

FILED

JUN - 9 2020

DEPT. OF REAL ESTATE

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1 Department of Real Estate
2 320 W. 4th Street, Suite 350
3 Los Angeles, CA 90013-1105
4 Telephone: (213) 576-6982
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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	No. H-05093 SD
)	
12	<u>MICHAEL ANTHONY BRUNNHOELZL,</u>)	
	doing business as Downtown Real Estate)	
13	Consultants and Michael Anthony Properties;)	<u>STIPULATION AND AGREEMENT</u>
14	GREG J. BERNAVE,)	<u>IN SETTLEMENT AND ORDER</u>
)	
15	Respondents.)	
)	
16)	As to Respondent Michael Anthony
17)	Brunnhoezl only

18 It is hereby stipulated by and between Respondent MICHAEL ANTHONY
19 BRUNNHOELZL (sometimes referred to as "Respondent"), acting by and through his attorney,
20 G. Ehrich Lenz, Esq., and the Complainant, acting by and through Judith B. Vasan, Counsel for
21 the Department of Real Estate, as follows for the purpose of settling and disposing of the
22 Accusation ("Accusation") filed on September 13, 2019, in this matter:

23 1. All issues which were to be contested and all evidence which was to be
24 presented by Complainant and Respondent 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").

STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

1 2. Respondent has received, read and understands 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. Respondent filed a Notice of Defense pursuant to Section 11506 of the
5 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
6 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
7 acknowledges that he understands that by withdrawing said Notice of Defense Respondent
8 thereby waives his 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 Respondent
10 will waive other rights afforded to him in connection with the hearing such as the right to present
11 evidence 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 filed in this proceeding. In the interest of expedience and economy, Respondent chooses not to
14 contest these factual allegations, but to remain silent and understands that, as a result thereof,
15 these factual statements, 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 such allegations.

18 5. It is understood by the parties that the Real Estate Commissioner may adopt
19 this Stipulation as her Decision in this matter thereby imposing the penalty and sanctions on
20 Respondent's real estate licenses and license rights as set forth in the below "Order." In the event
21 that the Commissioner in her discretion does not adopt the Stipulation, the Stipulation shall be
22 void and of no effect and Respondent shall retain the right to a hearing and proceed on the
23 Accusation under the provisions of the APA and shall not be bound by any stipulation or waiver
24 made herein.

25 6. The Order or any subsequent Order of the Real Estate Commissioner made
26 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
27 administrative or civil proceedings by the Department with respect to any matters which were

1 not specifically alleged to be causes for accusation in this proceeding.

2 DETERMINATION OF ISSUES

3 By reason of the foregoing, it is stipulated and agreed that the following
4 determination of issues shall be made:

5 The conduct, acts or omissions of Respondent MICHAEL ANTHONY
6 BRUNNHÖELZL, as set forth in the Accusation, are in violation of Code sections 10145, 10148,
7 and 10159.5 and Sections 2715, 2731, 2831, 2831.1, 2831.2, 2832, and 2832.1 of Title 10,
8 Chapter 6, of the California Code of Regulations and are a basis for discipline of Respondent
9 MICHAEL ANTHONY BRUNNHÖELZL's licenses and license rights pursuant to Code
10 sections 10176(e), 10176(g), 10176(i), 10177(d), 10177(g), and/or 10177(j).

11 ORDER

12 WHEREFORE, THE FOLLOWING ORDER is hereby made:

13 I.

14 All licenses and licensing rights of Respondent MICHAEL ANTHONY
15 BRUNNHÖELZL under the Real Estate Law are revoked; provided, however, a restricted real
16 estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the Business
17 and Professions Code if Respondent makes application therefor and pays to the Department of
18 Real Estate the appropriate fee for the restricted license within 90 days from the effective date of
19 this Decision. The restricted license issued to Respondent shall be subject to all of the provisions
20 of Section 10156.7 of the Business and Professions Code and to the following limitations,
21 conditions and restrictions imposed under authority of Section 10156.6 of that Code:

22 1. The restricted license issued to Respondent may be suspended prior to hearing
23 by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of
24 nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a
25 real estate licensee

26 2. The restricted license issued to Respondent may be suspended prior to hearing
27 by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that

1 Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
2 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted
3 license.

4 3. Respondent shall not be eligible to petition for the issuance of any unrestricted
5 real estate license nor for removal of any of the conditions, limitations or restrictions of a
6 restricted license until two (2) years have elapsed from the effective date of this Decision and
7 Order. Respondent shall not be eligible to apply for any unrestricted licenses until all restrictions
8 attaching to the license have been removed.

9 II.

10 Pursuant to Code section 10148, Respondent shall pay the Commissioner's
11 reasonable costs for the audit which led to this disciplinary action in the amount of \$14,115.67.
12 Respondent shall pay such costs within sixty (60) days of receiving an invoice therefore from the
13 Commissioner. Payment of the audit costs should not be made until Respondent receive the
14 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
15 Respondent's real estate licenses shall automatically be suspended until payment is made in full,
16 or until a decision providing otherwise is adopted following a hearing held pursuant to this
17 condition.

