

Shog

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 137007
3 Sacramento, CA 95813-7007
4 Telephone: (916) 263-8670

FILED

MAY 24 2019

DEPARTMENT OF REAL ESTATE
By *J Krapp*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

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|--|---|----------------------------------|
| 11 In the Matter of the Accusation of: |) | Case No. H-12172 SF |
| |) | |
| 12 LINH M. DUONG, BRAD HUNG LE, and |) | <u>STIPULATION AND AGREEMENT</u> |
| 13 HLB REALTY INC., |) | <u>IN SETTLEMENT AND ORDER</u> |
| |) | |
| 14 Respondents. |) | |
| |) | |

16 It is hereby stipulated by and between Respondents LINH M. DUONG
17 (“DUONG”), BRAD HUNG LE (“LE”), and HLB REALTY INC. (“HLB INC.”), acting by and
18 through Jeff Kravitz, counsel for DUONG, LE, and HLB INC., and the Complainant, acting by
19 and through Jason D. Lazark, Counsel for the Department of Real Estate (“Department”), as
20 follows for the purpose of settling and disposing of the First Amended Accusation filed on
21 November 14, 2018, in this matter:

22 1. All issues which were to be contested and all evidence which was to be
23 presented by Complainant and Respondents DUONG, LE, and HLB INC. (collectively referred
24 to herein as “Respondents”) at a formal hearing on the First Amended Accusation, which
25 hearing was to be held in accordance with the provisions of the Administrative Procedure Act
26 (“APA”), shall instead and in place thereof be submitted solely on the basis of the provisions of
27 this Stipulation and Agreement In Settlement and Order (“Stipulation and Agreement”).

1 2. Respondents have received, read and understand the Statements to
2 Respondent, the Discovery Provisions of the APA and the First Amended Accusation filed by
3 the Department in this proceeding.

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

13 4. Respondents, pursuant to the limitations set forth below, hereby admit that
14 the factual allegations as set forth in the First Amended Accusation filed in this proceeding are
15 true and correct and the Commissioner shall not be required to provide further evidence of such
16 allegations.

17 5. This Stipulation and Agreement is made for the purpose of reaching an
18 agreed disposition of this proceeding and is expressly limited to this proceeding and any other
19 proceeding or case in which the Department, the state or federal government, any agency of
20 this state, or an agency of another state is involved.

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

1 in conjunction with Sections 10148 of the Code.

2 ORDER

3 I. AS TO DUONG

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

9 1. The restricted license issued to DUONG shall be subject to all of the
10 provisions of Section 10156.7 of the Code as to the following limitations, conditions and
11 restrictions imposed under authority of Section 10156.6 of that Code:

12 (a) The restricted license issued to DUONG shall be suspended prior to
13 hearing by Order of the Commissioner in the event of DUONG's
14 conviction (including by plea of guilty or nolo contendere) to a crime
15 which is substantially related to DUONG's fitness or capacity as a real
16 estate licensee; and,

17 (b) The restricted license issued to DUONG shall be suspended prior to
18 hearing by Order of the Commissioner on evidence satisfactory to the
19 Commissioner that DUONG has violated provisions of the California Real
20 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate
21 Commissioner, or conditions attaching to the restricted license.

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

25 3. DUONG shall notify the Commissioner in writing within 72 hours of any
26 arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post
27 Office Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of

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

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

13 5. DUONG shall, within six (6) months from the issuance of the Order, take and
14 pass the Professional Responsibility Examination administered by the Department, including the
15 payment of the appropriate examination fee. All licenses and licensing rights of DUONG shall
16 be indefinitely suspended unless or until DUONG passes the examination.

