

1 Department of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0781

FILED
APR 18 2006

DEPARTMENT OF REAL ESTATE

By Anne Shanon

7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of)
11)

No. H-9295 SF

12 ROBERT GLEN JOHNSON, and)
13 JOHNSON MORTGAGE ACCEPTANCE)
CORPORATION,)

STIPULATION AND
AGREEMENT

14 Respondent.
15

16 It is hereby stipulated by and between JOHNSON
17 MORTGAGE ACCEPTANCE CORPORATION, AND ROBERT GLEN JOHNSON
18 (hereafter Respondents), and the Complainant, acting by and
19 through Truly Sughrue, Counsel for the Department of Real
20 Estate, as follows for the purpose of settling and disposing
21 the Accusation filed on June 24, 2005 in this matter:

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

1 Stipulation and Agreement.

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

5 3. On July 11, 2005, Respondents filed a Notice of
6 Defense pursuant to Section 11505 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the
8 Accusation. Respondents hereby freely and voluntarily withdraw
9 said Notice of Defense. Respondents acknowledge that they
10 understand that by withdrawing said Notice of Defense they will
11 thereby waive their rights to require the Commissioner to prove
12 the allegations in the Accusation at a contested hearing held in
13 accordance with the provisions of the APA, and that they will
14 waive other rights afforded to them in connection with the
15 hearing such as the right to present evidence in defense of the
16 allegations in the Accusation and the right to cross-examine
17 witnesses.

18 4. Respondents, pursuant to the limitations set forth
19 below, hereby admit that the factual allegations pertaining to
20 them in Paragraphs I through VII of the Accusation filed in this
21 proceeding are true and correct and the Real Estate Commissioner
22 shall not be required to provide further evidence of such
23 allegations.

24 5. Without admitting the truth of the allegations
25 contained in the remaining paragraphs of the Accusation,
26 Respondents stipulate that they will not interpose a defense
27 thereto. This Stipulation is based on the factual allegations

1 contained in the Accusation. In the interests of expedience and
2 economy, Respondents choose not to contest the allegations, but
3 to remain silent, and understand that, as a result thereof, these
4 factual allegations, without being admitted or denied, will serve
5 as a basis for the disciplinary action stipulated to herein. The
6 Real Estate Commissioner shall not be required to provide further
7 evidence to prove said factual allegations.

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

18 9. The Order or any subsequent Order of the Real
19 Estate Commissioner made pursuant to this Stipulation and
20 Agreement shall not constitute an estoppel, merger or bar to any
21 further administrative or civil proceedings by the Department of
22 Real Estate with respect to any matters which were not
23 specifically alleged to be causes for accusation in this
24 proceeding.

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1 and limitations imposed under authority of Section 10156.6 of
2 said Code:

3 1) The restricted license issued to Respondent JMAC may be
4 suspended prior to hearing by order of the Real Estate
5 Commissioner in the event of Respondent's conviction or
6 plea of nolo contendere to a crime which bears a
7 substantial relationship to Respondent's fitness or
8 capacity as a real estate licensee.

9 2) The restricted license may be suspended prior to hearing
10 by Order of the Real Estate Commissioner on evidence
11 satisfactory to the Commissioner that Respondent JMAC has
12 violated provisions of the California Real Estate Law,
13 the Subdivided Lands Law, Regulations of the Real Estate
14 Commissioner or conditions attaching to the restricted
15 license.

16 4) Respondent JMAC shall not be eligible to apply for the
17 issuance of an unrestricted real estate license, nor the
18 removal of any of the conditions of the restricted
19 license, until two (2) years have elapsed from the
20 effective date of this Order.

21 II

22 A. All real estate license(s) and license rights of Respondent
23 ROBERT GLEN JOHNSON (hereinafter JOHNSON) are revoked.

