BEFORE THE REAL ESTATE COMMISSION STATE OF NEVADA

SHARATH CHANDRA, Administrator, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS & INDUSTRY, STATE OF NEVADA.

Petitioner,

VS.

CUNG F. TAM, AKA KAREN TAM

Respondent.

Case No. 2022-539

FILED

NOV 1 4 2023

REAL ESTATE COMMISSION
BY Kelly Valader

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STIPULATION AND ORDER FOR SETTLEMENT OF DISCIPLINARY ACTION

This Stipulation for Settlement of Disciplinary Action ("Stipulation") is entered into by and between the State of Nevada, Department of Business and Industry, Real Estate Division ("Division"), through its Administrator Sharath Chandra ("Petitioner"), by and through their attorney of record, Phil W. Su, Esq., and CUNG F. TAM, AKA KAREN TAM("RESPONDENT") by and through her attorney of record, Robert Peterson, Esq.

RESPONDENT CUNG F. TAM, AKA KAREN TAM, has been licensed as a Nevada real estate broker under license number B.0016381.LLC and has held a property management permit PM.0145123.BKR at all relevant times mentioned in this Complaint, and is therefore subject to the jurisdiction of the Division and the Commission, and the provisions of NRS chapter 645 and NAC chapter 645.

SUMMARY OF FACTUAL ALLEGATIONS SET FORTH IN COMPLAINT

- 1. At all times relevant to the times mentioned in this Complaint, Cung F. Tam, AKA Karen Tam ("RESPONDENT") was licensed as a Nevada real estate broker under license number B.0016381.LLC and has held a property management permit PM.0145123.BKR.
- 2. On August 01, 2022, COMPLAINANT Yin-Jia Rose Gong ("COMPLAINANT") provided the Division with a signed Statement of Fact and supporting documents alleging that RESPONDENT failed to provide COMPLAINANT with monthly statements or owner distributions for three properties:

- 9909 Iron Cactus Ave., Las Vegas, NV 89148 ("Iron Cactus");
- 4423 Peaceful Harbor Street, Las Vegas, NV 89129 ("Peaceful Harbor"); and
- 6183 Carson Hills Ave., Las Vegas, NV 89139 ("Carson Hills").
- 3. The three properties had been under RESPONDENT'S management since RESPONDENT was retained by the prior owner, from whom COMPLAINANT inherited the properties.
- 4. While under RESPONDENT's management, she allowed landscaping violations and late fees to accrue on 9099 Iron Cactus' association ledger from September 3, 2020 through April 1, 2022 totaling a balance of \$7,670.00.
- As a result of the accrued balance owed on 9099 Iron Cactus, a Notice of Default and Election to Sell Real Property to Satisfy Notice of Delinquent Assessment was served upon COMPLAINANT on March 17, 2022.
- 6. On April 13, 2022, COMPLAINANT terminated RESPONDENT'S property management services for the three properties and requested RESPONDENT turn over all management and tenant documents to the new property manager, Americana Property Management.
- 7. As of the date of the COMPLAINANT's complaint/statement of fact, RESPONDENT still has not provided the new management company with the ledgers for 2022. [NRED0005; 0019-0032]
- 8. Based on review of receipts for payment of first month's rent and security deposit from the tenant for 9099 Iron Cactus paid in March 2022, those funds should have been transferred to Americana Property Management after the April 13, 2022 termination, but were not.
- 9. COMPLAINANT further alleged that in on or about October 2021, \$6,300.00 was paid from 9099 Iron Cactus' management account to pay for repairs performed by AWG Handyman without her prior approval, and that the alleged repairs were not actually performed.
- 10. From February 25, 2022 through March 2, 2022, RESPONDENT repeatedly failed to respond to initial and follow-up information requests from CARES Housing Assistance Program for Clark County ("CHAP") on behalf of tenant Shauntonia Carroll for 4423 Peaceful Harbor, which prevented the prospective tenant from obtaining rental assistance on the unit.

