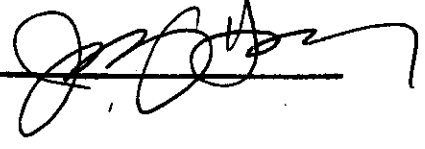


1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105

4 Telephone: (213) 576-6982

FILED
AUG 11 2004

DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 JU CHENG JERRY FUNG,)
13 Respondent.)

NO. H-30589 LA
L-2004020582
STIPULATION AND AGREEMENT

14
15 It is hereby stipulated by and between JU CHENG JERRY
16 FUNG, (sometimes referred to as Respondent) and his attorney of
17 record, Mark L. Bradbury, Esq., and the Complainant, acting by
18 and through Darlene Averetta, Counsel for the Department of Real
19 Estate, as follows for the purpose of settling and disposing of
20 the Accusation filed on December 22, 2003, in this matter:

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

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

5 3. On January 6, 2004, Respondent filed a Notice of
6 Defense pursuant to Section 11506 of the Government Code for
7 the purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges that he
10 understands that by withdrawing said Notice of Defense he will
11 thereby waive his right to require the Commissioner to prove
12 the allegations in the Accusation at a contested hearing held
13 in accordance with the provisions of the APA and that he will
14 waive other rights afforded to him in connection with the
15 hearing such as the right to present evidence in defense of the
16 allegations in the Accusation and the right to cross-examine
17 witnesses.

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

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

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

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

12 DETERMINATION OF ISSUES

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

17 The conduct of Respondent, as described in Paragraph
18 III of the Accusation, is grounds for suspension or revocation
19 of his real estate broker license and license rights under the
20 provisions of Section 10177(f) of the California Business and
21 Professions Code.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

ORDER

WHEREFORE, THE FOLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent
JU CHENG JERRY FUNG, under the Real Estate Law are revoked;
provided, however, a restricted real estate broker license
shall be issued to Respondent pursuant to Section 10156.5
of the Code if she makes application therefor and pays to
the Department the appropriate fee for the restricted license
within 90 days from the effective date of this Decision.

The restricted license issued to Respondent shall be
subject to all of the provisions of Section 10156.7 of the Code
and to the following conditions, limitations and restrictions
imposed under the authority of Section 10156.6 of the Code:

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

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

///

///

1 3. Respondent shall not be eligible to apply for
2 issuance of an unrestricted real estate broker license nor for
3 the removal of any of the conditions, limitations or
4 restrictions of a restricted license until two (2) years have
5 elapsed from the effective date of this Decision.

6 4. Respondent shall, within nine (9) months from the
7 effective date of this Decision, present evidence satisfactory
8 to the Commissioner that Respondent has, since the most recent
9 issuance of an original or renewal real estate broker license,
10 taken and successfully completed the continuing education
11 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
12 for renewal of a real estate broker license. If Respondent
13 fails to satisfy this condition, the Commissioner may order the
14 suspension of the restricted license until Respondent presents
15 such evidence. The Commissioner shall afford Respondent the
16 opportunity for a hearing pursuant to the APA to present such
17 evidence.
18

19 5. Respondent shall, within six (6) months from the
20 effective date of this Decision, take and pass the Professional
21 Responsibility Examination administered by the Department
22 including the payment of the appropriate examination fee. If
23 Respondent fails to satisfy this condition, the Commissioner may
24 order suspension of Respondent's license until Respondent passes
25 the examination.

26 DATED: 4/20/04


DARLENE AVERETTA
Counsel for Complainant

1 * * *

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

13 "Respondent can signify acceptance and approval of the
14 terms and conditions of this Stipulation and Agreement by faxing
15 a copy of the signature page, as actually signed by Respondent,
16 to the Department at the following telephone/fax number: (213)
17 576-6917 Respondent agrees, acknowledges and understands that by
18 electronically sending to the Department a fax copy of his
19 actual signature as it appears on the Stipulation and Agreement,
20 that receipt of the faxed copy by the Department shall be as
21 binding on Respondent as if the Department had received the
22 original signed Stipulation and Agreement."
23

24 ///

25 ///

26 ///

27 ///

Further, if the Respondent is represented by counsel,
the Respondent's counsel can signify his agreement to the terms
and conditions of the Stipulation and Agreement by submitting his
or her signature via fax.

DATED:

April 16, 2004

JU CHENG JERRY FUNG
Respondent

DATED:

APRIL 14, 2004

MARK L. BRADBURY, ESQ.
Counsel for the Respondent
Approved as to Form

* * *

The foregoing Stipulation is hereby adopted as my
Decision in this matter and shall become effective at 12 o'clock
noon on _____.

IT IS SO ORDERED _____

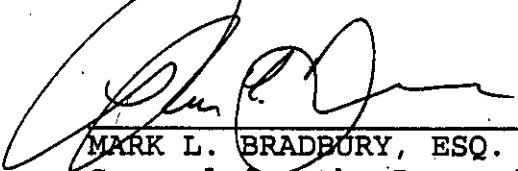
JOHN R. LIBERATOR
Acting Real Estate Commissioner

1 Further, if the Respondent is represented by counsel,
2 the Respondent's counsel can signify his agreement to the terms
3 and conditions of the Stipulation and Agreement by submitting his
4 or her signature via fax.

