

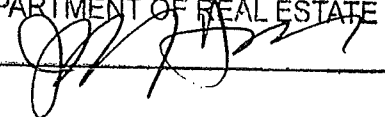
1 Department of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

FILED

MAY 24 2012

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) No. H-36938 LA
12) No. L-2010120956
13 STONECREEK CAPITAL MORTGAGE)
14 CORPORATION; and TONY NELSON,) **Consolidated with**
15 individually, and as designated) **H-37228 LA/L-2011061236**
16 officer for Stonecreek Capital) **for Hearing**
17 Mortgage Corporation,)
18 Respondents.)

19 In the Matter of the Accusation of) No. H-37228 LA
20) No. L-2011061236
21 TONY NELSON,)
22) **Consolidated with**
23) **H-36938 LA/L-2010120956**
24 Respondent.) **for Hearing**

25 In the Matter of the Accusation of) No. H-37416 LA
26) No. L-2011100481
27 SUMMIT RIDGE, INC.; TONY)
NELSON, formerly designated) **Consolidated with**
officer; and LILIANA MARISA) **H-36938 LA/L-2011061236**
VERA, individually, and as) **H-37228 LA/L-2010120956**
designated officer of Summit) **for Hearing**
Ridge, Inc.,) **May 10, 2012**
Respondents.) **STIPULATION AND**
AGREEMENT

1
2 It is hereby stipulated by and between STONECREEK
3 CAPITAL MORTGAGE CORPORATION ("STONECREEK") and TONY NELSON,
4 individually, and as designated broker-officer of STONECREEK
5 and SUMMIT RIDGE, INC., (sometimes referred to as
6 "Respondents") and the Complainant, acting by and through
7 Cheryl Keily, Counsel for the Department of Real Estate, as
8 follows for the purpose of settling and disposing of the
9 following Accusations: H-36938 LA filed on November 29, 2010;
10 H-37228 LA filed on April 27, 2011; and H-37416 LA filed on
11 August 1, 2011.
12

13 1. All issues which were to be contested and all
14 evidence which was to be presented by Complainant and
15 Respondents at a formal hearing on the Accusations, which
16 hearing was to be held in accordance with the provisions of the
17 Administrative Procedure Act (APA), shall instead and in place
18 thereof be submitted solely on the basis of the provisions of
19 this Stipulation and Agreement.
20

21 2. Respondents have received, read and understood the
22 Statement to Respondent, the Discovery Provisions of the APA and
23 the Accusations filed by the Department of Real Estate
24 ("Department") in this proceeding.
25

26 3. On December 13, 2010, May 5, 2011, and August 12,
27 2011, Respondents filed Notices of Defense, pursuant to Section
11506 of the Government Code for the purpose of requesting a

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

12
13 4. This Stipulation is based on the factual
14 allegations contained in the Accusations. In the interest of
15 expedience and economy, Respondents choose not to contest these
16 allegations, but to remain silent and understand that, as a
17 result thereof, these factual allegations, without being
18 admitted or denied, will serve as a prima facie basis for the
19 disciplinary action stipulated to herein. The Real Estate
20 Commissioner shall not be required to provide further evidence
21 to prove said factual allegations.
22

23 5. This Stipulation and Respondents' decision not to
24 contest the Accusations are made for the purpose of reaching an
25 agreed disposition of this proceeding, and are expressly
26 limited to this proceeding and any other proceeding or case in
27 which the Department of Real Estate, or another licensing

1 agency of this state, another state or the federal government
2 is involved, and otherwise shall not be admissible in any other
3 criminal or civil proceedings.

4
5 6. The Order or any subsequent Order of the Real
6 Estate Commissioner made pursuant to this Stipulation and
7 Agreement shall not constitute an estoppel, merger or bar to any
8 further administrative or civil proceedings by the Department
9 with respect to any matters which were not specifically alleged
10 to be causes for accusation in this proceeding.

11
12 7. It is understood by the parties that the Real
13 Estate Commissioner may adopt the Stipulation and Agreement as
14 his decision in this matter, thereby imposing the penalty and
15 sanctions on Respondents real estate licenses and license
16 rights as set forth in the below "Order". In the event that
17 the Commissioner in his discretion does not adopt the
18 Stipulation and Agreement, it shall be void and of no effect,
19 and Respondents shall retain the right to a hearing and
20 proceeding on the Accusations under all the provisions of the
21 APA and shall not be bound by any admission or waiver made
22 herein.

23
24 8. Respondents have received, read and understand the
25 "Notice Concerning Costs of Audits." Respondents understand that
26 by agreeing to this Stipulation and Agreement, the findings set
27 forth below in the Determinations of Issues become final, and

1 that the Commissioner may charge Respondents for the costs of
2 the audit which lead to the disciplinary action in H-37416 LA.
3 Respondents understand that by agreeing to this Stipulation,
4 Respondent NELSON agrees to pay, pursuant to Business and
5 Professions Code ("Code") Section 10148, the cost of the
6 original audit, which is \$22,790.20, and shall pay the
7 Commissioner's reasonable cost for a subsequent audit to
8 determine if Respondent SUMMIT RIDGE, INC. has corrected the
9 violations found in the Determination of Issues.

