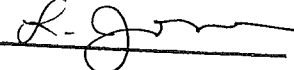


FILED

SEP 14 2012

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

DEPARTMENT OF REAL ESTATE

By 

Telephone: (916) 227-0781

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\*\*\*

In the Matter of the Accusation of

ACCOLADE, INC., and PAUL CHEN,

Respondents.

No. H-11387 SF

STIPULATION AND  
AGREEMENT

It is hereby stipulated by and between ACCOLADE, INC., and PAUL CHEN (Respondents), represented by Steven C. Vondran, and the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real Estate (Department), as follows for the purpose of settling and disposing the Accusation (Accusation) filed on May 21, 2012 in this matter:

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 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. Respondents have received, read, and understand the Statement to Respondent, and the Discovery Provisions of the APA filed by the Department in this proceeding.

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

10                   4.       This stipulation is based on the factual allegations contained in the  
11 Accusation. In the interest of expediency and economy, Respondents choose not to contest these  
12 factual allegations, but to remain silent and understands that, as a result thereof, these factual  
13 statements will serve as a prima facie basis for the "Determination of Issues" and "Order" set  
14 forth below. The Commissioner shall not be required to provide further evidence to prove such  
15 allegations.

16                   5.       This Stipulation and Respondents' decision not to contest the Accusation  
17 are made for the purpose of reaching an agreed disposition of this proceeding and are expressly  
18 limited to this proceeding and any other proceeding or case in which the Department, the state or  
19 federal government, an agency of this state, or an agency of another state is involved.

20                   6.       Respondents understand that by agreeing to this Stipulation and  
21 Agreement, Respondents agrees to pay, pursuant to Section 10148 of the California Business  
22 and Professions Code (Code), the cost of the audit, which resulted in the determination that  
23 Respondents committed the trust fund violation(s) found in Paragraph I of the Determination of  
24 Issues. The amount of said costs is \$2,491.

25                   7.       Respondents further understand that by agreeing to this Stipulation and  
26 Agreement, the findings set forth below in the Determination of Issues become final, and that  
27 the Commissioner may charge said Respondents for the costs of any audit conducted pursuant to

1 Section 10148 of the Code to determine if the violations have been corrected. The maximum  
2 costs of said audit shall not exceed \$2,491.

3 8. Respondents understand that by agreeing to this Stipulation and  
4 Agreement, Respondents agree to pay, pursuant to Section 10106 of the Code, the cost of the  
5 investigation and enforcement which resulted in the determination that Respondents committed  
6 the violation(s) found in the Determination of Issues. The amount of said costs is \$901.10.

7 9. It is understood by the parties that the Commissioner may adopt the  
8 Stipulation and Agreement as his/her decision in this matter thereby imposing the penalty and  
9 sanctions on the real estate licenses and license rights of Respondents as set forth in the below  
10 "Order". In the event that the Commissioner in his/her discretion does not adopt the Stipulation  
11 and Agreement, it shall be void and of no effect, and Respondents shall retain the right to a  
12 hearing and proceeding on the Accusations under all the provisions of the APA and shall not be  
13 bound by any admission or waiver made herein.

14 10. The Order or any subsequent Order of the Commissioner made pursuant to  
15 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further  
16 administrative or civil proceedings by the Department with respect to any matters which were not  
17 specifically alleged to be causes for action in Accusation H-11387 SF.

18 \* \* \*

19 DETERMINATION OF ISSUES

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

23 I

24 The acts and omissions of ACCOLADE, INC. ("ACCOLADE") as described in  
25 the First Cause of Action of the Accusation are grounds for the suspension or revocation of  
26 ACCOLADE's licenses and license rights under the following sections of the Code and Title 10  
27 of the California Code of Regulations (Regulations):

(1) As to Paragraph 9(a), under Section 10177(d) of the Code in conjunction with Section 2831.1 of the Regulations;

(2) As to Paragraph 9(b), under Section 10177(d) of the Code in conjunction with Section 2831.2 of the Regulations;

(3) As to Paragraph 9(c), under Section 10176(e) of the Code; and

(4) As to Paragraph 10, under Section 10177(d) of the Code in conjunction with Section 2715 of the Regulations and Section 10163 of the Code.

## II

The acts and/or omissions of PAUL CHEN (CHEN) as described in the Second Cause of Action of the Accusation is cause for the suspension or revocation of CHEN's license and/or license rights under Section 10177(h) of the Code.

\* \* \*

## ORDER

### I

All licenses and licensing rights of Respondent ACCOLADE under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Order; provided, however, that:

1) Sixty (60) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

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

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

2) All licenses and licensing rights of ACCOLADE are indefinitely suspended unless or

1 until Respondents pays the sum of \$901.10 for the Commissioner's reasonable cost of the  
2 investigation and enforcement which led to this disciplinary action. Said payment shall be in the  
3 form of a cashier's check or certified check made payable to the Real Estate Fund.

4 3) Pursuant to Section 10148 of the Code, ACCOLADE shall jointly and severally with CHEN  
5 pay the sum of \$2,491 for the Commissioner's cost of the audit which led to this disciplinary  
6 action. Respondents shall pay such cost within sixty (60) days of receiving an invoice from the  
7 Commissioner. The Commissioner may suspend the Respondents license pending a hearing held  
8 in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made  
9 as provided for herein, or as provided for in a subsequent agreement between the Respondents  
10 and the Commissioner. The suspension shall remain in effect until payment is made in full or  
11 until Respondents enter into an agreement satisfactory to the Commissioner to provide for  
12 payment, or until a decision providing otherwise is adopted following a hearing held pursuant to  
13 this condition.

