

1 DEPARTMENT OF REAL ESTATE
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3 Sacramento, CA 95818-7007

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FILED
APR 20 2012

DEPARTMENT OF REAL ESTATE
By R. M. M. M.

7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

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11 In the Matter of the Accusation of

12 CANYON PACIFIC PROPERTY
13 MANAGEMENT COMPANY, INC.
14 and THOMAS O. SCRIPPS, III,

15 Respondents.

) NO. H-11141 SF

) STIPULATION AND AGREEMENT

16 It is hereby stipulated by and between Respondents CANYON PACIFIC
17 PROPERTY MANAGEMENT COMPANY, INC., ("CANYON PACIFIC"), and THOMAS
18 O. SCRIPPS, III, ("SCRIPPS"), (collectively "Respondents"), acting by and through Joshua A.
19 Rosenthal, Counsel for Respondents, and the Complainant, acting by and through John W.
20 Barron, Counsel for the Department of Real Estate, as follows for the purpose of settling and
21 disposing of the Accusation filed on May 23, 2011, 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.

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CANYON PACIFIC PROPERTY MGT. CO., INC.
and THOMAS O. SCRIPPS, III

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

4 3. On June 2, 2011, Respondents filed a Notice of Defense pursuant to
5 Section 11505 of the Government Code for the purpose of requesting a hearing on the
6 allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notice
7 of Defense. Respondents acknowledge that Respondents understand that by withdrawing said
8 Notice of Defense, Respondents will thereby waive Respondents' right to require the
9 Commissioner to prove the allegations in the Accusation at a contested hearing held in
10 accordance with the provisions of the APA and that Respondents will waive other rights
11 afforded to Respondents in connection with the hearing such as the right to present evidence in
12 defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

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

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

Agreement, it shall be void and of no effect, and Respondents shall retain the right to a hearing and proceeding on the Accusation under all the provisions of the APA and shall not be bound by any admission or waiver made herein.

7. This Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further administrative or civil proceedings by the Department of Real Estate with respect to any matters which were not specifically alleged to be causes for accusation in this proceeding.

8. Respondents understand that by agreeing to this Stipulation and Agreement, Respondents agree to pay, pursuant to Section 10148 of the California Business and Professions Code (“the Code”), the cost of the audit which resulted in the determination that Respondents committed the violation(s) found in the Determination of Issues. The amount of such costs is \$4,413.40.

9. Respondents further understand that by agreeing to this Stipulation and Agreement, the findings set forth below in the Determination of Issues become final, and that the Commission may charge said Respondents for the costs of any audit conducted pursuant to Section 10148 of the Code to determine if the violations have been corrected. The maximum cost of said audit shall not exceed \$4,413.40.

DETERMINATION OF ISSUES

By reason of the foregoing stipulations, admissions and waivers and solely for the purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed that the acts and omissions of Respondents described in the Accusation are grounds for the suspension or revocation of the licenses and license rights of CANYON PACIFIC under the provisions of Sections 10137 (employment/compensation of unlicensed persons), 10145 (handling of trust funds), 10146 (advance fee handling), 10160 (retention/inspection of salesperson license), 10161.8 (notification to Department of real estate salesperson employment), 10177(d) (willful disregard of real estate law) and 10177(g) (negligence) of the Code, and Sections 2832 (trust fund handling) and 2726 (written broker-salesperson

1 agreement) of Title 10 of the California Code of Regulations ("the Regulations"); and are
2 grounds for the suspension or revocation of the licenses and license rights of SCRIPPS under
3 provisions of Sections 10145, 10177(d), 10177(g) and 10177(h) (reasonable supervision
4 responsibility of broker) of the Code, and Sections 2725 (broker supervision) and 2832 of the
5 Regulations.

6 ORDER

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8 All licenses and licensing rights of CANYON PACIFIC under the Real Estate
9 Law are suspended for a period of sixty (60) days from the effective date of this Order; provided,
10 however, that:

11 1. Sixty (60) days of said suspension shall be stayed for two (2) years upon
12 the following terms and conditions:

13 a. CANYON PACIFIC shall obey all laws, rules and regulations governing
14 the rights, duties and responsibilities of a real estate licensee in the State of California; and

15 b. That no final subsequent determination be made, after hearing or upon
16 stipulation, that cause for disciplinary action occurred within two (2) years from the effective
17 date of this Order. Should such a determination be made, the Commissioner may, in her
18 discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed
19 suspension. Should no such determination be made, the stay imposed herein shall become
20 permanent.

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22 All licenses and licensing rights of SCRIPPS under the Real Estate Law are
23 suspended for a period of sixty (60) days from the effective date of this Order; provided,
24 however, that:

25 1. Thirty (30) days of said suspension shall be stayed, upon the condition
26 that SCRIPPS petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty

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1 pursuant to Section 10175.2 of the Business and Professions Code at a rate of \$50.00 for each
2 day of the suspension for a total monetary penalty of \$1,500.00.

