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FILED
AUG 23 2023
DEPARTMENT OF REAL ESTATE
By J. Taggart

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-12649 SF
ROBERT GARETT FONG,)	<u>STIPULATION AND</u>
Respondent.)	<u>AGREEMENT</u>

It is hereby stipulated by and between ROBERT GARETT FONG (Respondent), and the Complainant, acting by and through Richard K. Uno, Counsel for the Department of Real Estate, as follows, for the purpose of settling and disposing of the Accusation filed on December 29, 2022 in this matter:

- 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.
- Respondent has received, read and understands the Statement to Respondent, the Discovery Provisions of the APA, and the Accusation filed by the Department of Real Estate 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 that he will thereby waive his right to require the Real Estate Commissioner
5 (Commissioner) to prove the allegations in the Accusation at a contested hearing held in
6 accordance with the provisions of the APA and that he will waive other rights afforded to him in
7 connection with the hearing such as the right to present evidence in defense of the allegations in
8 the Accusation and the right to cross-examine witnesses.

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

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

19 6. The Order or any subsequent Order of the Commissioner
20 made pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar
21 to any further administrative or civil proceedings by the Department of Real Estate with respect
22 to any matters which were not specifically alleged to be causes for accusation in this proceeding
23 as admitted or withdrawn.

24 7. Respondent understands that by agreeing to this Stipulation, Respondent
25 agrees to pay, pursuant to Section 10106 of the Business and Professions Code (Code), the cost
26 of the investigation and enforcement which resulted in the determination that Respondent
27

1 committed the violations found in the Determination of Issues. The amount of said costs is
2 \$1,830.50.

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 hearing, it is stipulated and agreed
6 that the following Determination of Issues shall be made:

7 The acts and/or omissions of Respondent as described in the Accusation, violate
8 Section 10177(b) of the Business and Professions Code:

9 ORDER

10 All licenses and licensing rights of Respondent under the Real Estate Law are
11 revoked; provided, however, a restricted real estate salesperson's license shall be issued to
12 Respondent pursuant to Section 10156.5 of the Code if Respondent makes application therefor
13 and pays to the Department of Real Estate the appropriate fee for the restricted license within 90
14 days from the effective date of this Decision and Order. The restricted license issued to
15 Respondent shall be subject to all of the provisions of Section 10156.7 of the Code as to the
16 following limitations, conditions, and restrictions imposed under authority of Section 10156.6 of
17 that Code:

18 1. The restricted license issued to Respondent may be suspended prior to
19 hearing by Order of the Commissioner in the event of Respondent's conviction or plea of nolo
20 contendere to a crime which is substantially related to Respondent's fitness or capacity as a real
21 estate licensee.

22 2. The restricted license issued to Respondent may be suspended prior to
23 hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that
24 Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
25 Law, Regulations of the Commissioner, or conditions attaching to the restricted license.

26 3 Respondent shall not be eligible to apply for the issuance of an unrestricted
27 real estate license nor for removal of any of the conditions, limitations, or

1 restrictions of a restricted license until two (2) years have elapsed from the effective date of this
2 Decision.

3 4. All licenses and licensing rights of Respondent are indefinitely suspended
4 unless or until Respondent pays the sum of \$1,830.50 for the Commissioner's reasonable cost
5 of the investigation which led to this disciplinary action. Said payment shall be in the form of a
6 cashier's check made payable to the Department of Real Estate. The investigative costs must be
7 delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA
8 95813-7013, prior to the effective date of this Decision and Order.

9 5. With the application for license, or with the application for transfer to a
10 new employing broker, Respondent shall submit a statement signed by the prospective employing
11 real estate broker on a form approved by the Department which shall certify as follows:

12 (1) That the employing broker has read the Decision which is
13 the basis for the issuance of a restricted license; and

14 (2) That the employing broker will carefully review all
15 transaction documents prepared by the restricted licensee and otherwise exercise close
16 supervision over the licensee's performance of acts for which a license is required.

17 6. Respondent shall, within six (6) months from the effective date of this
18 Order, take and pass the Professional Responsibility Examination administered by the
19 Department including the payment of the appropriate examination fee. If Respondent fails to
20 satisfy this condition, Respondent's real estate license shall automatically be suspended until
21 Respondent passes the examination.

22 7. Respondent shall notify the Commissioner in writing within 72 hours of
23 any arrest by sending a certified letter to the Commissioner at the Department of Real Estate,
24 Post Office Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the date of
25 Respondent's arrest, the crime for which Respondent was arrested and the name and address of
26 the arresting law enforcement agency. Respondent's failure to timely file written notice shall
27 constitute an independent violation of the terms of the restricted license and shall be ground for

1 the suspension or revocation of that license.

2
3 7/24/23
4 DATED

Richard K. Uno
RICHARD K. UNO, Counsel
DEPARTMENT OF REAL ESTATE

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

15 7/21/2023
16 DATED

DocuSigned by:
Robert Fong
E031D005E8F0408...
ROBERT GARETT FONG
Respondent

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18 * * *

19 The foregoing Stipulation and Agreement is hereby adopted by the Real Estate
20 Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on

21 SEP 12 2023

22
23 IT IS SO ORDERED 8-22-23

24 DOUGLAS R. McCAULEY
25 REAL ESTATE COMMISSIONER
26
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