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DEPARTMENT OF REAL ESTATE
P. O. Box 187000
Sacramento, CA 95818-7000
Telephone: (916) 227-0805

FILED

AUG - 4 2008

DEPARTMENT OF REAL ESTATE

By *L. Jui*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

JOAN ELIZABETH LATU,

Respondent.

No. H-10155 SF
OAH No. N-2007090764
STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondent
JOAN ELIZABETH LATU and Nicholas P. Jellins of Jellins &
Associates, attorney of record herein for Respondent and the
Complainant, acting by and through Angela L. Cash, Counsel for
the Department of Real Estate (herein "the Department"), as
follows for the purpose of settling and disposing of the
Accusation filed on September 12, 2007 in this matter (herein
"the Accusation"):

1. All issues which were to be contested and all
evidence which was to be presented by Complainant and
Respondents at a formal hearing on the Accusation, which hearing

1 was to be held in accordance with the provisions of the
2 Administrative Procedure Act (APA), shall instead and in place
3 thereof be submitted solely on the basis of the provisions of
4 this Stipulation and Agreement.

5 2. Respondent has received, read and understands the
6 Statement to Respondent, the Discovery Provisions of the APA and
7 the Accusation filed by the Department in this proceeding.

8 3. On September 17, 2007, Respondent filed a Notice
9 of Defense pursuant to Section 11505 of the Government Code for
10 the purpose of requesting a hearing on the allegations in the
11 Accusation. Respondent hereby freely and voluntarily withdraws
12 said Notice of Defense. Respondent acknowledges that Respondent
13 understands that by withdrawing said Notice of Defense
14 Respondent will thereby waive Respondent's right to require the
15 Real Estate Commissioner (herein "the Commissioner") to prove
16 the allegations in the Accusation at a contested hearing held in
17 accordance with the provisions of the APA and that Respondent
18 will waive other rights afforded to Respondent in connection
19 with the hearing such as the right to present evidence in
20 defense of the allegations in the Accusation and the right to
21 cross-examine witnesses.

22 4. Respondent, pursuant to the limitations set forth
23 below, hereby admits that the factual allegations as to
24 Respondent in the Accusation are true and correct and the Real
25 Estate Commissioner shall not be required to provide further
26 evidence of such allegations.

27 ///

1 5. It is understood by the parties that the Real
2 Estate Commissioner may adopt the Stipulation and Agreement as
3 his decision in this matter, thereby imposing the penalty and
4 sanctions on Respondent's real estate license and license rights
5 as set forth in the "Order" set forth below. In the event that
6 the Commissioner in his discretion does not adopt the
7 Stipulation and Agreement in Settlement, it shall be void and of
8 no effect, and Respondent shall retain the right to a hearing
9 and proceeding on the Accusation under all the provisions of the
10 APA and shall not be bound by any admission or waiver made
11 herein.

12 6. The Order or any subsequent Order of the Real
13 Estate Commissioner made pursuant to this Stipulation and
14 Agreement in Settlement shall not constitute an estoppel, merger
15 or bar to any further administrative or civil proceedings by the
16 Department of Real Estate with respect to any matters which were
17 not specifically alleged to be causes for accusation in this
18 proceeding.

19 7. Respondent has received, read and understands the
20 "Notice Concerning Costs of Subsequent Audits". Respondent
21 understands that by agreeing to this Stipulation and Agreement in
22 Settlement, the findings set forth below in the DETERMINATION OF
23 ISSUES become final, and that the Commissioner may charge
24 Respondent for the costs of any audit for which they are charged
25 pursuant to Section 10148 of the Business and Professions Code
26 (hereinafter the "Code"). The reasonable cost of the audits
27 which led to this disciplinary action is \$4,789.72. The maximum

1 cost of the subsequent audits will not exceed \$4,789.72.
2 Respondent understands that the Commissioner may charge said
3 Respondent for:

4 (a) Costs in the amount of \$4,789.72 of the audit
5 conducted pursuant to Section 10148 of the Business and
6 Professions Code that resulted in the determination that
7 Respondent committed the violations described in Paragraph I of
8 the Determination of Issues, below; and

9 (b) The costs, not to exceed \$4,789.72, of any audit
10 conducted pursuant to Section 10148 of the Business and
11 Professions Code to determine if Respondent has corrected the
12 violations described in Paragraph I of the Determination of
13 Issues, below.

