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FILED

JUN 26 2019

DEPT. OF REAL ESTATE

By *[Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	No. H-05020 SD
)	
SAN DIEGO REALTY AND)	<u>STIPULATION AND AGREEMENT</u>
APPRAISAL INC and)	
TINA MARIE ETUE,)	
individually and as designated officer of)	
San Diego Realty and Appraisal Inc,)	
)	
Respondents.)	

It is hereby stipulated by and between Respondents SAN DIEGO REALTY AND APPRAISAL INC and TINA MARIE ETUE ("Respondents"), represented by Frank Buda, and the Complainant, acting by and through Steve Chu, Counsel for the Department of Real Estate ("Department"), as follows for the purpose of settling and disposing of the Accusation filed on September 10, 2018, in this matter:

- 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 ("Stipulation").

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

4 3. On September 18, 2018, Respondents filed a Notice of Defense pursuant
5 to Section 11506 of the Government Code for the purpose of requesting a hearing on the
6 allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notice
7 of Defense. Respondents acknowledge that Respondents understand that by withdrawing said
8 Notice of Defense, Respondents will thereby waive Respondents' right to require the Real
9 Estate Commissioner ("Commissioner") to prove the allegations in the Accusation at a
10 contested hearing held in accordance with the provisions of the APA and that Respondents will
11 waive other rights afforded to Respondents in connection with the hearing such as the right to
12 present evidence in defense of the allegations in the Accusation and the right to cross-examine
13 witnesses.

14 4. Respondents, pursuant to the limitations set forth below, hereby admit
15 that the factual allegations in the Accusation filed in this proceeding are true and correct and the
16 Commissioner shall not be required to provide further evidence to prove such allegations.

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

24 6. The Order or any subsequent Order of the Commissioner made pursuant
25 to this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or
26 civil proceedings by the Department with respect to any matters which were not specifically
27 alleged to be causes for the Accusation in this proceeding.

1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions, and waivers, and solely for
3 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and
4 agreed that the following Determination of Issues shall be made:

5 I.

6 The conduct, acts, and/or omissions of Respondent SAN DIEGO REALTY
7 AND APPRAISAL INC., as described in the Accusation, constitute cause for the suspension or
8 revocation of all real estate licenses and license rights of Respondent SAN DIEGO REALTY
9 AND APPRAISAL INC under California Business and Professions Code (“Code”)
10 sections 10177(d) and 10177(g) for violation of Code section 10145 and Title 10, Chapter 6,
11 California Code of Regulations (“Regulations”) sections 2831, 2831.1, 2831.2, 2832, 2832.1,
12 and 2834.

13 II.

14 The conduct, acts, and/or omissions of Respondent TINA MARIE ETUE, as
15 described in the Accusation, constitute cause for the suspension or revocation of all real estate
16 licenses and license rights of Respondent TINA MARIE ETUE under Code sections 10177(d),
17 10177(g), and 10177(h) for violation of Code section 10159.2.

18 ORDER

19 I.

20 All licenses and licensing rights of Respondent SAN DIEGO REALTY AND
21 APPRAISAL INC under the Real Estate Law are suspended for a period of one hundred twenty
22 (120) days from the effective date of this Decision and Order; provided, however, that:

23 1. Sixty (60) days of said suspension shall be stayed, upon the condition
24 that Respondent petitions pursuant to Code Section 10175.2 and pays a monetary penalty
25 pursuant to Code Section 10175.2 at a rate of fifty dollars (\$50) for each day of the suspension
26 for a total monetary penalty of \$3,000, and upon the following terms and conditions:

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

b. No final determination be made after hearing or upon stipulation that cause for disciplinary against any of the real estate licenses or license rights of Respondent occurred within two (2) years from the effective date of this Decision and Order.

c. If Respondent fails to pay the monetary penalty in accordance with the terms and conditions of this Decision and Order, the suspension shall go into effect automatically. Respondent shall not be entitled to any repayment or credit, prorated or otherwise, for any money paid to the Department under the terms of this Decision and Order.

d. If Respondent pays the monetary penalty and all other money due under this Stipulation and Agreement and if no final determination be made after hearing or upon stipulation that cause for disciplinary against any of the real estate licenses or license rights of Respondent occurred within two (2) years from the effective date of this Decision and Order, then the entire stay hereby granted pursuant to this Decision and Order shall become permanent.

