

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

4 Telephone: (916) 227-0781

FILED

OCT - 7 2010

DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)

CHING-YIN CHANG,)

Respondent.)

No. H-5353 SAC

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between CHING-YIN CHANG (hereinafter "Respondent"), and his attorney Louis Gonzalez, 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 February 26, 2010 in this matter:

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 submitted solely on the basis of the provisions of this Stipulation and Agreement.

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

3. Respondent filed a Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent

1 acknowledges that he understands that by withdrawing said Notice of Defense he will thereby
2 waive his right to require the Commissioner to prove the allegations in the Accusation at a
3 contested hearing held in accordance with the provisions of the APA, and that he will waive
4 other rights afforded to him in connection with the hearing such as the right to present evidence
in defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

10 5. This Stipulation and Respondent's decision not to contest the Accusation
11 are made for the purpose of reaching an agreed disposition of this proceeding and are expressly
12 limited to this proceeding and any other proceeding or case in which the Department of Real
13 Estate (herein "the Department"), the state or federal government, an agency of this state, or an
14 agency of another state is involved.

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

21 7. Respondent understands that by agreeing to this Stipulation and
22 Agreement, Respondent agrees to pay, pursuant to Section 10148 of the California Business and
23 Professions Code (the Code), the cost of the audit which resulted in the determination that
24 Respondent committed the trust fund violation(s) found in Paragraph I, below, of the
25 Determination of Issues. The amount of said costs is \$3,942.71.

26 8. Respondent further understands that by agreeing to this Stipulation and
27 Agreement in Settlement, the findings set forth below in the Determination of Issues become

1 final, and that the Commissioner may charge said Respondent for the costs of any audit
2 conducted pursuant to Section 10148 of the Code to determine if the violations have been
3 corrected. The maximum costs of said audit shall not exceed \$3,942.71.

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

8 10. As part of this Stipulation, the Real Estate Commissioner agrees not to
9 seek a Bar Order, pursuant to Section 10087 of the Code, in connection with the present matter.

10 11. As part of this Stipulation, the Real Estate Commissioner agrees to allow
11 real estate broker Eugene Chang, license number 01784018, to add the fictitious business name
12 "College Town Realty" to his license.

13 * * *

14 DETERMINATION OF ISSUES

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

18 I

19 The acts and omissions of Respondent as described in the Accusation are
20 grounds for the suspension or revocation of Respondent licenses and license rights under the
21 following sections of the Code and Regulations:

22 (1) As to Paragraphs 6(a), under Section 10177(d) of the Code in conjunction
23 with Section 10145 of the Code;

24 (2) As to Paragraph 6(b), under Section 10177(d) of the Code in conjunction
25 with Section 2832.1 of the Commissioner's Regulations (Title 10 of the California Code of
26 Regulations);

27 (3) As to Paragraph 6(c), under Section 10176(e) of the Code; and

(4) As to Paragraph 7, under Section 10176(j) of the Code.

* * *

ORDER

- 1 A. All real estate license(s) and license rights of Respondent CHING-YIN CHANG are
2 revoked.
- 3 B. A restricted real estate broker license shall be issued to Respondent pursuant to Section
4 10156.6 of the Code if within ninety (90) days of the effective date of the Order,
5 Respondent makes application therefore and pays to the Department the appropriate fee for
6 said license.
- 7 C. The restricted license issued to Respondent shall be subject to all of the provisions of
8 Section 10156.7 of the Code and to the following conditions and limitations imposed under
9 authority of Section 10156.6 of said Code:
- 10 1) Respondent shall, prior to and as a condition of the issuance of said restricted license,
11 submit proof satisfactory to the Commissioner of having cured the shortage alleged in
12 Paragraph 6(a) of the Accusation.
- 13 2) Respondent shall, prior to and as a condition of the issuance of said restricted license,
14 submit proof satisfactory to the Real Estate Commissioner of having taken and
15 completed the continuing education course on trust fund accounting and handling
16 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code from an
17 approved continuing education course provider. Said course may have been
18 completed within one hundred and eighty (120) days prior to the effective date of the
19 order herein.
- 20 3) The restricted license issued to Respondent may be suspended prior to hearing by
21 order of the Real Estate Commissioner in the event of Respondent's conviction or plea
22 of nolo contendere to a crime which bears a substantial relationship to Respondent's
23 fitness or capacity as a real estate licensee.
- 24 4) The restricted license may be suspended prior to hearing by Order of the Real Estate
25 Commissioner on evidence satisfactory to the Commissioner that Respondent has
26 violated provisions of the California Real Estate Law, the Subdivided Lands Law,
27 Regulations of the Real Estate Commissioner or conditions attaching to the restricted
license.

