

FILED
JUL 10 2007

DEPARTMENT OF REAL ESTATE

By Arine Phawner

Department of Real Estate
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Sacramento, CA 95818-7007
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
WGD REAL ESTATE SERVICES INC. and)
WILLIAM GLENN DICKEY,)
Respondent.)

No. H-3648 SD

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between WGD REAL
ESTATE SERVICES INC. and WILLIAM GLENN DICKEY (hereinafter
"Respondents") and their attorney, Frank M. Buda, and the
Complainant, acting by and through Truly Sughrue, Counsel for
the Department of Real Estate, as follows for the purpose of
settling and disposing the Accusation filed on December 15,
2006 in this matter:

1. All issues which were to be contested and all
evidence which was to be presented by Complainant and Respondents
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

1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement.

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

6 3. Respondents filed a Notice of Defense pursuant to
7 Section 11505 of the Government Code for the purpose of
8 requesting a hearing on the allegations in the Accusation.
9 Respondents hereby freely and voluntarily withdraw said Notice of
10 Defense. Respondents acknowledge that they understand that by
11 withdrawing said Notice of Defense they will thereby waive their
12 rights to require the Commissioner to prove the allegations in
13 the Accusation at a contested hearing held in accordance with the
14 provisions of the APA, and that they will waive other rights
15 afforded to them in connection with the hearing such as the right
16 to present evidence in defense of the allegations in the
17 Accusation and the right to cross-examine witnesses.
18

19 4. This stipulation is based on the factual
20 allegations contained in the Accusation. In the interest of
21 expediency and economy, Respondents choose not to contest these
22 factual allegations, but to remain silent and understands that,
23 as a result thereof, these factual statements will serve as a
24 prima facie basis for the "Determination of Issues" and "Order"
25 set forth below. The Real Estate Commissioner shall not be
26 required to provide further evidence to prove such allegations.
27

1 5. This Stipulation and Respondents decision not to
2 contest the Accusation are made for the purpose of reaching an
3 agreed disposition of this proceeding and are expressly limited
4 to this proceeding and any other proceeding or case in which the
5 Department of Real Estate (herein "the Department"), the state or
6 federal government, an agency of this state, or an agency of
7 another state is involved.

8 6. Respondents understand that by agreeing to this
9 Stipulation and Agreement, Respondents agree to pay, pursuant to
10 Section 10148 of the California Business and Professions Code,
11 the cost of the audit which resulted in the determination that
12 Respondent committed the trust fund violation(s) found in
13 Paragraph I, below, of the Determination of Issues. The amount
14 of said costs is \$4,650.42.

15 7. Respondents further understand that by agreeing
16 to this Stipulation and Agreement in Settlement, the findings
17 set forth below in the Determination Of Issues become final, and
18 that the Commissioner may charge said Respondents for the
19 costs of any audit conducted pursuant to Section 10148 of
20 the California Business and Professions Code to determine if
21 the violations have been corrected. The maximum costs of
22 said audit shall not exceed \$4,650.42.

23 8. It is understood by the parties that the Real
24 Estate Commissioner may adopt the Stipulation and Agreement as
25 his decision in this matter thereby imposing the penalty and
26
27

1 sanctions on the real estate licenses and license rights of
2 Respondent as set forth in the below "Order". In the event that
3 the Commissioner in his discretion does not adopt the Stipulation
4 and Agreement, it shall be void and of no effect, and Respondents
5 shall retain the right to a hearing and proceeding on the
6 Accusation under all the provisions of the APA and shall not be
7 bound by any admission or waiver made herein.