10
11 DETERMINATION OF ISSUES

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

17 1. The conduct, acts or omissions of Respondent
18 STONECREEK CAPITAL MORTGAGE CORPORATION, as set forth in the
19 allegations of Accusation H-36938 LA, constitute cause to
20 suspend or revoke the real estate license and license rights of
21 Respondent STONECREEK CAPITAL MORTGAGE CORPORATION under the
22 provisions of Code Section 10177(g) for violation of Code
23 Section 10148.
24

25 2. The conduct, acts or omissions of Respondent TONY
26 NELSON, as set forth in the Accusations constitute cause to
27 suspend or revoke the real estate license and license rights of
Respondent TONY NELSON as follows:

1 a. H-36938: Cause exists to suspend or revoke the
2 real estate license and license rights of Respondent TONY
3 NELSON under the provisions of Code Sections 10177(g) for
4 violation of Code Section 10159.2.

5
6 b. H-37228 LA: Cause exists to suspend or revoke the
7 real estate license and license rights of Respondent TONY
8 NELSON under the provisions of Code Section 10177(j).

9
10 c. H-37416 LA: Cause exists to suspend or revoke the
11 real estate license and license rights of Respondent TONY
12 NELSON under the provisions of Code Section 10177(g) for
13 violation of Code Sections 10145, 10159.5, 10240 in conjunction
14 with Title 10, Chapter 6 of the California Code of Regulations
15 ("Regulations"), Sections 2731, 2831, 2835, and 2834.

16 ORDER

17 WHEREFORE, THE FOLLOWING ORDER is hereby made:

18 I. The licenses and licensing rights of Respondent
19 STONECREEK CAPITAL CORPORATION are hereby revoked.

20 II. All licenses and license rights of Respondent TONY
21 NELSON under the Real Estate Law are suspended for a period of
22 ninety (90) days from the effective date of this Decision.

23 A. Provided, however, that if Respondent requests, the
24 initial thirty (30) days of said suspension (or a portion
25 thereof) shall be stayed upon condition that:

26 1. Respondent pays a monetary penalty pursuant to
27 Section 10175.2 of the Code at the rate of \$100.00 per day for

1 each day of the suspension for a total monetary penalty of
2 \$3,000.

3 2. Said payment shall be in the form of a cashier's
4 check or certified check made payable to the Recovery Account of
5 the Real Estate Fund. Said check must be received by the
6 Department prior to the effective date of the Decision in this
7 matter.

8 3. No further cause for disciplinary action against
9 the real estate license of Respondent occurs within two (2)
10 years from the effective date of the Decision in this matter.

11 4. If Respondent fails to pay the monetary penalty in
12 accordance with the terms of the Decision, the Commissioner may,
13 without a hearing, order the immediate execution of all or any
14 part of the stayed suspension, in which event the Respondent
15 shall not be entitled to any repayment or credit, prorated or
16 otherwise, for money paid to the Department under the terms of
17 this Decision.

18 5. If Respondent pays the monetary penalty and if no
19 further cause for disciplinary action against the real estate
20 license of Respondent occurs within two (2) years from the
21 effective date of the Decision, the stay hereby granted shall
22 become permanent.

23 B. The remaining sixty (60) days of the ninety (90)
24 day suspension shall be stayed for two (2) years upon the
25 following terms and conditions:
26
27

1 1. Respondent shall obey all laws, rules and
2 regulations governing the rights, duties and responsibilities of
3 a real estate licensee in the State of California; and

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

12 III. All licenses and licensing rights of Respondent
13 TONY NELSON are indefinitely suspended unless or until
14 Respondent provides proof satisfactory to the Commissioner, of
15 having taken and successfully completed the continuing education
16 course on trust fund accounting and handling specified in
17 paragraph (3) of subdivision (a) of Section 10170.5 of the Code.
18 Proof of satisfaction of this requirement includes evidence that
19 respondent has successfully completed the trust fund account and
20 handling continuing education course within 120 days prior to
21 the effective date of the Decision in this matter.

22 IV. Respondent shall, within six months from the
23 effective date of this Decision, take and pass the Professional
24 Responsibility Examination administered by the Department
25 including the payment of the appropriate examination fee. If
26 Respondent fails to satisfy this condition, the Commissioner may
27

1 order suspension of Respondent's license until Respondent passes
2 the examination.

3 V. Pursuant to Section 10148 of the Code, Respondent

4 TONY NELSON shall pay the Commissioner's reasonable cost for (a)
5 the audit which led to the disciplinary action in H-37416 LA,
6 and (b) a subsequent audit to determine if Respondent SUMMIT
7 RIDGE, INC. has corrected the trust fund violations found in the
8 Determination of Issues. In calculating the amount of the
9 Commissioner's reasonable cost, the Commissioner may use the
10 estimated average hourly salary for all persons performing
11 audits of real estate brokers, and shall include an allocation
12 for travel time to and from the auditor's place of work.

