

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

FILED

FEB 29 2024

DEPT OF REAL ESTATE
By 

7 **BEFORE THE DEPARTMENT OF REAL ESTATE**

8 **STATE OF CALIFORNIA**

9 * * *

10 In the Matter of the Accusation against) No. H-05751 SD
11)
12 HKT CAL INC;) **STIPULATION**
13) **AND**
14 RICHARD PATTERSON WINKLER,) **AGREEMENT**
15 as designated officer of HKT Cal Inc;)
16)
17 and)
18)
19 MARC ANTHONY PRESTERA,)
20 as former designated office of)
21 HKT Cal Inc,)
22 Respondents.)

23 It is hereby stipulated by and between Respondents HKT CAL INC (HCI),
24 RICHARD PATTERSON WINKLER (WINKLER), and MARC ANTHONY PRESTERA
25 (PRESTERA) (collectively, "Respondents"), all represented by Frank M. Buda, Esq., and the
26 Complainant, acting by and through Julie L. To, Counsel for the Department of Real Estate
27 ("Department" or "DRE"), as follows for the purpose of settling and disposing of the Accusation
filed on June 20, 2023 in Department of Real Estate Case No. H-05751 SD, in this matter.

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1 1. All issues which were to be contested and all evidence which was to be
2 presented by Complainant and Respondents at a formal hearing on the Accusation (Accusation),
3 which hearing was to be held in accordance with the provisions of the Administrative Procedure
4 Act (APA), shall instead and in place thereof be submitted solely on the basis of the provisions
5 of this Stipulation and Agreement (Stipulation).

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

9 3. On or about June 27, 2023, Respondents timely filed their Notices of
10 Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a
11 hearing on the allegations in the Accusation. Respondents hereby freely and voluntarily
12 withdraw said Notices of Defense. Respondents acknowledge that they understands that by
13 withdrawing said Notices of Defense they thereby waives their right to require the Real Estate
14 Commissioner (Commissioner) to prove the allegations in the Accusation at a contested hearing
15 held in accordance with the provisions of the APA, and that they will waive other rights afforded
16 to them in connection with the hearing such as the right to present evidence in their defense of
17 the allegations in the Accusation and the right to cross-examine witnesses.

18 4. This Stipulation is based on the factual allegations contained in the
19 Accusation. In the interest of expediency and economy, Respondents choose not to contest these
20 factual allegations, but to remain silent and understand that, as a result thereof, these factual
21 allegations, without being admitted or denied, will serve as a prima facie basis for the
22 disciplinary action stipulated to herein. The Commissioner shall not be required to provide
23 further evidence to prove such allegations.

24 5. This Stipulation and Respondents' decision not to contest the Accusation
25 are made for the purpose of reaching an agreed disposition of this proceeding and are expressly
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1 limited to this proceeding and any other proceeding or case in which the Department, the state or
2 federal government, an agency of this state, or an agency of another state is involved, and shall
3 not be otherwise admissible in any other criminal or civil procedure. Respondents further
4 understand that the sustained violation(s) may be considered in any future administrative or
5 disciplinary matters by the Department.

6 6. It is understood by the parties that the Commissioner may adopt this
7 Stipulation as the Commissioner's Decision in this matter, thereby imposing the penalty and
8 sanctions on Respondents' real estate licenses and license rights as set forth in the "Order"
9 below. In the event that the Commissioner in her discretion does not adopt the Stipulation and
10 Agreement, the Stipulation shall be void and of no effect, and Respondents shall retain the right
11 to a hearing and proceeding on the Accusation under the provisions of the APA and shall not be
12 bound by any admission or waiver made herein.

13 7. The Order or any subsequent Order of the Commissioner made pursuant to
14 this Stipulation shall not constitute an estoppel, merger, or bar to any further administrative or
15 civil proceedings by the Department with respect to any matters which were not specifically
16 alleged to be causes for Accusation in this proceeding but do constitute a bar, estoppel and
17 merger as to any allegations actually contained in the Accusation against Respondents herein.