2. Sixty (60) days of said suspension shall be stayed for two (2) years 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.

1 b. No final determination be made after hearing or upon stipulation
2 that cause for disciplinary against any of the real estate licenses or
3 license rights of Respondent occurred within two (2) years from the
4 effective date of this Decision and Order. Should such a
5 determination be made, the Commissioner may, in his discretion,
6 vacate and set aside the stay order and reimpose all or a portion of the
7 stayed suspension. Should no such determination be made, the stay
8 imposed herein shall become permanent.

9 3. All licenses and licensing rights of Respondent SAN DIEGO REALTY
10 AND APPRAISAL INC are indefinitely suspended unless or until Respondent SAN DIEGO
11 REALTY AND APPRAISAL INC pays, jointly and severally with Respondent TINA MARIE
12 ETUE, the sum of \$8,401.22 for the Commissioner's cost of the audit which led to this
13 disciplinary action pursuant to Code section 10148. Respondent SAN DIEGO REALTY AND
14 APPRAISAL INC shall pay such cost within sixty (60) days of receiving an invoice therefore
15 from the Commissioner. Said payment shall be in the form of a cashier's check made payable
16 to the Department of Real Estate. The audit cost must be delivered to the Department of Real
17 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.

18 4. All licenses and licensing rights of Respondent SAN DIEGO REALTY
19 AND APPRAISAL INC are indefinitely suspended unless or until Respondent SAN DIEGO
20 REALTY AND APPRAISAL INC pays, jointly and severally with Respondent TINA MARIE
21 ETUE, the sum of \$2,603.80 for the Commissioner's reasonable cost of the investigation and
22 enforcement which led to this disciplinary action. Said payment shall be in the form of a
23 cashier's check made payable to the Department of Real Estate. The investigative and
24 enforcement costs must be delivered to the Department of Real Estate, Flag Section at
25 P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and
26 Order.

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b. No final determination be made after hearing or upon stipulation that cause for disciplinary against any of the real estate licenses or license rights of Respondent occurred within two (2) years from the effective date of this Decision and Order.

c. If Respondent fails to pay the monetary penalty in accordance with the terms and conditions of this Decision and Order, the suspension shall go into effect automatically. Respondent shall not be entitled to any repayment or credit, prorated or otherwise, for any money paid to the Department under the terms of this Decision and Order.

d. If Respondent pays the monetary penalty and all other money due under this Stipulation and Agreement and if no final determination be made after hearing or upon stipulation that cause for disciplinary against any of the real estate licenses or license rights of Respondent occurred within two (2) years from the effective date of this Decision and Order, then the entire stay hereby granted pursuant to this Decision and Order shall become permanent.

2. Sixty (60) days of said suspension shall be stayed for two (2) years 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.

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1 b. No final determination be made after hearing or upon stipulation
2 that cause for disciplinary against any of the real estate licenses or
3 license rights of Respondent occurred within two (2) years from the
4 effective date of this Decision and Order. Should such a
5 determination be made, the Commissioner may, in his discretion,
6 vacate and set aside the stay order and reimpose all or a portion of the
7 stayed suspension. Should no such determination be made, the stay
8 imposed herein shall become permanent.

9 3. All licenses and licensing rights of Respondent are indefinitely
10 suspended unless or until Respondent provides proof satisfactory to the Commissioner of
11 having taken and successfully completed the continuing education course on trust fund
12 accounting and handling specified in Code section 10170.5(a)(3). Proof of satisfaction of this
13 requirement includes evidence that Respondent has successfully completed the trust fund
14 accounting and handling continuing education course within one hundred twenty (120) days
15 prior to the effective date of this Decision and Order. Proof of completion of the trust fund
16 accounting and handling course must be delivered to the Department of Real Estate,
17 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of
18 this Decision and Order.