1 5) Respondent shall not be eligible to apply for the issuance of an unrestricted real estate
2 license, nor the removal of any of the conditions of the restricted license, until two (2)
3 years have elapsed from the effective date of this Order.

4 E. Any restricted license issued to Respondent pursuant to this Decision shall be suspended
5 for a period of thirty (30) days from the issuance of the restricted license; provided,
6 however, that:

7 1) Thirty (30) days of said suspension shall be stayed, upon the condition that Respondent
8 petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant
9 to Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total
10 monetary penalty of \$1,500.

11 a) Said payment shall be in the form of a cashier's check or certified check made
12 payable to the Recovery Account of the Real Estate Fund. Said check must be
13 delivered to the Department prior to the effective date of the Order in this matter.

14 b) No further cause for disciplinary action against the Real Estate licenses of
15 Respondent occurs within two (2) years from the effective date of the decision in
16 this matter.

17 c) If Respondent fails to pay the monetary penalty as provided above prior to the
18 effective date of this Order, the stay of the suspension shall be vacated as to that
19 Respondent and the order of suspension shall be immediately executed, under this
20 Order, in which event the said Respondent shall not be entitled to any repayment
21 nor credit, prorated or otherwise, for the money paid to the Department under the
22 terms of this Order.

23 d) If said Respondent pays the monetary penalty and any other moneys due under this
24 Stipulation and Agreement and if no further cause for disciplinary action against the
25 real estate license of said Respondent occurs within two (2) years from the effective
26 date of this Order, the entire stay hereby granted this Order, as to said Respondent
27 only, shall become permanent.

28 E. Respondent shall, within nine (9) months from the effective date of this Order, present
29 evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most
30 recent issuance of an original or renewal real estate license, taken and successfully

completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for hearing pursuant to the APA to present such evidence.

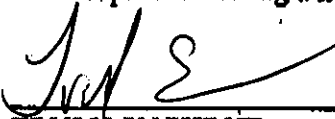
F. Respondent shall, within six (6) months from the effective date of this Decision, take and
pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order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

G. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of \$3,942.71 for the
Real Estate Commissioner's cost of the audit which led to this disciplinary action. Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner. The Commissioner may suspend the restricted license issued to Respondent pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondent enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

H. Pursuant to Section 10148 of the Code, Respondent shall pay the Real Estate
Commissioner's reasonable cost, not to exceed \$3,942.71, for an audit to determine if Respondent has corrected the trust fund violation(s) found in Paragraph I of the Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may

suspend the restricted license issued to Respondent pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between Respondent and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondent enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

25-Aug-10
DATED


TRULY SUGHRUE
Counsel for Complainant

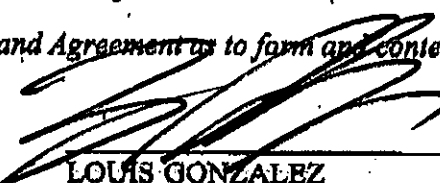
I have read the Stipulation and Agreement, have discussed it with my counsel, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act, and I willingly, intelligently and voluntarily waive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

