

1 Department of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

FILED

APR - 6 2010

DEPARTMENT OF REAL ESTATE

[Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

12 CHING-YIN CHANG,)

13 Respondent.)

No. H-3743 SAC

14
15 ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

16 TO: CHING-YIN CHANG, Respondent

17 On September 8, 2003, a restricted real estate broker license was issued by the
18 Department of Real Estate to Respondent on the terms, conditions and restrictions set forth in
19 the Real Estate Commissioner's Order of July 25, 2003, in Case No. H-3743 SAC. This Order
20 provided that the right to a restricted real estate broker license was subject to the provisions of
21 Section 10156.6 of the Business and Professions Code (Code).

22 On February 26, 2010, in Case No. H-5353 SAC, an Accusation by a Deputy
23 Real Estate Commissioner of the State of California was filed charging Respondent with a
24 violation of Section 10145 of the Code in conjunction with Section 10177(d) of the Code;
25 Section 2832.1 of Title 10 of the California Code of Regulations (Regulations) in conjunction
26 with Section 10177(d) of the Code; and Sections 10176(e) and 10176(j) of the Code, for the

27 ///

1 suspension or revocation of all licenses and license rights of Respondent under the Real Estate
2 Law.

3 NOW, THEREFORE, IT IS ORDERED under authority of Section 10156.7 of
4 the Business and Professions Code of the State of California that the restricted real estate
5 salesperson license heretofore issued to Respondent and the exercise of any privileges
6 thereunder is hereby suspended pending a final determination made after the hearing on the
7 aforesaid Accusation.

8 IT IS FURTHER ORDERED that all license certificates and identification cards
9 issued by the Department of Real Estate which are in possession of Respondent be immediately
10 surrendered by personal delivery or by mailing in the enclosed self-addressed envelope to:

11 Department of Real Estate
12 ATTN: Flag Section
13 P.O. Box 187007
Sacramento, CA 95818-7007

14 This Order is effective immediately.

15 DATED: _____

16 
17 JEFF DAVI
18 Real Estate Commissioner
19 
20
21
22
23
24
25
26
27

1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
6

FILED
AUG 18 2003

DEPARTMENT OF REAL ESTATE

By Laurie B. Z...

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

* * *

10 In the Matter of the Accusation of	)	No. H-3743 SAC
	)	
11 CHING-YIN CHANG,	)	OAH NO. N-2003020075
	)	
12 Respondent.	)	<u>STIPULATION AND AGREEMENT</u>

13
14 It is hereby stipulated by and between Respondent
15 CHING-YIN CHANG dba Campus Real Estate and College Town Realty
16 (hereinafter "Respondent"), and Respondent's attorney Maxine
17 Monaghan, and the Complainant, acting by and through David A.
18 Peters, Counsel for the Department of Real Estate, as follows
19 for the purpose of settling and disposing of the Accusation
20 filed on December 20, 2002 in this matter:

21 1. All issues which were to be contested and all
22 evidence which was to be presented by Complainant and
23 Respondent at a formal hearing on the Accusation, which hearing
24 was to be held in accordance with the provisions of the
25 Administrative Procedure Act (APA), shall instead and in place
26 thereof be submitted solely on the basis of the provisions of
27 this Stipulation and Agreement.

H-3743 SAC

- 1 -

STIPULATION OF
CHING-YIN CHANG

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

5 3. On January 8, 2003, Respondent filed a Notice of
6 Defense pursuant to Section 11505 of the Government Code for
7 the purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges that
10 Respondent understands that by withdrawing said Notice of
11 Defense Respondent will thereby waive Respondent's right to
12 require the Commissioner to prove the allegations in the
13 Accusation at a contested hearing held in accordance with the
14 provisions of the APA and that Respondent will waive other
15 rights afforded to Respondent in connection with the hearing
16 such as the right to present evidence in defense of the
17 allegations in the Accusation and the right to cross-examine
18 witnesses.

19 4. This Stipulation is based on the factual
20 allegations contained in the Accusation. In the interests of
21 expedience and economy, Respondent chooses not to contest these
22 allegations, but to remain silent and understands that, as a
23 result thereof, these factual allegations, without being
24 admitted or denied, will serve as a prima facie basis for the
25 disciplinary action stipulated to herein. The Real Estate
26 Commissioner shall not be required to provide further evidence
27 to prove said factual allegations.

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

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

19 7. Respondent understands that by agreeing to this
20 Stipulation and Agreement, Respondent agrees to pay, pursuant
21 to Section 10148 of the Business and Professions Code, the cost
22 of the audit which led to this disciplinary action. The amount
23 of said cost is \$3,774.54.