- 11. On June 26, 2022, RESPONDENT initiated eviction proceedings against Ms. Carroll while her CHAP application remained pending, in violation of the law and causing COMPLAINANT to incur additional costs and to have to participate in eviction mediation.
- 12. On August 3, 2022, the Division informed RESPONDENT that it was opening an investigation against her based upon the receipt of the complaint/statement of fact, and requested documents in her possession related to these matters, as well as a signed, notarized affidavit with her response to the allegations, by August 15, 2022.
- 13. A follow-up request was issued on September 26, 2022, asking for production of the response and documentation within ten (10) days of the letter.
- 14. The RESPONDENT did not provide any response to these requests from the Division Investigator.
- 15. On October 12, 2022, the Division completed its investigation and issued an NRS 233B letter to RESPONDENT, wherein it determined that it obtained sufficient evidence to commence disciplinary charges against her and to seek a formal hearing before the Real Estate Commission.

SUMMARY OF ALLEGED VIOLATIONS OF LAW

- 16. RESPONDENT violated NRS 645.633(1)(h) pursuant to NRS 645.252(2) on three (3) occasions by failing to exercise reasonable skill and care in the management of the aforementioned three properties under RESPONDENT'S management, in that RESPONDENT did not timely respond to requests for information or financial statements from the property owner.
- 17. RESPONDENT violated NRS 645.633(1)(f) by failing to account for and/or to remit payments which came into RESPONDENT'S possession for 9099 Iron Cactus Ave., but which belong to COMPLAINANT and should have been timely remitted to the new property manager.
- 18. RESPONDENT violated NRS 645.633(1)(h) pursuant to NRS 645.252(2) by failing to timely respond to CHAP information requests on behalf of tenant Shauntonia Carroll for 4423 Peaceful Harbor, which prevented the prospective tenant from obtaining rental assistance on the unit, and by initiating an eviction upon that tenant while the CHAP application process was pending.
- 19. RESPONDENT violated NRS 645.635(6) by failing to produce the complete property management file under her control for the three aforementioned properties, upon the Division's request.

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20. RESPONDENT violated NRS 645.605(11)(a) by failing to timely submit a written response via Sworn Declaration and Notarized Affidavit, as requested by the Division in this investigation.

PROPOSED SETTLEMENT

By entering into this settlement agreement, the RESPONDENT does not admit, but also does not contest, the above violations. Accordingly, in an effort to avoid the time and expense of litigating these issues before the Commission, as well as any possible further legal appeals from any such decision, and the parties desire to compromise and settle the instant controversy upon the following terms and conditions:

- 1. RESPONDENT agrees to pay the Division a total amount of \$22,522.00 ("Amount Due"), consisting of an \$18,000.00 administrative fine imposed by the Division, the Division's prehearing costs and fees in the amount of \$890.00, and pre-hearing attorney's fees in the amount of \$3,632.00.
 - a. The Amount Due shall be payable to the Division in full within ninety (90) days of the date of the order approving this settlement.
 - b. No grace period is permitted. If the payment is not actually received by the Division on or before its due date, it shall be construed as an event of default.
- 2. RESPONDENT agrees to voluntarily surrender her Property Management permit to the Division within forty-five (45) days from the date of the order approving this settlement.
- 3. RESPONDENT further agrees that she will not re-apply for a Property Management permit with the Division for a period of forty-two (42) months from the date of the order approving this settlement.
- 4. If RESPONDENT does reapply for a permit after the suspension has elapsed and after she has met all fee and education requirements required for reinstatement of the permit, RESPONDENT further agrees to appear before the Commission for final approval of reinstatement.
- 5. RESPONDENT and the Division agree that by entering into this Stipulation, the Division does not concede any defense or mitigation RESPONDENT may assert and that once this Stipulation is approved and fully performed, the Division will close its file in this matter.

 6. The Division agrees not to pursue any other or greater remedies or fines in connection with RESPONDENT'S alleged conduct referenced herein. The Division further agrees that unless RESPONDENT fails to make timely payment, the Division will not bring any claim or cause directly or indirectly based upon any of the facts, circumstances, or allegations discovered during the Division's investigation and prosecution of this case.

