

1 Department of Real Estate  
2 320 West 4th Street, Ste. 350  
3 Los Angeles, California 90013-1105  
4 Telephone: (213) 576-6982

**FILED**

DEC 06 2018

DEPT. OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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11 In the Matter of the Accusation of ) No. H-41011 LA  
12 )  
13 MANDARIN REALTY 1 CORPORATION; and ) STIPULATION  
14 ) AND  
15 DAVID WAN, individually and as ) AGREEMENT  
16 designated officer of Mandarin Realty 1 Corporation, )  
17 Respondents. )

18 It is hereby stipulated by and between Respondents MANDARIN REALTY 1  
19 CORPORATION ("MR1C") and DAVID WAN ("WAN"), represented by James A. Gallo, Esq.,  
20 and the Complainant, acting by and through Julie L. To, Counsel for the Department of Real  
21 Estate ("Department" or "DRE"), as follows for the purpose of settling and disposing of the  
22 Accusation ("Accusation") filed on April 19, 2018, in Case No. H-41011 LA, in this matter.

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

DRE Stipulation & Agreement – MANDARIN REALTY 1 CORPORATION and DAVID WAN, H-41011 LA

1                   2. Respondents have received, read and understand the Statement to Respondent,  
2 the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate  
3 ("Department") in this proceeding.

4                   3. On May 1, 2018, Respondents timely filed their Notices of Defense pursuant to  
5 Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations  
6 in the Accusation. Respondents hereby freely and voluntarily withdraw said Notices of Defense.  
7 Respondents acknowledge that they understand that by withdrawing said Notices of Defense they  
8 thereby waive their right to require the Commissioner to prove the allegations in the Accusation  
9 at a contested hearing held in accordance with the provisions of the APA and that they will waive  
10 other rights afforded to them in connection with the hearing such as the right to present evidence  
11 in their defense and the right to cross-examine witnesses.

12                   4. This Stipulation is based on the factual allegations contained in the Accusation.  
13 In the interest of expedience and economy, Respondents choose not to contest these allegations,  
14 but to remain silent, and understand that, as a result thereof, these factual allegations, without  
15 being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to  
16 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove  
17 said factual allegations.

18                   5. This Stipulation is made for the purpose of reaching an agreed disposition of  
19 this proceeding and is expressly limited to this proceeding and any other proceeding or case in  
20 which the Department of Real Estate ("Department") or another licensing agency of this state,  
21 another state, or if the federal government is involved, and otherwise shall not be admissible in  
22 any other criminal or civil proceeding.

23                   6. It is understood by the parties that the Real Estate Commissioner may adopt  
24 this Stipulation as the Commissioner's Decision in this matter, thereby imposing the penalty and  
25 sanctions on Respondents' real estate licenses and license rights as set forth in below "Order." In  
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1 the event that the Commissioner in his discretion does not adopt the Stipulation and Agreement,  
2 the Stipulation shall be void and of no effect and Respondents shall retain the right to a hearing  
3 and proceeding on the Accusation under the provisions of the APA and shall not be bound by any  
4 admission or waiver made herein.

5 7. The Order or any subsequent Order of the Real Estate Commissioner made  
6 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further  
7 administrative or civil proceedings by the Department of Real Estate with respect to any matters  
8 which were not specifically alleged to be causes for Accusation in this proceeding but do  
9 constitute a bar, estoppel and merger as to any allegations actually contained in the Accusations  
10 against Respondents herein.

11 8. Respondents understand that by agreeing to this Stipulation, Respondents agree  
12 to pay, pursuant to Business and Professions Code ("Code") Section 10148, the cost of the audit  
13 which resulted in the determination that Respondents committed the violations found in the  
14 Determination of Issues. The amount of said costs for the original audit (LA 160051) is  
15 \$6,517.16. Respondents agree to pay, pursuant to Code Section 10148, \$6,517.16 for the cost of  
16 Audit No. LA 160051.

