner shall not be required to provide further evidence of  
23 such allegations.

24 5. Without admitting the truth of the allegations  
25 contained in Paragraphs VI through X, and XII of the Accusation,  
26 Respondent stipulates that he will not interpose a defense  
27 thereto. This Stipulation is based on the factual allegations



1 \* \* \*

2 ORDER

3 I

4 All licenses and licensing rights of Respondent TRUC  
5 DUY TRAN under the Real Estate Law are suspended for a period of  
6 sixty (60) days from the effective date of this Order; provided,  
7 however, that:

8 1) Thirty (30) days of said suspension shall be stayed, upon the  
9 condition that Respondent petition pursuant to Section 10175.2  
10 of the Business and Professions Code and pays a monetary  
11 penalty pursuant to Section 10175.2 of the Business and  
12 Professions Code at a rate of \$33.33 for each day of the  
13 suspension for a total monetary penalty of \$1,000.

14 a) Said payment shall be in the form of a cashier's check or  
15 certified check made payable to the Recovery Account of the  
16 Real Estate Fund. Said check must be delivered to the  
17 Department prior to the effective date of the Order in this  
18 matter.

19 b) No further cause for disciplinary action against the Real  
20 Estate licenses of said Respondent occurs within two (2)  
21 years from the effective date of the decision in this  
22 matter.

23 c) If Respondent fails to pay the monetary penalty as provided  
24 above prior to the effective date of this Order, the stay of  
25 the suspension shall be vacated as to that Respondent and  
26 the order of suspension shall be immediately executed, under  
27 this Paragraph 1(d) of this Order, in which event the said

1 Respondent shall not be entitled to any repayment nor  
2 credit, prorated or otherwise, for the money paid to the  
3 Department under the terms of this Order.

4 d) If said Respondent pay the monetary penalty and any other  
5 moneys due under this Stipulation and Agreement and if no  
6 further cause for disciplinary action against the real  
7 estate license of said Respondent occurs within two (2)  
8 years from the effective date of this Order, the entire stay  
9 hereby granted under Paragraph 1 of this Order, as to said  
10 Respondent only, shall become permanent.

11 2) The remaining thirty (30) days of said suspension shall be  
12 stayed for two (2) years upon the following terms and  
13 conditions:

14 a) Respondent shall obey all laws, rules and regulations  
15 governing the rights, duties and responsibilities of a real  
16 estate licensee in the State of California; and,

17 b) That no final subsequent determination be made, after  
18 hearing or upon stipulation; that cause for disciplinary  
19 action occurred within two (2) years from the effective date  
20 of this Order. Should such a determination be made, the  
21 Commissioner may, in his discretion, vacate and set aside  
22 the stay order and reimpose all or a portion of the stayed  
23 suspension. Should no such determination be made, the stay  
24 imposed herein shall become permanent.

25 3) Respondent shall, within six (6) months from the effective  
26 date of this Decision, take and pass the Professional  
27 Responsibility Examination administered by the Department

1 including the payment of the appropriate examination fee. If  
 2 Respondent fails to satisfy this condition, the Commissioner  
 3 may order suspension of the license until Respondent passes  
 4 the examination.


5  
 6  
 7 6/28/05  
 8 DATED

  
 9 TRULY SUGHRUE  
 10 Counsel for Complainant

11 \* \* \*

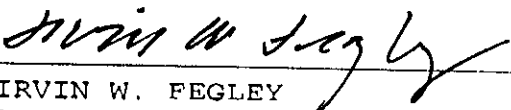
12 I have read the Stipulation and Agreement, and its  
 13 terms are understood by me and are agreeable and acceptable to  
 14 me. I understand that I am waiving rights given to me by the  
 15 California Administrative Procedure Act, and I willingly,  
 16 intelligently and voluntarily waive those rights, including the  
 17 right of requiring the Commissioner to prove the allegations in  
 18 the Accusation at a hearing at which I would have the right to  
 19 cross-examine witnesses against me and to present evidence in  
 20 defense and mitigation of the charges.

21 6/24/2005  
 22 DATED

  
 23 TRUC DUY TRAN  
 24 Respondent

25 I have reviewed the Stipulation and Agreement as to  
 26 form and content and have advised my client accordingly.

27 6/26/2005  
 DATED

  
 IRVIN W. FEGLEY  
 Attorney for Respondent


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The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on August 3, 2005.

IT IS SO ORDERED 7-13, 2005.

JEFF DAVI  
Real estate Commissioner

  
\_\_\_\_\_

FILED  
JUN 03 2005

DEPARTMENT OF REAL ESTATE

By *Anne Shaver*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	No. H-9160 SF
	)	
TRUC DUY TRAN, and	)	<u>STIPULATION AND</u>
BRAD HUNG LE	)	<u>AGREEMENT</u>
	)	
Respondents.	)	

It is hereby stipulated by and between BRAD HUNG LE (hereafter Respondent) and his attorney Eric Gravink, and the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing the Accusation filed on March 15, 2005 in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent 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



1 submitted solely on the basis of the provisions of this  
2 Stipulation and Agreement.