18 8. Respondents understand that by agreeing to this Stipulation and pursuant
19 to Code Section 10106, Respondents agree to pay, the cost of the audit (audit costs) which led to
20 this disciplinary action, Audit SD210038. The amount of said audit costs for the audit
21 examination (Audit SD210038) is \$11,405.00. Respondent agrees to pay, pursuant to Code
22 Section 10106, the amount \$11,405.00 for the cost of Audit SD210038.

23 9. Respondents have received, read, and understand the "Notice Concerning
24 Costs of Subsequent Audit." Respondents understand that by agreeing to this Stipulation, the
25 findings set forth below in the Determination of Issues become final, and the Commissioner may
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1 charge Respondents for the cost of any subsequent (follow-up) audit(s) conducted pursuant to
2 Code Section 10148 to determine if the violations found in Audit SD210038 have been
3 corrected. The maximum cost of the follow-up audit will not exceed one-hundred twenty-five
4 percent (125%) of the cost of Audit SD210038; the total cost of Audit SD210038 is \$11,405, and
5 the maximum cost of the follow-up audit ($\$11,405.00 \times 125\%$) will not exceed \$14,256.25.
6 Therefore, Respondent may be charged a maximum of \$14,256.25 in the event of a subsequent
7 audit.

8 10. Respondents understand that by agreeing to this Stipulation and pursuant
9 to Code Section 10106, Respondents agree be jointly and severally liable for payment of the
10 Commissioner's cost of the investigation and enforcement costs (investigative costs) which
11 resulted in the determination that Respondents committed the violations found in the
12 Determination of Issues. The amount of said investigative costs is \$1,237.55; therefore,
13 Respondents agree to pay, pursuant to Code Section 10106, the amount \$1,237.55.

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1 f) If a respective Respondent pays the monetary penalty and if no further
2 cause for disciplinary action against the real estate license of Respondent occurs within one (1)
3 year from the effective date of the Decision, the stay hereby granted shall become permanent.

4 2. All licenses and licensing rights of Respondents are indefinitely suspended
5 unless or until Respondents pay the sum of \$1,237.55 for the Commissioner's reasonable cost of
6 the investigation and enforcement which led to this disciplinary action. Respondents' payment(s)
7 shall be in the form of a cashier's check or certified check made payable to the Department of
8 Real Estate. The investigation and enforcement costs must be delivered to the Department of
9 Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the
10 effective date of this Decision and Order.

11 3. Pursuant to Section 10148 of the Code, Respondents shall pay the sum of
12 \$11,405.00 for the Commissioner's cost of the audit (SD210038) which led to this disciplinary
13 action. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may
14 use the estimated average hourly salary for all persons performing audits of real estate brokers,
15 and shall include an allocation for travel time to and from the auditor's place of work.
16 Respondents shall pay the Commissioner's cost of the audit within sixty (60) days of receiving
17 an invoice therefore from the Commissioner. Payment of audit costs should not be made until
18 Respondents receive the invoice, and Respondents' payment(s) must be delivered in accordance
19 to the invoice instructions. Failure to satisfy this condition in a timely manner as provided for
20 herein, shall result in the automatic suspension of Respondents' real estate licenses until payment
21 of said audit costs is made in full, or until a decision providing otherwise is adopted following a
22 hearing held pursuant to this condition. Respondents have, on or about March 20, 2023, already
23 paid the Commissioners cost of Audit SD210038; this condition has been satisfied.

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1 4. Pursuant to Section 10148 of the Code, Respondents HCI and WINKLER shall
2 pay the Commissioner's reasonable cost, not to exceed \$14,256.25 [or, 125% of the original
3 audit cost], for a subsequent audit to determine if Respondents HCI and WINKLER have
4 corrected the violations found in the Determination of Issues. In calculating the amount of the
5 Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary
6 for all persons performing audits of real estate brokers, and shall include an allocation for travel
7 time to and from the auditor's place of work. Respondents HCI and WINKLER shall pay such
8 cost within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of
9 the audit costs [for a subsequent audit] should not be made until Respondents HCI and
10 WINKLER receive the invoice. If Respondents HCI and WINKLER fail to satisfy this condition
11 in a timely manner as provided for herein, Respondents HCI and WINKLER's real estate
12 licenses shall automatically be suspended until payment is made in full, or until a decision
13 providing otherwise is adopted following a hearing held pursuant to this condition.