24 8. Respondent has received, read, and understands
25 the "Notice Concerning Costs of Subsequent Audits". Respondent
26 understands that by agreeing to this Stipulation and Agreement
27 in Settlement, the findings set forth below in the DETERMINATION

1 OF ISSUES become final, and that the Commissioner may charge
2 Respondent for the cost of any audit conducted pursuant to
3 Section 10148 of the Business and Professions Code to determine
4 if the violations have been corrected. The maximum costs of
5 said audit will not exceed \$4,841.40.

6 DETERMINATION OF ISSUES

7 By reason of the foregoing stipulations, admissions
8 and waivers, and solely for the purpose of settlement of the
9 pending Accusation without hearing, it is stipulated and agreed
10 that the following determination of issues shall be made:

11 I

12 The conduct of Respondent CHANG, as described in the
13 Accusation, constitutes cause for the suspension or revocation
14 of the real estate license and license rights of Respondent
15 under the provisions of Section 10177(d) of the California
16 Business and Professions Code ("Code") in conjunction with
17 Sections 10145 of the Code.

18 ORDER

19 A. The real estate broker license and all license
20 rights of Respondent CHING-YIN CHANG under the Real Estate Law
21 are revoked.

22 B. A restricted real estate broker license shall be
23 issued to Respondent pursuant to Business and Professions Code
24 Section 10156.5, if Respondent makes application therefor and
25 pays to the Department the appropriate fee for said license
26 within ninety (90) days from the effective date of this Order.

27 ///

1 C. The restricted license issued to Respondent shall
2 be subject to all the provisions of Section 10156.7 of the
3 Business and Professions Code and to the following limitations,
4 conditions and restrictions imposed under authority of Section
5 10156.6 of said Code:

6 (1) The license shall not confer any property right
7 in the privileges to be exercised, and the Real
8 Estate Commissioner may, by appropriate order
9 suspend the right to exercise any privileges
10 granted under the restricted license in the event
11 of:

12 (a) The conviction of Respondent (including a
13 plea of nolo contendere) to a crime which
14 bears a significant relation to Respondent's
15 fitness or capacity as a real estate
16 licensee; or,

17 (b) The receipt of evidence that Respondent has
18 violated provisions of the California Real
19 Estate Law, Subdivided Lands Law,
20 Regulations of the Real Estate Commissioner
21 or conditions attaching to the restricted
22 license.

23 (2) Respondent shall not be eligible to apply for
24 issuance of an unrestricted real estate license
25 nor the removal of any of the conditions,
26 limitations or restrictions attaching to the
27 restricted license until two (2) years have

1 elapsed from the date of issuance of a restricted
2 license to Respondent.

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

15 E. Respondent shall, within six (6) months from the
16 effective date of the restricted license, take and pass the
17 Professional Responsibility Examination administered by the
18 Department including the payment of the appropriate examination
19 fee. If Respondent fails to satisfy this condition, the
20 Commissioner may order the suspension of the restricted license
21 until Respondent passes the examination.

22 F. Respondent shall, prior to and as a condition of
23 the issuance of the restricted license, submit proof
24 satisfactory to the Commissioner of having taken and
25 successfully completed the continuing education course on trust
26 fund accounting and handling specified in subdivision (a) of
27 Section 10170.5 of the Business and Professions Code. Proof of

1 satisfaction of this requirement includes evidence that
2 respondent has successfully completed the trust fund account and
3 handling continuing education course within 120 days prior to
4 the effective date of the Decision in this matter.

5 G. Pursuant to Section 10148 of the Business and
6 Professions Code, Respondent shall pay the Commissioner's
7 reasonable cost for: a) the audit which led to this
8 disciplinary action, and b) a subsequent audit to determine if
9 Respondent has corrected the trust fund violations found in
10 Paragraph I of the Determination of Issues. In calculating the
11 amount of the Commissioner's reasonable cost, the Commissioner
12 may use the estimated average hourly salary for all persons
13 performing audits of real estate brokers, and shall include an
14 allocation for travel time to and from the auditor's place of
15 work. Respondent shall pay such cost within sixty (60) days of
16 receiving an invoice from the Commissioner detailing the
17 activities performed during the audit and the amount of time
18 spent performing those activities. The Commissioner may suspend
19 the restricted license issued to Respondent pending a hearing
20 held in accordance with Section 11500, et seq., of the
21 Government Code, if payment is not timely made as provided for
22 herein, or as provided for in a subsequent agreement between the
23 Respondent and the Commissioner. The suspension shall remain in
24 effect until payment is made in full or until Respondent enters
25 into an agreement satisfactory to the Commissioner to provide
26 for payment, or until a decision providing otherwise is adopted
27 following a hearing held pursuant to this condition.

