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1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 137007
3 Sacramento, CA 95813-7007

FILED

DEC 18 2018

DEPARTMENT OF REAL ESTATE
By B. Nicholas

4 Telephone: (916) 263-8670

7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of:)	Case No. H-12129 SF
)	
11 JCHEN PROPERTIES, INC.)	<u>STIPULATION AND AGREEMENT</u>
12 and JENNIFER H. CHEN)	<u>IN SETTLEMENT AND ORDER</u>
)	
13 Respondents.)	
14)	

15 It is hereby stipulated by and between Respondent JCHEN PROPERTIES, INC.
16 ("JCHEN PROPERTIES") and JENNIFER H. CHEN ("JCHEN") (collectively referred to as
17 "Respondents"), acting by and through Shannon B. Jones, counsel for Respondents, and the
18 Complainant, acting by and through Jason D. Lazark, Counsel for the Department of Real
19 Estate, as follows for the purpose of settling and disposing of the Accusation filed on January
20 17, 2018, in this matter:

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

26 2. Respondents have received, read and understand the Statement to
27 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department

1 of Real Estate in this proceeding.

2 3. Respondents filed Notices of Defense pursuant to Section 11505 of the
3 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
4 Respondents hereby freely and voluntarily withdraw said Notices of Defense. Respondents
5 acknowledge that they understand that by withdrawing said Notices of Defense they will
6 thereby waive their rights to require the Real Estate Commissioner ("Commissioner") to prove
7 the allegations in the Accusation at a contested hearing held in accordance with the provisions
8 of the APA, and that they will waive other rights afforded to them in connection with the
9 hearing such as the right to present evidence in defense of the allegations in the Accusation and
10 the right to cross-examine witnesses.

11 4. Respondents, pursuant to the limitations set forth below, hereby admit that
12 the factual allegations or findings of fact as set forth in the Accusation filed in this proceeding
13 are true and correct and the Real Estate Commissioner shall not be required to provide further
14 evidence of such allegations.

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

22 6. The Order or any subsequent Order of the Real Estate Commissioner made
23 pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to
24 any further administrative or civil proceedings by the Department of Real Estate with respect
25 to any matters which were not specifically alleged to be causes for accusation in this
26 proceeding.

27 ///

1 7. Respondents understand that by agreeing to this Stipulation and Agreement,
2 Respondents agree to be responsible for jointly and severally paying, pursuant to Section 10148
3 of the California Business and Professions Code ("the Code"), the costs of the audit which
4 resulted in the determination that Respondents committed the trust fund violation(s) found in the
5 Determination of Issues. The amount of such costs is \$13,613.94.

6 8. Respondents further understand that by agreeing to this Stipulation and
7 Agreement, the findings set forth below in the Determination of Issues become final, and that the
8 Commissioner may charge said Respondents for the costs of any audit conducted pursuant to
9 Section 10148 of the Code to determine if the violations have been corrected and hold
10 Respondents jointly and severally responsible for paying the costs of the follow up audit. The
11 maximum costs of said audit shall not exceed \$17,017.43.

12 9. Respondents further understand that by agreeing to this Stipulation and
13 Agreement, Respondents agree to be responsible for jointly and severally paying, pursuant to
14 Section 10106 of the Code, the costs of the investigation and enforcement of this case which
15 resulted in the determination that Respondent committed the violation(s) found in the
16 Determination of Issues. The amount of such cost is \$2,042.30.

17 10. The Accusation filed in this proceeding alleges Respondents caused, suffered,
18 or permitted a shortage of \$23,458.81 ("Total Shortage") to occur in the account used by
19 Respondents to hold trust funds. On or about November 3, 2017, Respondents cured a portion of
20 the Total Shortage by depositing \$15,222.25 in the account used by Respondents to hold trust
21 funds. Respondents further understand that by agreeing to this Stipulation and Agreement,
22 Respondents agree to deposit \$8,236.56 into the account used by Respondents to hold trust funds
23 to cure the Total Shortage. Said \$8,236.56 shall at all times remain in the account used by
24 Respondents to hold trust funds until such time as Respondents can provide proof satisfactory to
25 the Commissioner that the portion of the \$8,236.56 removed from the account used to hold trust
26 funds, are not trust funds.

27 ///

1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions, and waivers, and solely for
3 the purpose of settlement of the pending Accusation without further proceedings, it is stipulated
4 and agreed that the following Determination of Issues shall be made:

5 The acts and/or omissions of JCHEN PROPERTIES as described in the
6 Accusation are grounds for the suspension or revocation of the licenses and license rights of
7 JCHEN PROPERTIES under the provisions of Sections 10177(d), and 10177(g) of the Code, in
8 conjunction with Sections 10130, 10140.6(b), 10145, 10145(d), 10145(g), 10159.5, 10176(e) and
9 10176(i) of the Code and Sections 2731, 2773, 2831, 2831.1, 2831.2, 2832, and 2832.1 of Title
10 10 of the California Code of the Regulations.

