

FILED

SEP 10 2014

BUREAU OF REAL ESTATE

By

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

DRE No: H-04605 SD

OA# No: 2014040732

HOLLY A. WU,

Respondent .

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between HOLLY A. WU and the Complainant, acting by and through James A. Demus, Counsel for the Bureau of Real Estate (Bureau), as follows for the purpose of settling and disposing of the Accusation in this matter, filed on March 25, 2014:

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

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

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

7 3. Respondent filed a Notice of Defense pursuant to
8 Section 11506 of the Government Code for the purpose of
9 requesting a hearing on the allegations in the Accusation.
10 Respondent hereby freely and voluntarily withdraws said Notice of
11 Defense. Respondent acknowledges that she understands that by
12 withdrawing said Notice of Defense, she thereby waives her right
13 to require the Commissioner to prove the allegations in the
14 Accusation at a contested hearing held in accordance with the
15 provisions of the APA and that she will waive other rights
16 afforded to her in connection with the hearing such as the right
17 to present evidence in her defense 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 interest 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 admitted
24 or denied, will serve as a prima facie basis for the disciplinary
25 action stipulated to herein. The Real Estate Commissioner shall
26 not be required to provide further evidence to prove said factual
27 allegations.

1 5. This Stipulation is based on Respondent's decision
2 not to contest the allegations set forth in the Accusation as a
3 result of the agreement negotiated between the parties. This
4 Stipulation is expressly limited to this proceeding and any
5 further proceeding initiated by or brought before the Bureau of
6 Real Estate based upon the factual allegations in the Accusation
7 and is made for the sole purpose of reaching an agreed
8 disposition of this proceeding. The decision of Respondent not
9 to contest the allegations contained in the "Order" herein below,
10 is made solely for the purpose of effectuating this Stipulation.
11 It is the intent and understanding of the parties that this
12 Stipulation shall not be binding or admissible against
13 Respondents in any action against Respondent by third parties.

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

24 7. The Order or any subsequent Order of the Real
25 Estate Commissioner made pursuant to this Stipulation shall not
26 constitute an estoppel, merger or bar to any further
27 administrative or civil proceedings by the Bureau of Real Estate

1 with respect to any matters which were not specifically alleged
2 to be causes for accusation in this proceeding.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations and solely for
5 the purpose of settlement of the Accusation without a hearing, it
6 is stipulated and agreed that the following determination of
7 issues shall be made:

8 The conduct of HOLLY A. WU, as described in Paragraph
9 4, above, provides a basis for discipline of HOLLY A. WU's
10 license and license rights pursuant to Sections 10137 and
11 10177(d) of the Code.

12 ORDER

13 WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT TO THE
14 WRITTEN STIPULATION OF THE PARTIES:

15 I.

16 All licenses and licensing rights of Respondent
17 HOLLY A. WU under the Real Estate Law are suspended for a
18 period of ninety (90) days from the effective date of this
19 Decision; provided, however, that ninety (90) days of said
20 suspension, shall be stayed for two (2) years upon the
21 following terms and conditions:

22 1. Respondent shall obey all laws, rules and
23 regulations governing the rights, duties and responsibilities of
24 a real estate licensee in the State of California; and

25 2. That no final subsequent determination be made,
26 after hearing or upon stipulation that cause for disciplinary
27 action occurred within two (2) years of the effective date of

1 this Decision. Should such a determination be made, the
2 Commissioner may, in his discretion, vacate and set aside the
3 stay order and reimpose all or a portion of the stayed
4 suspension. Should no such determination be made, the stay
5 imposed herein shall become permanent.

6 II.

7 Respondent HOLLY A. WU shall within six (6) months from
8 the effective date of the Decision herein, take and pass the
9 Professional Responsibility Examination administered by the
10 Bureau including the payment of the appropriate examination fee.
11 If Respondent fails to satisfy this condition, the Commissioner
12 may order suspension of Respondent HOLLY A. WU's license until
13 Respondent passes the examination.

14 III.

15 Respondent HOLLY A. WU shall, within 30 days of the
16 effective of the Decision herein, provide proof of paying
17 restitution of \$900 to Margo Heisner as follows:

18 (a) Respondent shall deliver or mail the restitution
19 payment, by certified mail, return receipt requested, to Ms.
20 Heisner's last address on file with, or known to Respondent.

21 (b) If a payment is returned by the Post Office marked
22 "unable to deliver," Respondent shall employ a locator service
23 (that may include or be limited to the Internet or other database
24 retrieval search) to try and locate Ms. Heisner. Repayment shall
25 then be made to the addresses recommended by the locator service.

26 (c) If unable to effect repayment after using a locator
27 service, Respondent shall provide reasonable proof satisfactory

1 to the Commissioner of her efforts to comply with the provisions
2 of this Paragraph.

3 (d) If the Commissioner determines that proof to be
4 unsatisfactory, he shall so advise Respondent, and indicate what
5 additional reasonable efforts should be made to make repayment.

6 (e) If Respondent fails to satisfy this condition, the
7 Commissioner may order suspension of Respondent's license until
8 Respondent effects compliance herein; and

9 (f) Restitution payments not made to Ms. Heisner shall
10 escheat to the State of California.

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12
13 DATED: 8/19/14

James A. Demus
14 JAMES A. DEMUS, Counsel for
15 the Bureau of Real Estate

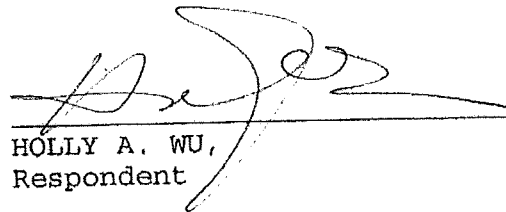
16 EXECUTION OF THE STIPULATION

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

27 Respondent can signify acceptance and approval of the

1 terms and conditions of this Stipulation by faxing a copy of the
2 signature page, as actually signed by Respondents, to the Bureau
3 at the following telephone/fax number: James A. Demus at (213)
4 576-6917. Respondent agrees, acknowledges and understands that
5 by electronically sending to the Bureau a fax copy of
6 Respondent's actual signature as it appears on the Stipulation,
7 that receipt of the faxed copy by the Bureau shall be as binding
8 on Respondent as if the Bureau had received the original signed
9 Stipulation.

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11 DATED: 8/18/14


HOLLY A. WU,
Respondent

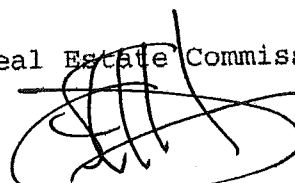
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15 The foregoing Stipulation and Agreement is hereby
16 adopted as my Decision as to Respondent HOLLY A. WU and shall
17 become effective at 12 o'clock noon on September 30, 2014,

18 SEP 04 2014

19 IT IS SO ORDERED _____

20 Real Estate Commissioner

21 
22 By: JEFFREY MASON
23 Chief Deputy Commissioner
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