14 DETERMINATION OF ISSUES

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

19 I

20 The acts and omissions of Respondent JOAN ELIZABETH
21 LATU as described in the Accusation are grounds for the
22 suspension or revocation of the licenses and license rights of
23 Respondent under the following provisions of the California
24 Business and Professions Code (herein "the Code") and/or the
25 provisions of Chapter 6, Title 10, California Code of
26 Regulations (herein "the Regulations"):

27 ///

1 (a) As to Paragraphs III through VII, inclusive,
2 under Sections 10130 and 10137 of the Code in conjunction with
3 Section 10177(d) of the Code;

4 (b) As to Paragraphs III through VII, inclusive,
5 under Sections 10176(i) of the Code and/or 10177(j) of the Code;

6 (c) As to Paragraphs X(a) under Section 10145 of the
7 Code and Section 2831 of the Regulations in conjunction with
8 Section 10177(d) of the Code;

9 (d) As to Paragraphs X(b) under Section 10145 of the
10 Code and Section 2832(a) of the Regulations in conjunction with
11 Section 10177(d) of the Code;

12 (e) As to Paragraphs X(c) under Section 10145 of the
13 Code and Section 2834 of the Regulations in conjunction with
14 Section 10177(d) of the Code; and

15 (f) As to Paragraph X(d) under Section 10148 of the
16 Code in conjunction with Section 10177(d) of the Code.

17 ORDER

18 I

19 All real estate license(s) and license rights of
20 Respondent JOAN ELIZABETH LATU under the Real Estate Law are
21 suspended for a period of ninety (90) days from the effective
22 date of this Order; provided, however, that:

23 A. Fifty (50) days of said suspension shall be stayed
24 for two (2) years upon the following terms and conditions:

25 ///

26 ///

27 ///

1 1. Respondent JOAN ELLIZABETH LATU shall obey all
 2 laws, rules and regulations governing the rights, duties and
 3 responsibilities of a real estate licensee in the State of
 4 California; and

5 2. That no final subsequent determination be made,
 6 after hearing or upon stipulation, that cause for disciplinary
 7 action occurred within two (2) years from the effective date of
 8 this Order. Should such a determination be made; the
 9 Commissioner may, in his discretion, vacate and set aside the
 10 stay order and reimpose all or a portion of the suspension
 11 stayed pursuant to this Paragraph I(A). Should no such
 12 determination be made, the stay so imposed herein shall become
 13 permanent.

14 B. The remaining forty (40) days of said 90-day
 15 suspension shall be stayed upon the condition that Respondent
 16 JOAN ELIZABETH LATU petition pursuant to Section 10175.2 of the
 17 Business and Professions Code and pays a monetary penalty
 18 pursuant to Section 10175.2 of the Business and Professions Code
 19 at a rate of \$250.00 for each day of the suspension for a total
 20 monetary penalty of \$10,000.00:

21 1. Said payment shall be in the form of a cashier's
 22 check or certified check made payable to the Recovery Account of
 23 the Real Estate Fund. Said check must be delivered to the
 24 Department prior to the effective date of the Order in this
 25 matter.

26 ///

27 ///

1 2. No further cause for disciplinary action against
2 the Real Estate license of said Respondent occurs within two (2)
3 years from the effective date of the decision in this matter.

4 3. If Respondent JOAN ELIZABETH LATU fails to pay
5 the monetary penalty as provided above prior to the effective
6 date of this Order, the stay of the suspension shall be vacated
7 as to Respondent JOAN ELIZABETH LATU and the order of suspension
8 under this Paragraph I(B) of this Order, shall be immediately
9 executed, in which event Respondent JOAN ELIZABETH LATU shall
10 not be entitled to any repayment nor credit, prorated or
11 otherwise, for the money paid to the Department under the terms
12 of this Order.

13 4. If Respondent JOAN ELIZABETH LATU pays the
14 monetary penalty and any other moneys due under this Stipulation
15 and Agreement and if no further cause for disciplinary action
16 against the real estate license of Respondent JOAN ELIZABETH
17 LATU occurs within two (2) years from the effective date of this
18 Order, the entire stay hereby granted under Paragraph I of this
19 Order shall become permanent.


