FILED

JUN 19 2013

DEPARTMENT OF REAL ESTATE
BY: [signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of AIA FUNDING INC.; AMERICAN KEN INC.; and KIN YAM YU, individually and as designated officer of the corporations, Respondent(s).	DRE No. H-37408 LA OAH No. 2011100724

DECISION

The Proposed Decision dated April 25, 2013, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

Pursuant to Section 11517(c)(2) of the Government Code, the following correction is made to the Proposed Decision.

Page 10, Order, paragraph #2, line 1, "paragraph 10a" is corrected to read "paragraph10b".

This Decision shall become effective at 12 o'clock noon on JUL 9 2013.

IT IS SO ORDERED June 10, 2013.

REAL ESTATE COMMISSIONER

[signature]

By: Jeffrey Mason
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against: AIA FUNDING, INC.; AMERICAN KEN, INC.; and KIN YAM YU, individually and as Designated Officer of AIA Funding, Inc. and American Ken, Inc., Respondents.	Case No. H-37408-LA OAH No. 2011100724

PROPOSED DECISION

Jennifer M. Russell, Administrative Law Judge, Office of Administrative Hearings, heard this matter in Los Angeles, California on January 23, 2013.

James R. Peel, Real Estate Counsel, Department of Real Estate, represented complainant Robin Trujillo, Deputy Real Estate Commissioner of the State of California. Marisol Ocampo, Attorney at Law, represented respondents AIA Funding, Inc., American Ken, Inc., and Kin Yam Yu , individually and as Designated Officer of AIA Funding, Inc., and American Ken, Inc.

Complainant seeks to discipline the licenses and license rights of respondents based on allegations that audits conducted in 2011 reveal violations of the Real Estate Law. Respondents dispute the allegations.

The matter was submitted for decision January 23, 2013. The Administrative Law Judge makes the following Factual Findings, Legal Conclusions, and Order.

FACTUAL FINDINGS

1. Complainant filed the Accusation in her official capacity.

License History and Real Estate Activities

2. On April 24, 1980, the Department of Real Estate (Department) issued Real Estate Salesperson License number 00780457 to Kin Yam Yu (Yu), who subsequently obtained a Broker License on January 23, 1992, and which expires January 22, 2016.

3. On December 8, 2003, the Department issued corporate Real Estate License number 01406681 to AIA Funding, Inc. (AIA Funding), doing business as, among other entities, AIA Realty, with Kin Yam Yu as its Designated Officer. The license expired December 7, 2011.

4. On August 6, 2008, the Department issued corporate Real Estate License number 01850103 to American Ken, Inc. (American Ken), with Kin Yam Yu as its Designated Officer. The license expires August 5, 2016.

5. Respondent Yu testified, "AIA Funding is my side business." Yu used AIA Funding to close real estate transactions, including the seven transactions set forth in Factual Finding 8. Yu used American Ken "to fund loans as a lender." Yu testified that he supervised agents handling transactions conducted through AIA Funding and American Ken. According to Yu's testimony, agents typically informed him of their intent to propose an offer, and he requested copies of the offer for his review and signature. Julie Nguyen, a 14-year employee of American Ken with compliance responsibilities, testified that after Yu signed off on documents she checked them to make sure they were signed by all relevant parties. Yu additionally testified that he answered questions pertaining to offers, if any, and in those instances where he was unable to provide any answer, he referred the matter to a real estate lawyer. Yu testified that he provided agents with updates and continuing monthly training regarding the completion of forms and the importance of obtaining signatures.

The AIA Funding Audit

6. On April 12, 2011, the Department completed an audit of the books and records of AIA Funding's real estate sales activities during the period February 1, 2008 through January 17, 2011. The stated purpose of the audit was "to determine whether . . . [AIA Funding] conducted its real estate activities and handled and accounted for trust funds in accordance with the Real Estate Law and Commissioner's Regulations." (Ex. 6.)

7. Based on the audit findings, in paragraph 7a of the Accusation complainant alleges that AIA Funding and Yu "violated [Business and Professions Code] Sections 10176 (a), and 10176 (i) by representing to sellers that . . . [they] received an earnest money deposit . . . from buyers M. Chow, L. Yu, K. Shen, G. Jing, W. Chen, Y. Wang, and K. Chou at the time the sales contract was drawn when in fact . . . [they] did not receive the earnest money deposit at this time."

