

1 Department of Real Estate  
2 P.O. Box 137007  
3 Sacramento, CA 95813-7007

4 Telephone: (916) 576-8700

**FILED**

NOV 07 2023

DEPARTMENT OF REAL ESTATE  
By B. Nicholas

7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 WA FUNDING, INC.; )  
13 and )  
14 LINDA JEAN HARDIE, individually and as )  
15 designated officer of Wa Funding, Inc., )  
16 Respondents.)

No. H-3501 FR

STIPULATION AND AGREEMENT

17 It is hereby stipulated by and between WA FUNDING, INC. (WFI), and  
18 LINDA JEAN HARDIE (HARDIE) (collectively "Respondents"), and the Complainant,  
19 acting by and through Truly Sughrue, Counsel for the Department of Real Estate  
20 (Department), as follows for the purpose of settling and disposing of the Accusation  
21 (Accusation) filed on August 4, 2023, 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 at a formal hearing on the Accusation, which  
24 hearing was to be held in accordance with the provisions of the Administrative Procedure Act  
25 (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of  
26 this Stipulation and Agreement.

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

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

13                   4.       This Stipulation and Agreement is based on the factual allegations  
14 contained in the Accusation. In the interest of expediency and economy, Respondents choose not  
15 to contest these factual allegations, but to remain silent and understand that, as a result thereof,  
16 these factual statements will serve as a prima facie basis for the "Determination of Issues" and  
17 "Order" set forth below. The Commissioner shall not be required to provide further evidence to  
18 prove such allegations.

19                   5.       This Stipulation and Agreement and Respondents' decision not to contest  
20 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and  
21 are expressly limited to this proceeding and any other proceeding or case in which the  
22 Department, the state or federal government, an agency of this state, or an agency of another  
23 state is involved.

24                   6.       Respondents understand that by agreeing to this Stipulation and  
25 Agreement, Respondents agree to pay, pursuant to Section 10148 of the California Business and  
26 Professions Code (Code), the cost of the audit, which resulted in the determination that  
27 Respondents committed the trust fund handling violation(s) found in the Determination of

1 Issues. The amount of said costs is \$5,573.

2           7. Respondents further understand that by agreeing to this Stipulation and  
3 Agreement, the findings set forth below in the Determination of Issues become final, and that  
4 the Commissioner may charge said Respondents for the costs of any audit conducted pursuant  
5 to Section 10148 of the Code to determine if the violations have been corrected. The maximum  
6 costs of said audit shall not exceed \$6,966.

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

14           9. The Order or any subsequent Order of the Commissioner made pursuant to  
15 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further  
16 administrative or civil proceedings by the Department with respect to any matters which were  
17 not specifically alleged to be causes for action in Accusation H-3501 FR.

18                           \* \* \*

19   DETERMINATION OF ISSUES

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

23   I

24           The acts and omissions of Respondents as described in the Accusation are  
25 grounds for the suspension or revocation of Respondents' licenses and license rights under the  
26 following sections of the Code and Title 10, Chapter 6, of the California Code of Regulations  
27 (Regulations):

1 As to Paragraphs 10 and 11, under Section 10177(d) of the Code in conjunction  
2 with Section 10145 of the Code and Section 2832.1 of the Regulations;

3 As to Paragraphs 12 and 13, under Section 10177(d) of the Code in conjunction  
4 with Section 10145 of the Code and Section 2832 of the Regulations;

5 As to Paragraph 14, under Section 10177(d) of the Code in conjunction with  
6 Section 10145 of the Code and Section 2834 of the Regulations; and

7 As to Paragraph 15, under Section 10176(e) of the Code.

8 II

9 The acts and/or omissions of HARDIE as described in the Accusation is cause  
10 for the suspension or revocation of HARDIE's license and/or license rights under Section  
11 10177(h) of the Code.

12 \* \* \*

13 ORDER

14 I

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

17 1) Thirty (30) days of said suspension shall be stayed, upon the condition that WFI  
18 petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to  
19 Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total monetary  
20 penalty of \$1,500.

