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FILED

JAN 06 2020

DEPARTMENT OF REAL ESTATE

By B. Nicholas

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

PEI SHEN,

Respondent.

No. H-3260 FR

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between PEI SHEN ("Respondent"), represented by Frank Buda, and the Complainant, acting by and through Kyle Jones, Counsel for the Department of Real Estate ("Department"), as follows for the purpose of settling and disposing of the Accusation filed on August 5, 2019, 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 submitted solely on the basis of the provisions of this Stipulation and Agreement.

2. Respondent has received, read, and understands the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department in this proceeding.

1 3. Respondent filed a Notice of Defense pursuant to Section 11505 of the
2 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
3 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
4 acknowledges that Respondent will waive Respondent's right to require the Real Estate
5 Commissioner ("Commissioner") to prove the allegations in the Accusation at a contested
6 hearing held in accordance with the provisions of the APA and that Respondent will waive other
7 rights afforded to Respondent in connection with the hearing such as the right to present evidence
8 in defense of the allegations in the Accusation and the right to cross-examine witnesses.

9 4. Respondent, pursuant to the limitations set forth below, hereby admits that
10 the factual allegations in the Accusation filed in this proceeding are true and correct and the
11 Commissioner shall not be required to provide further evidence to prove such allegations.

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

19 6. This Decision and Order or any subsequent Order of the Commissioner
20 made pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar
21 to any further administrative or civil proceedings by the Department with respect to any matters
22 which were not specifically alleged in Accusation H-3260 FR.

23 DETERMINATION OF ISSUES

24 By reason of the foregoing stipulations, admissions, and waivers and solely for the
25 purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed that
26 the following Determination of Issues shall be made:
27

The acts and/or omissions of Respondent as described in the Accusation violate Sections 490, 10177(b), 10177(d) of the Business and Professions Code ("Code").

ORDER

All licenses and licensing rights of Respondent PEI SHEN, under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the Code if Respondent makes application therefor for the restricted license within 90 days from the effective date of this Decision and Order. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. The restricted license issued to Respondent may be suspended prior to
hearing by Order of the Commissioner in the event of Respondent's conviction or plea of nolo
contendere to a crime which is substantially related to Respondent's fitness or capacity as a real
estate licensee.

2. The restricted license issued to Respondent may be suspended prior to
hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that
Respondent 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. Respondent 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 four (4) years have elapsed from the effective date of this Decision and Order.

4. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post Office Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of Respondent's arrest, the crime for which Respondent was arrested and the name and address of

1 the arresting law enforcement agency. Respondent's failure to timely file written notice shall
2 constitute an independent violation of the terms of the restricted license and shall be grounds for
3 the suspension or revocation of that license.

4 5. All licenses and licensing rights of Respondent are indefinitely suspended
5 unless or until Respondent pays the sum of \$2,107.30 for the Commissioner's reasonable cost of
6 the investigation and enforcement which led to this disciplinary action. Said payment shall be in
7 the form of a cashier's check made payable to the Department. The investigative and
8 enforcement costs must be delivered to the Department, Flag Section at P.O. Box 137013,
9 Sacramento, CA 95813-7013, prior to the effective date of this Order.

10 11/7/19
11 DATED

11 Kyle Jones
12 KYLE JONES, Counsel
13 DEPARTMENT OF REAL ESTATE

13 * * *

14 I have read the Stipulation and Agreement and its terms are understood by me
15 and are agreeable and acceptable to me. I understand that I am waiving rights given to me by
16 the APA (including but not limited to Sections 11506, 11508, 11509, and 11513 of the
17 Government Code), and I willingly, intelligently, and voluntarily waive those rights, including
18 the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing
19 at which I would have the right to cross-examine witnesses against me and to present evidence
20 in defense and mitigation of the charges.

21 Respondent can signify acceptance and approval of the terms and conditions of
22 this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by
23 Respondent, to the Department at fax number (916) 576-7840 or by e-mail to
24 kyle.jones@dre.ca.gov. Respondent agrees, acknowledges, and understands that by
25 electronically sending to the Department a copy of Respondent's actual signature as it appears
26 on the Stipulation and Agreement, that receipt of the copy by the Department shall be as
27

1 binding on Respondent as if the Department had received the original signed Stipulation and
2 Agreement.

3 11/6/2019

4 DATED

PEI SHEN
Respondent

5 * * *

6 I have reviewed this Stipulation and Agreement as to form and content and have
7 advised my client accordingly.

8 11-7-19

9 DATED

FRANK BUDA
Attorney for Respondent

11 The foregoing Stipulation and Agreement is hereby adopted by the Real Estate
12 Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on
13 JAN 27 2020

14 IT IS SO ORDERED

12/27/19

16 SANDRA KNAU
17 ACTING REAL ESTATE COMMISSIONER

18
19