8. At the hearing, respondents produced documents to refute the allegations set forth in paragraph 7a of the Accusation as follows:

a. With respect to M. Chow, on a July 14, 2010 Residential Purchase Agreement and Joint Escrow Instructions a box is checked to indicate that the buyer gave an initial deposit in the amount of a $5,000 to AIA Realty in the form of a personal check, which was to be held uncashed until acceptance. (Ex. A.) Respondents produced a copy of Chow's check number 1795 (front only), dated July 14, 2010 and payable to AIA Realty in the amount of $5,000 with the notation "initial deposit for 2050 Galvin Lane #2." (Ex. B.) General Auditor Chona Soriano testified she "had never seen [check 1795] during the audit" and that she was unable to "tell if it is a part of the same transaction." During the audit, Soriano had seen only a copy of check number 1796 (front and back) payable to New Star Escrow in the amount of $5,000, with the notation "escrow 10-3088-cp," and dated July 19, 2010, which is five days after the purchase agreement. New Star Escrow Trust Receipt number 4997 indicates that the payment was for the benefit of buyer. (Ex. 7.)

b. With respect to L. Yu, an August 6, 2010 Residential Purchase Agreement and Joint Escrow Instructions indicates that buyer was required to give an initial deposit in the amount of $10,000. Soriano premised her audit finding of misrepresentation on a copy of check number 0094, dated August 11, 2010, payable to "Escrow Options Group, Inc." in the amount of $12,000, and bearing the notation "Deposit 2-3505-KH." (Ex. 8.) On cross-examination, Soriano testified that unmarked boxes on the purchase agreement mean that earnest money deposit should "go to escrow after the offer is accepted," and, consequently, "a check would not be issued until the offer is accepted." Soriano conceded, "I must have been mistaken on this one" because the agent is "not required to have earnest deposit money in hand when an offer is made." According to respondent Yu's testimony, this was an all-cash transaction.

c. With respect to K. Shen, a July 14, 2010 Residential Purchase Agreement and Joint Escrow Instructions indicates that buyer gave an initial deposit in the amount of $20,000 by wire to the agent submitting the offer. (Ex. 9.) Respondent Yu characterized the wire as "a mistake" and "a contradiction" because AIA Funding maintained no trust account and consequently could not accept wired funds. Respondents produced a copy of Shen's check number 2 (front only), dated July 13, 2010, and payable to "Escrow" in the amount of $20,000. (Ex. E.) By declaration, Shen attests to the following:

> On July 13, 2010, I gave a check of $20,000 with check number 002 to my agent who would relay it to the escrow company as initial deposit of making a purchase offer. Due to fact that at the time I did not know the name of the escrow company, I therefore simply put "Escrow" as the payee. . . .
>
> When my purchase offer was accepted on July 26, 2010, Hallmark Escrow refused to accept a third party check. As a result, I had to purchase a cashier's check from the Toronto-Dominion Bank and made it payable to Hallmark Escrow. (Ex. F.)

Soriano saw check number 2 (Ex. E.) for the first time at the hearing. Soriano testified that if she had seen the check during the audit she would not have concluded there was a violation.

d. With respect to G. Jing, on a September 22, 2010 Residential Purchase Agreement and Joint Escrow Instructions a box is checked to indicate that the buyer gave an initial deposit in the amount of a $20,000 in the form of a personal check payable to American Trust Escrow, Inc., which was to be held uncashed until acceptance. (Ex. 10.) Respondents produced a copy of check number 0098 (front only), dated September 22, 2010 and payable to "AIA Realty" in the amount of $20,000. (Ex. H.) By declaration, Jing attests to the following:

> When my purchase offer was accepted on September 25, 2010, my agent delivered my initial deposit check to open escrow. However, American Trust Escrow refused to accept the $20,000 check because it was payable to AIA Realty. As a result, I issued a new check of $20,000 with check number 0099 to American Trust Escrow. (Ex. I.)