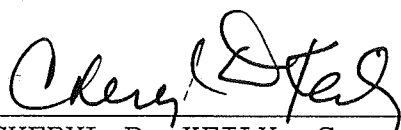
13 Respondent shall pay such cost within 60 days of receiving an
14 invoice from the Commissioner detailing the activities performed
15 during the audit and the amount of time spent performing those
16 activities. The Commissioner may suspend Respondent's license
17 pending a hearing held in accordance with Section 11500, et
18 seq., of the Government Code, if payment is not timely made as
19 provided for herein, or as provided for in a subsequent
20 agreement between Respondent and the Commissioner. The
21 suspension shall remain in effect until payment is made in full
22 or until Respondent enters into an agreement satisfactory to the
23 Commissioner to provide for payment, or until a decision
24 providing otherwise is adopted following a hearing held pursuant
25 to this condition.

26 ///

27 ///

1
2 DATED:

April 18, 2012


CHERYL D. KEILY, Counsel
DEPARTMENT OF REAL ESTATE

3
4 * * *

5 I have read the Stipulation and Agreement, and its
6 terms are understood by me and are agreeable and acceptable to
7 me. I understand that I am waiving rights given to me by the
8 California Administrative Procedure Act (including but not
9 limited to Sections 11506, 11508, 11509 and 11513 of the
10 Government Code), and I willingly, intelligently and
11 voluntarily waive those rights, including the right of
12 requiring the Commissioner to prove the allegations in the
13 Accusation at a hearing at which I would have the right to
14 cross-examine witnesses against me and to present evidence in
15 defense and mitigation of the charges.
16
17

18 Respondent can signify acceptance and approval of the
19 terms and conditions of this Stipulation and Agreement by
20 faxing a copy of its signature page, as actually signed by
21 Respondent, to the Department at the following telephone/fax
22 number (213) 576-6917. Respondent agrees, acknowledges, and
23 understands that, by electronically sending to the Department a
24 fax copy of his actual signature as it appears on the
25 Stipulation and Agreement, that receipt of the faxed copy by
26 the Department shall be as binding on Respondent as if the
27

1 Department had received the original signed Stipulation and
2 Agreement.

3 DATED: 4/17/12

4 _____
5 TONY NELSON
6 Respondent

7 DATED: 4/17/12

8 _____
9 TONY NELSON, as
10 designated broker-officer,
11 on behalf of Respondent
12 STONECREEK CAPITAL MORTGAGE
13 CORPORATION

14 I have reviewed the Stipulation and Agreement as to
15 form and content and have advised my client accordingly.

16 DATED: _____

17 _____
18 Robert M. Orr, Esq.
19 Attorney for Respondent's
20 TONY NELSON
21 STONECREEK CAPITAL MORTGAGE
22 CORPORATION

23 * * *

24 The foregoing Stipulation and Agreement is hereby
25 adopted as my Decision in this matter and shall become
26 effective at 12 o'clock noon on _____, 2012.

27 IT IS SO ORDERED _____, 2012.

REAL ESTATE COMMISSIONER

1 Department had received the original signed Stipulation and
2 Agreement.

3 DATED: _____
4 _____
5 TONY NELSON,
Respondent

6 DATED: _____
7 _____
8 TONY NELSON, as
designated broker-officer,
on behalf of Respondent
9 STONECREEK CAPITAL MORTGAGE
CORPORATION

10 I have reviewed the Stipulation and Agreement as to
11 form and content and have advised my client accordingly.

12 DATED: April 17, 2012
13 _____
14 Robert M. Orr, Esq.
15 Attorney for Respondents
16 TONY NELSON
STONECREEK CAPITAL MORTGAGE
CORPORATION

17 * * *

18 The foregoing Stipulation and Agreement is hereby
19 adopted as my Decision in this matter and shall become
20 effective at 12 o'clock noon on _____, 2012.

21 IT IS SO ORDERED _____, 2012.

22 REAL ESTATE COMMISSIONER
23 _____
24 _____
25 _____
26 _____
27 _____

1 Department had received the original signed Stipulation and
2 Agreement.

3 DATED: _____
4 TONY NELSON,
5 Respondent

6 DATED: _____
7 TONY NELSON, as
8 designated broker-officer,
9 on behalf of Respondent
10 STONECREEK CAPITAL MORTGAGE
11 CORPORATION

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

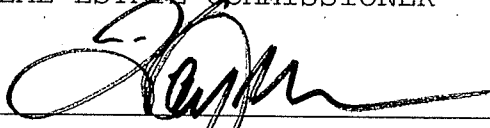
14 DATED: _____
15 Robert M. Orr, Esq.
16 Attorney for Respondents
17 TONY NELSON
18 STONECREEK CAPITAL MORTGAGE
19 CORPORATION

20 * * *

21 The foregoing Stipulation and Agreement is hereby
22 adopted as my Decision in this matter and shall become
23 effective at 12 o'clock noon on JUN 22 2012 , 2012.

24 IT IS SO ORDERED May 20, 2012.

25 REAL ESTATE COMMISSIONER

26 
27 By WAYNE S. BELL
Chief Counsel