14 4) Pursuant to Section 10148 of the Business and Professions Code, ACCOLADE shall jointly  
15 and severally with CHEN pay the Commissioner's reasonable cost, not to exceed \$2,491, for an  
16 audit to determine if Respondents have corrected the trust fund violation(s) found in the  
17 Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the  
18 Commissioner may use the estimated average hourly salary for all persons performing audits of  
19 real estate brokers, and shall include an allocation for travel time to and from the auditor's place  
20 of work. Respondents shall pay such cost within sixty (60) days of receiving an invoice from the  
21 Commissioner detailing the activities performed during the audit and the amount of time spent  
22 performing those activities. The Commissioner may suspend Respondents license pending a  
23 hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not  
24 timely made as provided for herein, or as provided for in a subsequent agreement between  
25 Respondents and the Commissioner. The suspension shall remain in effect until payment is  
26 made in full or until Respondents enter into an agreement satisfactory to the Commissioner to  
27 provide for payment, or until a decision providing otherwise is adopted following a hearing held

1 pursuant to this condition.

2 II

3 All licenses and licensing rights of Respondent CHEN under the Real Estate Law are  
4 suspended for a period of sixty (60) days from the effective date of this Order; provided,  
5 however, that:

6 1) Sixty (60) days of said suspension shall be stayed for two (2) years upon the following terms  
7 and conditions:

8 a) Respondent shall obey all laws, rules and regulations governing the rights, duties and  
9 responsibilities of a real estate licensee in the State of California; and,

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

15 2) All licenses and licensing rights of CHEN are indefinitely suspended unless or until  
16 Respondents pays the sum of \$901.10 for the Commissioner's reasonable cost of the investigation  
17 and enforcement which led to this disciplinary action. Said payment shall be in the form of a  
18 cashier's check or certified check made payable to the Real Estate Fund.

19 3) Pursuant to Section 10148 of the Code, CHEN shall jointly and severally with ACCOLADE  
20 pay the sum of \$2,491 for the Commissioner's cost of the audit which led to this disciplinary  
21 action. Respondents shall pay such cost within sixty (60) days of receiving an invoice from the  
22 Commissioner. The Commissioner may suspend the Respondents license pending a hearing held  
23 in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made  
24 as provided for herein, or as provided for in a subsequent agreement between the Respondents  
25 and the Commissioner. The suspension shall remain in effect until payment is made in full or  
26 until Respondents enter into an agreement satisfactory to the Commissioner to provide for  
27 payment, or until a decision providing otherwise is adopted following a hearing held pursuant to

1 this condition.

2 4) Pursuant to Section 10148 of the Code, CHEN shall jointly and severally with ACCOLADE  
3 pay the Commissioner's reasonable cost, not to exceed \$2,491, for an audit to determine if  
4 Respondents have corrected the trust fund violation(s) found in the Determination of Issues. In  
5 calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the  
6 estimated average hourly salary for all persons performing audits of real estate brokers, and shall  
7 include an allocation for travel time to and from the auditor's place of work. Respondents shall  
8 pay such cost within sixty (60) days of receiving an invoice from the Commissioner detailing the  
9 activities performed during the audit and the amount of time spent performing those activities.  
10 The Commissioner may suspend Respondents license pending a hearing held in accordance with  
11 Section 11500, et seq., of the Government Code, if payment is not timely made as provided for  
12 herein, or as provided for in a subsequent agreement between Respondents and the  
13 Commissioner. The suspension shall remain in effect until payment is made in full or until  
14 Respondents enter into an agreement satisfactory to the Commissioner to provide for payment, or  
15 until a decision providing otherwise is adopted following a hearing held pursuant to this  
16 condition.

17 5) All licenses and licensing rights of CHEN are indefinitely suspended unless or until  
18 Respondent provides proof satisfactory to the Commissioner, of having taken and successfully  
19 completed the continuing education course on trust fund accounting and handling specified in  
20 paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of satisfaction of this  
21 requirement includes evidence that respondent has successfully completed the trust fund account  
22 and handling continuing education course within 120 days prior to the effective date of the  
23 Decision in this matter.

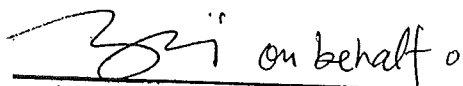
24  
25 DATED 9 July -12

Truly S  
TRULY SUGHRUE  
Counsel for Complainant

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I have read the Stipulation and Agreement, discussed it with my counsel, 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 Accusations 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.

7/1/2012  
DATED

 on behalf of Accolade, Inc.  
Catherine Zhang, on behalf of  
ACCOLADE, INC.  
Respondent

7/2/2012  
DATED

  
PAUL CHEN  
Respondent

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

7/9/12  
DATED

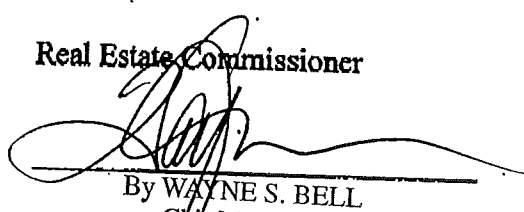
  
STEVEN C. VONDRAN  
Attorney for Respondents

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The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on OCT 04 2012

IT IS SO ORDERED 8/27/2012

Real Estate Commissioner

  
By WAYNE S. BELL  
Chief Counsel