

FILED

MAY 28 2010

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

Telephone: (916) 227-0781

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

RUTH ANN PUGH,

Respondent.

No. H-3862 SD

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between RUTH ANN PUGH (hereafter
"Respondent"), 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 September 23, 2008 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 submitted solely on the basis of the provisions of this
Stipulation and Agreement.

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

4 3. Respondent 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 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
7 acknowledges that she understands that by withdrawing said Notice of Defense she will thereby
8 waive her rights to require the Commissioner to prove the allegations in the Accusation at a
9 contested hearing held in accordance with the provisions of the APA, and that she will waive
10 other rights afforded to her in connection with the hearing such as the right to present evidence in
11 defense of the allegations in the Accusation and the right to cross-examine witnesses.
12

13 4. This stipulation is based on the factual allegations contained in the Accusation.
14 In the interest of expediency and economy, Respondent chooses not to contest these factual
15 allegations, but to remain silent and understands that, as a result thereof, these factual statements
16 will serve as a prima facie basis for the "Determination of Issues" and "Order" set forth below.
17 The Real Estate Commissioner shall not be required to provide further evidence to prove such
18 allegations.
19

20 5. This Stipulation and Respondent's decision not to contest the Accusation are
21 made for the purpose of reaching an agreed disposition of this proceeding and are expressly
22 limited to this proceeding and any other proceeding or case in which the Department of Real
23 Estate (herein "the Department"), the state or federal government, an agency of this state, or an
24 agency of another state is involved.
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1 6. It is understood by the parties that the Real Estate Commissioner may adopt
2 the Stipulation and Agreement as his decision in this matter thereby imposing the penalty and
3 sanctions on the real estate licenses and license rights of Respondent as set forth in the below
4 "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and
5 Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing
6 and proceeding on the Accusation under all the provisions of the APA and shall not be bound by
7 any admission or waiver made herein.
8

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

14 * * *

15 DETERMINATION OF ISSUES

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

20 I

21 The acts and omissions of Respondent as described in the Accusation are
22 grounds for the suspension or revocation of Respondent's licenses and license rights under
23 Section 10177(g) of the Code.

24 \\

25 \\

26 \\

ORDER

I

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

1) Fifteen (15) days of said suspension shall be stayed for one (1) year upon the following terms

and conditions:

a) 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,

b) That no final subsequent determination be made, after hearing or upon stipulation, that

cause for disciplinary action occurred within one (1) year from the effective date of this 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.

4-21-10

DATED

for John Van Driel
TRULY SUGHRUE
Counsel for Complainant

I have read the Stipulation and Agreement, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act, and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the

1 Accusation at a hearing at which I would have the right to cross-examine witnesses against me
2 and to present evidence in defense and mitigation of the charges.
3

4
5 DATED

RUTH ANN PUGH
Respondent

6 ***

7 *I have reviewed the Stipulation and Agreement as to form and content and have*
8 *advised my client accordingly.*
9

10
11 DATED

4/16/10
SUSAN WHITE
Attorney for Respondent

12 ***

13 The foregoing Stipulation and Agreement is hereby adopted as my Decision and
14 shall become effective at 12 o'clock noon on _____, 2010.
15

16 IT IS SO ORDERED _____, 2010.

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18 JEFF DAVI
Real estate Commissioner
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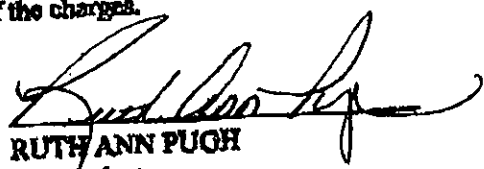
TAYLOR & WHITE, LLP

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ORE LEGAL/RECOVERY

1 Accusation at a hearing at which I would have the right to cross-examine witnesses against me
2 and to present evidence in defense and mitigation of the charges.

3
4 4-16-10
5 DATED
6 RUTH ANN PUGH
7 Respondent

8 ***

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

11 DATED


12 SUSAN WHITE
13 Attorney for Respondent

14 ***

15 The foregoing Stipulation and Agreement is hereby adopted as my Decision and
16 shall become effective at 12 o'clock noon on JUN 14 2010

17 IT IS SO ORDERED

5/12

, 2010.

18 JEFF DAVI
19 Real estate Commissioner
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1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6 Telephone: (916) 227-0781

FILED

SEP 23 2008

DEPARTMENT OF REAL ESTATE

By B. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of
12
13 RUTH ANN PUGH
14 Respondent.

) No. H-3862 SD
)
) ACCUSATION
)

15 The Complainant, JOSEPH AIU, a Deputy Real Estate Commissioner of the State
16 of California, for cause of Accusation against RUTH ANN PUGH, (hereinafter "Respondent"), is
17 informed and alleges as follows:

18 I

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

21 II

22 Respondent is presently licensed and/or have license rights under the Real Estate
23 Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "Code").

24 III

25 At all times mentioned, Respondent was and is licensed by the Department as a
26 real estate salesperson.

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1 IV

2 At all times mentioned, Respondent engaged in the business of, acted in the
3 capacity of, advertised or assumed to act as real estate brokers in the State of California within
4 the meaning of Section 10131(a) of the Code, including the operation and conduct of a real estate
5 resale brokerage with the public wherein, on behalf of others, for compensation or in expectation
6 of compensation, Respondent sold and offered to sell, bought and offered to buy, solicited
7 prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the
8 purchase and resale of real property.

9 V

10 Between on or about April 26, 2005 and November 1, 2005, Respondent, acting
11 as an agent of Christopher Kirchwehm and Thalia Sparkuhl-Kirchwehm (hereinafter
12 "Kirchwehm") as purchaser, solicited and obtained a written agreement to purchase residential
13 real property at 3915 Nobel Drive, Unit #2, San Diego, California (hereinafter "Unit 2"). In order
14 to induce Kirchwehm to purchase Unit 2 Respondent failed to disclose and/or concealed water
15 damage occurring to the unit on or about October 2005.

16 VI

17 Between on or about April 29, 2005 and November 1, 2005, Respondent, acting
18 as an agent of Erik Lee Jorissen (hereinafter "Jorissen") as purchaser, solicited and obtained a
19 written agreement to purchase residential real property at 3915 Nobel Drive, Unit #8, San Diego,
20 California (hereinafter "Unit 8"). In order to induce Jorissen to purchase Unit 8 Respondent
21 failed to disclose and/or concealed water damage occurring to the unit on or about October 2005.

22 VII

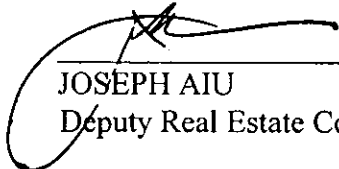
23 The acts and omissions of Respondent described in above constitutes fraud and/or
24 dishonest dealing, and constitutes cause to suspend or revoke all licenses and license rights of
25 Respondent pursuant to the provisions of Sections 10176(a), 10176(i), and/or 10177(j) of the
26 Code.

27 ///

VIII

In the alternative, Respondent's conduct above constitutes negligence or incompetence in performing acts requiring a real estate license, and is cause under Section 10177(g) of the Code for suspension or revocation of all licenses and license rights of Respondent.

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 Respondents 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.


JOSEPH AIU
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 18 day of September, 2008