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

15 * * *

16 DETERMINATION OF ISSUES

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

22 I

23 The acts and omissions of Respondents as described in
24 the Accusation are grounds for the suspension or revocation of
25 Respondents licenses and/or license rights under the following
26 sections of the Code and Regulations:
27

1 (1) As to Paragraphs VIII(a), under Section 10177(d)
2 of the Code in conjunction with Section 2831 of the Regulations;

3 (2) As to Paragraph VIII(b), under Section 10177(d)
4 of the Code in conjunction with Section 2831.1 of the
5 Regulations;

6 (3) As to Paragraph VIII(c), under Section 10177(d)
7 of the Code in conjunction with Section 2831.2 of the
8 Regulations;

9 (4) As to Paragraph XI, under Section 10177(d) of the
10 Code in conjunction with Section 10232 of the Code;

11 (5) As to Paragraph XII, under Section 10177(d) of
12 the Code in conjunction with Section 10238(a) of the Code.

13 II

14 The acts and/or omissions of Respondent WILLIAM GLENN
15 DICKEY (hereafter "DICKEY") described in the Accusation,
16 constitute failure on the part of DICKEY, as designated broker-
17 officer for WGD REAL ESTATE SERVICES INC. (hereafter "WGD"), to
18 exercise reasonable supervision and control over the licensed
19 activities of WGD required by Section 10159.2 of the Code, and
20 is cause for the suspension or revocation of DICKEY's license
21 and/or license rights under Section 10177(h) of the Code.

22 ORDER

23 All licenses and licensing rights of WGD under the Real
24 Estate Law are suspended for a period of thirty (30) days from
25 the effective date of this Order; provided, however, that:
26
27

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

a) Said payment shall be in the form of a cashier's check or
certified check made payable to the Recovery Account of the
Real Estate Fund. Said check must be delivered to the
Department prior to the effective date of the Order in this
matter.

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

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

d) If said WGD pays the monetary penalty and any other moneys
due under this Stipulation and Agreement and if no further
cause for disciplinary action against the real estate

1 license of said Respondent occurs within two (2) years from
2 the effective date of this Order, the entire stay hereby
3 granted this Order, as to said Respondent only, shall become
4 permanent.

5 2) Pursuant to Section 10148 of the Business and Professions

6 Code, WGD shall jointly and severally with DICKEY pay the sum
7 of \$4,650.42 for the Commissioner's cost of the audit, which
8 to this disciplinary proceeding. Respondents shall pay such
9 cost within forty-five (45) days of receiving an invoice
10 therefore from the Commissioner. The Commissioner may suspend
11 the WGD's license pending a hearing held in accordance with
12 Section 11500, et seq., of the Government Code, if payment is
13 not timely made as provided for herein, or as provided for in
14 a subsequent agreement between the Respondent and the
15 Commissioner. The suspension shall remain in effect until
16 payment is made in full or until Respondent enters into an
17 agreement satisfactory to the Commissioner to provide for
18 payment, or until a decision providing otherwise is adopted
19 following a hearing held pursuant to this condition.
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21 3) Pursuant to Section 10148 of the Business and Professions

22 Code, WGD shall jointly and severally with DICKEY pay the
23 Commissioner's reasonable cost, not to exceed \$4,650.42, for
24 an audit to determine if Respondents have corrected the trust
25 fund violation(s) found in Paragraph I of the Determination of
26 Issues. In calculating the amount of the Commissioner's
27

1 reasonable cost, the Commissioner may use the estimated
2 average hourly salary for all persons performing audits of
3 real estate brokers, and shall include an allocation for
4 travel time to and from the auditor's place of work.
5 Respondent shall pay such cost within forty-five (45) days of
6 receiving an invoice therefore from the Commissioner detailing
7 the activities performed during the audit and the amount of
8 time spent performing those activities. The Commissioner may
9 suspend WGD's license pending a hearing held in accordance
10 with Section 11500, et seq., of the Government Code, if
11 payment is not timely made as provided for herein, or as
12 provided for in a subsequent agreement between Respondent and
13 the Commissioner. The suspension shall remain in effect until
14 payment is made in full or until Respondent enters into an
15 agreement satisfactory to the Commissioner to provide for
16 payment, or until a decision providing otherwise is adopted
17 following a hearing held pursuant to this condition.
18

19 II

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

- 23 1) Thirty (30) days of said suspension shall be stayed, upon the
24 condition that DICKEY petition pursuant to Section 10175.2 of
25 the Business and Professions Code and pays a monetary penalty
26 pursuant to Section 10175.2 of the Business and Professions
27

1 Code at a rate of \$50 for each day of the suspension for a
2 total monetary penalty of \$1,500.

3 a) Said payment shall be in the form of a cashier's check or
4 certified check made payable to the Recovery Account of the
5 Real Estate Fund. Said check must be delivered to the
6 Department prior to the effective date of the Order in this
7 matter.

