

FILED

MAY 17 2017

BUREAU OF REAL ESTATE

By H. Diaz

Bureau of Real Estate
P.O. Box 137007
Sacramento, CA 95813-7007

Telephone: (916) 263-8672

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of:

ELIZABETH M. TAN,

Respondent.

No. H-6354 SAC

ORDER EXTENDING TIME

On April 23, 2017, a Stipulation and Agreement was filed in the above matter, ordering the suspension of the real estate license of Respondent ELIZABETH M. TAN (Respondent), stayed upon terms and conditions. Said Order was to become effective at noon on May 17, 2017.

Said Order provided that Respondent was to take and complete the continuing education course on trust fund accounting and handling no earlier than one hundred twenty (120) days prior to the effective date of the Order. Said Order also provided that Respondent shall provide proof prior to the effective date of the Order, via a letter from a certified public accountant made under penalty of perjury, that the trust fund shortage identified in Bureau Audit No. SC-14-0133 have been cured prior.

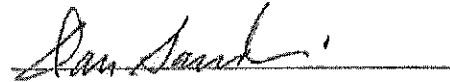
1 Respondent requests a two week extension to complete a recent continuing education
2 course on trust fund accounting and handling and to obtain the letter from her accountant of
3 having cured the shortage.

4 Good cause having been shown, the time during which Respondent must complete the
5 above condition is extended to May 31, 2017.

6 This Order shall be effective immediately.

7 IT IS SO ORDERED 5/17/17

8 DAN SANDRI
9 ASSISTANT REAL ESTATE COMMISSIONER

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FILED

APR 26 2017

BUREAU OF REAL ESTATE

By B. Nicholas

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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:	)	Case No. H-6354 SAC
	)	
ELIZABETH M. TAN	)	<u>STIPULATION AND AGREEMENT</u>
	)	<u>IN SETTLEMENT AND ORDER</u>
Respondent.	)	
	)	

It is hereby stipulated by and between Respondent ELIZABETH M. TAN ("Respondent"), acting by and through counsel Allison Cherry Lafferty, and the Complainant, acting by and through Jason D. Lazark, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on February 3, 2016, 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 In Settlement and Order ("Stipulation and Agreement").

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

1 3. On February 18, 2016, Respondent 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. Respondent hereby freely and voluntarily withdraws said Notice
4 of Defense. Respondent acknowledges that Respondent understands that by withdrawing said
5 Notice of Defense, Respondent will thereby waive Respondent's right to require the
6 Commissioner to prove the allegations in the Accusation at a contested hearing held in
7 accordance with the provisions of the APA and that Respondent will waive other rights
8 afforded to Respondent in connection with the hearing such as the right to present evidence in
9 defense of the allegations in the Accusation and the right to cross-examine witnesses.

10 4. Respondent, pursuant to the limitations set forth below, hereby admits that
11 the factual allegations as set forth in the Accusation filed in this proceeding are true and correct
12 and the Commissioner shall not be required to provide further evidence of such allegations.

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

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

24 7. Respondent understands that by agreeing to this Stipulation and Agreement,
25 Respondent agrees to pay, pursuant to Section 10148 of the California Business and Professions
26 Code ("the Code"), for the costs of Bureau of Real Estate ("Bureau") Audit No. SC-14-0133
27 which resulted in the determination that Respondent committed the audit violations found in the

1 Determination of Issues. The amount of such costs is \$4,639.25.

2 8. Respondent further understands that by agreeing to this Stipulation and
3 Agreement, the findings set forth below in the Determination of Issues become final, and that the
4 Commissioner may charge Respondent for the costs of any audit conducted pursuant to Section
5 10148 of the Code to determine if the violations have been corrected and hold Respondent
6 responsible for paying the costs of the follow up audit to Bureau Audit No. SC-14-0133. The
7 maximum costs of said audit shall not exceed \$4,639.25.

8 9. Respondent further understands that by agreeing to this Stipulation and
9 Agreement, Respondent agrees to be responsible for paying, pursuant to Section 10106 of the
10 Code, the costs of the investigation and enforcement of this case which resulted in the
11 determination that Respondent committed the violations found in the Determination of Issues.
12 The amount of such costs is \$802.70.

13 10. Respondent further understands that by agreeing to this Stipulation and
14 Agreement, Respondent agrees that, prior to the effective date of the Decision, Respondent shall
15 cure the trust fund shortage identified in Bureau Audit No. SC-14-0133, as alleged in paragraph
16 6(a) in the Accusation in Bureau Case No. H-6354 SAC.

17 DETERMINATION OF ISSUES

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

21 The acts and omissions of Respondent, as described in the Accusation, are
22 grounds for the suspension or revocation of the licenses and license rights of Respondent under
23 the provisions of Section 10177(d) of the Code, in conjunction with Sections 10145, 10176(e),
24 and 10176(i) of the Code, and Sections 2832 and 2832.1 of Title 10, of the California Code of
25 Regulations ("the Regulations").

