

1 DEPARTMENT OF REAL ESTATE
2 320 West 4th Street, Suite 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 620-2072

FILED

MAR 04 2022

DEPT. OF REAL ESTATE
By *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation against
12 ADAPP MANAGEMENT, INC. and
13 JAMES TOAN TRAN, individually and as
14 designated officer for Adapp Management, Inc.,
15 Respondents.

DRE No. H-42059 LA
OAH No. 2021110159

**STIPULATION AND
AGREEMENT IN SETTLEMENT
AND ORDER**

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17 It is hereby stipulated by and between Respondents ADAPP MANAGEMENT, INC. and
18 JAMES TOAN TRAN (collectively "Respondents"), represented by attorneys Michael Flynn
19 and Lauren Jacobs of Buchalter, APC, in this matter, and the Complainant, acting by and through
20 Lissete Garcia, Counsel for the Department of Real Estate ("Department"), as follows for the
21 purpose of settling and disposing the Accusation filed on September 16, 2021, with Department
22 Case No. H-42059 LA ("Accusation") in this matter:

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Stipulation and Agreement
H-42059 LA

1 1. All issues which were to be contested and all evidence which was to be presented by
2 Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be
3 held in accordance with the provisions of the Administrative Procedure Act (“APA”), shall
4 instead and in place thereof be submitted on the basis of the provisions of this Stipulation and
5 Agreement in Settlement and Order (“Stipulation”).

6 2. Respondents have received, read, and understand the Statement to Respondent, the
7 Discovery Provisions of the APA, and Accusation filed by the Department in this proceeding.

8 3. Respondents filed a Notice of Defense pursuant to Section 11506 of the Government
9 Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents
10 hereby freely and voluntarily withdraw said Notice of Defense. Respondents acknowledge and
11 understand that by withdrawing said Notice of Defense, Respondents will thereby waive
12 Respondents’ rights to require the Real Estate Commissioner (“Commissioner”) to prove the
13 allegations in the Accusation at a contested hearing held in accordance with the provisions of the
14 APA and that Respondents will waive other rights afforded to Respondents in connection with
15 the hearing such as the right to present evidence in defense of the allegations in the Accusation
16 and the right to cross-examine witnesses.

17 4. This Stipulation is based on the factual allegations contained in the Accusation filed in
18 this proceeding. In the interest of expedience and economy, Respondents choose not to contest
19 these factual allegations, but to remain silent and understand that, as a result thereof, these
20 factual statements, will serve as a prima facie basis for the disciplinary action stipulated to
21 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove
22 such allegations.

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1 5. This Stipulation and Respondents' decision not to contest the Accusation are made for
2 the purpose of reaching an agreed disposition of this proceeding and are expressly limited to this
3 proceeding and any other proceeding or case in which the Department, or another licensing
4 agency of this state, another state or if the federal government is involved and otherwise shall not
5 be admissible in any other criminal or civil proceedings.

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

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

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1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulation and agreement and solely for the purpose of
3 settlement of the pending Accusation without a hearing, it is stipulated and agreed that the
4 following determination of issues shall be made:

5 I.

6 The conduct, acts and/or omissions of Respondent ADAPP MANAGEMENT, INC. as
7 set forth herein above in Paragraph 4, constitute cause for the suspension or revocation of all real
8 estate licenses and license rights of Respondent ADAPP MANAGEMENT, INC. pursuant to the
9 provisions of Code section 10177, subdivision (g), for violation of Code sections 10145,
10 10176(e), and Regulations 2832, 2834, 2752, and 2726.

11 II.

12 The conduct, acts and/or omissions of Respondent JAMES TOAN TRAN. as set forth
13 herein above in Paragraph 4, constitute cause for the suspension or revocation of all real estate
14 licenses and license rights of Respondent JAMES TOAN TRAN pursuant to the provisions of
15 Code section 10177, subdivision (h), for violation of Code section 10159.2.