17 II. AS TO LE

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

22 1. The restricted license issued to LE shall be subject to all of the provisions of
23 Section 10156.7 of the Code as to the following limitations, conditions and restrictions imposed
24 under authority of Section 10156.6 of that Code:

25 (a) The restricted license issued to LE shall be suspended prior to hearing by
26 Order of the Commissioner in the event of LE's conviction (including by
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1 plea of guilty or nolo contendere) to a crime which is substantially related
2 to LE's fitness or capacity as a real estate licensee; and,

3 (b) The restricted license issued to LE shall be suspended prior to hearing by

4 Order of the Commissioner on evidence satisfactory to the Commissioner
5 that LE has violated provisions of the California Real Estate Law, the
6 Subdivided Lands Law, Regulations of the Real Estate Commissioner, or
7 conditions attaching to the restricted license.

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

11 3. LE shall notify the Commissioner in writing within 72 hours of any arrest by
12 sending a certified letter to the Commissioner at the Department of Real Estate, Post Office Box
13 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of LE's arrest, the crime
14 for which LE was arrested and the name and address of the arresting law enforcement agency.
15 LE's failure to timely file written notice shall constitute an independent violation of the terms of
16 the restricted license and shall be grounds for the suspension or revocation of that license.

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

24 5. LE shall, within six (6) months from the issuance of the Order, take and pass
25 the Professional Responsibility Examination administered by the Department, including the
26 payment of the appropriate examination fee. All licenses and licensing rights of LE shall be
27 indefinitely suspended unless or until LE passes the examination.

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III. AS TO HLB INC.

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

2. The restricted license issued to HLB INC. shall be subject to all of the provisions of Section 10156.7 of the Code as to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code: The restricted license issued to HLB INC. shall be suspended prior to hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that HLB INC. 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.

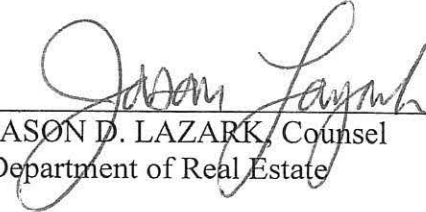
3. HLB INC. shall not be eligible to apply for the issuance of an unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions of a restricted license until two (2) years have elapsed from the effective date of this Decision.

IV. AS TO ALL RESPONDENTS

All licenses and licensing rights of Respondents are indefinitely suspended unless or until Respondents, jointly and severally, pay the sum of \$4,081.90 for the Commissioner's reasonable cost of the investigation and enforcement which led to this disciplinary action. Said payment shall be in the form of a cashier's check or certified check made payable to the Real Estate Fund.

3-21-19

DATED


JASON D. LAZARK, Counsel
Department of Real Estate

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Respondents have read the Stipulation and Agreement in Settlement and Order and its terms are understood by Respondents and are agreeable and acceptable to Respondents. Respondents understand that Respondents are waiving rights given to them by the California APA (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and Respondents willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the First Amended Accusation at a hearing at which Respondents would have the right to cross-examine witnesses against them and to present evidence in defense and mitigation of the charges.

Respondents and Respondents' attorney 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 Respondents and Respondents' attorney: *Department of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-7007.* Respondents and Respondents' attorney understand and agree that if they fail to return the original signed Stipulation and Agreement by the due date, Complainant retains the right to set this matter for hearing.

3/18/19

DATED



LINH M. DUONG
Respondent

03-18-2019

DATED



BRAD HUNG LE
Respondent

03-18-2019

DATED



BRAD HUNG LE
Designated Officer for Respondent
HLB REALTY INC.

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

3-18-19

DATED



JEFF KRAVITZ

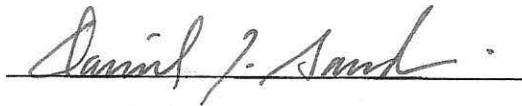
Attorney for Respondents

LINH M. DUONG, BRAD HUNG LE and
HLB REALTY INC.

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on JUN 14 2019.

IT IS SO ORDERED May 21, 2019

ACTING REAL ESTATE COMMISSIONER



DANIEL J. SANDRI

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