

FILED

June 17, 2014

1 BUREAU OF REAL ESTATE  
2 P. O. Box 137007  
3 Sacramento, CA 95813-7007  
4 Telephone: (916) 263-8670

BUREAU OF REAL ESTATE

By 

7 BEFORE THE BUREAU OF REAL ESTATE  
8 STATE OF CALIFORNIA

9 \* \* \*

10 In the Matter of the Accusation of:	)	Case No. H-5902 SAC
	)	
11 MIDTOWN MORTGAGE, INC., and	)	<u>STIPULATION AND AGREEMENT</u>
12 RODDY WONG,	)	<u>IN SETTLEMENT AND ORDER</u>
	)	
13 Respondents.	)	
14	)	

15 It is hereby stipulated by and between Respondent MIDTOWN MORTGAGE,  
16 INC. (MIDTOWN), RODDY WONG (WONG) (collectively referred to as Respondents),  
17 acting by and through Edgardo Gonzalez, counsel for Respondents, and the Complainant, acting  
18 by and through Richard K. Uno, Counsel for the Bureau of Real Estate, as follows for the  
19 purpose of settling and disposing of the Accusation filed on October 30, 2012, in this matter:

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

25 2. Respondents have received, read and understand the Statement to  
26 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Bureau of  
27 Real Estate in this proceeding.

1                   3. On November 14, 2012, Respondents filed a Notice of Defense pursuant to  
2 Section 11505 of the Government Code for the purpose of requesting a hearing on the  
3 allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notice  
4 of Defense. Respondents acknowledge that they understand that by withdrawing said Notice  
5 of Defense they will thereby waive their rights to require the Commissioner to prove the  
6 allegations in the Accusation at a contested hearing held in accordance with the provisions of  
7 the APA and that they will waive other rights afforded to them in connection with the hearing  
8 such as the right to present evidence in defense of the allegations in the Accusation and the  
9 right to cross-examine witnesses.

10                   4. Respondents, pursuant to the limitations set forth below, hereby admit that  
11 the factual allegations or findings of fact as set forth in the Accusation filed in this proceeding  
12 are true and correct and the Real Estate Commissioner shall not be required to provide further  
13 evidence of such allegations.

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

21                   6. The Order or any subsequent Order of the Real Estate Commissioner made  
22 pursuant to this Stipulation and Agreement In Settlement and Order shall not constitute an  
23 estoppel, merger or bar to any further administrative or civil proceedings by the Bureau of  
24 Real Estate with respect to any matters which were not specifically alleged to be causes for  
25 accusation in this proceeding.

26                   7. WONG understands that by agreeing to this Stipulation and Agreement,  
27 WONG agrees to pay, pursuant to Section 10106 of the Business and Professions Code (Code),

1 the costs of the investigation and enforcement of this case which resulted in the determination  
2 that Respondents committed the violation(s) found in the Determination of Issues. The amount  
3 of such cost is \$1,696.00.

4 DETERMINATION OF ISSUES

5 By reason of the foregoing stipulations, admissions and waivers, and solely for  
6 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and  
7 agreed that the acts and/or omissions of Respondents, as described in the Accusation, constitute  
8 grounds for the suspension or revocation of the licenses and license rights of MIDTOWN  
9 under the provisions of Section 2742(a) of Title 10, California Code of Regulations  
10 (Regulations), and Section 10137 of the Code and of WONG under the provisions of Section  
11 2725 of the Regulations and Sections 10177(d) and 10177(h) of the Code.

12 ORDER

13 I. MIDTOWN

14 1. The corporate real estate broker license and license rights of MIDTOWN  
15 under the Real Estate Law are suspended for a period of thirty (30) days from the effective date  
16 of this Order; provided, however, that fifteen (15) days of said suspension shall be stayed for  
17 two (2) years upon the following terms and conditions:

18 (a) MIDTOWN shall obey all laws, rules and regulations

19 governing the rights, duties and responsibilities of a real estate licensee  
20 in the State of California; and,

21 (b) That no final subsequent determination be made, after hearing or upon

22 stipulation, that cause for disciplinary action occurred within two (2)  
23 years from the effective date of this Order. Should such a determination  
24 be made, the Commissioner may, in his discretion, vacate and set aside  
25 the stay order and reimpose all or a portion of the stayed suspension.  
26 Should no such determination be made, the stay imposed herein shall  
27 become permanent.

1                    2. Fifteen (15) days of said suspension shall be stayed, upon the condition that  
2 MIDTOWN petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty  
3 pursuant to Section 10175.2 of the Code at a rate of \$50.00 for each day of the suspension for a  
4 total monetary penalty of \$750.00.

5                    a. Said payment shall be in the form of a cashier's check or certified  
6 check made payable to the Bureau of Real Estate. Said check must be delivered to the Bureau  
7 prior to the effective date of the Decision in this matter.