3           2. Respondent has received, read and understands the  
4 Statement to Respondent, and the Discovery Provisions of the APA  
5 filed by the Department of Real Estate in this proceeding.

6           3. On March 28, 2005, Respondent filed a Notice of  
7 Defense pursuant to Section 11505 of the Government Code for the  
8 purpose of requesting a hearing on the allegations in the  
9 Accusation. Respondent hereby freely and voluntarily withdraws  
10 said Notice of Defense. Respondent acknowledges that he  
11 understands that by withdrawing said Notice of Defense he will  
12 thereby waive his rights to require the Commissioner to prove the  
13 allegations in the Accusation at a contested hearing held in  
14 accordance with the provisions of the APA, and that he will waive  
15 other rights afforded to him in connection with the hearing such  
16 as the right to present evidence in defense of the allegations in  
17 the Accusation and the right to cross-examine witnesses.

18           4. Respondent, pursuant to the limitations set forth  
19 below, hereby admits that the factual allegations pertaining to  
20 him in Paragraphs I, through V of the Accusation filed in this  
21 proceeding are true and correct and the Real Estate Commissioner  
22 shall not be required to provide further evidence of such  
23 allegations.

24           5. Without admitting the truth of the allegations  
25 contained in the remaining paragraphs of the Accusation,  
26 Respondent stipulates that he will not interpose a defense  
27 thereto. This Stipulation is based on the factual allegations

1 contained in the Accusation. In the interests of expedience and  
2 economy, Respondent choose not to contest the allegations, but to  
3 remain silent, and understand that, as a result thereof, these  
4 factual allegations, without being admitted or denied, will serve  
5 as a basis for the disciplinary action stipulated to herein. The  
6 Real Estate Commissioner shall not be required to provide further  
7 evidence to prove said factual allegations.

8           6. The Order or any subsequent Order of the Real  
9 Estate Commissioner made pursuant to this Stipulation and  
10 Agreement shall not constitute an estoppel, merger or bar to any  
11 further administrative or civil proceedings by the Department of  
12 Real Estate with respect to any matters which were not  
13 specifically alleged to be causes for accusation in this  
14 proceeding.

15                           \* \* \*

16                           DETERMINATION OF ISSUES

17           By reason of the foregoing stipulations and waivers and  
18 solely for the purpose of settlement of the pending Accusation  
19 without a hearing, it is stipulated and agreed that the following  
20 determination of issues shall be made:

21           The acts and/or omissions of Respondent BRAD HUNG LE as  
22 stipulated above violate Section 15159.2 of the California  
23 Business and Professions Code (hereinafter Code), and constitute  
24 grounds for disciplinary action under the provisions of Section  
25 10177(h) of the Code.

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ORDER

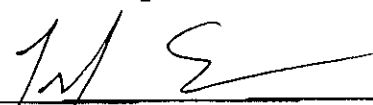
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All licenses and licensing rights of Respondent BRAD HUNG LE under the Real Estate Law are suspended for a period of thirty (30) days from the effective date of this Order; provided, however, that:

A. The said 30-day suspension shall be stayed for two (2) years upon the following terms and conditions:

1. Respondents shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and,
2. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years from the effective date of this Order. Should such a determination be made, the Commissioner may, in her 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.

05 - May - 05  
DATED

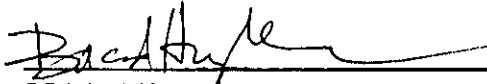
  
TRULY SUGHRUE  
Counsel for Complainant

\* \* \*

I have read the Stipulation and Agreement, have discussed it with my counsel, and its terms are understood by

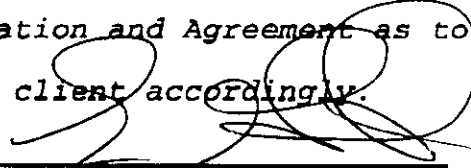
1 me and are agreeable and acceptable to me. I understand that I  
2 am waiving rights given to me by the California Administrative  
3 Procedure Act (including but not limited to Sections 11506,  
4 11508, 11509, and 11513 of the Government Code), and I  
5 willingly, intelligently, and voluntarily waive those rights,  
6 including the right of requiring the Commissioner to prove the  
7 allegations in the Accusation at a hearing at which I would  
8 have the right to cross-examine witnesses against me and to  
9 present evidence in defense and mitigation of the charges.