21 a) Said payment shall be in the form of a cashier's check made payable to the  
22 Department of Real Estate. Said check must be delivered to the Department of Real Estate,  
23 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of  
24 this Order.

25 b) No further cause for disciplinary action against the Real Estate licenses of WFI  
26 occurs within two (2) years from the effective date of the decision in this matter.

1 c) If WFI fails to pay the monetary penalty as provided above prior to the effective  
2 date of this Order, the stay of the suspension shall be vacated as to WFI and the order of  
3 suspension shall be immediately executed, under this Order, in which event WFI shall not be  
4 entitled to any repayment nor credit, prorated or otherwise, for the money paid to the Department  
5 under the terms of this Order.

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

10 II

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

14 1) Thirty (30) days of said suspension shall be stayed, upon the condition that  
15 HARDIE petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant  
16 to Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total  
17 monetary penalty of \$1,500.

18 a) Said payment shall be in the form of a cashier's check made payable to the  
19 Department of Real Estate. Said check must be delivered to the Department of Real Estate,  
20 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of  
21 this Order.

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

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

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

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

7 2) All licenses and licensing rights of HARDIE are indefinitely suspended unless or  
8 until HARDIE provides proof satisfactory to the Commissioner, of having taken and successfully  
9 completed the continuing education course on trust fund accounting and handling specified in  
10 paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of satisfaction of these  
11 requirements includes evidence that HARDIE has successfully completed the trust fund account  
12 and handling continuing education courses, no earlier than 120 days prior to the effective date of  
13 the Decision and Order in this matter. Proof of completion of the trust fund accounting and  
14 handling course must be delivered to the Department of Real Estate, Flag Section at P.O. Box  
15 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the effective date of  
16 this Decision and Order.

### 17 III

18 1) Pursuant to Section 10148 of the Code, Respondents shall pay the sum of \$5,573  
19 for the Commissioner's cost of the audit which led to this disciplinary action. Respondents shall  
20 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.  
21 Payment of audit costs should not be made until Respondents receive the invoice. If  
22 Respondents fail to satisfy this condition in a timely manner as provided for herein,  
23 Respondents' real estate license shall automatically be suspended until payment is made in full,  
24 or until a decision providing otherwise is adopted following a hearing held pursuant to this  
25 condition.

26 2) Pursuant to Section 10148 of the Code, Respondents shall pay the  
27 Commissioner's reasonable cost, not to exceed \$6,966, for an audit to determine if Respondents

1 have corrected the violation(s) found in the Determination of Issues. In calculating the amount  
2 of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly  
3 salary for all persons performing audits of real estate brokers, and shall include an allocation for  
4 travel time to and from the auditor's place of work. Respondents shall pay such costs within  
5 sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of the audit  
6 costs should not be made until Respondents receive the invoice. If Respondents fail to satisfy  
7 this condition in a timely manner as provided for herein, Respondents' real estate license shall  
8 automatically be suspended until payment is made in full, or until a decision providing otherwise  
9 is adopted following a hearing held pursuant to this condition.

10  
11 9 September 2023

12 DATED



13 TRULY SUGHRUE  
14 Counsel for Complainant

15 \* \* \*

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

22 Respondents further agree to send the original signed Stipulation and Agreement  
23 by mail to the following address no later than one (1) week from the date the Stipulation and  
24 Agreement is signed by Respondents: *Department of Real Estate, Legal Section, P.O. Box*  
25 *137007, Sacramento, California 95813-7007*. Respondents understand and agree that if they fail  
26 to return the original signed Stipulation and Agreement by the due date, Complainant retains the  
27 right to set this matter for hearing.

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DATED \_\_\_\_\_

*Linda Jean Hardie*  
Linda Jean Hardie, Designated Officer  
WA FUNDING, INC.,  
Respondent

DATED \_\_\_\_\_

*Linda Jean Hardie*  
LINDA JEAN HARDIE  
Respondent

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The foregoing Stipulation and Agreement is hereby adopted as my Decision and  
Order and shall become effective at 12 o'clock noon on NOV 28 2023.

IT IS SO ORDERED 10/17/23.

DOUGLAS R. McCAULEY  
REAL ESTATE COMMISSIONER

