

ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

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FILED
MAR - 1 2007
DEPARTMENT OF REAL ESTATE

By K. Niederholt

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-31748 LA
)	L-2005080867
STOIC CAPITAL CORP., a)	
corporation; and THOMAS PATRICK)	<u>STIPULATION</u>
PATTENAUDE, individually and as)	<u>AND</u>
designated officer of)	<u>AGREEMENT</u>
Stoic Capital Corp.,)	
)	
)	
Respondents,)	
)	

It is hereby stipulated by and between Respondents
STOIC CAPITAL CORP., a corporate real estate broker, and THOMAS
PATRICK PATTENAUDE, individually and as designated officer of
Stoic Capital Corp. (sometimes collectively referred to as
"Respondents"), and their attorney of record, Mary E. Work, Esq.,
and the Complainant, acting by and through Elliott Mac Lennan,
Counsel for the Department of Real Estate, as follows for the
purpose of settling and disposing of the Accusation
("Accusation") filed on March 11, 2005, in this matter:

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

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

12 3. Respondents timely filed a Notice of Defense
13 pursuant to Section 11506 of the Government Code for the purpose
14 of requesting a hearing on the allegations in the Accusation.
15 Respondents hereby freely and voluntarily withdraw said Notice of
16 Defense. Respondents acknowledge that they understand that by
17 withdrawing said Notice of Defense they thereby waive their right
18 to require the Commissioner to prove the allegations in the
19 Accusation at a contested hearing held in accordance with the
20 provisions of the APA and that they will waive other rights
21 afforded to them in connection with the hearing such as the right
22 to present evidence in their defense the right to cross-examine
23 witnesses.
24

25 4. This Stipulation is based on the factual
26 allegations contained in the Accusation. In the interest of
27

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

8 5. This Stipulation and Respondents' decision not to
9 contest the Accusation is made for the purpose of reaching an
10 agreed disposition of this proceeding and is expressly limited to
11 this proceeding and any other proceeding or case in which the
12 Department of Real Estate ("Department"), the state or federal
13 government, or any agency of this state, another state or federal
14 government is involved, and otherwise shall not be admissible in
15 any other criminal or civil proceedings.

16 6. It is understood by the parties that the Real
17 Estate Commissioner may adopt this Stipulation as his Decision in
18 this matter thereby imposing the penalty and sanctions on
19 Respondents' real estate licenses and license rights as set forth
20 in the "Order" herein below. In the event that the Commissioner
21 in his discretion does not adopt the Stipulation, it shall be
22 void and of no effect and Respondents shall retain the right to a
23 hearing and proceeding on the Accusation under the provisions of
24 the APA and shall not be bound by any stipulation or waiver made
25 herein.
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1 7. The Order or any subsequent Order of the Real
2 Estate Commissioner made pursuant to this Stipulation shall not
3 constitute an estoppel, merger or bar to any further
4 administrative or civil proceedings by the Department of Real
5 Estate with respect to any matters which were not specifically
6 alleged to be causes for Accusation in this proceeding but do
7 constitute a bar, estoppel and merger as to any allegations
8 actually contained in the Accusations against Respondents herein.

9 DETERMINATION OF ISSUES

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

12 I.

13 The conduct of STOIC CAPITAL CORP., as set forth in the
14 Accusation, is in violation of Sections 10137 and 10240 of the
15 Business and Professions Code ("Code") and is a basis for the
16 suspension or revocation of Respondent's license and license
17 rights as a violation of the Real Estate Law pursuant to Code
18 Sections 10177(d) and 10177(g).

19 II.

20 The conduct of THOMAS PATRICK PATTENAUE, as set forth
21 in the Accusation, is in violation of Sections 10137 and 10240 of
22 the Business and Professions Code ("Code") and is a basis for the
23 suspension or revocation of Respondent's license and license
24 rights as a violation of the Real Estate Law pursuant to Code
25 Sections 10177(d) and 10177(g).
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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondents

STOIC CAPITAL CORP., as and THOMAS PATRICK PATTENAUDE under the
Real Estate Law are suspended for a period of sixty days from the
effective date of this Decision;

A1. Provided, however, that thirty days of said
suspension (or a portion thereof) shall be stayed upon the
following terms and conditions:

2. Respondents each pay a monetary penalty pursuant to
Section 10175.2 of the Business and Professions Code at the rate
of \$67.50 per day for each day of the suspension for a monetary
penalty of \$2,025 each or a total monetary penalty of \$4,050.