20 5. Respondent shall, within 60 days of receiving an
21 invoice therefor from the Commissioner, pay the Commissioner's
22 reasonable costs in the amount of \$4789.72 of the audit
23 conducted pursuant to Section 10148 of the Business and
24 Professions Code that resulted in the determination that
25 Respondent committed the violations described in Paragraph I of
26 the Determination of Issues, above. The Commissioner may suspend
27 the license issued to Respondent pending a hearing held in

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

9 6. Pursuant to Section 10148 of the Business and
10 Professions Code, Respondent shall pay the Commissioner's
11 reasonable costs, not to exceed \$4,789.72, for an audit to
12 determine if Respondent has corrected the trust fund
13 violation(s) found in paragraph I of the Determination of
14 Issues. In calculating the amount of the Commissioner's
15 reasonable costs, the Commissioner may use the estimated average
16 hourly salary for all persons performing audits of real estate
17 brokers, and shall include an allocation for travel time to and
18 from the auditor's place of work. Respondent shall pay such
19 cost within 60 days of receiving an invoice therefor from the
20 Commissioner detailing the activities performed during the audit
21 and the amount of time spent performing those activities. The
22 Commissioner may suspend the license issued to Respondent
23 pending a hearing held in accordance with Section 11500, et
24 seq., of the Government Code, if payment is not timely made as
25 provided for herein, or as provided for in a subsequent
26 agreement between the Respondent and the Commissioner. The
27 suspension shall remain in effect until payment is made in full

1 or until Respondent enters into an agreement satisfactory to the
2 Commissioner to provide for payment, or until a decision
3 providing otherwise is adopted following a hearing held pursuant
4 to this condition.

5
6 6/30/08



7 DATED

ANGELA L. CASH, Counsel
DEPARTMENT OF REAL ESTATE

8 * * *

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

20
21 6.26.08



22 DATED

JOAN ELIZABETH LATU
Respondent

23 ///

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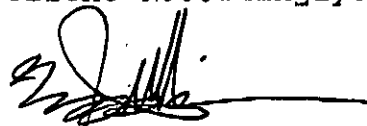
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I have reviewed the Stipulation and Agreement as to form and content and have advised my client accordingly.

June 26, 2008

DATED



NICHOLAS P. JELLINS
JELLINS & ASSOCIATES
Attorney for Respondent

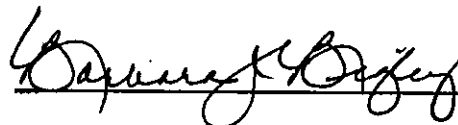
* * *

The foregoing Stipulation and Agreement for Settlement
is hereby adopted by the Real Estate Commissioner as his
Decision and Order and shall become effective at 12 o'clock noon
on **AUG 25 2008**

IT IS SO ORDERED

7-18-08

JEFF DAVI
Real Estate Commissioner



1 ANGELA L. CASH, Counsel (SBN 230882)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789
6 -or- (916) 227-0805 (Direct)

FILED
SEP 12 2007

DEPARTMENT OF REAL ESTATE

By H. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) H-10155 SF
12)
13 JOAN ELIZABETH LATU,) ACCUSATION
14)
15 Respondent.)

16 The Complainant, E. J. Haberer II, a Deputy Real
17 Estate Commissioner of the State of California, for cause of
18 Accusation against JOAN ELIZABETH LATU (herein "Respondent"), is
19 informed and alleges as follows:

20 I

21 The Complainant, E. J. Haberer II, a Deputy Real
22 Estate Commissioner of the State of California, makes this
23 Accusation in his official capacity.

24 II

25 At all times herein mentioned, Respondent was and now
26 is licensed and/or has license rights under the Real Estate Law
27 (Part 1 of Division 4 of the Business and Professions Code)
(herein "the Code").

1 III

2 At all times herein mentioned, Respondent was and now
3 is licensed by the Department of Real Estate of the State of
4 California (herein "the Department") as a real estate
5 salesperson. At no time mentioned herein was Respondent licensed
6 by the Department as a real estate broker.

7 IV

8 At all times herein mentioned, Respondent engaged in
9 the business of, acted in the capacity of, advertised, or
10 assumed to act as a real estate broker within the State of
11 California within the meaning of Section 10131(b) of the Code,
12 including the operation and conduct of a property management
13 business with the public wherein, on behalf of others, for
14 compensation or in expectation of compensation, Respondent
15 leased or rented and offered to lease or rent, and placed for
16 rent, and solicited listings of places for rent, and solicited
17 for prospective tenants of real property or improvements
18 thereon, and collected rents from real property or improvements
19 thereon.

20 V

21 In so acting as a real estate broker, as described in
22 Paragraph IV above, Respondent accepted or received funds in
23 trust (herein "trust funds") from or on behalf of buyers,
24 sellers, owners, tenants and others in connection with the
25 purchase, sale, leasing, renting, and collection of rents on
26 real property or improvements thereon, as alleged herein, and
27 thereafter from time to time made disbursements of said funds.