5
6 DATED: _____

JU CHENG JERRY FUNG
Respondent

7
8
9 DATED: APRIL 14, 2004


MARK L. BRADBURY, ESQ.
Counsel for the Respondent
Approved as to Form

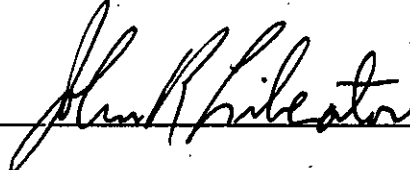
10
11 * * *

12
13 The foregoing Stipulation is hereby adopted as my
14 Decision in this matter and shall become effective at 12 o'clock
15 noon on August 31, 2004.

16 IT IS SO ORDERED

August 6, 2004.

17
18 JOHN R. LIBERATOR
Acting Real Estate Commissioner

19
20 
21
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Sacto

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
JU CHENG JERRY FUNG,)
Respondent)

Case No. H-30589 LA

OA# No. L-2004020582

FILED
JUN 18 2004
DEPARTMENT OF REAL ESTATE

NOTICE OF CONTINUED HEARING ON ACCUSATION

By 

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on TUESDAY, SEPTEMBER 14, 2004, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

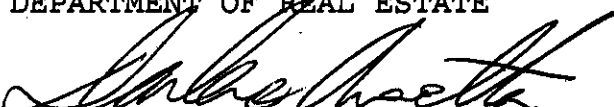
You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: June 18, 2004

By


DARLENE AVERETTA
Assistant Chief Counsel

cc: Ju Cheng Jerry Fung
Donna L. Ortlieb, Esq.
Sacto.
OAH

58010

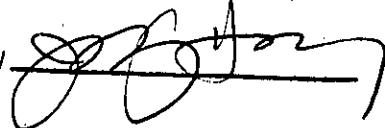
BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
 JU CHENG JERRY FUNG,)
)
 _____)
 Respondent.

Case No. **H-30589 LA**
OAH No. L-2004020582

FILED
APR 9 2004
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

By 

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on **MONDAY, JUNE 21, 2004**, at the hour of **1:30 P.M.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

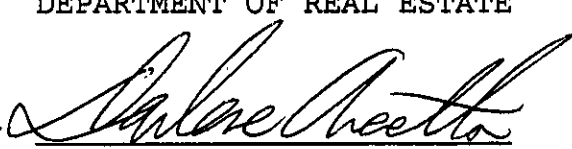
You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: April 9, 2004

By 

DARLENE AVERETTA
Assistant Chief Counsel

cc: Ju Cheng Jerry Fung
Mark L. Bradbury, Esq.
Sacto.
OAH

FILED
DEC 22 2003

By 

By

* * *

NO. H-30589 LA

A C C U S A T I O N

I

II

- 1 -

1 III

2 Effective on or about September 18, 2002, before the
3 Office of Real Estate Appraisers of the State of California
4 ("OREA"), in Case No. C 020516-03, Respondent, pursuant to
5 Stipulation and Waiver, surrendered his real estate appraiser
6 license number AR 023677.

7 In said Stipulation, Respondent acknowledged
8 receiving a Notice of Allegations that alleged that he failed
9 to conform to the Uniform Standards of Professional Appraisal
10 Practice ("USPAP") in various appraisal reports prepared
11 between August 21, 2001 and November 24, 2001. In particular,
12 Respondent failed to adequately disclose that the trainee who
13 performed the work on said matters was the broker of record for
14 the company named as client in the report and stood to gain
15 financially as a result.

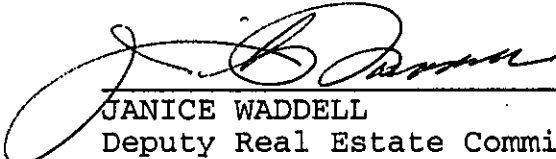
16 In addition, Respondent acknowledged that on or about
17 September 13, 2001, he applied for course provider
18 accreditation with OREA. The application asked: "Has
19 accreditation or license by OREA or any other agency been
20 revoked, suspended or denied for the course provider or any
21 other person identified in Item 7 above?" (Respondent was
22 identified in Item 7). Respondent answered "No." This was a
23 false answer. On or about December 20, 1995, the Department
24 of Real Estate, in Case No. H-26250 LA, suspended Respondent's
25 DBA, Dynasty Real Estate School, for a period of ninety days.
26
27

IV

Respondent's discipline by the OREA, and the acts leading to said discipline, as described above in Paragraph III, are cause under Section 10177(f) and/or 10177(j) of the Business and Professions Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate law.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and/or license rights of JU CHENG JERRY FUNG under the Real Estate Law and for such other and further relief as may be proper under applicable provisions of law.

Dated at Los Angeles, California
this 19th day of December, 2003.



JANICE WADDELL
Deputy Real Estate Commissioner

cc: Jerry Cheng Ju Fung
Janice Waddell
SACTO
CT