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

11 c) If DICKY fails to pay the monetary penalty as provided
12 above prior to the effective date of this Order, the stay of
13 the suspension shall be vacated as to that Respondent and
14 the order of suspension shall be immediately executed, under
15 this Order, in which event the said Respondent shall not be
16 entitled to any repayment nor credit, prorated or otherwise,
17 for the money paid to the Department under the terms of this
18 Order.
19

20 d) If said DICKY pays the monetary penalty and any other
21 moneys due under this Stipulation and Agreement and if no
22 further cause for disciplinary action against the real
23 estate license of said Respondent occurs within two (2)
24 years from the effective date of this Order, the entire stay
25 hereby granted this Order, as to said Respondent only, shall
26 become permanent.
27

1 2) DICKEY shall, prior to the effective date of this Decision,
2 submit proof satisfactory to the Commissioner of having taken
3 and successfully completed the continuing education course on
4 trust fund accounting and handling specified in subdivision
5 (a) of Section 10170.5 of the Business and Professions Code.
6 Proof of satisfaction of this requirement includes evidence
7 that Respondent has successfully completed the trust fund
8 account and handling continuing education course within 120
9 days prior to the effective date of the Decision in this
10 matter. If Respondent fails to satisfy this condition, the
11 Commissioner may order the suspension of Respondent's license
12 until Respondent presents proof that he has successfully
13 completed the trust fund course.

14 3) Pursuant to Section 10148 of the Business and Professions
15 Code, DICKY shall jointly and severally with WGD pay the sum
16 of \$4,650.42 for the Commissioner's cost of the audit, which
17 to this disciplinary proceeding. Respondents shall pay such
18 cost within forty-five (45) days of receiving an invoice
19 therefore from the Commissioner. The Commissioner may suspend
20 the DICKY's license pending a hearing held in accordance with
21 Section 11500, et seq., of the Government Code, if payment is
22 not timely made as provided for herein, or as provided for in
23 a subsequent agreement between the Respondent and the
24 Commissioner. The suspension shall remain in effect until
25 payment is made in full or until Respondent enters into an
26
27

1 agreement satisfactory to the Commissioner to provide for
2 payment, or until a decision providing otherwise is adopted
3 following a hearing held pursuant to this condition.

4 4) Pursuant to Section 10148 of the Business and Professions
5 Code, DICKY shall jointly and severally with WGD pay the
6 Commissioner's reasonable cost, not to exceed \$4,650.42, for
7 an audit to determine if Respondents have corrected the trust
8 fund violation(s) found in Paragraph I of the Determination of
9 Issues. In calculating the amount of the Commissioner's
10 reasonable cost, the Commissioner may use the estimated
11 average hourly salary for all persons performing audits of
12 real estate brokers, and shall include an allocation for
13 travel time to and from the auditor's place of work.
14 Respondent shall pay such cost within forty-five (45) days of
15 receiving an invoice therefore from the Commissioner detailing
16 the activities performed during the audit and the amount of
17 time spent performing those activities. The Commissioner may
18 suspend DICKY's license pending a hearing held in accordance
19 with Section 11500, et seq., of the Government Code, if
20 payment is not timely made as provided for herein, or as
21 provided for in a subsequent agreement between Respondent and
22 the Commissioner. The suspension shall remain in effect until
23 payment is made in full or until Respondent enters into an
24 agreement satisfactory to the Commissioner to provide for
25 payment, or until a decision providing otherwise is adopted
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1 following a hearing held pursuant to this condition.