10  
11 05-11-05  
12 DATED

  
13 BRAD HUNG LE  
14 Respondent

15 I have reviewed the Stipulation and Agreement as to  
16 form and content and have advised my client accordingly.

17 5-11-05  
18 DATED

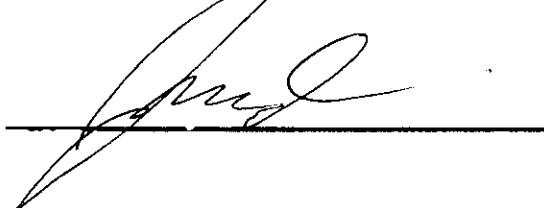
  
19 ERIC GRAVINK  
20 Attorney for Respondent

21 \* \* \*

22 The foregoing Stipulation and Agreement is hereby  
23 adopted as my Decision and shall become effective at 12 o'clock  
24 noon on JUNE 23, 2005.

25 IT IS SO ORDERED 5-31, 2005.

26 JEFF DAVI  
27 Real estate Commissioner



FILED  
MAR 15 2005

1 TRULY SUGHRUE, Counsel  
State Bar No. 223266  
2 Department of Real Estate  
P.O. Box 187007  
3 Sacramento, CA 95818-7007  
4 Telephone: (916) 227-0781  
5  
6  
7

DEPARTMENT OF REAL ESTATE

By Counsel Shawn

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 TRUC DUY TRAN, and ) No. H-9160 SF  
13 BRAD HUNG LE, ) ACCUSATION  
14 Respondent. )

15 The Complainant, E. J. HABERER II, a Deputy Real Estate  
16 Commissioner of the State of California, for cause of Accusation  
17 against TRUC DUY TRAN and BRAD HUNG LE (herein "Respondents"), is  
18 informed and alleges as follows:

19 PRELIMINARY ALLEGATIONS

20 I

21 The Complainant, E. J. HABERER II, a Deputy Real Estate  
22 Commissioner of the State of California, makes this Accusation in  
23 his official capacity.

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II

At all times herein mentioned, Respondents were and now are licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (herein "the Code").

III

At all times herein mentioned, Respondent BRAD HUNG LE (hereafter "LE") was and is licensed by the Department of Real Estate (hereafter the Department) as a real estate broker, individually and as the designated broker officer of NEW LAND CORPORATION.

IV

Respondent TRUC DUY TRAN (hereafter "TRAN") was employed by Huyen Quang Nguyen as a real estate salesperson beginning April 29, 2004 as an agent for NEW LAND CORPORATION.

V

At all times herein mentioned, Respondents were performing acts requiring a real estate license for or in expectation of a compensation.

FIRST CAUSE OF ACTION

VI

On or about November 15, 2003, Respondent TRAN prepared and submitted a written offer for the purpose of real property located at 6221 West San Jose Avenue, San Francisco, California by Kelly Huynh (herein after "BUYER"). Respondent TRAN represented in said offer that he was in receipt of a check in

1 the amount of \$5,000 from BUYER, to be deposited in escrow within  
2 three business days after acceptance of the offer.

3 VII

4 On or about November 18, 2004, seller submitted a  
5 written counteroffer for the above property.

6 VIII

7 On or about November 18, 2004, BUYER accepted the  
8 counteroffer.

9 IX

10 Respondent's representation that he was in receipt of  
11 the \$5,000 check was false. The counteroffer was accepted, but  
12 no funds were deposited into escrow.

13 X

14 On or about November 24, 2004, TRAN initiated Escrow  
15 Cancellation Instructions, which failed to show the disposition  
16 of the deposit.

17 XI

18 Respondent's conduct described in Paragraph IX  
19 constitutes the making of substantial misrepresentations, and  
20 fraud or dishonest dealing, and is cause under Sections 10176(a)  
21 and 11076(i) of the Code for suspension or revocation of all  
22 licenses and license rights of TRAN.

23 XII

24 In the alternative, Respondent's conduct described  
25 in Paragraph IX, constitutes the making of substantial  
26 misrepresentations, and negligence or incompetence in performing  
27 acts requiring a real estate license, and is cause under


1 Sections 10176(a) and 10177(g) of the Code for suspension or  
2 revocation of all licenses and license rights of Respondent.

3 SECOND CAUSE OF ACTION

4 XIII

5 The acts and/or omissions described above, constitute  
6 failure on the part of LE, as designated broker-officer for NEW  
7 LAND CORPORATION, to exercise reasonable supervision and control  
8 over the licensed activities of NEW LAND CORPORATION required by  
9 Section 10159.2 of the Code, and is cause for the suspension or  
10 revocation of LE'S license and/or license rights under Section  
11 10177(h) of the Code.

12 WHEREFORE, Complainant prays that a hearing be  
13 conducted on the allegations of this Accusation and that upon  
14 proof thereof, a decision be rendered imposing disciplinary  
15 action against all licenses and license rights of Respondents,  
16 under the Real Estate Law (Part 1 of Division 4 of the Business  
17 and Professions Code), and for such other and further relief as  
18 may be proper under other provisions of law.

19  
20   
21 E. J. HABERER II  
22 Deputy Real Estate Commissioner

23 Dated at Sacramento, California,  
24 this 2 day of March, 2005  
25  
26  
27