24 B. A restricted real estate broker license shall be issued to
25 Respondent JOHNSON pursuant to Section 10156.6 of the Code if
26 Respondent JOHNSON makes application therefor and pays to the
27

1 Department the appropriate fee for said license within ninety
2 (90) days of the effective date of the Order.

3 C. The restricted license issued to Respondent JOHNSON shall be
4 subject to all of the provisions of Section 10156.7 of the
5 Business and Professions Code and to the following conditions
6 and limitations imposed under authority of Section 10156.6 of
7 said Code:

8 1) The restricted license issued to Respondent JOHNSON may
9 be suspended prior to hearing by order of the Real Estate
10 Commissioner in the event of Respondent's conviction or
11 plea of nolo contendere to a crime which bears a
12 substantial relationship to Respondent's fitness or
13 capacity as a real estate licensee.

14 2) The restricted license may be suspended prior to hearing
15 by Order of the Real Estate Commissioner on evidence
16 satisfactory to the Commissioner that Respondent JOHNSON
17 has violated provisions of the California Real Estate
18 Law, the Subdivided Lands Law, Regulations of the Real
19 Estate Commissioner or conditions attaching to the
20 restricted license.

21 3) Respondent JOHNSON shall not be eligible to apply for the
22 issuance of an unrestricted real estate license, nor the
23 removal of any of the conditions of the restricted
24 license, until two (2) years have elapsed from the
25 effective date of this Order.

26 D. Respondent JOHNSON shall, within nine (9) months from the
27 effective date of this Order, present evidence satisfactory

1 to the Real Estate Commissioner that Respondent JOHNSON has,
2 since the most recent issuance of an original or renewal real
3 estate license, taken and successfully completed the
4 continuing education requirements of Article 2.5 of Chapter 3
5 of the Real Estate Law for renewal of a real estate license.
6 If Respondent JOHNSON fails to satisfy this condition, the
7 Commissioner may order the suspension of the restricted
8 license until Respondent JOHNSON presents such evidence. The
9 Commissioner shall afford Respondent JOHNSON the opportunity
10 for hearing pursuant to the Administrative Procedure Act to
11 present such evidence.

12 20-march-06

13 DATED

14 Truly Sughrue
Counsel for Complainant

15 * * *

16 I have read the Stipulation and Agreement, and its
17 terms are understood by me and are agreeable and acceptable to
18 me. I understand that I am waiving rights given to me by the
19 California Administrative Procedure Act, and I willingly,
20 intelligently and voluntarily waive those rights, including the
21 right of requiring the Commissioner to prove the allegations in
22 the Accusation at a hearing at which I would have the right to
23 cross-examine witnesses against me and to present evidence in
24 defense and mitigation of the charges.

25 3.2.06

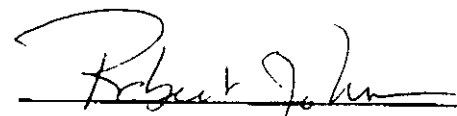
26 DATED

27 Johnson Mortgage Acceptance
JOHNSON MORTGAGE ACCEPTANCE
CORPORATION
Respondent

President

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3-2-06



DATED

ROBERT GLEN JOHNSON
Respondent

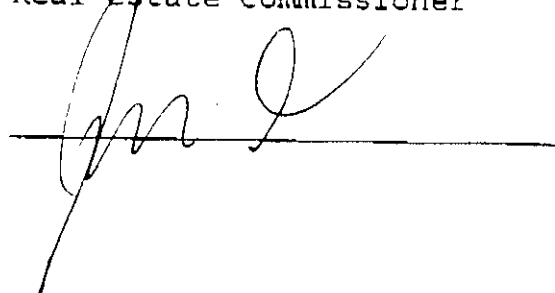
* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision and shall become effective at 12 o'clock
noon on MAY 08 2006

IT IS SO ORDERED

4-4-06

JEFF DAVI
Real Estate Commissioner



1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0781

FILED

JUN 24 2005

DEPARTMENT OF REAL ESTATE

By Jean Acuna

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-9295 SF

12 ROBERT GLEN JOHNSON, and)
13 JOHNSON MORTGAGE ACCEPTANCE)
14 CORPORATION,)

ACCUSATION

Respondent.)