Check number 0099 is dated September 27, 2010. At the time of the audit, Soriano had not seen check number 0098.

e. With respect to W. Chen, Soriano made an assumption that the agent received a check because a notation on a September 8, 2010 Residential Purchase Agreement and Joint Escrow Instructions indicates that an initial deposit in the amount of $5,000 is payable to "escrow company." At the time of the audit, Soriano reviewed a copy of check number 198 (front only), dated September 13, 2010 and payable to Pristine Escrow Company in the amount of $5,000. (Ex. 11.) Soriano conceded on cross-examination, however, that an un-checked box on the September 8, 2010 Residential Purchase Agreement and Joint Escrow Instructions indicates that no representation was made regarding the receipt of the $5,000 initial deposit.

f. With respect to Y. Wang, on a July 11, 2010 Residential Purchase Agreement and Joint Escrow Instructions a box is checked to indicate that the buyer gave an initial deposit in the amount of $7,000 to AIA Realty in the form of a personal check, which was to be held uncashed until acceptance. (Ex. 12.) Soriano premised her audit finding of misrepresentation on a copy of check number 1195, dated July 14, 2010, payable to "West Coast Escrow" in the amount of $12,000, and bearing the notation "4420 Cypress Avenue, El Monte 3% [illegible] deposit." Soriano additionally reviewed Receipt number 2761 for a payment of $12,000 from Y. Wang on July 16, 2010, which contains the notation "Deposit or earnest money." (Ex. 12.) Respondents produced a copy of Wang's check number 1194 (front only), dated July11, 2010, payable to "AIA Realty" in the amount of $7,000, and bearing the notation "initial deposit 4420 Cypress." (Ex. L.) Soriano testified that check number 1194 "was not given to me" at the audit, and that if she had check number 1194 at the time of the audit she would not have found a violation.

g. With respect to K. Chou, on a June 24, 2010 Residential Purchase Agreement and Joint Escrow Instructions a box is checked to indicate that buyer gave an initial deposit in the form of a personal check in the amount of $4,000 payable to "Escrow Company." (Ex. 13.) Soriano premised her audit finding of misrepresentation on a copy of check number

3043, dated July 7, 2010, payable to "South OC Escrow" in the amount of $10,000, and bearing the notation "Deposit 96 Cloud Crest." (Ex. 13.) Respondents produced a copy of Chou's check number 3035 (front only), dated June 24, 2010 and payable to "Escrow Company" in the amount of $4,000. (Ex. N.) Soriano testified that if she had seen check number 3055 at the time of the audit, she would not have found a violation.

9. Complainant has not produced clear and convincing evidence establishing, as alleged in paragraph 7a of the Accusation, that respondents AIA Funding and Yu represented to sellers that they received earnest money deposits in violation of Business and Professions Code sections 10176, subdivision (a), and 10176, subdivision (i).

10. Based on the audit findings, in paragraph 7b of the Accusation complainant alleges that AIA Funding and Yu "violated [Business and Professions Code] Section 10140 (b)[1] in that the broker's license identification number of the buyer's agent was not disclosed on the purchase agreements used for buyers M. Chow, L. Yu, and K. Shen."

a. During the hearing, Soriano testified on direct examination that purchase agreements admitted into evidence as Exhibits 7, 8, and 9 contained no Department licensee number, which was required on page 8 of each exhibit. On cross-examination after Soriano examined the identical purchase agreements identified as Exhibits A, B and C, and on each of which appears the handwritten license number 01406681, Soriano testified further that "it is possible" that Exhibits 7, 8, and 9, which formed the basis of her audit findings, were "not final versions." Soriano admitted that in real estate purchase and sale transactions "more than one draft is going back and forth."

11. Complainant has not produced clear and convincing evidence establishing, as alleged in paragraph 7b of the Accusation, that respondents AIA Funding and Yu failed to disclose the broker's license identification number of the buyer's agent on the purchase agreements used for buyers M. Chow, L. Yu, and K. Chen.

The American Ken Audit

12. On April 18, 2011, the Department completed an audit of the books and records of American Ken for the period February 1, 2008 through December 31, 2010. The stated purpose of the audit was "to determine whether . . . [American Ken] conducted its real estate activities and handled and accounted for trust funds in accordance with the Real Estate Law and Commissioner's Regulations." (Ex. 5.)

13. Based on the audit findings, in paragraph 10a of the Accusation complainant alleges that respondents American Ken and Yu "[v]iolated [Business and Professions Code] Section 10240 and [California Code of Regulations, title 10, section] 2840 in that Mortgage

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1 On its face Business and Professions Code section 10140, which contains no subdivisions, does not apply to the conduct alleged. (See Legal Conclusion 8.)

