

1 BUREAU OF REAL ESTATE
2 P. O. Box 137007
3 Sacramento, CA 95813-7007
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FILED

JUL - 8 2015

BUREAU OF REAL ESTATE

By K. Contreras

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H-11721 SF
13)
14 BROKKER, INC., PETER GLENN) STIPULATION AND AGREEMENT
14 CAPONIO and SLAVKA T. THOMSON,)
15) (As to Respondents Brokker, Inc.
15 Respondents.) and Peter Glenn Caponio only
16)

17 It is hereby stipulated by and between Respondents BROKKER, INC.
18 ("BROKKER") and PETER GLENN CAPONIO ("CAPONIO"), (collectively "Respondents"),
19 and their attorney, Christopher Hanson, and the Complainant, acting by and through John W.
20 Barron, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and
21 disposing of the Accusation filed on June 19, 2014, in this matter:

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

27 2. Respondents have received, read and understand the Statement to

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BROKKER, INC.
and PETER GLENN CAPONIO

1 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Bureau of
2 Real Estate in this proceeding.

3 3. On March 6, 2013, Respondents filed Notices of Defense pursuant to
4 Section 11505 of the Government Code for the purpose of requesting a hearing on the
5 allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said
6 Notices of Defense. Respondents acknowledge that Respondents understand that by
7 withdrawing said Notices of Defense, Respondents will thereby waive Respondents' right to
8 require the Real Estate Commissioner ("Commissioner") to prove the allegations in the
9 Accusation at a contested hearing held in accordance with the provisions of the APA and that
10 Respondents will waive other rights afforded to Respondents in connection with the hearing
11 such as the right to present evidence in defense of the allegations in the Accusation and the
12 right to cross-examine witnesses.

13 4. This Stipulation and Agreement is based on the factual allegations
14 contained in the Accusation. In the interest of expedience and economy, Respondents choose
15 not to contest these factual allegations, but to remain silent and understand that, as a result
16 thereof, these factual statements will serve as a prima facie basis for the "Determination of
17 Issues" and "Order" set forth below. The Commissioner shall not be required to provide further
18 evidence to prove such allegations.

19 5. This Stipulation and Agreement, and Respondents' decision not to
20 contest the Accusation, are made for the purpose of reaching an agreed disposition of this
21 proceeding and are expressly limited to this proceeding and any other proceeding or case in
22 which the Bureau of Real Estate, the State or the federal government, an agency of this State, or
23 an agency of another state is involved.

24 6. It is understood by the parties that the Commissioner may adopt the
25 Stipulation and Agreement as his decision in this matter, thereby imposing the penalty and
26 sanctions on Respondents' real estate licenses and license rights as set forth in the "Order"
27 below. In the event that the Commissioner in his discretion does not adopt the Stipulation and

1 10159.5 (fictitious business name), 10163 (branch office license requirement), 10176(e)
2 (commingling), 10177(d) (violation of real estate law) and 10177(g) (negligence) of the Code,
3 and Sections 2731 (use of false or fictitious business name), 2831.1 (separate records for each
4 beneficiary or transaction), 2831.2 (trust account reconciliation), 2832 (trust fund handling),
5 2832.1 (trust fund handling for multiple beneficiaries), 2834 (trust account withdrawals) and
6 2835 (commingling) of Title 10 of the California Code of Regulations ("Regulations"); and for
7 the suspension or revocation of the licenses and license rights of CAPONIO under the
8 provisions of Sections 10148, 10159.2 (responsibilities of corporate officer in charge),
9 10159.5, 10163, 10177(d), 10177(g) and 10177(h) (broker supervision) of the Code, and
10 Sections 2725 (broker supervision) and 2725 of the Regulations.

11 ORDER

12 1

13 All licenses and licensing rights of BROKKER under the Real Estate Law are
14 suspended for a period of thirty (30) days from the effective date of the Decision and Order;
15 provided, however, that:

16 1. Thirty (30) days of said suspension shall be stayed, upon the condition
17 that BROKKER petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty
18 pursuant to Section 10175.2 of the Code at a rate of \$30.00 for each day of the suspension for a
19 total monetary penalty of \$900.00.

20 a. Said payment shall be in the form of a cashier's check made
21 payable to the Bureau of Real Estate. Said check must be delivered to the Bureau of Real Estate,
22 Flag Section, at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of the
23 Decision and Order in this matter.

24 b. No further cause for disciplinary action against the real estate
25 license of BROKKER occurs within two (2) years from the effective date of the Decision and
26 Order in this matter.

27 c. If BROKKER fails to pay the monetary penalty in accordance with

1 the terms and conditions of the Decision and Order, the suspension shall go into effect
2 automatically, in which event, BROKKER shall not be entitled to any repayment nor credit,
3 prorated or otherwise, for money paid to the Bureau under the terms of the Decision and Order.

4 d. If BROKKER pays the monetary penalty, and if no further cause
5 for disciplinary action against the real estate license of BROKKER occurs within two (2) years
6 from the effective date of the Decision and Order herein, then the stay hereby granted shall
7 become permanent.

8 2

9 All licenses and licensing rights of CAPONIO under the Real Estate Law are
10 suspended for a period of thirty (30) days from the effective date of the Decision and Order;
11 provided, however, that:

12 1. Thirty (30) days of said suspension shall be stayed, upon the condition
13 that CAPONIO petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty
14 pursuant to Section 10175.2 of the Code at a rate of \$30.00 for each day of the suspension for a
15 total monetary penalty of \$900.00.

