

FILED

May 2, 2012

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789

DEPARTMENT OF REAL ESTATE

By  _____

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	
)	NO. H-10981 SF
12 TBJ FINANCIAL CORPORATION,)	
13 a California Corporation, KE LIU, and)	<u>STIPULATION AND AGREEMENT</u>
14 ELAINE SIE HUI,)	
)	
15 Respondents.)	

16 It is hereby stipulated by and between Respondent ELAINE SIE HUI
17 (hereinafter referred to as "Respondent"), acting by and through her attorney of record, Mary E.
18 Work, and the Complainant, acting by and through Michael B. Rich, Counsel for the
19 Department of Real Estate, as follows for the purpose of settling and disposing of the
20 Accusation filed on July 28, 2010, in this matter (hereinafter "the Accusation"):

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

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27 H-10981 SF

ELAINE SIE HUI

1 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department
2 of Real Estate in this proceeding.

3 3. On August 5, 2010, Respondent filed a Notice of Defense pursuant to
4 Section 11505 of the Government Code for the purpose of requesting a hearing on the
5 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said
6 Notices of Defense. Respondent acknowledges that Respondent understands that by
7 withdrawing said Notices of Defense, Respondent will thereby waive Respondent's right to
8 require the Commissioner to prove the allegations in the Accusation at a contested hearing held
9 in accordance with the provisions of the APA and that Respondent will waive other rights
10 afforded to Respondent in connection with the hearing such as the right to present evidence in
11 defense of the allegations in the Accusation and the right to cross-examine witnesses.

12 4. This Stipulation and Agreement is based on the factual allegations
13 contained in the Accusation filed in this proceeding. In the interest of expediency and economy
14 Respondent chooses not to contest these factual allegations, but to remain silent and understands
15 that, as a result thereof, these factual statements, without being denied or admitted, will serve as
16 a prima facie basis for the disciplinary action stipulated to herein.

17 5. This Stipulation and Agreement and Respondent's decision not to contest
18 the Accusation are hereby expressly limited to this proceeding and made for the sole purpose of
19 reaching an agreed disposition of this proceeding. Respondent's decision not to contest the
20 factual allegations is made solely for the purpose of effectuating this Stipulation and Agreement
21 and is limited by Respondent to be non-binding upon her in any action against her by third
22 parties. The Real Estate Commissioner shall not be required to provide further evidence to
23 prove such allegations.

24 6. It is understood by the parties that the Real Estate Commissioner may adopt
25 the Stipulation and Agreement as his decision in this matter, thereby imposing the penalty and
26 sanctions on Respondent's real estate licenses and license rights as set forth in the "Order"
27 below. In the event that the Commissioner in his or her discretion does not adopt the

1 Stipulation and Agreement, it shall be void and of no effect, and Respondent shall retain the
 2 right to a hearing and proceeding on the Accusation under all the provisions of the APA and
 3 shall not be bound by any admission or waiver made herein.

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

8 DETERMINATION OF ISSUES

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

12 I

13 The acts and omissions of Respondent described in the Accusation are grounds
 14 for the suspension or revocation of the licenses and license rights of Respondent under the
 15 provisions of Section 10159.2 of the Code and Section 2725 of the Regulations all in
 16 conjunction with Section 10177(d) of the Code and under the provisions of Section 10177(h) of
 17 the Code.

18 ORDER

19 I

20 A. All licenses and licensing rights of Respondent ELAINE SIE HUI under the
 21 Real Estate Law are suspended for a period of thirty (30) days from the effective date of this
 22 Decision; provided, however, that thirty (30) days of said suspension shall be stayed for three
 23 (3) years upon the following terms and conditions:

24 1. Respondent shall obey all laws, rules and regulations governing the
 25 rights, duties and responsibilities of a real estate licensee in the State of California; and

26 2. That no final subsequent determination be made, after hearing or upon
 27 stipulation, that cause for disciplinary action occurred within three (3) years of the effective date

1 of this Decision. Should such a determination be made, the Commissioner may, in his
2 discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed
3 suspension. Should no such determination be made, the stay imposed herein shall become
4 permanent.

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

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2/29/12
DATED

Michael B. Rich
MICHAEL B. RICH, Counsel
Department of Real Estate

* * *

I have read the Stipulation and Agreement 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 (including but not limited to Sections 11506,
11508, 11509, and 11513 of the Government Code), 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.

2/11/2012
DATED

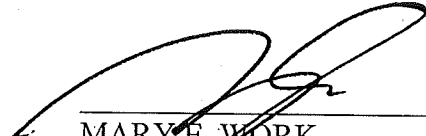
Elaine Sie Hui
ELAINE SIE HUI

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Approved as to form and content by counsel for Respondent.

DATED 2/14/12




MARY E. WORK
Attorney for Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted by me as my
Decision in this matter as to Respondent ELAINE SIE HUI and shall become effective at 12
o'clock noon on MAY 23 2012, 2012.

IT IS SO ORDERED 4/22, 2012.

Real Estate Commissioner



By WAYNE S. BELL
Chief Counsel