

FILED

APR 22 2011

Department of Real Estate  
P.O. Box 187007  
Sacramento, CA 95818-7007

Telephone: (916) 227-0781

DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of

GRACE HARUKO MORIOKA,

Respondent.

No. H-11015 SF

STIPULATION AND  
AGREEMENT

It is hereby stipulated by and between GRACE HARUKO MORIOKA (hereinafter "Respondent"), and the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing the Accusation filed on October 14, 2010 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.

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

3. Respondent filed a Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent

acknowledges that she understands that by withdrawing said Notice of Defense she will thereby waive her right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA, and that she will waive other rights afforded to her in connection with the hearing such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

5. It is understood by the parties that the Real Estate Commissioner may adopt the Stipulation and Agreement as his decision in this matter thereby imposing the penalty and sanctions on the real estate licenses and license rights of Respondent as set forth in the below "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing and proceeding on the Accusation under all the provisions of the APA and shall not be bound by

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

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#### DETERMINATION OF ISSUES

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

#### I

The acts and omissions of Respondent as described in the Accusation are grounds for the suspension or revocation of Respondent licenses and license rights under Section 10177(d) of the Code in conjunction with Sections 10130 and 10145(c) of the Code.

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#### ORDER

I

1 A. All real estate license(s) and license rights of Respondent are revoked.

2 B. A restricted real estate salesperson license shall be issued to Respondent pursuant to  
3 Section 10156.6 of the Code if within ninety (90) days of the effective date of the Order,  
4 Respondent makes application therefore and pays to the Department the appropriate fee for  
5 said license.

6 C. The restricted license issued to Respondent shall be subject to all of the provisions of  
7 Section 10156.7 of the Code and to the following conditions and limitations imposed under  
8 authority of Section 10156.6 of said Code:

9 1) The restricted license issued to Respondent may be suspended prior to hearing by  
10 order of the Real Estate Commissioner in the event of Respondent's conviction or plea  
11 of nolo contendere to a crime which bears a substantial relationship to Respondent's  
12 fitness or capacity as a real estate licensee.

13 2) The restricted license may be suspended prior to hearing by Order of the Real Estate  
14 Commissioner on evidence satisfactory to the Commissioner that Respondent has  
15 violated provisions of the California Real Estate Law, the Subdivided Lands Law,  
16 Regulations of the Real Estate Commissioner or conditions attaching to the restricted  
17 license.


18 3) Respondent shall not be eligible to apply for the issuance of an unrestricted real estate  
19 license, nor the removal of any of the conditions of the restricted license, until two (2)  
20 years have elapsed from the effective date of this Order.

21 4) Respondent shall submit with any application for license under an employing broker,  
22 or any application for transfer to a new employing broker, a statement signed by the  
23 prospective employing real estate broker on a form approved by the Department of  
24 Real Estate which shall certify:

25 (a) That the employing broker has read the Decision of the Commissioner which  
26 granted the right to a restricted license; and

27 (b) That the employing broker will exercise close supervision over the performance  
by the restricted licensee relating to activities for which a real estate license is  
required.

D. Respondent shall, within nine (9) months from the effective date of this Order, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for hearing pursuant to the APA to present such evidence.

3/28/11  
DATED  
TRULY SUGHRUE  
Counsel for Complainant

\* \* \*

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, 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.

3/18/11  
DATED  
GRACE HARUKO MORIOKA  
Respondent

\* \* \*

The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on MAY 13 2011

IT IS SO ORDERED 4-19, 2011.

  
JEFF DAVI  
Real estate Commissioner

1 TRULY SUGHRUE, Counsel  
2 State Bar No. 223266  
3 Department of Real Estate  
4 P.O. Box 187007  
5 Sacramento, CA 95818-7007

6 Telephone: (916) 227-0789  
7 (916) 227-0781 (Direct)

FILED

OCT 14 2010

DEPARTMENT OF REAL ESTATE

*[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 GRACE HARUKO MORIOKA, )  
13 Respondent. )  
14

No. H-11015 SF  
ACCUSATION

15 The Complainant, Charles W. Koenig, a Deputy Real Estate Commissioner of the  
16 State of California, for cause of Accusation against GRACE HARUKO MORIOKA (hereinafter  
17 "Respondent"), is informed and alleges as follows:

18 1

19 The Complainant, Charles W. Koenig, a Deputy Real Estate Commissioner of the  
20 State of California, makes this Accusation in his official capacity.

21 2

22 Respondent is presently licensed and/or has license rights under the Real Estate  
23 Law, Part 1 of Division 4 of the Business and Professions Code ("Code") as a real estate  
24 salesperson. At no time mentioned herein was Respondent licensed by the Department as a real  
25 estate broker.

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At no time has Commoncents Management been licensed by the Department in any capacity.

4

At all times herein mentioned, Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Sections 10131(b) of the Code, including the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondent leased or rented and offered to lease or rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

5

Beginning on or about January 1, 2003, and continuing through October 30, 2007, Respondent, using the fictitious business name Commoncents Management, in the course of the property management brokerage activities described in Paragraph 4, solicited prospective tenants for, negotiated rental agreements for and collected rents from real properties owned by another or others, including but not limited to the following:

<b><u>PROPERTY OWNER</u></b>	<b><u>PROPERTY LOCATION</u></b>
Mary Imai, the Trustor of the "Imai Family Trust"	339 Stierlin Road, Mountain View, California
Mary Imai, the Trustor of the "Imai Family Trust"	896 Windmill Park Lane, Mountain View, California
Mary Imai, the Trustor of the "Imai Family Trust"	894 Windmill Park Lane, Mountain View, California

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2 By the commission of the acts alleged in Paragraph 5, Respondent engaged in the  
3 business and acted in the capacity of a real estate broker within the State of California as defined  
4 by Section 10131(b) of the Business and Professions Code.

5 7

6 In connection with the real estate activities described in Paragraph 4, Respondent,  
7 accepted or received funds in trust (hereinafter "trust funds") from owners, tenants, and others in  
8 connection with the leasing and renting of real property, as alleged herein, and thereafter from  
9 time to time made, or caused to be made, disbursements of said funds.

10 8

11 Beginning on or about January 1, 2003, and continuing through October 30, 2007,  
12 Respondent failed to immediately deliver said trust funds to her broker, or at the broker's  
13 direction into the hands of the broker's principal, into a neutral escrow depository, or into the  
14 broker's trust fund account in violation of Section 10145(c) of the Code, but instead deposited  
15 said funds into Account Number 1512433 maintained by Respondent at Heritage Bank of  
16 Commerce.

17 9

18 The facts alleged in Paragraphs 5 and 6 are grounds for the suspension or  
19 revocation of the licenses and license rights of Respondent under Sections 10130 and/or 10137  
20 of the Code in conjunction with 10177(d) of the Code.

21 10

22 The facts alleged in Paragraph 8 are grounds for the suspension or revocation of  
23 the licenses and license rights of Respondent under Section 10177(d) of the Code in conjunction  
24 with Section 10145(c) the Code.

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

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7   
8 CHARLES W. KOENIG  
Deputy Real Estate Commissioner

9 Dated at Sacramento, California,  
10 this 13<sup>th</sup> day of October, 2010  
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