16 ORDER

17 I.

18 All licenses and licensing rights of Respondent ADAPP MANAGEMENT, INC.
19 (“AMI”) under the Real Estate Law are suspended for a period of fifteen (15) days from the
20 effective date of this Decision and Order; provided, however, that:

- 21 1. Said 15-day suspension shall be stayed for two (2) years upon the following terms
22 and conditions:

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2. Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and,
3. 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 Decision and Order. Should such a determination be made, the Commissioner may, in his 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.
4. Pursuant to Section 10148 of the Code, Respondent AMI shall pay the total sum of \$5,601.00 for the Commissioner's cost of the audit which led to this disciplinary action. **Respondent AMI shall pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of audit costs should not be made until Respondent receives the invoice.** If Respondent AMI fails to satisfy this condition in a timely manner as provided for herein, Respondent AMI's real estate licenses shall automatically be suspended until payment is made in full, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.
5. Pursuant to Section 10148 of the Code, Respondent AMI shall pay the Commissioner's reasonable costs for any subsequent audit (said costs may not to exceed a maximum of \$7,001.25) to determine if Respondent AMI has corrected the violations found in the Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work.

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education course on trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement includes evidence that Respondent TRAN has successfully completed the trust fund account and handling continuing education course, no earlier than 120 days prior to the effective date of the Decision and Order in this matter. **Proof of completion of the trust fund accounting and handling course must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the effective date of this Decision and Order.**

III.

All licenses and licensing rights of Respondents AMI and TRAN are indefinitely suspended unless or until Respondents pay, severally or jointly, the total sum of \$3,698.20 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 made payable to the Department of Real Estate. **The investigative and enforcement costs must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order. Payment of investigation and enforcement costs should not be made until the Stipulation has been approved by the Commissioner.**

DATED: 1/5/2022



Lissete Garcia, Counsel
Department of Real Estate

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1 Respondents' signatures below constitute acceptance and approval of the terms and
2 conditions of this Stipulation. Respondents agree, acknowledge, and understand that by signing
3 this Stipulation Respondents are bound by its terms as of the date of such signature and that this
4 agreement is not subject to rescission or amendment at a later date except by a separate Decision
5 and Order of the Real Estate Commissioner.

6 DATED: 1/3/2022


Respondent ADAPP MANAGEMENT, INC.

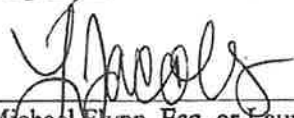
7 By (Printed Name): Amed Franco

8 Title: President

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10 DATED: 1/3/2022


Respondent JAMES TOAN TRAN

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12 DATED: 1/4/2022


Michael Flynn, Esq. or Lauren Jacobs, Esq.,
Attorneys for Respondents
Approved as to Form

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15 * * *

16 The foregoing Stipulation and Agreement in Settlement and Order is hereby adopted by
17 me as my Decision in this matter and shall become effective at 12 o'clock noon
18 on _____.

19 IT IS SO ORDERED _____.

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21 REAL ESTATE COMMISSIONER

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24 _____
DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

1 Respondents' signatures below constitute acceptance and approval of the terms and
2 conditions of this Stipulation. Respondents agree, acknowledge, and understand that by signing
3 this Stipulation Respondents are bound by its terms as of the date of such signature and that this
4 agreement is not subject to rescission or amendment at a later date except by a separate Decision
5 and Order of the Real Estate Commissioner.

6 DATED: _____ Respondent ADAPP MANAGEMENT, INC.
7
8 By (Printed Name): _____
9 Title: _____

10 DATED: _____ Respondent JAMES TOAN TRAN
11

12 DATED: _____ Michael Flynn, Esq. or Lauren Jacobs, Esq.,
13 Attorneys for Respondents
14 *Approved as to Form*

15 * * *

16 The foregoing Stipulation and Agreement in Settlement and Order is hereby adopted by
17 me as my Decision in this matter and shall become effective at 12 o'clock noon
18 on 4/4/2022.

19 IT IS SO ORDERED 2.25-22

21 REAL ESTATE COMMISSIONER

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24 **DOUGLAS R. McCAULEY**
REAL ESTATE COMMISSIONER