19 4. All licenses and licensing rights of Respondent TINA MARIE ETUE are
20 indefinitely suspended unless or until Respondent TINA MARIE ETUE pays, jointly and
21 severally with Respondent SAN DIEGO REALTY AND APPRAISAL INC, the sum of
22 \$8,401.22 for the Commissioner's cost of the audit which led to this disciplinary action
23 pursuant to Code section 10148. Respondent TINA MARIE ETUE shall pay such cost within
24 sixty (60) days of receiving an invoice therefore from the Commissioner. Said payment shall
25 be in the form of a cashier's check made payable to the Department of Real Estate. The audit
26 cost must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013,
27 Sacramento, CA 95813-7013.

1 5. All licenses and licensing rights of Respondent TINA MARIE ETUE are
2 indefinitely suspended unless or until Respondent TINA MARIE ETUE pays, jointly and
3 severally with Respondent SAN DIEGO REALTY AND APPRAISAL INC, the sum of
4 \$2,603.80 for the Commissioner's reasonable cost of the investigation and enforcement which
5 led to this disciplinary action. Said payment shall be in the form of a cashier's check made
6 payable to the Department of Real Estate. The investigative and enforcement costs must be
7 delivered to the Department of Real Estate, Flag Section at P.O. Box 137013,
8 Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.

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10 DATED: 5-16-2019



Steve Chu, Counsel
Department of Real Estate

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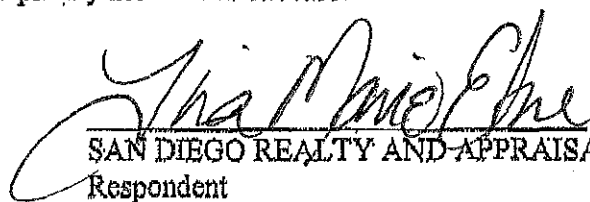
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I have read the Stipulation and Agreement. I understand that I am waiving rights given to me by the California Administrative Procedure Act, (including but not limited to Sections 11521 and 11523 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right to seek reconsideration and the right to seek judicial review of the Commissioner's Decision and Order by way of a writ of mandate.

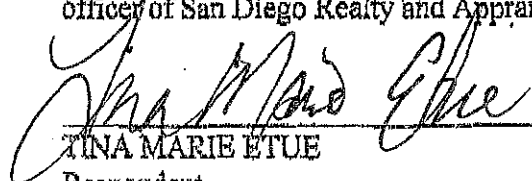
I agree, acknowledge, and understand that I cannot rescind or amend this Stipulation and Agreement.

I can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by mailing the original signed Stipulation and Agreement to: Steve Chu, Department of Real Estate, 320 West 4th Street, Suite 350, Los Angeles, California 90013-1105. Steve Chu must receive the original signed Stipulation and Agreement or a copy faxed to (213) 576-6917 by May 13, 2019; if not, this Stipulation and Agreement is invalid and void because the sum for the Commissioner's reasonable cost of the investigation and enforcement which led to this disciplinary action will increase.


DATED: 5/15/19


SAN DIEGO REALTY AND APPRAISAL, INC
Respondent
By TINA MARIE ETUE, as designated
officer of San Diego Realty and Appraisal Inc

DATED: 5/15/19


TINA MARIE ETUE
Respondent

DATED: 5-15-19


Frank Buda
Counsel for Respondents
Approved as to Form

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The foregoing Stipulation and Agreement is hereby adopted by me as my
Decision in this matter as to Respondents SAN DIEGO REALTY AND APPRAISAL INC and
TINA MARIE ETUE, and shall become effective at 12 o'clock noon on
July 26, 2019.

IT IS SO ORDERED June 21, 2019

DANIEL J. SANDRI
ACTING REAL ESTATE COMMISSIONER