11 The acts and/or omissions of JCHEN as described in the Accusation are grounds
12 for the suspension or revocation of the licenses and license rights of JCHEN under the provisions
13 of Sections 10177(d), 10177(g), and 10177(h) of the Code, in conjunction with Sections 10130,
14 10140.6(b), 10145, 10145(d), 10145(g), 10159.2, 10159.5, 10176(e) and 10176(i) of the Code
15 and Sections 2725, 2731, 2773, 2831, 2831.1, 2831.2, 2832, and 2832.1 of Title 10 of the
16 California Code of the Regulations.

17 ORDER

18 I.

19 1. The corporate real estate broker license and license rights of JCHEN
20 PROPERTIES under the Real Estate Law are revoked; provided, however, a restricted corporate
21 real estate broker license shall be issued to JCHEN PROPERTIES pursuant to Section 10156.5
22 of the Code if JCHEN PROPERTIES makes application therefore and pays to the Department
23 the appropriate fee for the restricted license within 90 days from the effective date of this
24 Decision.

25 2. The restricted license issued to JCHEN PROPERTIES shall be subject to all
26 of the provisions of Section 10156.7 of the Code as to the following limitations, conditions and
27 restrictions imposed under authority of Section 10156.6 of that Code: The restricted license

1 issued to JCHEN PROPERTIES shall be suspended prior to hearing by Order of the
2 Commissioner on evidence satisfactory to the Commissioner that JCHEN PROPERTIES has
3 violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of
4 the Real Estate Commissioner, or conditions attaching to the restricted license.

5 3. JCHEN PROPERTIES shall not be eligible to apply for the issuance of an
6 unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions
7 of a restricted license until three (3) years have elapsed from the effective date of this Decision.

8 II.

9 All licenses and licensing rights of JCHEN under the Real Estate Law are
10 revoked; provided, however, a restricted real estate broker license shall be issued to JCHEN
11 pursuant to Section 10156.5 of the Code if JCHEN makes application therefore and pays to the
12 Department the appropriate fee for the restricted license within 90 days from the effective date of
13 this Decision.

14 1. The restricted license issued to JCHEN shall be subject to all of the provisions
15 of Section 10156.7 of the Code as to the following limitations, conditions and restrictions
16 imposed under authority of Section 10156.6 of that Code:

17 (a) The restricted license issued to JCHEN shall be suspended prior to hearing
18 by Order of the Commissioner in the event of JCHEN's conviction
19 (including by plea of guilty or nolo contendere) to a crime which is
20 substantially related to JCHEN's fitness or capacity as a real estate
21 licensee; and,

22 (b) The restricted license issued to JCHEN shall be suspended prior to hearing
23 by Order of the Commissioner on evidence satisfactory to the
24 Commissioner that JCHEN has violated provisions of the California Real
25 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate
26 Commissioner, or conditions attaching to the restricted license.

1 2. JCHEN shall not be eligible to apply for the issuance of an unrestricted real
2 estate license nor for removal of any of the conditions, limitations or restrictions of a restricted
3 license until three (3) years have elapsed from the effective date of this Decision.

4 3. JCHEN shall notify the Commissioner in writing within 72 hours of any arrest
5 by sending a certified letter to the Commissioner at the Department of Real Estate, Legal Section
6 at Post Office Box 137007, Sacramento, CA 95813-7007. The letter shall set forth the date of
7 JCHEN 's arrest, the crime for which JCHEN was arrested and the name and address of the
8 arresting law enforcement agency. JCHEN 's failure to timely file written notice shall constitute
9 an independent violation of the terms of the restricted license and shall be grounds for the
10 suspension or revocation of that license.

11 4. JCHEN shall, within nine (9) months from the effective date of this Decision,
12 present evidence satisfactory to the Commissioner that JCHEN has, since the most recent
13 issuance of an original or renewal real estate license, taken and successfully completed the
14 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal
15 of a real estate license. If JCHEN fails to satisfy this condition, the Commissioner shall order the
16 suspension of the restricted license until the JCHEN presents such evidence. The Commissioner
17 shall afford JCHEN the opportunity for hearing pursuant to the APA to present such evidence.

18 5. Notwithstanding any other provision of this Order, all licenses and license
19 rights of JCHEN are suspended unless and until she provides proof satisfactory to the
20 Commissioner that she has taken and successfully completed the continuing education course
21 on Trust Fund Accounting and Handling specified in Section 10170.5(a)(3) of the Code. The
22 course must have been completed no earlier than one hundred twenty (120) days prior to the
23 effective date of this Order, and proof must be submitted prior to the effective date of this
24 Order, to prevent suspension of her license pursuant to this condition.

25 6. JCHEN shall, within six (6) months from the issuance of the Order, take and
26 pass the Professional Responsibility Examination administered by the Department, including the
27

1 payment of the appropriate examination fee. All licenses and licensing rights of JCHEN shall
2 be indefinitely suspended unless or until JCHEN passes the examination.