Loan Disclosure Statements were not always signed by the broker or the agent negotiating the loan."

a. Soriano testified that the audit revealed that Mortgage Loan Disclosure Statements for borrowers J. Suzuki, Y. Niu, and T. Shen contained no broker signatures. (See Exs. 14, 15, and 16.) Respondents produced Mortgage Loan Disclosure Statements for J. Suzuki, Y. Niu, and T. Shen bearing a signature for a negotiating broker or agent. (Exs. X, Y, and Z.) Soriano conceded that such broker-signed mortgage statements do not support a finding of a violation.

14. Complainant has not produced clear and convincing evidence establishing, as alleged in paragraph 10a of the Accusation, that respondents American Ken and Yu failed to include the negotiating broker or agent's signatures on Mortgage Loan Disclosure Statements in violation of Business and Professions Code section 10240 and California Code of Regulations, title 10, section 2840.

15. Based on the audit findings, in paragraph 10b of the Accusation complainant alleges that American Ken and Yu "[v]iolated [Business and Professions Code] Section 10236.4(b) in that Mortgage Loan Disclosure Statements did not always include the broker's license number. The broker's representative license number negotiating the loan was not always accurate."

a. Soriano, on direct examination testified that the mortgage loan disclosure statements for borrowers J. Suzuki, Y. Niu, T. Shen, J. Heath, and H. Wang all disclosed American Ken and Yu as broker and broker representative, respectively, along with American Ken's license number 01850103, but failed to disclose any license number for Yu. (Exs. 14, 15, 16, 18, and 19). A mortgage loan disclosure statement for F. Situ disclosed American Ken and Yu as broker and broker representative, respectively, but contained no license number for either. (Ex. 17.) Yu admitted that there was an "error," but nonetheless maintained that a search for American Ken on the Department's website would have revealed American Ken's license information as well as identify Yu by his individual broker license number. According to Yu, "I had no intent to deceive by not including the individual license number; everybody knows that [American Ken] is my company." Respondents' contention is rejected because it contravenes the Department's explicit requirements for disclosing each licensee's license number.

16. Complainant has produced clear and convincing evidence establishing, as alleged in paragraph 10b of the Accusation, that respondents American Ken and Yu failed to disclose licensee number information in disclosure statements in violation of Business and Professions Code section 10236.4, subdivision (b).

Factors in Aggravation, Mitigation, and Rehabilitation

17. After the audits, Yu corrected the violations set forth in Factual Finding 16 and has adopted the practice of consistently disclosing licensee number information in disclosure

statements. He has retained Mortgage Data Integrity, LLC to perform compliance audits of American Ken operations. (Ex. Q.) Yu testified, "I want to make sure the company is in compliance. I realize that I misunderstood the license issues."

18. In May 2012, Yu earned an MBA in business administration from California State University, Monterey Bay. Yu considers himself a "man of integrity." He acquires his clients through referrals and asserts that any public discipline would adversely affect his business. According to Yu, "If clients don't trust me, they won't trust the company. They have to trust me first."

19. Several of Yu's clients and business associates wrote character references extolling his honesty, integrity, professionalism, and knowledge. (Exs. S,T, U, V, W.)

20. At the hearing, Yu was sincere and respectful of the Department and the proceedings.

DISCUSSION AND LEGAL CONCLUSIONS

1. Expiration of a license does not deprive the Department of jurisdiction to proceed with a disciplinary proceeding. (Bus. & Prof. Code, § 118.) Consequently, the Department has jurisdiction to proceed with this disciplinary proceeding against Real Estate License number 01406681 issued to AIA Funding notwithstanding its expiration as set forth in Factual Findings 3.

2. Complainant bears the burden of proving by clear and convincing evidence to a reasonable certainty the allegations in the Accusation. (See *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855-6.) Clear and convincing evidence means the evidence is "so clear as to leave no substantial doubt" and is "sufficiently strong to command the unhesitating assent of every reasonable mind." (*Mathieu v. Norrell Corp.* (2004) 115 Cal.App.4th 1174, 1190 [citing *Mock v. Michigan Millers Mutual Ins. Co.* (1992) 4 Cal.App.4th 306, 332-333].)

