

1 Department of Real Estate
107 South Broadway, Room 8107
2 Los Angeles, California, 90012
3 (213) 897-3937
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FILED
DEC 20 1995
DEPARTMENT OF REAL ESTATE

By Lana B. Oron

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of)	No. H-26224 LA
12 JU CHENG JERRY FUNG)	<u>STIPULATION AND AGREEMENT</u>
13 aka Jerry Fung, individually)	<u>IN SETTLEMENT AND ORDER</u>
14 and dba Dynasty Realty,)	
15 Respondent.)	

16 It is hereby stipulated by and between JU CHENG JERRY
17 FUNG (referred to as Respondent), acting by and through his
18 attorney Harold Greenberg, Esq. and the Complainant, acting by and
19 through Sean Crahan, Counsel for the Department of Real Estate, as
20 follows for the purpose of settling and disposing of the Accusation
21 filed on July 19, 1995, in this matter:

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

1 Settlement And Order (hereafter Stipulation).

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

6 3. On August 3, 1995, Respondent filed a Notice of
7 Defense pursuant to Section 11505 of the Government Code for the
8 purpose of requesting a hearing on the allegations in the
9 Accusation. Respondent hereby freely and voluntarily withdraws
10 said Notice of Defense. Respondent acknowledges that she
11 understands that by withdrawing said Notice of Defense, she will
12 thereby waive his right to require the Commissioner to prove the
13 allegations in the Accusation at a contested hearing held in
14 accordance with the provisions of the APA and that she will waive
15 other rights afforded to her in connection with the hearing such as
16 the right to present evidence in defense of the allegations in the
17 Accusation and the right to cross-examine witnesses.

18 4. Pursuant to the limitations set forth below,
19 Respondent admits the allegations set forth in paragraphs one (1)
20 through seven (7) of the accusation are true and correct and the
21 Department shall not be required to provide further evidence to
22 prove such allegations.

23 5. It is understood by the parties that the Real Estate
24 Commissioner may adopt the Order in this Stipulation as his
25 decision and order in this matter thereby imposing the penalty and
26 sanctions on Respondent's real estate licenses and/or license
27 rights as set forth in the below Order. In the event that the

1 Commissioner in his discretion does not adopt the Stipulation, the
2 Stipulation And Agreement In Settlement shall be void and of no
3 effect, and Respondent shall retain the right to a hearing and
4 proceeding on the Accusation under all the provisions of the APA
5 and shall not be bound by any admission or waiver made herein.

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

12 DETERMINATION OF ISSUES

13 By reason of the foregoing stipulations and waivers, made
14 solely for the purpose of settlement of the pending Accusation
15 without a hearing, it is stipulated and agreed that the following
16 Determination of Issues shall be made:

17 The conduct or omissions of Respondent JU CHENG JERRY
18 FUNG, as set forth in paragraphs one (1) through seven (7) of the
19 Accusation constitute cause to suspend or revoke his real estate
20 broker license and/or license rights under the provisions of Code
21 Sections 10177(d) for violation of Regulations 3007.2. and
22 3007.3(a)(13) from Title 10, Chapter 6 of the California Code of
23 Regulations.

24 ORDER

25 WHEREFORE, THE FOLLOWING ORDER is hereby made:

26 All licenses and license rights of JU CHENG JERRY FUNG
27 under Part 1 of Division 4 of the Business and Professions Code are

1 suspended for ninety (90) days.

2 1. Respondent shall serve the first sixty (60) days
3 of said suspension

4 2. The last thirty (30) days of said suspension
5 shall be stayed for one (1) year upon the following terms and
6 conditions;

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

11 (b) That no final subsequent determination be
12 made, after hearing or upon stipulation, that cause for
13 disciplinary action occurred within one (1) year of the effective
14 date of this Order.

15 3. If no further cause for disciplinary action
16 against the real estate license of Respondent JU CHENG JERRY FUNG,
17 as finally determined after hearing or stipulation, occurs within
18 one (1) year, the stay of the last thirty (30) days of said
19 suspension granted shall become permanent.