18 III.

19 Pursuant to Code section 10148 of the Code, Respondent shall pay the
20 Commissioner's reasonable costs, not to exceed \$17,644.58, for a subsequent audit to determine
21 if Respondent has corrected the violations found in the Determination of Issues. In calculating
22 the amount of the Commissioner's reasonable costs, the Commissioner may use the estimated
23 average hourly salary for all persons performing audits of real estate brokers, and shall include
24 an allocation for travel time to and from the auditor's place of work. Respondent shall pay such
25 costs within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment
26 of the audit costs should not be made until Respondent receives the invoice. If Respondent fails
27 to satisfy this condition in a timely manner as provided for herein, Respondent's real estate

1 license shall automatically be suspended until payment is made in full, or until a decision
2 providing otherwise is adopted following a hearing held pursuant to this condition.

3 IV.

4 All licenses and licensing rights of Respondent are indefinitely suspended unless
5 or until Respondent pays the sum of \$3,327.65 for the Commissioner's reasonable costs of the
6 investigation and enforcement which led to this disciplinary action. Said payment shall be in the
7 form of a cashier's check made payable to the Department of Real Estate. The investigative and
8 enforcement costs must be delivered to the Department of Real Estate, Flag Section at P.O. Box
9 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.

10 V.

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

21 VI.

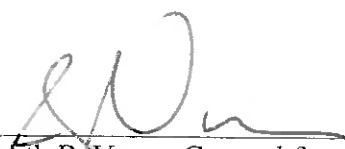
22 Respondent shall, within six (6) months from the effective date of this Decision
23 and Order, take and pass the Professional Responsibility Examination administered by the
24 Department including the payment of the appropriate examination fee. If Respondent fails to
25 satisfy this condition, Respondent's real estate license shall automatically be suspended until
26 Respondent passes the examination.

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1 VII.

2 Respondent shall, within six (6) months from the effective date of this Decision
3 and Order, return the mark-up fees of \$6,579.16 for the month of July 2018 associated with the
4 repairs and maintenance services of the rental properties to the property owners as alleged in
5 Paragraph 10(b)(1) of the Accusation in this proceeding. Respondent shall submit proof by way
6 of bank statement(s) and/or property owner statement(s) showing the amounts were credited to
7 the marked-up account. Proof of compliance must be delivered to the Department of Real Estate,
8 Flag Section, at P.O. Box 137013, Sacramento, CA 95813-7013 within six (6) months from the
9 effective date of this Decision and Order.

10 DATED: 4-14-2020

11 
12 Judith B. Vasan, Counsel for
13 Department of Real Estate

14 * * *

15 EXECUTION OF THE STIPULATION

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

23 Respondent shall mail the original signed signature page of the stipulation herein
24 to Judith B. Vasan, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St.,
25 Suite 350, Los Angeles, California 90013-1105.

26 In the event of time constraints before an administrative hearing, Respondent can
27 signify acceptance and approval of the terms and conditions of this Stipulation and Agreement
by emailing a scanned copy of the signature page, as actually signed by Respondent, to the

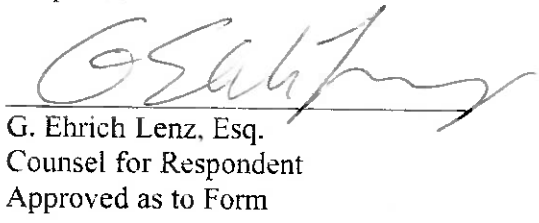
1 Department counsel assigned to this case. Respondent agrees, acknowledges and understands
2 that by electronically sending the Department a scan of Respondent's actual signature as it
3 appears on the Stipulation and Agreement that receipt of the scan by the Department shall be
4 binding on Respondent as if the Department had received the original signed Stipulation.
5 Respondent shall also mail the original signed signature page of this Stipulation to the
6 Department counsel.

7 Respondent's signature below constitutes acceptance and approval of the terms
8 and conditions of this Stipulation. Respondent agrees, acknowledges and understands that by
9 signing this Stipulation, Respondent is bound by its terms as of the date of such signatures and
10 that this agreement is not subject to rescission or amendment at a later date except by a separate
11 Decision and Order of the Real Estate Commissioner.

12
13 DATED: 4-6-2020


MICHAEL ANTHONY BRUNNHOELZL
Respondent

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16 DATED: 4/10/2020


G. Ehrich Lenz, Esq.
Counsel for Respondent
Approved as to Form

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19 * * *

20 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
21 Respondent MICHAEL ANTHONY BRUNNHOELZL and shall become effective at 12 o'clock
22 noon on JUN 29 2020.

23 IT IS SO ORDERED 5-26-20

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25 DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

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