15
16 The Complainant, E. J. HABERER II, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against ROBERT GLEN JOHNSON and JOHNSON MORTGAGE ACCEPTANCE
19 CORPORATION (hereinafter "Respondents"), is informed and alleges
20 as follows:

21 I

22 The Complainant, E. J. HABERER II, a Deputy Real Estate
23 Commissioner of the State of California, makes this Accusation in
24 his official capacity.

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II

At all times herein mentioned, Respondents were and now are licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter "the Code").

III

At all times herein mentioned, JOHNSON MORTGAGE ACCEPTANCE CORPORATION, (herein "JMAC") was and is licensed by the State of California Department of Real Estate (hereinafter "Department") as a real estate broker corporation.

IV

At all times herein mentioned, Respondent ROBERT GLEN JOHNSON, (hereinafter "JOHNSON") was and is licensed by the Department as the designated broker officer of JMAC.

V

At all times mentioned herein, as the designated officer of JMAC, JOHNSON was responsible for the supervision and control of the activities conducted on behalf of JMAC by its officers and employees as necessary to secure full compliance with the provisions of the Real Estate Law.

VI

Whenever reference is made in an allegation in this Accusation to an act or omission of JMAC, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with JMAC committed such acts or omissions while engaged in furtherance of

1 the business or operation of JMAC and while acting within the
2 course and scope of their corporate authority and employment.

3 VII

4 At all times herein mentioned, Respondents were
5 performing acts requiring a real estate license for or in
6 expectation of compensation.

7 VIII

8 On or about October 17, 2002, in connection with the
9 real estate activities described in Paragraph VII, JMAC, claimed,
10 demanded, charged, received, collected, and contracted for a fee
11 of \$50,000.00 in advance from Stuart Silk, the owner of real
12 property commonly known as 82 Ferry Road, North Haven, New York
13 (hereinafter "the Subject Property"), for services Respondent was
14 to perform thereafter in obtaining a construction loan to be
15 secured by the Subject Property, in the amount of \$2,600,000.

16 IX

17 The fee described in Paragraph IX above constituted an
18 "advance fee" within the meaning of Sections 10026 and 10131.2 of
19 the Code. Said fee constituted trust funds within the meaning of
20 Sections 10145 and 10146 of the Code.

21 X

22 Beginning on or about February 28, 1996 and continuing
23 thereafter, JMAC failed to immediately deliver said trust funds
24 into a neutral escrow depository, or into a trust fund account in
25 violation of Section 10146 of the Code.

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XI

1 In connection with the collection and handling of said
2 advance fee, JMAC failed to cause the advance fee contract and
3 all materials used in obtaining the advance fee agreement to be
4 submitted to the Department of Real Estate prior to use as
5 required by Section 10085 of the Code and Section 2970 of Title
6 10, California Code of Regulations (hereinafter "Regulations").
7

XII

8 In connection with the collection and handling of said
9 advance fee, JMAC failed to furnish the principal borrower the
10 verified accounting required by Section 10146 of the Code and
11 Section 2972 of the Regulations.
12

XIII

13 On or after February 28, 1996, Respondents converted
14 the \$50,000.00 advance fee to his own use or uses or for purposes
15 not authorized by the owner of said funds in violation of Section
16 10176(i) of the Code or in the alternative in violation of
17 Section 10177(j) of the Code.
18

XIV

19 The acts and/or omissions of Respondents described
20 above, constitute violation of Section 10176(i) of the Code or in
21 the alternative Section 10177(j) of the Code; and Section
22 10177(d) of the Code in conjunction with Sections 10085, 10130,
23 and 10146 of the Code and Sections 2970 and 2972 of the
24 Regulations, and are cause for the suspension or revocation of
25 Respondent's license and license rights.
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27

1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof a decision be rendered imposing disciplinary action
4 against all licenses and license rights of Respondent under the
5 Real Estate Law (Part 1 of Division 4 of the Business and
6 Professions Code) and for such other and further relief as may be
7 proper under other provisions of law.

8 
9 E. J. HABERER II
10 Deputy Real Estate Commissioner

11 Dated at Sacramento, California,
12 this 31 day of May, 2005
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