20 * * * * *

21 I have read the Stipulation And Agreement In Settlement
22 And Order, and its terms are understood by me and are agreeable and
23 acceptable to me. I understand that I am waiving rights given to
24 me by the California Administrative Procedure Act (including but
25 not limited to Sections 11506, 11508, 11509 and 11513 of the
26 Government Code), and I willingly, intelligently and voluntarily
27 waive those rights, including the right of requiring the



1 Commissioner to prove the allegations in the Accusation at a
2 hearing at which I would have the right to cross-examine witnesses
3 against me and to present evidence in defense and mitigation of the
4 charges.

5 DATED: 10/26/95

Jerry Fung
JU CHENG JERRY FUNG, Respondent.

7 DATED: 27 OCT 95

Harold Greenberg
HAROLD GREENBERG, Esq. Counsel for
Respondent Ju Cheng Jerry Fung,
approved as to form

10 DATED: 11-13-95

Sean Crahan
SEAN CRAHAN, Counsel for
Complainant.

13 * * * * *

14
15 The foregoing Stipulation And Agreement In Settlement is
16 hereby adopted as my Decision and Order as to Respondent JU CHENG
17 JERRY FUNG and shall become effective at 12 o'clock noon on
18 January 9, 1996.

20 IT IS SO ORDERED 11-27-95.

21 JIM ANTT, JR.
22 Real Estate Commissioner

23 J. Antt Jr.
24
25
26
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*Sacto
Flag*

1 Sean Crahan, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, CA 90012

5 (213) 897-3937

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JUL 19 1995
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[Signature]

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-26224 LA
JU CHENG JERRY FUNG)	
aka Jerry Fung, individually)	A C C U S A T I O N
and dba Dynasty Realty,)	
Respondent.)	

17 The Complainant, Peter F. Hurst, a Deputy Real Estate
18 Commissioner of the State of California, for cause of accusation
19 against JU CHENG JERRY FUNG aka Jerry Fung individually and dba
20 Dynasty Realty, alleges as follows:

21 1.

22 The Complainant, Peter F. Hurst, a Deputy Real Estate
23 Commissioner of the State of California, makes this Accusation in
24 his official capacity.

25 2.

26 JU CHENG JERRY FUNG, also known as Jerry Fung,
27 (hereafter Respondent), is presently licensed and/or has license

1 rights under Division 4 of the California Business and Professions
2 Code (hereafter cited as the Code). At all times mentioned
3 herein, Respondent was and still is licensed by the Department of
4 Real Estate of the State of California as a real estate broker,
5 individually and dba Dynasty Realty.

6 3.

7 Dynasty Realty School (hereafter DRS) is the sponsor of
8 the continuing education course offerings identified in Paragraph
9 Four (4), below. DRS is owned and/or controlled by Respondent.

10 4.

11 The Department issued to DRS approval for the following
12 continuing education course offerings pursuant to Business and
13 Professions Code (hereafter Code) Sections 10170.4 and Sections
14 3006 and 3007 of the Regulations:

15 Course No. 16 Issued By DRE:	Date Approved:	Course Title:
17 2429 9 05 0392 03	March 27, 1992	"Ethics"
18 2429-9-06-0492-03	April 8, 1992	"Agency"
19 2429 9 07 0592 18	May 12, 1992	"Real Estate Investment"
20 2429 9 08 0792 21	July 16, 1992	"Modern Residential Financing 21 Methods"

22 Said courses were applied for and approved to be taught as
23 correspondence courses with for continuing education credit.

24 5.

25 Approval of said courses was predicated upon the
26 sponsor's compliance with Regulations 3005 through 3012.2 and Code
27 Sections 10170 through 10171.6, including the following:

1 (a) Tests administered would be the tests approved by
2 the Department and no material deviation from the course would
3 occur unless approved by the Department pursuant to Regulation
4 3007.2.