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15 DATED: 01-30-24 _____

16  _____
17 Julie L. To,
18 Counsel for Department of Real Estate

19 * * *

20 II.

21 EXECUTION OF THE STIPULATION

22 We have read the Stipulation and Agreement. Its terms are understood by us and
23 are agreeable and acceptable to us. We understand that we are waiving rights given to us by the
24 California Administrative Procedure Act (including but not limited to Sections 11506, 11508,
25 11509 and 11513 of the Government Code), and we willingly, intelligently and voluntarily waive
26 those rights, including the right of requiring the Commissioner to prove the allegations in the
27 Accusation at a hearing at which we would have the right to cross-examine witnesses against us

1 and to present evidence in defense and mitigation of the charges.

2 III.

3 MAILING AND FACSIMILE

4 Respondents can signify acceptance and approval of the terms and conditions of
5 this Stipulation and Agreement by sending a hard copy of the original signed signature page of
6 the Stipulation herein to Julie L. To, Legal Section, Department of Real Estate, 320 W. Fourth
7 St., Suite 350, Los Angeles, California 90013-1105. In the event of time constraints before an
8 administrative hearing, Respondents can signify acceptance and approval of the terms and
9 conditions of this Stipulation and Agreement by e-mailing a scanned copy of the signature
10 page(s), as actually signed by Respondents to the Department counsel assigned to this case.
11 Respondents agree, acknowledge, and understand that by electronically sending to the
12 Department a scan of Respondents' actual signatures as they appear on the Stipulation and
13 Agreement, that receipt of the scan by the Department shall be binding on Respondents as if the
14 Department had received the original signed Stipulation and Agreement.

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16 DATED: 1/26/2024

[Redacted Signature]

HKT CAL INC, Respondent
By: Richard Patterson Winkler, Designated Officer

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20 DATED: 1/26/2024

[Redacted Signature]

RICHARD PATTERSON WINKLER, Respondent

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23 DATED: _____

MARC ANTHONY PRESTERA, Respondent

24 ***

25 *I have reviewed the Stipulation and Agreement as to form and have advised my*
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1 and to present evidence in defense and mitigation of the charges.

2 III.

3 MAILING AND FACSIMILE

4 Respondents can signify acceptance and approval of the terms and conditions of
5 this Stipulation and Agreement by sending a hard copy of the original signed signature page of
6 the Stipulation herein to Julie L. To, Legal Section, Department of Real Estate, 320 W. Fourth
7 St., Suite 350, Los Angeles, California 90013-1105. In the event of time constraints before an
8 administrative hearing, Respondents can signify acceptance and approval of the terms and
9 conditions of this Stipulation and Agreement by e-mailing a scanned copy of the signature
10 page(s), as actually signed by Respondents to the Department counsel assigned to this case.
11 Respondents agree, acknowledge, and understand that by electronically sending to the
12 Department a scan of Respondents' actual signatures as they appear on the Stipulation and
13 Agreement, that receipt of the scan by the Department shall be binding on Respondents as if the
14 Department had received the original signed Stipulation and Agreement.

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17 DATED: _____

_____ HKT CAL INC, Respondent
By: Richard Patterson Winkler, Designated Officer

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20 DATED: _____

_____ RICHARD PATTERSON WINKLER, Respondent

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23 DATED: 1/29/2024

_____ [Redacted Signature]
_____ Respondent

1/29/24

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26 *I have reviewed the Stipulation and Agreement as to form and have advised my*

1 client accordingly.

2 DATED: 1-29-24



3 Frank M. Buda, Attorney for Respondents

4 * * *

5 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
6 Respondents HKT CAL INC, RICHARD PATTERSON WINKLER, and MARC ANTHONY
7 PRESTERA and shall become effective at 12 o'clock noon on APR 01 2024, 2024.

8 IT IS SO ORDERED 2/28/24, 2024.

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10 CHIKA SUNQUIST
11 REAL ESTATE COMMISSIONER



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14 By: Marcus-L. McCarther
15 Deputy Real Estate Commissioner
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