- 7. RESPONDENT agrees and understands that by entering into this Stipulation RESPONDENT is waiving her right to a hearing at which RESPONDENT may present evidence in her defense, her right to a written decision on the merits of the complaint, her rights to reconsideration and/or rehearing, appeal and/or judicial review, and all other rights which may be accorded by the Nevada Administrative Procedure Act, the Nevada Real Estate Brokers and Salespersons statutes and accompanying regulations, and the federal and state Constitutions. RESPONDENT understands that this Agreement and other documentation may be subject to public records laws. The Commission members who review this matter for approval of this Stipulation may be the same members who ultimately hear, consider, and decide the Complaint if this Stipulation is either not approved by the Commission or is not timely performed by RESPONDENT. RESPONDENT fully understands that she has the right to be represented by legal counsel in this matter at her own expense.
 - 8. RESPONDENT shall bear her own attorney's fees and costs.
- 9. Approval of Stipulation. Once executed, this Stipulation will be filed with the Commission and will be placed on the agenda for approval at its next public meeting. The Division will recommend to the Commission approval of the Stipulation. RESPONDENT agrees that the Commission may approve, reject, or suggest amendments to this Stipulation that must be accepted or rejected by RESPONDENT before any amendment may be considered effective.
- 10. Withdrawal of Stipulation. If the Commission rejects this Stipulation or suggests amendments unacceptable to RESPONDENT, RESPONDENT may withdraw from this Stipulation, and the Division may pursue its Complaint before the Commission.
- 11. <u>Stipulation is Not Evidence</u>. Neither this Stipulation nor any statements made concerning this Stipulation may be discussed or introduced into evidence at any hearing on the Complaint, if the Division must ultimately present its case based on the Complaint filed in this matter.

- Release. In consideration of the execution of this Stipulation, RESPONDENT for herself, her heirs, executors, administrators, successors, and assigns, hereby releases, remises, and forever discharges the State of Nevada, the Department of Business and Industry, and the Division, and each of their respective members, agents, employees, and counsel in their individual and representative capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims, and demands whatsoever, known and unknown, in law or equity, that RESPONDENT ever had, now has, may have, or claim to have against any or all of the persons or entities named in this section, arising out of or by reason of the Division's investigation of this action, this disciplinary action, and all matters related thereto.
- 13. <u>Indemnification</u>. RESPONDENT hereby agrees to indemnify and hold harmless the State of Nevada, the Department of Business and Industry, Petitioner, the Division, and each of their respective members, agents, employees, and counsel, in their individual and representative capacities, against any and all claims, suits, and actions brought against said persons and/or entities by reason of the Division's investigation, this disciplinary action, and all other matters relating thereto, and against any and all expenses, damages, and costs, including court costs and attorney fees, which may be sustained by the persons and/or entities named in this section as a result of said claims, suits, and actions.
- Default. In the event of default, RESPONDENT agrees that all of her active licenses, permits and certificates issued by the Division shall be immediately suspended, and the unpaid balance of the administrative fine and costs, together with any attorney's fees and costs that may have been assessed, shall be due in full to the Division within ten calendar days of the date of default. Debt collection actions for unpaid monetary assessments in this case may be instituted by the Division or its assignee. RESPONDENT agrees that the foregoing suspensions shall continue until the unpaid monetary assessments are paid in full.
- 15. RESPONDENT confirms that she has signed and dated this Stipulation only after reading and fully understanding all terms herein.

1	DATED this 8th day of November, 2023.	DATED this day of November, 2023.
2		NEVADA DEPARTMENT OF BUSINESS AND
3		INDUSTRY, REALESTATE DIVISION
4	/s/ Cung F. Tam	M. a. a. A.
5	By:CUNG F. TAM	SHARATA CHANDRA
6	Respondent	Administrator
7	Approved as to form:	
8	KERR SIMPSON	AARON D. FORD
9	0111	Attorney General
10	Ву: 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	By: /s/ Phil W. Su
11	ROBERT PETERSON (Bar No. 11680) 2900 W Horizon Ridge Pkwy, Suite 200	PHIL W. SU (Bar No. 10450) Senior Deputy Attorney General
12	Henderson, NV 89074 (702) 608-0835	555 E. Washington Ave. #3900 Las Vegas, Nevada 89101
13	Attorneys for Respondent	(702) 486-3420
14		Attorneys for Real Estate Division
15	ORDER APPROVING STIPULATION Case No. 2022-539	
16		. 2022-539 sciplinary Action having come before the Real
17	Estate Commission, Department of Business and Industry, State of Nevada, during its	
18	regular agenda on November 7-9, 2023, and the Commission being fully apprised in the	
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20	premises, and good cause appearing,	
21	IT IS ORDERED that the above Stipulation for Settlement of Disciplinary Action is	
22	approved in full.	
23	Dated: this 13 day of November 2023.	
24		L ESTATE COMMISSION TE OF NEVADA
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26	By. P	resident, Nevada Real Estate Commission
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