8-12-2010
DATED


CHING-YIN CHANG
Respondent

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

8-13-2010
DATED

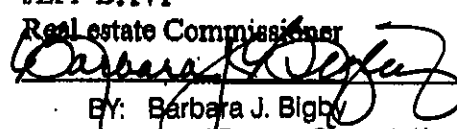

LOUIS GONZALEZ
Attorney for Respondent

The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on OCT 28 2010

IT IS SO ORDERED 10/5/2010

JEFF DAVI

Real Estate Commissioner


By: Barbara J. Bigby
Chief Deputy Commissioner

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
7 (916) 227-0781 (Direct)

FILED

FEB 26 2010

DEPARTMENT OF REAL ESTATE

By L. Zuri

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11
12 In the Matter of the Accusation of:)

13 CHING-YIN CHANG,)

14 Respondent.)
15)

No. H-5353 SAC

ACCUSATION

16
17 The Complainant, Tricia Sommers, a Deputy Real Estate Commissioner of the
18 State of California, for cause of Accusation against CHING-YIN CHANG (Respondent), is
19 informed and alleges as follows:

20 1

21 The Complainant, Tricia Sommers, a Deputy Real Estate Commissioner of the
22 State of California, makes this Accusation in her official capacity.

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

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At all times mentioned, Respondent was and is licensed by the Department as a restricted broker.

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At all times mentioned Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate licensee in the State of California within the meaning of Section 10131(b) of the Code, for or in expectation of compensation, and leased or rented, offered to lease or rent, solicited prospective tenants, collected rents and/or managed certain real properties in the State of California.

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Beginning on or before September 1, 2005 through August 31, 2008, Respondent maintained the following trust fund account:

TITLE AND ACCOUNT NUMBERS

BANK

College Town Realty Property Management
Trust Ching Y. Chang TTE
Account No. 07032-04700
(hereinafter "Trust #1")

Bank of America
325 E Street
Davis, CA 95616

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In connection with the receipt and disbursement of trust funds, Respondent:

(a) Failed to deposit and maintain trust funds in Trust #1 in such manner that as of August 29, 2008, there was a shortage of between \$544.60 and \$5,561.22 of trust funds;

(b) Failed to obtain prior written consent from each of the principals for the reduction of the aggregate balance of trust funds in Trust #1 to an amount less than the existing aggregate trust fund liability to the owners of said funds in violation of Section 2832.1 of Title 10 of the California Code of Regulations (hereinafter "the Regulations"); and

(c) Commingled with Respondent's own money or property, the money or property of others which was received or held by Respondent in trust in violation of Section 10176(e) of the Code.

Respondent, in conducting the activities described in Paragraph 4, without having first obtained a written authorization from the owner(s) of the property located at 305 First Street, Davis, California, offered the property for rent and/or lease in violation of Section 10176(j) of the Code.

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

- (1) As to Paragraphs 6(a), under Section 10177(d) of the Code in conjunction with Section 10145 of the Code;
- (2) As to Paragraph 6(b), under Section 10177(d) of the Code in conjunction with Section 2832.1 of the Regulations;
- (3) As to Paragraph 6(c), under Section 10176(e) of the Code; and
- (4) As to Paragraph 7, under Section 10176(j) of the Code.

PRIOR PROCEEDING

Effective September 8, 2003, in Case No. H-3743 SAC, the Real Estate Commissioner revoked the real estate broker license of Respondent for violation of Section 10145 of the Code in conjunction with Section 10177(d) of the Code, but granted the Respondent the right to the issuance of a restricted real estate broker license, subject to terms, conditions and restrictions pursuant to Sections 10156.6 and 10156.7 of the Code.

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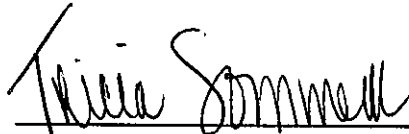
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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all licenses and license rights of Respondent under the Real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

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7 
8 TRICIA SOMMERS
9 Deputy Real Estate Commissioner

10 Dated at Sacramento, California,
11 this 18th day of February, 2010.
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