

1 Department of Real Estate
2 320 W. 4th Street, Suite 350
3 Los Angeles, CA 90013-1105
4 Telephone: (213) 576-6982

FILED

JUL 23 2019

DEPT. OF REAL ESTATE

By *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of
12 SUN YU KIM,
13 Respondent.

) No. H-05051 SD
) OAH No. 2019050093
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STIPULATION AND AGREEMENT

16 It is hereby stipulated by and between Respondent SUN YU KIM, acting by and
17 through her attorney, Frank M. Buda, Esq. and the Complainant, acting by and through Judith B.
18 Vasan, Counsel for the Department of Real Estate, as follows for the purpose of settling and
19 disposing of the Accusation ("Accusation") filed on February 26, 2019, in this matter:

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

25 2. Respondent has received, read and understands the Statement to Respondent,
26 the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate
27 ("Department") in this proceeding.

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1 3. Respondent filed a Notice of Defense pursuant to Section 11506 of the
2 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
3 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
4 acknowledges that she understands that by withdrawing said Notice of Defense Respondent
5 thereby waives her right to require the Commissioner to prove the allegations in the Accusation
6 at a contested hearing held in accordance with the provisions of the APA and that Respondent
7 will waive other rights afforded to her in connection with the hearing such as the right to present
8 evidence in her defense, and the right to cross-examine witnesses.

9 4. This Stipulation is based on the factual allegations contained in the
10 Accusation. In the interest of expedience and economy Respondent chooses not to contest these
11 allegations but to remain silent and understands that, as a result thereof, these factual allegations,
12 without being admitted or denied, will serve as a prima facie basis for the disciplinary action
13 stipulated to herein. The Real Estate Commissioner shall not be required to provide evidence to
14 prove said factual allegations.

15 5. This Stipulation is made for the purpose of reaching an agreed disposition of
16 this proceeding and is expressly limited to this proceeding and not any other proceeding or case
17 in which the Department, or another licensing agency of this state, another state, or the federal
18 government is involved, and otherwise shall not be admissible in any criminal or civil
19 proceeding.

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

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

5 DETERMINATION OF ISSUES

6 By reason of the foregoing, it is stipulated and agreed that the following
7 determination of issues shall be made:

8 The conduct, acts or omissions of Respondent SUN YU KIM as set forth in the
9 Accusation, is a basis for discipline of Respondent's licenses and license rights pursuant to the
10 Real Estate Law, Part 1 of Division 4 of the Business and Professions Code section 10177(g)
11 (negligence or incompetence).

12 ORDER

13 WHEREFORE, THE FOLLOWING ORDER is hereby made:

14 I.

15 All licenses and licensing rights of Respondent SUN YU KIM under the Real
16 Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be
17 issued to Respondent pursuant to Section 10156.5 of the Code if Respondent makes application
18 therefor and pays to the Department the appropriate fee for the restricted license within 90 days
19 from the effective date of this Decision and Order. The restricted license issued to Respondent
20 shall be subject to all of the provisions of Section 10156.7 of the Code and to the following
21 limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

22 1. The restricted license issued to Respondent may be suspended prior to hearing
23 by Order of the Commissioner in the event of Respondent's conviction or plea of nolo
24 contendere to a crime which is substantially related to Respondent's fitness or capacity as a real
25 estate licensee.

26 2. The restricted license issued to Respondent may be suspended prior to hearing
27 by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that

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1 Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
2 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted
3 license.

4 3. Respondent shall not be eligible to petition for the issuance of any unrestricted
5 real estate license nor for removal of any of the conditions, limitations or restrictions of a
6 restricted license until two (2) years have elapsed from the effective date of this Decision and
7 Order. Respondent shall not be eligible to apply for any unrestricted licenses until all restrictions
8 attaching to the license have been removed

9 4. Respondent shall submit with any application for license under an employing
10 broker, or any application for transfer to a new employing broker, a statement signed by the
11 prospective employing real estate broker on a form approved by the Department which shall
12 certify:

13 (a) That the employing broker has read the Decision of the Commissioner which
14 granted the right to a restricted license; and

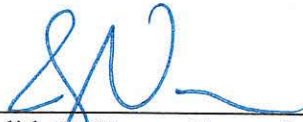
15 (b) That the employing broker will exercise close supervision over the
16 performance by the restricted licensee relating to activities for which a real estate license is
17 required.

18 5. Respondent shall, within nine (9) months from the effective date of this
19 Decision and Order, present evidence satisfactory to the Commissioner that Respondent has,
20 since the most recent issuance of an original or renewal real estate license, taken and successfully
21 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
22 Law for renewal of a real estate license. If Respondent fails to satisfy this condition,
23 Respondent's real estate license shall automatically be suspended until Respondent presents
24 evidence satisfactory to the Commissioner of having taken and successfully completed the
25 continuing education requirements. Proof of completion of the continuing education courses
26 must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013,
27 Sacramento, CA 95813-7013.

II.

All licenses and licensing rights of Respondent are indefinitely suspended unless
or until Respondent pays the sum of \$2,104.45 for the Commissioner's reasonable costs of the
investigation and enforcement, which led to this disciplinary action. Said payment shall be in
the form of a cashier's check made payable to the Department of Real Estate. The investigative
and enforcement costs 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.

DATED: 6-21-2019


Judith B. Vasan, Counsel for
Department of Real Estate

* * *

EXECUTION OF THE STIPULATION

I have read the Stipulation, 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 (including but not limited to Sections 11506, 11508, 11509 and
11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights,
including the right of requiring the Commissioner to prove the allegations in the Accusation at a
hearing at which I would have the right to cross-examine witnesses against me and to present
evidence in defense and mitigation of the charges.

Respondent shall mail the original signed signature page of the stipulation herein
to Judith B. Vasan, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St.,
Suite 350, Los Angeles, California 90013-1105.

In the event of time constraints before an administrative hearing, Respondent can
signify acceptance and approval of the terms and conditions of this Stipulation and Agreement
by emailing a scanned copy of the signature page, as actually signed by Respondent, to the
Department counsel assigned to this case. Respondent agrees, acknowledges, and understands

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1 that by electronically sending the Department a scan of Respondent's actual signature as it
2 appears on the Stipulation and Agreement that receipt of the scan by the Department shall be
3 binding on Respondent as if the Department had received the original signed Stipulation and
4 Agreement.

5 Respondent's signature below constitutes acceptance and approval of the terms
6 and conditions of this Stipulation. Respondent agrees, acknowledges and understands that by
7 signing this Stipulation, Respondent is bound by its terms as of the date of such signatures and
8 that this agreement is not subject to rescission or amendment at a later date except by a separate
9 Decision and Order of the Real Estate Commissioner.

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11 DATED: 6/20/2019


SUN YU KIM
Respondent

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14 DATED: 6-20-19


Frank M. Buda, Esq.
Counsel for Respondent
Approved as to Form

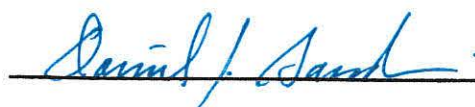
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17 * * *

18 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
19 Respondent SUN YU KIM and shall become effective at 12 o'clock noon on

20 AUG 12 2019

21 IT IS SO ORDERED July 16, 2019

22
23 DANIEL J. SANDRI
24 ACTING REAL ESTATE COMMISSIONER

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