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

7 3. Respondent shall, within six (6) months from the effective date of this
8 Decision and Order, take and pass the Professional Responsibility Examination administered by
9 the Bureau, including the payment of the appropriate examination fee. If Respondent fails to
10 satisfy this condition, Respondent's real estate license shall automatically be suspended until
11 Respondent passes the examination.

12 4. All licenses and licensing rights of Respondent are indefinitely suspended
13 unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and
14 successfully completed the continuing education course on trust fund accounting and handling
15 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of
16 satisfaction of these requirements includes evidence that Respondent has successfully completed
17 the trust fund accounting and handling continuing education course, no earlier than one hundred
18 twenty (120) days prior to the effective date of the Decision and Order in this matter. Proof of
19 completion of the trust fund accounting and handling course must be delivered to the Bureau of
20 Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-
21 263-8785, prior to the effective date of this Decision and Order.

22 5. All licenses and licensing rights of Respondent are indefinitely suspended
23 unless or until Respondent pays the sum of \$802.70 for the Commissioner's reasonable costs
24 of the investigation and enforcement which led to this disciplinary action. Said payment shall
25 be in the form of a cashier's check or certified check made payable to the Bureau of Real
26 Estate. The investigative and enforcement costs must be delivered to the Bureau of Real
27 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective

1 date of this Order.

2 6. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
3 \$4,639.25 for the Commissioner's cost of Bureau Audit No. SC-14-0133, which led to this
4 disciplinary action. Respondent shall pay such cost within sixty (60) days of receiving an
5 invoice therefore from the Commissioner. Payment of this audit cost should not be made until
6 Respondent receives the invoice from the Commissioner. If Respondent fails to satisfy this
7 condition in a timely manner as provided herein, Respondent's real estate license shall
8 automatically be suspended until payment is made in full, or until a decision providing
9 otherwise is adopted following a hearing held pursuant to this condition.

10 7. Pursuant to Section 10148 of the Code, Respondent shall pay the
11 Commissioner's reasonable costs, not to exceed \$4,639.25, for the follow-up audit to Bureau
12 Audit No. SC-14-0133, to determine if Respondent has corrected the violations found in the
13 Determination of Issues. In calculating the amount of the Commissioner's reasonable costs,
14 the Commissioner may use the average hourly salary for all persons performing audits of real
15 estate brokers, and shall include an allocation for travel time to and from the auditor's place of
16 work. Respondent shall pay such costs within sixty (60) days of receiving an invoice therefore
17 from the Commissioner. Payment of the audit costs should not be made until Respondent
18 receives the invoice from the Commissioner. If Respondent fails to satisfy this condition in a
19 timely manner as provided for herein, Respondent's real estate license shall automatically be
20 suspended until payment is made in full, or until a decision providing otherwise is adopted
21 following a hearing held pursuant to this condition.

22 8. Respondent, shall, prior to the effective date of this Decision, provide proof
23 satisfactory to the Commissioner, of having cured the trust fund shortage identified in Bureau
24 Audit No. SC-14-0133, as alleged in paragraph 6(a) in the Accusation in Bureau Case No.
25 H-6354 SAC. Proof of satisfaction of this requirement includes a letter from a certified public
26 accountant testifying under penalty of perjury to the fact that said trust fund shortage has been
27 cured by Respondent, and shall describe with particularity the details of how and when the

1 shortage was cured. If Respondent fails to satisfy this condition in a timely manner as
2 provided for herein, Respondent's real estate license and license rights shall automatically be
3 suspended until Respondent presents proof satisfactory to the Commissioner that Respondent
4 has cured the trust fund shortage in full, or until a decision providing otherwise is adopted
5 following a hearing held pursuant to this condition.

6
7 6/12/16

DATED

8 JASON D. LAZARK, Counsel
Bureau of Real Estate

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10 * * *

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

19 6/7/16

20 DATED

21 ELIZABETH M. TAN,
Respondent

22 * * *

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

25 6/7/16

26 DATED

27 ALLISON CHERRY LAFFERTY,
Attorney for Respondent,
ELIZABETH M. TAN

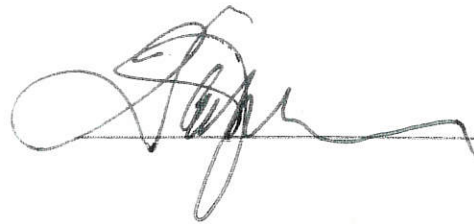
1 * * *

2 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
3 this matter and shall become effective at 12 o'clock noon on MAY 17 2017

4 IT IS SO ORDERED

5 4/23/2017

6 WAYNE S. BELL
7 REAL ESTATE COMMISSIONER

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