1 H. Any restricted real estate broker license issued
2 to Respondent may be suspended or revoked for a violation by
3 Respondent of any of the conditions attaching to the restricted
4 license.

5
6 7/8/03

7 DATED

8 David A. Peters

9 DAVID A. PETERS, Counsel
10 DEPARTMENT OF REAL ESTATE

11 * * *

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

23 6-23-03

24 DATED

25 Ching-Yin Chang

26 CHING-YIN CHANG
27 Respondent

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

30 6/11/03

31 DATED

32 Maxine Monaghan

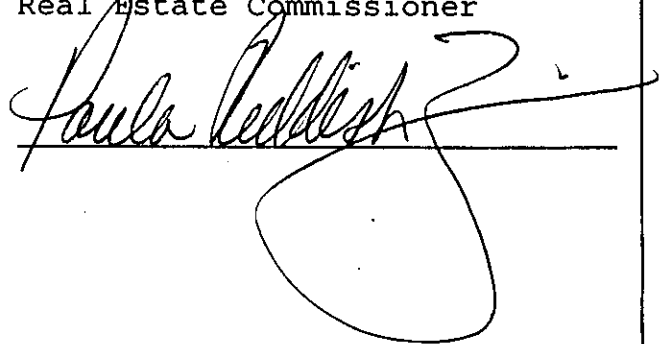
33 MAXINE MONAGHAN
34 Attorney for Respondent

1 * * *

2 The foregoing Stipulation and Agreement for
3 Settlement is hereby adopted by the Real Estate Commissioner as
4 her Decision and Order and shall become effective at 12 o'clock
5 noon on SEPTEMBER 8, 2003.

6 IT IS SO ORDERED July 25, 2003.

7 PAULA REDDISH ZINNEMANN
8 Real Estate Commissioner

9 
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

FILED

FEB 14 2003

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

CHING-YIN CHANG,

Case No. H-3743 SAC

OAH No. N-2003020075

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at **THE OFFICE OF ADMINISTRATIVE HEARINGS, 560 J STREET, SUITE 340/360, SACRAMENTO, CA 95814** on **MONDAY, JUNE 16, 2003**, at the hour of **9:00 A.M.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: FEBRUARY 14, 2003

DEPARTMENT OF REAL ESTATE

By

David A. Peters
DAVID A. PETERS, Counsel

1 DAVID A. PETERS, Counsel (SBN 99528)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789
6 -or- (916) 227-0781 (Direct)
7

FILED
DEC 20 2002

DEPARTMENT OF REAL ESTATE

By Laurel C. Z...

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 CHING-YIN CHANG,) No. H-3743 SAC
13 Respondent.) ACCUSATION
14

15 The Complainant, Charles W. Koenig, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 accusation against CHING-YIN CHANG dba Campus Real Estate and
18 College Town Realty (hereinafter "Respondent") is informed and
19 alleges as follows:

20 I

21 The Complainant, Charles W. Koenig, a Deputy Real
22 Estate Commissioner of the State of California, makes this
23 Accusation in his official capacity.

24 ///

25 ///

26 ///

27 ///

1 II

2 Respondent is licensed and/or has license rights under
3 the Real Estate Law (Part 1 of Division 4 of the Business and
4 Professions Code) (hereinafter "the Code") as a real estate
5 broker.

6 III

7 At all times herein mentioned, Respondent engaged in
8 the business of, acted in the capacity of, advertised or assumed
9 to act as a real estate broker in the State of California,
10 within the meaning of Section 10131(b) of the Code, wherein
11 Respondent for or in expectation of a compensation solicited
12 prospective tenants for, negotiated rental agreements for and
13 collected rents from real properties owned by another or others
14 and otherwise managed real properties located in or near Santa
15 Rosa, California.

16 IV

17 Beginning on or about May 16, 2002, the Department
18 conducted an audit of Respondent's property management
19 activities from the time period October 22, 1999 to May 31, 2002
20 as set forth in Audit No. SC01-0098 dated July 31, 2002. During
21 the course of the property management activities described in
22 Paragraph III above, Respondent received and disbursed funds
23 held in trust on behalf of another or others.

24 V

25 Beginning on or about October 22, 1999 through on or
26 about May 31, 2002, Respondent maintained the following trust
27 fund accounts:

<u>TITLE AND ACCOUNT NUMBERS</u>	<u>BANK</u>
College Town Realty, Checking Account Account No. 07032-04700 (hereinafter "Account #1")	Bank of America Rancho Cordova, Calif.
College Town Realty, Money Maximizer Account Account No. 07034-06444 (hereinafter "Account #2")	Bank of America Rancho Cordova, Calif.