3. The officer designated by a corporate broker licensee shall be responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the provisions of the Real Estate Law, including the supervision of salespersons licensed to the corporation in the performance of acts for which a real estate license is required. (Bus. & Prof. Code, § 10159.2.)

4. The Department has authority to suspend or revoke a license where the licensee, while a real estate licensee, in performing or attempting to perform any of the acts within the scope of the Real Estate Law has been guilty of making any substantial misrepresentation or of conduct constituting fraud or dishonest dealing. (Bus. & Prof. Code, § 10176, subds. (a) and (i).)

5. The Department has authority to suspend or revoke a license where the licensee has willfully disregarded or violated the Real Estate Law, demonstrated negligence or incompetence in performing licensed acts, or, as a broker licensee, failed to exercise reasonable supervision over the activities of his or her salespersons, or, as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required. (Bus. & Prof. Code, § 10177, subds. (d), (g), and (h).)

6. Within three business days after receipt of a completed written loan application or before the borrower becomes obligated on the note, whichever is earlier, every real estate broker who negotiates a loan secured directly or collaterally by a lien on real property is required to deliver to the borrower a written disclosure statement of the borrower's estimated maximum costs and expenses associated with the loan that is personally signed by the borrower and by the real estate broker negotiating the loan or by a real estate licensee acting for the broker in negotiating the loan. The written disclosure statement must include the real estate broker's license number. The real estate broker negotiating the loan is required to retain on file for a period of three years a true and correct copy of the written disclosure statement as signed by the borrower. (Bus. & Prof. Code, §§ 10236.4, subd. (b), 10240, subd. (a), and 10241; Calif. Code of Regs, tit. 10, § 2840.)

7. With respect to the allegations in paragraph 7a of the Accusation, cause does not exist to suspend or revoke the license rights of Real Estate Broker License number 00780457 issued to Kin Yam Yu and Real Estate License number 01406681 issued to AIA Funding pursuant to Business and Professions Code sections 10176, subdivisions (a) and (i), in that, as set forth in Factual Findings 8 and 9, complainant has not established by clear and convincing evidence that AIA Funding and Yu made misrepresentations or engaged in conduct constituting dishonest dealings.

8. With respect to the allegations in paragraph 7b of the Accusation, complainant charged respondents AIA Funding and Yu with a violation of Business and Professions Code section 10140, which on its face is inapplicable to the alleged conduct of non-disclosure of broker license identification number on purchase agreements, which in turn, as set forth in Factual Findings 10a and 11, is unproven. Government Code section 11503 imposes a clear obligation to "specify the statutes and rules which the respondent is alleged to have violated." Due process concepts mandate such specificity. Instances such as this where the Accusation cites an inapplicable statute contravenes the requirements of Government Code section 11503. There is no support for disciplining AIA Funding and Yu's license and license rights based on the allegations in paragraph 7b of the Accusation.

9. With respect to the allegations in paragraph 10a of the Accusation, cause does not exist to suspend or revoke the license rights of Real Estate Broker License number 00780457 issued to Kin Yam Yu and Real Estate License number 01850103 issued to American Ken pursuant to Business and Professions Code section 1240 and California Code of Regulations, title 10, section 2840 in that, as set forth in Factual Findings 13 and 14,

complainant has not established by clear and convincing evidence that American Ken and Yu failed to include the negotiating broker or agent's signatures on Mortgage Loan Disclosure Statements.

10. With respect to the allegations in paragraph 10b of the Accusation, cause exists to suspend or revoke the license rights of Real Estate Broker License number 00780457 issued to Kin Yam Yu and Real Estate License number 01850103 issued to American Ken pursuant to Business and Professions Code sections 10236.4, subdivision (b), 10240, subdivision (a), and 10241 and California Code of Regulations, title 10, section 2840 in that, as set forth in Factual Findings 15 and 16, complainant has established by clear and convincing evidence that American Ken and Yu failed to disclose licensee number information in written disclosure statements.