3 III.

4 1. Respondents, jointly and severally, shall pay the sum of \$13,613.94 for the
5 Commissioner's cost of the audit which led to this disciplinary action. Respondents shall pay
6 such cost within sixty (60) days of receiving an invoice therefore from the Commissioner. The
7 Commissioner shall indefinitely suspend all licenses and licensing rights of Respondents
8 pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if
9 payment is not timely made as provided for herein, or as provided for in a subsequent
10 agreement between Respondents and the Commissioner. The suspension shall remain in effect
11 until payment is made in full or until Respondents enter into an agreement satisfactory to the
12 Commissioner to provide for payment, or until a decision providing otherwise is adopted
13 following a hearing held pursuant to this condition.

14 2. Respondents, jointly and severally, shall pay the Commissioner's costs, not
15 to exceed \$17,017.43, of any audit conducted pursuant to Section 10148 of the Code to
16 determine if Respondents have corrected the violations described in the Determination of
17 Issues, above, and any other violations found in the audit which led to this disciplinary action.
18 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use
19 the estimated average hourly salary for all persons performing audits of real estate brokers, and
20 shall include an allocation for travel time to and from the auditor's place of work. Respondents
21 shall pay such cost within sixty (60) days of receiving an invoice therefore from the
22 Commissioner detailing the activities performed during the audit and the amount of time spent
23 performing those activities. If Respondents fail to pay such cost within the sixty (60) days, the
24 Commissioner shall indefinitely suspend all licenses and licensing rights of Respondents under
25 the Real Estate Law until payment is made in full or until Respondents enter into an agreement
26 satisfactory to the Commissioner to provide for payment. Upon full payment, the indefinite
27 suspension provided for in this paragraph shall be stayed.

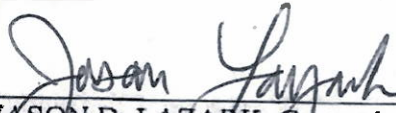
1 IV.

2 1. All licenses and licensing rights of Respondents, are indefinitely suspended
3 unless or until Respondents, jointly and severally, pay the sum of \$2,042.30 for the
4 Commissioner's reasonable cost of the investigation and enforcement which led to this
5 disciplinary action. Said payment shall be in the form of a cashier's check or certified check
6 made payable to the Real Estate Fund.

7 2. All licenses and licensing rights of Respondents, are indefinitely suspended
8 unless or until Respondents, jointly and severally, deposit \$8,236.56 into the account used by
9 Respondents to hold trust funds to cure the Total Shortage. Said \$8,236.56 shall at all times
10 remain in the account used by Respondents to hold trust funds until such time as Respondents
11 can provide proof satisfactory to the Commissioner that the portion of the \$8,236.56 removed
12 from the account used to hold trust funds, are not trust funds.

13 11/1/18

14 DATED

15 
16 JASON D. LAZARK, Counsel
17 Department of Real Estate

18 * * *


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

27 I further agree to send the original signed Stipulation and Agreement by mail to
the following address no later than one (1) week from the date the Stipulation and Agreement
is signed by me and my attorney: *Department of Real Estate, Legal Section, P.O. Box 137007.*

1 Sacramento, California 95813-7007. I understand and agrees that if they fail to return the
2 original signed Stipulation and Agreement by the due date, Complainant retains the right to set
3 this matter for hearing.
4


5 10/31/2018

6 DATED


7 JENNIFER H. CHEN
8 Designated Officer for Respondent
9 JCHEN PROPERTIES, INC.

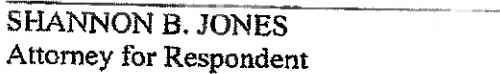
10 10/31/2018

11 DATED


12 JENNIFER H. CHEN
13 Respondent

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

16 DATED


17 SHANNON B. JONES
18 Attorney for Respondent

19 * * *

20 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
21 this matter and shall become effective at 12 o'clock noon on _____

22 IT IS SO ORDERED _____, 2018.

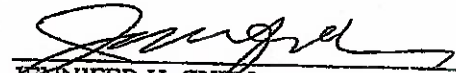
23 ACTING REAL ESTATE COMMISSIONER

24
25
26
27 DANIEL J. SANDRI

1 Sacramento, California 95813-7007. I understand and agrees that if they fail to return the
2 original signed Stipulation and Agreement by the due date, Complainant retains the right to set
3 this matter for hearing.

4
5 10/31/2018

6 DATED



JENNIFER H. CHEN
Designated Officer for Respondent
JCHEN PROPERTIES, INC.

7
8
9 10/31/2018

10 DATED

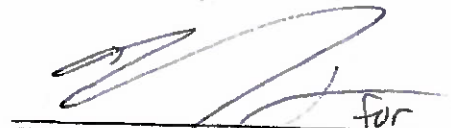


JENNIFER H. CHEN
Respondent

11
12 *I have reviewed the Stipulation and Agreement as to form and content and*
13 *have advised my client accordingly.*

14
15 10/31/18

16 DATED


SHANNON B. JONES
Attorney for Respondent

17
18 * * *

19 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
20 this matter and shall become effective at 12 o'clock noon on JAN 08 2019

21 IT IS SO ORDERED December 13, 2018.

22
23 ACTING REAL ESTATE COMMISSIONER

24
25
26 
DANIEL J. SANDRI