8                    b. No further cause for disciplinary action against the real estate  
9 license of MIDTOWN occurs within two (2) years from the effective date of the decision in this  
10 matter.

11                    c. If MIDTOWN fails to pay the monetary penalty in accordance  
12 with the terms and conditions of the Decision, the Commissioner shall, without a hearing, order  
13 the immediate execution of all or any part of the stayed suspension, in which event, MIDTOWN  
14 shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the  
15 Bureau under the terms of this decision.

16                    d. If MIDTOWN pays the monetary penalty, and if no further cause  
17 for disciplinary action against the real estate license of Respondent occurs within two (2) years  
18 from the effective date of the Decision herein, then the stay hereby granted shall become  
19 permanent.

20  
21                    II. WONG

22                    All licenses and licensing rights of WONG under the Real Estate Law are  
23 revoked; provided, however, a restricted real estate broker license shall be issued to WONG  
24 pursuant to Section 10156.5 of the Code if WONG makes application therefore and pays to the  
25 Bureau the appropriate fee for the restricted license within 90 days from the effective date of this  
26 Decision.

1                    2. The restricted license issued to WONG shall be subject to all of the provisions  
2 of Section 10156.7 of the Code as to the following limitations, conditions and restrictions  
3 imposed under authority of Section 10156.6 of that Code:

4                    (a) The restricted license issued to WONG shall be suspended prior to hearing  
5                    by Order of the Commissioner in the event of WONG's conviction  
6                    (including by plea of guilty or nolo contendere) to a crime which is  
7                    substantially related to WONG's fitness or capacity as a real estate  
8                    licensee; and,

9                    (b) The restricted license issued to WONG shall be suspended prior to  
10                    hearing by Order of the Commissioner on evidence satisfactory to the  
11                    Commissioner that WONG has violated provisions of the California Real  
12                    Estate Law, the Subdivided Lands Law, Regulations of the Real Estate  
13                    Commissioner, or conditions attaching to the restricted license.

14                    3. WONG shall not be eligible to apply for the issuance of an unrestricted real  
15                    estate license nor for removal of any of the conditions, limitations or restrictions of a restricted  
16                    license until two (2) years have elapsed from the effective date of this Decision.

17                    4. WONG shall notify the Commissioner in writing within 72 hours of any arrest  
18                    by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post Office Box  
19                    137000, Sacramento, CA 95813-7000. The letter shall set forth the date of WONG's arrest, the  
20                    crime for which WONG was arrested and the name and address of the arresting law enforcement  
21                    agency. WONG's failure to timely file written notice shall constitute an independent violation of  
22                    the terms of the restricted license and shall be grounds for the suspension or revocation of that  
23                    license.

24                    5. WONG shall, within nine (9) months from the effective date of this Decision,  
25                    present evidence satisfactory to the Commissioner that WONG has, since the most recent  
26                    issuance of an original or renewal real estate license, taken and successfully completed the  
27                    continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal

1 of a real estate license. If WONG fails to satisfy this condition, the Commissioner shall order the  
2 suspension of the restricted license until the WONG presents such evidence. The Commissioner  
3 shall afford WONG the opportunity for hearing pursuant to the APA to present such evidence.

4 7. WONG shall pay the sum of \$1,696.00 for the Commissioner's  
5 cost, pursuant to Section 10106(a) of the Code, of the investigation and enforcement which led to  
6 this disciplinary action. Said payment shall be in the form of a cashier's check or certified check  
7 made payable to the Real Estate Fund. Said check must be received by the Bureau prior to the  
8 effective date of the Order in this matter. All licenses and licensing rights of WONG shall be  
9 indefinitely suspended unless or until payment is made in full.

10 8. WONG shall, within six (6) months from the issuance of the Order, take and  
11 pass the Professional Responsibility Examination administered by the Bureau, including the  
12 payment of the appropriate examination fee. All licenses and licensing rights of WONG shall  
13 be indefinitely suspended unless or until WONG passes the examination.

14  
15  
16 4/25/14

17 \_\_\_\_\_  
18 DATED

16 *Richard K. Uno*

17 \_\_\_\_\_  
18 RICHARD K. UNO, Counsel  
19 Bureau of Real Estate

19 \* \* \*

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

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3/6/2014

DATED

*Roddy Wong*

RODDY WONG  
Designated Officer for Respondent  
MIDTOWN MORTGAGE, INC.

3/6/2014

DATED

\*\*\*

*Roddy Wong*

RODDY WONG  
Respondent

\*\*\*

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

3/6/14

DATED

*Edgardo Gonzalez*

EDGARDO GONZALEZ  
Attorney for Respondent

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The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on JUN 18 2014

IT IS SO ORDERED JUN 03 2014

REAL ESTATE COMMISSIONER

*Jeffrey Mason*

By: JEFFREY MASON  
Chief Deputy Commissioner