11. Complainant's expert witness, Soriano, repeatedly testified that the documents the respondents introduced at the hearing were not available to her at the time of the audits. In closing argument, complainant's counsel posited that "we can only go by documents the broker provided to the auditor for review" and that "the broker came up with more documents than what they gave the auditor." No doubt the audit findings are premised on the information and documents available to Department during the audit period. And based on those audit findings the Department has alleged in the Accusation that respondents violated the Real Estate Laws. Even if it were true that respondents, at the time of the audit, did not provide the Department with certain information and documentation relevant to the audit, there are no allegations in the Accusation charging respondents with any such omission, and as a consequence, no Factual Finding or Legal Conclusion is made thereon. Importantly, it is the evidence supporting an alleged violation—documentary or otherwise—that is presented during the course of the hearing that is dispositive. Complainant made no objections to and offered no evidence or expert testimony challenging the authenticity of the documents respondents presented at the hearing in refutation of the allegations in the Accusation. Complainant offered no evidence of discovery requests to respondents to produce documents and complainant made no objections that the documents were not produced during discovery.

12. With respect to the allegations in paragraph 11 of the Accusation, cause does not exist to suspend or revoke the license rights of Real Estate Broker License number 00780457 issued to Kin Yam Yu, Real Estate License number 01406681 issued to AIA Funding, and Real Estate License number 01850103 issued to American Ken pursuant to Business and Professions Code sections 10176, subdivisions (a) and (i) and 10177, subdivision (d) and (g), in that, as set forth in Legal Conclusions 8 through 11, inclusive, complainant has not met its burden of proof by establishing by clear and convincing evidence that the conduct of respondents AIA Funding, American Ken, and Yu constitutes negligence or incompetence.

13. With respect to the allegations in paragraph 12 of the Accusation, cause does not exist to suspend or revoke the license rights of Real Estate Broker License number 00780457 issued to Kin Yam Yu pursuant to Business and Professions Code section 10177,

subdivision (d), (g), and (h), for failure to exercise reasonable supervision and control over the licensed activities of AIA Funding and American Ken because as set forth in Legal Conclusions 8, 9, 11 and 12, complainant has not proven conduct alleged in the Accusation.

14. Considering the remediation set forth above in Factual Finding 17, including changes in procedures, the retention of a compliance firm, and Yu's sincerity and contrition expressed at the hearing, and considering all the disciplinary options set forth in California Code of Regulations, title 10, section 2930, the public interest and public welfare are adequately protected by an order imposing a monetary penalty in lieu of suspension or revocation of the license rights of Real Estate Broker License number 00780457 issued to Kin Yam Yu and Real Estate License number 01850103 issued to American Ken, Inc. (See Bus. & Prof. Code, § 10175.2, subd. (a) granting the Real Estate Commissioner the discretion to permit a real estate licensee to pay a monetary penalty in lieu of suspension.)

ORDER

1. The First Cause of the Accusation against respondent AIA Funding, Inc. and Kin Yam Yu is dismissed.

2. With the exception of the allegations in paragraph 10a, the Second Cause of the Accusation against respondents American Ken, Inc. and Kin Yam Yu is dismissed.

3. The license rights of Real Estate Broker License number 00780457 issued to Kin Yam Yu and Real Estate License number 01850103 issued to American Ken, Inc. are suspended for a period of five (5) days from the effective date of this Decision; provided, however, that if Kin Yam Yu or American Ken, Inc., petitions, said suspension shall be stayed upon condition that:

a. Pursuant Business and Professions Code section 10175.2, Kin Yam Yu and American Ken, Inc., jointly and severally, pay a monetary penalty to be determined by the Department for each day of the suspension.

b. Said payment shall be in the form of a cashier's check or certified check make payable to the Recovery Account of the Real Estate Fund. Said check must be received by the Department prior to the effective date of the Decision in this matter.

c. No further cause for disciplinary action against Real Estate Broker License number 00780457 issued to Kin Yam Yu and Real Estate License number 01850103 issued to American Ken, Inc. occurs within one year from the effective date of the Decision in this matter.

d. Should Kin Yam Yu and American Ken, Inc. jointly and severally fail to pay the monetary penalty in accordance with the terms and conditions of the Decision, the

Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event neither Kin Yam Yu or American Ken, Inc. shall be entitled to any repayment or credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

e. Should Kin Yam Yu and American Ken, Inc. jointly and severally pay the monetary penalty and no further cause for disciplinary action against Real Estate Broker License number 00780457 issued to Kin Yam Yu and Real Estate License number 01850103 issued to American Ken, Inc. occurs within one year from the effective date of the Decision, the stay hereby granted shall become permanent.

Dated: April 25, 2013

JENNIFER M. RUSSELL
Administrative Law Judge
Office of Administrative Hearings