2
3 30-May-07

4 DATED

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TRULY SUGHRUE
Counsel for Complainant

* * *

1 I have read the Stipulation and Agreement, discussed it
2 with my counsel, and its terms are understood by me and are
3 agreeable and acceptable to me. I understand that I am waiving
4 rights given to me by the California Administrative Procedure
5 Act, and I willingly, intelligently and voluntarily waive those
6 rights, including the right of requiring the Commissioner to
7 prove the allegations in the Accusation at a hearing at which I
8 would have the right to cross-examine witnesses against me and to
9 present evidence in defense and mitigation of the charges.

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May 24, 2007

DATED

WGD REAL ESTATE SERVICES INC.
William Glenn Dickey
for Respondent

May 24, 2007

DATED

WILLIAM GLENN DICKEY
Respondent

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

3
4 May 24, 2007

5 DATED

Frank M. Buda

FRANK M. BUDA

Attorney for Respondents

6 * * *

7 The foregoing Stipulation and Agreement is hereby
8 adopted as my Decision and shall become effective at 12 o'clock
9 noon on JUL 31 2007

10
11 IT IS SO ORDERED 7-9, 2007.

12 JEFF DAVE
13 Real estate Commissioner

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15 Jeff Dave
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FILED
DEC 15 2008

DEPARTMENT OF REAL ESTATE

By Anne Shaw

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5 Sacramento, CA 95818-7007
6
7
8 Telephone: (916) 227-0781
9

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	No. H 3648 SD
	)	
WGD REAL ESTATE SERVICES INC.	)	<u>ACCUSATION</u>
and WILLIAM GLENN DICKEY,	)	
	)	
Respondent.	)	

15
16 The Complainant, JOSEPH AIU, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against WGD REAL ESTATE SERVICES INC. and WILLIAM GLENN DICKEY
19 (hereinafter "Respondents"), is informed and alleges as follows:

I

20
21 The Complainant, JOSEPH AIU, a Deputy Real Estate
22 Commissioner of the State of California, makes this Accusation in
23 his official capacity.

II

24
25 Respondents are presently licensed and/or has license
26 rights under the Real Estate Law (Part 1 of Division 4 of the
27 Business and Professions Code) (hereinafter "the Code").

1 III

2 At all times herein mentioned, WGD REAL ESTATE SERVICES
3 INC., (hereinafter "WGD") was and is licensed by the State of
4 California Department of Real Estate (hereafter Department)
5 as a real estate broker corporation.

6 IV

7 At all times herein mentioned, Respondent WILLIAM GLENN
8 DICKEY, (hereinafter "DICKEY") was and is licensed by the
9 Department individually and as the designated broker officer of
10 WGD. As said designated officer-broker, DICKEY was and now is
11 responsible pursuant to Section 10159.2 of the Code for the
12 supervision of the activities of the officers, agents, real
13 estate licensees and employees of WGD for which a license is
14 required.

15 V

16 At all times herein mentioned, Respondents were
17 performing acts requiring a real estate license for or in
18 expectation of compensation.

19 VI

20 In acting as a real estate broker, as described in
21 Paragraph V, Respondent accepted or received funds in trust
22 (hereinafter "trust funds") from or on behalf of lenders or
23 investors, borrowers, and others in connection with the
24 solicitation, negotiation, processing, and consummation of
25 mortgage loan investments by Respondent.

26 \\\

VII

The aforesaid trust funds accepted or received by WGD were deposited or caused to be deposited by WGD into on or more bank accounts (hereinafter "trust funds accounts") maintained by WGD for the handling of trust funds, including but not limited to the following:

<u>TITLE AND ACCOUNT NUMBERS</u>	<u>BANK</u>
W.G.D. Real Estate Services Inc. Trust Account Account No. 0100032619 (hereinafter "Trust #1")	Union Bank of California 3261 Sports Arena Blvd. San Diego, CA 92110
W.G.D. Real Estate Services Inc. DBA American Equity Lenders Trust Account Account No. 0952328526 (hereinafter "Trust #2")	Washington Mutual Bank 3609 Midway Drive San Diego, CA 92110

VIII

Between on or about July 1, 2003 through January 31, 2006, in connection with the collection and disbursement of said trust funds WGD:

(a) Failed to maintain a written control record of all trust funds received and disbursed containing all information required by Section 2831 of the Commissioner's Regulations (Title 10 of the Code of Regulations) (hereinafter "the Regulations").