1 VI

2 Between on or about January 1, 2005 and on or about
3 December 31, 2005, in course of the property management and
4 trust fund handling activities described above, Respondent
5 managed approximately 207 residential properties for
6 approximately 145 owners, collecting rents, paying expenses,
7 screening tenants for compensation, and collecting approximately
8 \$458,000 per month in rents on said residential properties, and
9 received compensation for such services from the owners of said
10 properties.

11 VII

12 In acting as described above, Respondent violated
13 and/or willfully disregarded Sections 10130 and 10137 of the
14 Code.

15 VIII

16 The acts and omissions of Respondent described in
17 Paragraphs III through VII, above, constituted fraud and/or
18 dishonest dealing.

19 IX

20 The aforesaid trust funds accepted or received by
21 Respondent were deposited or caused to be deposited by
22 Respondent into one or another of approximately sixty-five (65)
23 bank accounts (herein "trust fund accounts") maintained by
24 Respondent for the handling of trust funds at the Menlo Park,
25 California, branch of Wells Fargo Bank, including but not
26 necessarily limited to:

27 ///

1 (a) The "Parkview Property Management" account,
2 account number 1005231-277 (herein "Bank #1);

3 (b) The "Parkview Property Management" account,
4 account number 100-5231-210 (herein "Bank #2); and

5 (c) The "Parkview Property Management" account,
6 account number 100-5231-343 (herein "Bank #3).

7 X

8 Between on or about January 1, 2005 and on or about
9 December 31, 2005, in course of the property management and
10 trust fund handling activities described above, Respondent:

11 (a) Failed to keep a columnar record in chronological
12 sequence of all trust funds received and disbursed from Bank #1,
13 Bank #2, and Bank #3 containing all the information required by
14 Section 2831 of Title 10, California Code of Regulations (herein
15 "the Regulations"), thereby violating and/or willfully
16 disregarding the provisions of Section 2831;

17 (b) Failed to place trust funds entrusted to
18 Respondent into the hands of a principal on whose behalf the
19 funds were received, into a neutral escrow depository, or into a
20 trust fund account in the name of Respondent as trustee at a
21 bank or other financial institution, thereby violating and/or
22 willfully disregarding the provisions of Section 10145 of the
23 Code and Section 2832(a) of the Regulations, in that Respondent
24 placed such funds in Bank #1, Bank #2, and Bank #3, accounts
25 that was not in the name of Respondent as trustee;

26 ///

27 ///

1 (c) Authorized Fred Latu and Jim A. Henderson, then
2 unlicensed persons without fidelity bond coverage at least equal
3 to the maximum amount of the trust funds to which the person had
4 access at any time, to make disbursements from Bank #1, Bank #2,
5 and Bank #3, thereby violating and/or willfully disregarding the
6 provisions of Section 2834 of the Regulations; and

7 (d) Failed to retain for three years copies of all
8 cancelled checks executed by Respondent in connection with the
9 property management and trust fund handling activities described
10 above, thereby violating and/or willfully disregarding the
11 provisions of Section 10148(a) of the Code.

12 XI

13 The facts alleged above are grounds for the suspension
14 or revocation of the licenses and license rights of Respondent
15 under the following provisions of the Code and/or the
16 Regulations:

17 (a) As to Paragraphs III through VII, inclusive,
18 above, under Section 10177(d) of the Code in conjunction with
19 Sections 10130 and 10137 of the Code

20 (b) As to Paragraphs III through VII, inclusive,
21 above, under Sections 10176(i) and/or 10177(j) of the Code.

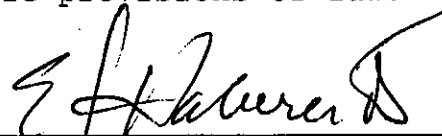
22 (c) As to Paragraph X(a) under Section 10145 of the
23 Code and Section 2831 of the Regulations in conjunction with
24 Section 10177(d) of the Code;

25 (d) As to Paragraph X(b) under Section 10145 of the
26 Code and Section 2832(a) of the Regulations in conjunction with
27 Section 10177(d) of the Code;

1 (e) As to Paragraph X(c) under Section 10145 of the
2 Code and Section 2834 of the Regulations in conjunction with
3 Section 10177(d) of the Code; and

4 (f) As to Paragraph X(d) under Section 10148 of the
5 Code in conjunction with Section 10177(d) of the Code.

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

13
14 
15 _____
E. J. HABERER II
Deputy Real Estate Commissioner

16 Dated at Oakland, California
17 this 13th day of ^{August} ~~June~~, 2007.