5 (b) Enrollees would not be permitted to designate the
6 person to administer the final examination. Regulation
7 3007.3(a)(13). In its applications, DRS. through Respondent,
8 represented to the Department "Under no circumstances may final
9 exams be furnished to the student. Exams will be submitted under
10 sealed envelope to your Test Administrator....The DRE does not
11 allow students to select or designate in any way their own
12 monitor. The school furnishes a list of qualified Test
13 Administrators which includes, but not limited to : Board of
14 Realtors (R), Local Library, Notary Public, Title Companies,
15 Escrow Companies, Attorney Offices, and Real Estate Offices....The
16 Final Examination will be sent to the Test Administrator directly
17 and you will be notified of the date, time and location of your
18 examination by this school. You may not name, or designate in
19 any way, the person or entity to administer the supervised final
20 examination." The Department on April 29, 1992 specifically
21 objected to a proposed student instruction which stated "Please
22 indicate your selection of test administrator and the school will
23 contact the person directly." (Real Estate Investment).

24 6.

25 In order to qualify for renewal of a real estate
26 license, a licensee must prove successful completion of continuing
27 education courses, or the equivalent, such as that identified in

1 Paragraph Two (2) above, during the preceding four-year period.
2 Code Sections 10170.5(a) and 10170.5(b).

3 7.

4 On or about February 17, 1993, William E. Lee (hereafter
5 Lee) enrolled to take all four courses identified in Paragraph 4
6 above.

7 (a) Prior to April 9, 1993, Lee requested to take the
8 ethics and agency examinations. DRS did not provide a list of
9 test monitors to Lee but instructed Lee to find his own monitor.
10 DRS sent the examinations directly to Lee on or about April 9,
11 1993.

12 (b) Prior to May 7, 1993, Lee requested to take the
13 examinations in "Real Estate Investment" and "Modern Residential
14 Financing Methods". DRS did not provide a list of test monitors
15 to Lee but instructed him to find his own monitor. DRS sent the
16 examinations directly to Lee.

17 (c) The examination for the "Modern Residential
18 Financing Methods" provided by DSR to Lee was a "D" version. DSR
19 had provided only the "P" and "S" versions to the Department and
20 the Department approved only the "P" and "S" versions. The
21 Department had not approved the "D" version.

22 (d) DSR issued a certificate of completion to Lee.

23 8.

24 The conduct described in Paragraph seven (7) above and
25 subparagraphs therein constitute failures to comply with
26 conditions to the approval of said courses identified in Paragraph
27 Four (4) in that:

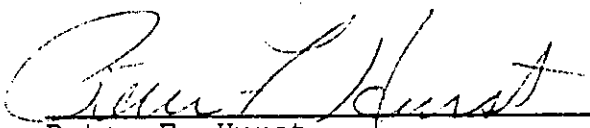
1 (a) Lee was not only permitted to but required to
2 select his own Test Administrator, in direct violation of
3 Regulation 3007.3(a)(13). This also constituted a material change
4 in the offering in violation of Regulation 3007.2.

5 (b) An unapproved test was administered to Lee which
6 constituted a material change in the course offering for which the
7 Department had not granted prior approval, in violation of
8 Regulation 3007.2.

9 9.
10 The violations of Regulations 3007.2. and 3007.3(a)(13)
11 described in Paragraphs Seven (7) and Eight (8) herein above are
12 grounds to suspend or revoke the licenses and license rights of
13 Respondent pursuant to Section 10177(d) of the Code.

14 WHEREFORE, Complainant prays that a hearing be conducted
15 on the allegations of this Accusation and that upon proof thereof,
16 a decision be rendered imposing disciplinary action against all
17 licenses and/or license rights of JU CHENG JERRY FUNG aka Jerry
18 Fung, individually, and dba Dynasty Realty, under the Real Estate
19 Law and for such other and further relief as may be proper under
20 applicable provisions of law.

21 Dated at Los Angeles, California
22 this 19th day of July, 1995.

23 
24 Peter F. Hurst
Deputy Real Estate Commissioner

25 cc: Ju Cheng Jerry Fung
26 CT
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27 SC/sc