17 9. Respondents have received, read, and understand the "Notice Concerning  
18 Costs of Subsequent Audit." Respondents further understand that by agreeing to this Stipulation,  
19 the findings set forth below in the Determination of Issues become final, and the Commissioner  
20 may charge Respondents for the cost of any subsequent audits conducted pursuant to Code  
21 Section 10148 to determine if the violations have been corrected. The maximum cost of the  
22 follow-up audits will not exceed one-hundred twenty-five percent (125%) of the cost of the  
23 original audit; in the instant case, the cost of the original audit is \$6,517.16, and the maximum  
24 cost of the follow-up audit will not exceed \$8,146.45. Therefore, Respondents may be charged a  
25 maximum of \$8,146.45 in the event of a subsequent audit.

1                   10. Respondents understand that by agreeing to this Stipulation, Respondents  
2 agree to pay, pursuant to Code Section 10106, the Commissioner's cost of the investigation and  
3 enforcement which resulted in the determination that Respondents committed the violations  
4 found in the Determination of Issues. The amount of said costs is \$2,297.95; therefore,  
5 Respondents agree to pay, pursuant to Code Section 10106, the amount \$2,297.95.

6   DETERMINATION OF ISSUES

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

10                   The conduct, acts or omissions of Respondents MRIC and WAN, as described in  
11 Paragraph 4, herein above, are in violation of: Code Section 10145 and Title 10, Chapter 6,  
12 California Code of Regulations ("Regulation") 2832.1; Code Section 10145 and Regulation  
13 2831; Code Section 10145 and Regulation 2831.1; Code Section 10145 and Regulation 2831.2;  
14 Code Section 10145 and Regulation 2834; Code Section 10159.5 and Regulation 2731; and [as  
15 to WAN only] Code Sections 10159.2 and 10177(h) and Regulation 2725, and are bases for the  
16 suspension or revocation of the licenses and license rights of Respondents MRIC and WAN as  
17 violations of the Real Estate Law pursuant to Code Sections 10177(d), 10177(g), and 10177(h)  
18 (WAN).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondents MANDARIN REALTY 1 CORPORATION and DAVID WAN under the Real Estate Law are suspended for a period of ninety (90) days from the effective date of this Decision and Order; provided, however, that:

1. Ninety (90) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

a) Respondents WAN and MR1C shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and,

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

2. All licenses and licensing rights of Respondent WAN are indefinitely suspended unless or until Respondent WAN provides proof satisfactory to the Commissioner of having taken and successfully completed the continuing education course on trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code. Proof of satisfaction of these requirements includes evidence that Respondent WAN has successfully completed the trust fund accounting courses, no earlier than one hundred and twenty (120) days prior to the effective date of the Decision and Order in this matter. Proof of completion of the trust fund accounting and handling courses must be

1 delivered to the Bureau of Real Estate, Flag Section, at P.O. Box 137013, Sacramento, CA  
2 95813-7013 or by fax at 916-263-8758, prior to the effective date of this Decision and Order.

3 3. Respondent WAN shall, within six (6) months from the effective date of this  
4 Decision and Order, take and pass the Professional Responsibility Examination administered by  
5 the Bureau including the payment of the appropriate examination fee. If Respondent WAN fails  
6 to satisfy this condition, Respondent WAN's real estate license shall automatically be suspended  
7 until Respondent WAN passes the examination.

8 4. Respondent WAN shall, within nine (9) months from the effective date of this  
9 Decision and Order, present evidence satisfactory to the Commissioner that Respondent WAN  
10 has, since the most recent issuance of an original or renewal real estate license, taken and  
11 successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the  
12 Real Estate Law for renewal of a real estate license. If Respondent WAN fails to satisfy this  
13 condition, Respondent WAN's real estate license shall automatically be suspended until  
14 Respondent WAN presents evidence satisfactory to the Commissioner of having taken and  
15 successfully completed the continuing education requirements. Proof of completion of the  
16 continuing education courses must be delivered to the Bureau of Real Estate, Flag Section at P.O.  
17 Box 137013, Sacramento, CA 95813-7013.