(b) Failed to maintain accurate separate records and accurate owners' statements containing all information required by Section 2831.1 of the Regulations.

(c) Failed to reconcile the balance of separate beneficiary or transaction records with the control records of

1 trust funds received and disbursed, at least once a month,
2 and/or failed to maintain a record of such reconciliations as
3 required by Section 2831.2 of the Regulations.

4 IX

5 WGD failed to provide full written disclosures to all
6 principals that WGD has an interest in the escrows as required by
7 Section 2950(h) of the Regulations.

8 X

9 WGD withdrew or paid money deposited into an escrow
10 account without a written instruction of the party or parties
11 paying the money into escrow in violation of Section 2950(g) of
12 the Regulations.

13 XI

14 As of or about February 28, 2005, WGD negotiated a
15 combination of ten or more qualifying mortgage loan transactions
16 in an aggregate amount of more than one million dollars under
17 Section 10232 of the Code and failed to notify the Department
18 within thirty days thereafter.

19 XII

20 WGD, failed to timely file with the Department of Real
21 Estate within thirty (30) days after the first multi-lender
22 transaction a multi-lender report as required by Section 10238(a)
23 of the Code.

24 XIII

25 WGD, failed to obtain a signed statement regarding the
26 qualification of income or net worth from each lender as required
27 by Section 10238(f) of the Code.

XIV

DICKEY failed to exercise reasonable supervision over the acts of WGD in such a manner as to allow the acts and events described above to occur.

XV

The acts and/or omissions of DICKY described in Paragraph XIV, constitute failure on the part of DICKY, as designated broker-officer for WGD, to exercise reasonable supervision and control over the licensed activities of DICKY required by Section 10159.2 of the Code.

XVI

The facts alleged above are grounds for the suspension or revocation of Respondents licenses and license rights under the following sections of the Code and Regulations:

(1) As to Paragraph VIII(a), under Section 10177(d) of the Code in conjunction with Section 2831 of the Regulations;

(2) As to Paragraph VIII(b), under Section 10177(d) of the Code in conjunction with Section 2831.1 of the Regulations;

(3) As to Paragraph VIII(c), under Section 10177(d) of the Code in conjunction with Section 2831.2 of the Regulations;

(4) As to Paragraph IX, under Section 10177(d) of the Code in conjunction with Section 2950(h) of the Regulations;

(5) As to Paragraph X, under Section 10177(d) of the Code in conjunction with Section 2950(g) of the Regulations;

1 (6) As to Paragraph XI, under Section 10177(d) of the
2 Code in conjunction with Section 10232 of the Code;

3 (7) As to Paragraph XII, under Section 10177(d) of
4 the Code in conjunction with Section 10238(a) of the Code; and

5 (8) As to Paragraph XIII, under Section 10177(d) of
6 the Code in conjunction with Section 10238(f) of the Code.

7 XVII

8 The facts alleged in Paragraphs XIV and XV, are
9 grounds from the suspension or revocation of the licenses and
10 license rights of Respondent DICKY under Sections 10177(g)
11 and/or 10177(h) of the Code, and Section 10177(d) of the Code in
12 conjunction with Section 10159.2 of the Code.

13 WHEREFORE, Complainant prays that a hearing be
14 conducted on the allegations of this Accusation and that upon
15 proof thereof, a decision be rendered imposing disciplinary
16 action against all licenses and license rights of Respondents,
17 under the Real Estate Law (Part 1 of Division 4 of the Business
18 and Professions Code), and for such other and further relief as
19 may be proper under other provisions of law.

20
21
22 JOSEPH AIU
Deputy Real Estate Commissioner

23 Dated at San Diego, California,
24 this 14 day of September, 2006
25
26
27