VI

In connection with the receipt and disbursement of trust funds described in Paragraph IV above, Respondent failed to maintain Account #1 and Account #2 in the name of Respondent, or a fictitious name in which Respondent was licensed by the Department, as trustee at a bank or other financial institution in violation of Section 10145 of the Code and Section 2832 of Title 10, California Code of Regulations (hereinafter "Regulations").

VII

In connection with the receipt and disbursement of trust funds described in Paragraph IV above, Respondent failed to deposit and maintain trust funds in Account #1 and Account #2 in such manner that as of March 11, 2002, there was a shortage of \$62,435.70 of trust funds.

VIII

In connection with the receipt and disbursement of trust funds described in Paragraph IV above, Respondent failed to deposit and maintain trust funds in Account #1 and Account #2 in such manner that as of May 31, 2002, there was a shortage of \$27,480.38 of trust funds.

IX

Respondent failed to obtain the prior written consent from each of the principals for the reduction of the aggregate balance of trust funds in said accounts to an amount less than the existing aggregate trust fund liability to the owners of said funds as required by Section 2832.1 of the Regulations.

X

In connection with the receipt and disbursement of trust funds described in Paragraph IV above, Respondent permitted withdrawals to be made from Account #1 and Account #2 by an unlicensed employee not covered by a fidelity bond indemnifying Respondent against loss in an amount sufficient to cover the maximum amount of funds to which the employee had access at any time, in violation of Section 2834 of the Regulations.

XI

In connection with the receipt and disbursement of trust funds described in Paragraph IV above, Respondent failed as to Account #1 and Account #2 to adequately maintain a separate record for each beneficiary or transaction accounting therein for all said trust funds received, deposited, and disbursed in the manner required by Section 2831.1 of the Regulations.

XII

In connection with the receipt and disbursement of trust funds described in Paragraph IV above, Respondent failed as to Account #1 and Account #2 to adequately maintain and

1 perform a reconciliation with the records of all trust funds
2 received and disbursed as required by Section 2831.1 of the
3 Regulations at least once per month, in conformance with Section
4 2831.2 of the Regulations.

5 XIII

6 Within the three year period immediately preceding the
7 filing of this Accusation and continuing through on or about
8 March 21, 2002, in connection with the receipt and disbursement
9 of trust funds described in Paragraph IV above, Respondent
10 commingled said trust funds with Respondent's own money or
11 property in violation of Section 10176(e) of the Code and
12 Section 2835 of the Regulations.

13 XIV

14 Beginning on or about October 22, 1999 and continuing
15 through on or about May 31, 2002, in connection with the receipt
16 and disbursement of trust funds described in Paragraph IV above,
17 Respondent opened, or caused to be opened, Account #1 and
18 Account #2 described in Paragraph V above, as interest bearing
19 accounts. In opening and operating said interest bearing
20 accounts, Respondent failed to comply with the requirements of
21 Section 10145(d) of the Code.

22 XV

23 The facts alleged above, are grounds for the
24 suspension or revocation of Respondent's license and/or license
25 rights under the following sections of the Code and Regulations:

26 ///

27 ///

1 (1) As to Paragraph VI, under Section 10177(d) of the
2 Code in conjunction with Section 10145 of the Code and Section
3 2832 of the Regulations;

4 (2) As to Paragraph VII, under Section 10177(d) of
5 the Code in conjunction with Section 10145 of the Code;

6 (3) As to Paragraph VIII, under Section 10177(d) of
7 the Code in conjunction with Section 10145 of the Code;

8 (4) As to Paragraph IX, under Section 10177(d) of the
9 Code in conjunction with Section 2832.1 of the Regulations;

10 (5) As to Paragraph X, under Section 10177(d) of the
11 Code in conjunction with Section 2834 of the Regulations;

12 (6) As to Paragraph XI, under Section 10177(d) of the
13 Code in conjunction with Section 2831.1 of the Regulations;

14 (7) As to Paragraph XII, under Section 10177(d) of
15 the Code in conjunction with Section 2831.2 of the Regulations;

16 (8) As to Paragraph XIII, under Section 10176(e) of
17 the Code and Section 10177(d) of the Code in conjunction with
18 Section 2835 of the Regulations; and

19 (9) As to Paragraph XIV, under Section 10177(d) of
20 the Code in conjunction with Section 10145(d) of the Code.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

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

Charles W. Koenig
CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 25th day of November, 2002.