18 5. All licenses and licensing rights of Respondents MR1C and WAN are  
19 indefinitely suspended unless or until Respondents pay the sum of \$2,297.95 for the  
20 Commissioner's reasonable cost of the investigation and enforcement which led to this  
21 disciplinary action. Said payment shall be in the form of a cashier's check or certified check  
22 made payable to the Bureau of Real Estate. The investigation and enforcement costs must be  
23 delivered to the Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA  
24 95813-7013, prior to the effective date of this Decision and Order.

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1                   6. Pursuant to Section 10148 of the Code, Respondents MRIC and WAN shall  
2 pay the sum of \$6,517.16 for the Commissioner's cost of the audit which led to this disciplinary  
3 action. Respondents shall pay such cost within sixty (60) days of receiving an invoice therefore  
4 from the Commissioner. Payment of audit costs should not be made until Respondents receive  
5 the invoice. If Respondents fail to satisfy this condition in a timely manner as provided for  
6 herein, both Respondents MRIC and WAN's real estate licenses shall automatically be  
7 suspended until payment is made in full, or until a decision providing otherwise is adopted  
8 following a hearing held pursuant to this condition.  
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10 DATED: 11-8-18



11 \_\_\_\_\_  
12 Julie L. To, Counsel for Complainant

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14 EXECUTION OF THE STIPULATION

15 We have read the Stipulation and Agreement, have discussed it with our counsel,  
16 and its terms are understood by us and are agreeable and acceptable to us. We understand that  
17 we are waiving rights given to us by the California Administrative Procedure Act (including, but  
18 not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we  
19 willingly, intelligently and voluntarily waive those rights, including the right of requiring the  
20 Commissioner to prove the allegations in the Accusation at a hearing at which we would have  
21 the right to cross-examine witnesses against us and to present evidence in defense and  
22 mitigation of the charges.

23 MAILING AND E-MAIL

24 Respondents shall send a hard copy of the original signed Stipulation and  
25 Agreement to: Julie To, Department of Real Estate, 320 West Fourth Street, Suite 350, Los  
26 Angeles, CA 90013. In the event of time constraints before an administrative hearing,  
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DRE Stipulation & Agreement – MANDARIN REALTY I CORPORATION and DAVID WAN, H-41011 LA

1 Respondents can signify acceptance and approval of the terms and conditions of this Stipulation  
2 and Agreement by emailing a scanned copy of the signature page, as actually signed by  
3 Respondents, to the DRE counsel assigned to this case. Respondents agree, acknowledge and  
4 understand that by electronically sending the DRE a scan of Respondents' actual signatures as  
5 they appear on the Stipulation and Agreement, that receipt of the scan by the DRE shall be  
6 binding on Respondents as if the DRE had received the original signed Stipulation and  
7 Agreement.

8 DATED: Nov 8 2018

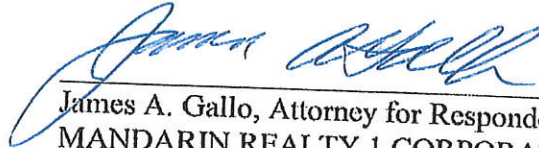
  
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DAVID WAN, Respondent

9 DATED: \_\_\_\_\_

  
\_\_\_\_\_  
MANDARIN REALTY 1 CORPORATION, Respondent  
by: David Wan, Designated Officer

12 *I have reviewed the Stipulation and Agreement as to form and content and have*  
13 *advised my clients accordingly.*

14 DATED: November 8, 2018

  
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James A. Gallo, Attorney for Respondents  
MANDARIN REALTY 1 CORPORATION and  
DAVID WAN

17 \* \* \*

18 The foregoing Stipulation and Agreement is hereby adopted as my Decision in  
19 this matter and shall become effective at 12 o'clock noon on DEC 20 2018

20 IT IS SO ORDERED November 29, 2018.

22 DANIEL J. SANDRI  
23 ACTING REAL ESTATE COMMISSIONER

  
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