16 a. Said payment shall be in the form of a cashier's check made
17 payable to the Bureau of Real Estate. Said check must be delivered to the Bureau of Real Estate,
18 Flag Section, at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of the
19 Decision and Order in this matter.

20 b. No further cause for disciplinary action against the real estate
21 license of CAPONIO occurs within two (2) years from the effective date of the Decision and
22 Order in this matter.

23 c. If CAPONIO fails to pay the monetary penalty in accordance with
24 the terms and conditions of the Decision and Order, the suspension shall go into effect
25 immediately, in which event, CAPONIO shall not be entitled to any repayment nor credit,
26 prorated or otherwise, for money paid to the Bureau under the terms of the Decision and Order.

27 d. If CAPONIO pays the monetary penalty, and if no further cause

1 for disciplinary action against the real estate license of CAPONIO occurs within two (2) years
2 from the effective date of the Decision and Order herein, then the stay hereby granted shall
3 become permanent.

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

9 3. All licenses and license rights of CAPONIO are indefinitely suspended unless
10 and until CAPONIO provides proof satisfactory to the Commissioner of having taken and
11 successfully completed the continuing education course on trust fund accounting and handling
12 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of
13 satisfaction of these requirements includes evidence that CAPONIO has successfully completed
14 the trust fund account and handling continuing education courses no earlier than 120 days prior
15 to the effective date of the Decision and Order. **Proof of completion of the continuing**
16 **education courses must be delivered to the Bureau of Real Estate, Flag Section, at P.O. Box**
17 **137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the effective date**
18 **of the Decision and Order.**

19 3

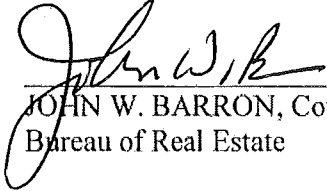
20 1. Respondents shall, jointly and severally, pay the sum of \$3,696.50 for the
21 Commissioner's costs of the audit which led to this disciplinary action. **Respondents shall pay**
22 **such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.**

23 Payment of audit costs should not be made until Respondents receive the invoice. If
24 Respondents fail to satisfy this condition in a timely manner as provided for herein,
25 Respondents' real estate licenses shall automatically be suspended until payment is made in full,
26 or until a decision providing otherwise is adopted following a hearing held pursuant to this
27 condition.

1 2. Pursuant to Section 10148 of the Code, Respondents shall, jointly and
2 severally, pay the Commissioner's reasonable costs, not to exceed \$3,696.50, for an audit to
3 determine if Respondents have corrected the violation(s) found in the Determination of Issues.
4 In calculating the amount of the Commissioner's reasonable costs, the Commissioner may use
5 the estimated average hourly salary for all persons performing audits of real estate brokers, and
6 shall include an allocation for travel time to and from the auditor's place of work. **Respondents**
7 **shall pay such cost within sixty (60) days of receiving an invoice therefore from the**
8 **Commissioner.** Payment of audit costs should not be made until Respondents receive the
9 invoice. If Respondents fail to satisfy this condition in a timely manner as provided for herein,
10 Respondents' real estate licenses shall automatically be suspended until payment is made in full,
11 or until a decision providing otherwise is adopted following a hearing held pursuant to this
12 condition.

13 3. All licenses and licensing rights of Respondents are indefinitely suspended
14 unless or until Respondents, jointly and severally, pay the sum of \$712.50 for the
15 Commissioner's reasonable costs of the investigation and enforcement which led to this
16 disciplinary action. Said payment shall be in the form of a cashier's check or certified check
17 made payable to the Bureau of Real Estate. **The investigative and enforcement costs must be**
18 **delivered to the Bureau of Real Estate, Flag Section, at P.O. Box 137013, Sacramento, CA**
19 **95813-7013, prior to the effective date of this Decision and Order.**

20
21 5/21/15
22 _____
23 DATED

21 
22 _____
23 JOHN W. BARRON, Counsel
24 Bureau of Real Estate

24 * * *

25 I have read the Stipulation and Agreement and its terms are understood by me
26 and are agreeable and acceptable to me. I understand that I am waiving rights given to me by
27 the California Administrative Procedure Act (including but not limited to Sections 11506,
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BROKKER, INC.
and PETER GLENN CAPONIO

1 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and
2 voluntarily waive those rights, including the right of requiring the Commissioner to prove the
3 allegations in the Accusation at a hearing at which I would have the right to cross-examine
4 witnesses against me and to present evidence in defense and mitigation of the charges.

5
6 5/20/15
7 DATED

Peter Glenn Caponio
PETER GLENN CAPONIO,
Respondent and as the Designated
Officer/Broker for Respondent
BROKKER, INC.

8 ***

9
10
11 *I have reviewed this Stipulation and Agreement and Order as to form and*
12 *content and have advised my clients accordingly.*

13
14 5-21-15
15 DATED

Christopher Hanson
CHRISTOPHER HANSON
Attorney for Respondents

16 ***

17
18 The foregoing Stipulation and Agreement is hereby adopted by me as my
19 Decision in this matter as to Respondents BROKKER, INC. and PETER GLENN CAPONIO
20 and shall become effective at 12 o'clock noon on JUL 28 2015

21 IT IS SO ORDERED July 3, 2015

22 REAL ESTATE COMMISSIONER

23 Jeffrey Mason
24
25 By: JEFFREY MASON
26 Chief Deputy Commissioner