

FILED

MAR 30 2021

DEPARTMENT OF REAL ESTATE

By B. dew

DEPARTMENT OF REAL ESTATE
P. O. Box 137007
Sacramento, CA 95813-7007

Telephone: (916) 576-8700
Fax: (916) 263-3767

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	No. H-12467 SF
	)	
MIMI DU QUACH,	)	<u>STIPULATION AND AGREEMENT</u>
	)	<u>IN SETTLEMENT AND ORDER</u>
Respondent.	)	
_____	)	

It is hereby stipulated by and between MIMI DU QUACH (Respondent), and the Complainant, acting by and through Megan Lee Olsen, Counsel for the Department of Real Estate (Department); as follows for the purpose of settling and disposing of the Accusation filed on August 10, 2020, 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).

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

///

1 3. Respondent 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 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
4 acknowledges and understands that by withdrawing said Notice of Defense Respondent will
5 thereby waive their right 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 Respondent will waive other rights afforded to them in connection with the
8 hearing such as the right to present evidence in defense of the allegations in the Accusation and
9 the right to cross-examine witnesses.

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

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

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

25 7. Respondent understands that by agreeing to this Stipulation, Respondent agrees
26 to pay, pursuant to Section 10106 of the Code, the cost of the investigation which resulted in the
27 violations found in the Determination of Issues. The amount of such costs is \$1,014.50.

1 8. Respondent further understands that by agreeing to this Stipulation, the
2 findings set forth below in the "Determination of Issues" become final.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations, admissions and waivers, and solely for
5 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed
6 that the acts and/or omissions of Respondent, as described in the Accusation, constitute grounds
7 for the suspension or revocation of the licenses and license rights of Respondent under the
8 provisions of Sections 10177(d) and 10177 (g) of the Business and Professions Code (Code), in
9 conjunction with Section 10130 of the Code, and Section 2731 of Title 10 of the California Code
10 of Regulations (Regulations).

11 ORDER

12 All licenses and licensing rights of MIMI DU QUACH, under the Real Estate
13 Law are suspended for a period of thirty (30) days from the effective date of this Order;
14 provided, however, that:

15 1. Fifteen (15) days of said suspension shall be stayed, upon the condition that
16 Respondent petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty
17 pursuant to Section 10175.2 of the Code at a rate of \$50 for each day (15 days) of the suspension
18 for a total monetary penalty of \$750.

19 (a) Said payment shall be in the form of a cashier's check made payable
20 to the Department of Real Estate. Said check must be delivered to the Department of Real
21 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective
22 date of this Order.

23 (b) No further cause for disciplinary action against the real estate license
24 of Respondent occurs within two (2) years from the effective date of the decision in this matter.

25 (c) If Respondent fails to pay the monetary penalty as provided above
26 prior to the effective date of this Order, the stay of the suspension shall be vacated as to
27 Respondent and the order of suspension shall be immediately executed, under this Order, in

1 which event Respondent shall not be entitled to any repayment nor credit, prorated or otherwise,
2 for the money paid to the Department under the terms of this Order.

3 (d) If Respondent pays the monetary penalty and any other moneys due
4 under this Stipulation and if no further cause for disciplinary action against the real estate license
5 of Respondent occurs within two (2) years from the effective date of this Order, the entire stay
6 hereby granted in this Order shall become permanent.

7 2. Fifteen (15) days of said suspension shall be stayed for two (2) years upon
8 the following terms and conditions:

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

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

17 3. Respondent shall, within nine (9) months from the effective date of this
18 Stipulation, present evidence satisfactory to the Commissioner that Respondent has, since the
19 most recent issuance of an original or renewal real estate license, taken and successfully
20 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
21 Law for renewal of a real estate license. If Respondent fails to satisfy this condition,
22 Respondent's real estate license shall automatically be suspended until Respondent presents
23 evidence satisfactory to the Commissioner of having taken and successfully completed the
24 continuing education requirements. Proof of completion of the continuing education courses
25 must be delivered to the Department of Real Estate, Flag Section, at P.O. Box 137013,
26 Sacramento, CA 95813-7013.

27 ///

1/13/21



* * *

Respondent may signify acceptance and approval of the terms and conditions of this Stipulation and Agreement In Settlement and Order by faxing a copy of the signature page, as actually signed by Respondent, to the Department at fax number (916) 263-3767. Respondent agrees, acknowledges, and understands that by electronically sending to the Department a fax copy of Respondent's actual signature as it appears on the Stipulation and Agreement In Settlement and Order, that receipt of the faxed copy by the

1 Department shall be as binding on Respondent as if the Department had received the
2 original signed Stipulation and Agreement In Settlement and Order.

3 Respondent further agrees to send the original signed Stipulation by mail to the
4 following address no later than one (1) week from the date the Stipulation is signed by
5 Respondent: *Department of Real Estate, Legal Section, P.O. Box 137007, Sacramento,*
6 *California 95813-7007.* Respondent understands and agrees that if they fail to return the
7 original signed Stipulation by the due date, Complainant retains the right to set this matter for
8 hearing.

9
10
11 12-18-2020

12 DATED

Mimi DuQuach

13 MIMI DUQUACH
Respondent

14 The foregoing Stipulation and Agreement In Settlement and Order is hereby
15 adopted by the Real Estate Commissioner as his Decision and Order and shall become
16 effective at 12 o'clock noon on APR 20 2021.

17 IT IS SO ORDERED 3-19-21

18 DOUGLAS R. McCAULEY
19 REAL ESTATE COMMISSIONER

20
21 Douglas R. McCauley
22
23
24
25
26
27