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

6 b. No further cause for disciplinary action against the real estate license of
7 SCRIPPS occurs within two (2) years from the effective date of the decision in this matter.

8 c. If SCRIPPS fails to pay the monetary penalty in accordance with the
9 terms and conditions of the Decision, the Commissioner may, without a hearing, order the
10 immediate execution of all or any part of the stayed suspension, in which event, SCRIPPS shall
11 not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the
12 Department under the terms of this decision.

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

16 2. The remaining thirty (30) days of said suspension shall be stayed for two
17 (2) years upon the following terms and conditions:

18 a. SCRIPPS shall obey all laws, rules and regulations governing the rights,
19 duties and responsibilities of a real estate licensee in the State of California; and

20 b. That no final subsequent determination be made, after hearing or upon
21 stipulation, that cause for disciplinary action occurred within two (2) years from the effective
22 date of this Order. Should such a determination be made, the Commissioner may, in her
23 discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed
24 suspension. Should no such determination be made, the stay imposed herein shall become
25 permanent.

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c. SCRIPPS shall, within six (6) months from the effective date of this
Order, take and pass the Professional Responsibility Examination administered by the
Department, including the payment of the appropriate examination fee. If SCRIPPS fails to
satisfy this condition, the Commissioner may order the suspension of all licenses and licensing
rights of SCRIPPS until SCRIPPS passes the examination.

d. Notwithstanding any other provision of this Order, all licenses and
licensing rights of SCRIPPS are indefinitely suspended unless and until he provides proof
satisfactory to the Commissioner that he has taken and successfully completed the continuing
education course on Trust Fund Accounting and Handling specified in Section 10170.5(a)(3) of
the Code. The course must have been completed no earlier than one hundred twenty (120)
days prior to the effective date of this Order, and proof must be submitted prior to the effective
date of this Order, to prevent suspension of SCRIPPS's license pursuant to this condition.

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1. Respondents, jointly and severally, shall pay the sum of \$4,413.40 for
the Commissioner's cost of the audit which led to this disciplinary action. Respondents shall pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner. The Commissioner may indefinitely suspend all licenses and licensing right of Respondents pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between Respondents and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondents enter into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

2. Respondents, jointly and severally, shall pay the Commissioner's costs, not to exceed \$4,413.40, of any audit conducted pursuant to Section 10148 of the Code to determine if Respondents have corrected the violations described in the Determination of Issues, above, and any other violations found in the audit which led to this disciplinary action.

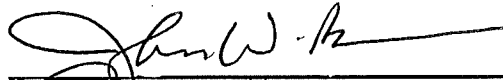
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1 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use
2 the estimated average hourly salary for all persons performing audits of real estate brokers, and
3 shall include an allocation for travel time to and from the auditor's place of work. Respondents
4 shall pay such cost within sixty (60) days of receiving an invoice therefore from the
5 Commissioner detailing the activities performed during the audit and the amount of time spent
6 performing those activities. If Respondents fail to pay such cost within the sixty (60) days, the
7 Commissioner may indefinitely suspend all licenses and licensing rights of Respondents under
8 the Real Estate Law until payment is made in full or until Respondents enter into an agreement
9 satisfactory to the Commissioner to provide for payment. Upon full payment, the indefinite
10 suspension provided for in this paragraph shall be stayed.

2/8/12


DATED


JOHN W. BARRON, Counsel
Department of Real Estate

16 I have read the Stipulation and Agreement and its terms are understood by me
17 and are agreeable and acceptable to me. I understand that I am waiving rights given to me by
18 the California Administrative Procedure Act (including but not limited to Sections 11506,
19 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and
20 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.

2/6/2012

DATED


THOMAS O. SCRIPPS, III
Respondent and as the Designated
Officer/Broker for Respondent
CANYON PACIFIC PROPERTY
MANAGEMENT COMPANY, INC.

H-11141 SF

CANYON PACIFIC PROPERTY MGT. CO., INC.
and THOMAS O. SCRIPPS, III

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I have reviewed this Stipulation and Agreement and Order as to form and content and have advised my client accordingly.

2-7-12
DATED

JOSHUA A. ROSENTHAL
Attorney for Respondents, CANYON
PACIFIC PROPERTY MANAGEMENT
COMPANY, INC. and THOMAS O.
SCRIPPS, III

The foregoing Stipulation and Agreement is hereby adopted by me as my Decision in this matter as to Respondents CANYON PACIFIC PROPERTY MANAGEMENT COMPANY, INC. and THOMAS O. SCRIPPS, III, and shall become effective at 12 o'clock noon on _____.

IT IS SO ORDERED _____

BARBARA J. BIGBY
Acting Real Estate Commissioner

H-1114) SF

CANYON PACIFIC PROPERTY MGT. CO., INC.
and THOMAS O. SCRIPPS, III