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

4. No further cause for disciplinary action against
the real estate licenses of Respondents occurs within two years
from the effective date of the Decision in this matter.

5. If Respondents fail to pay the monetary penalty in
accordance with the terms of the Decision, the Commissioner may,
without a hearing, order the immediate execution of all or any
part of the stayed suspension, in which event the Respondents

1 shall not be entitled to any repayment nor credit, prorated or
2 otherwise, for money paid to the Department under the terms of
3 this Decision.

4 6. If Respondents pay the monetary penalty and if no
5 further cause for disciplinary action against the real estate
6 license of Respondent occurs within two years from the effective
7 date of the Decision, the stay hereby granted shall become
8 permanent

9 B.1 The remaining thirty days of the sixty day
10 suspension shall be stayed for two years upon the following terms
11 and conditions:

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

15 3. That no final subsequent determination be made
16 after hearing or upon stipulation, that cause for disciplinary
17 action occurred within two years from the effective date of this
18 Decision. Should such a determination be made, the Commissioner
19 may, in his discretion, vacate and set aside the stay order and
20 reimpose all or a portion of the stayed suspension. Should no
21 such determination be made, the stay imposed herein shall become
22 permanent.

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V.

1 All licenses and licensing rights of Respondent THOMAS
2 PATRICK PATTENAUDE are indefinitely suspended unless or until
3 Respondent provides proof satisfactory to the Commissioner, of
4 having taken and successfully completed the continuing education
5 course on trust fund accounting and handling specified in
6 paragraph (3) of subdivision (a) of Section 10170.5 of the
7 Business and Professions Code. Proof of satisfaction of this
8 requirement includes evidence that respondent has successfully
9 completed the trust fund account and handling continuing
10 education course within 120 days prior to the effective date of
11 the Decision in this matter.
12

13
14 DATED: 9-20-06

ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

16 * * *


17 EXECUTION OF THE STIPULATION

18 We have read the Stipulation and have discussed it with
19 our counsel, and its terms are understood by us and are agreeable
20 and acceptable to us. We understand that we are waiving rights
21 given to us by the California Administrative Procedure Act
22 (including but not limited to Sections 11506, 11508, 11509 and
23 11513 of the Government Code), and we willingly, intelligently
24 and voluntarily waive those rights, including the right of
25 requiring the Commissioner to prove the allegations in the
26 Accusation at a hearing at which we would have the right to
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1 cross-examine witnesses against us and to present evidence in
2 defense and mitigation of the charges.

3 Respondents can signify acceptance and approval of the
4 terms and conditions of this Stipulation by faxing a copy of its
5 signature page, as actually signed by Respondents, to the
6 Department at the following telephone/fax number: Elliott Mac
7 Lennan at (213) 576-6917. Respondents agree, acknowledge and
8 understand that by electronically sending to the Department a fax
9 copy of Respondents' actual signature as they appear on the
10 Stipulation, that receipt of the faxed copy by the Department
11 shall be as binding on Respondents as if the Department had
12 received the original signed Stipulation.
13

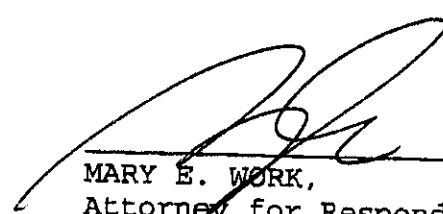
14
15 DATED: 11/28/2006


16 STOIC CAPITAL CORP., a corporate
17 real estate broker,
18 BY: THOMAS PATRICK PATTENAUDE,
D.O., Respondent

19
20 DATED: 11/28/2006


21 THOMAS PATRICK PATTENAUDE
22 individually and as designated
23 officer of Stoic Capital Corp.,
Respondent

24
25 DATED: 12/7/06

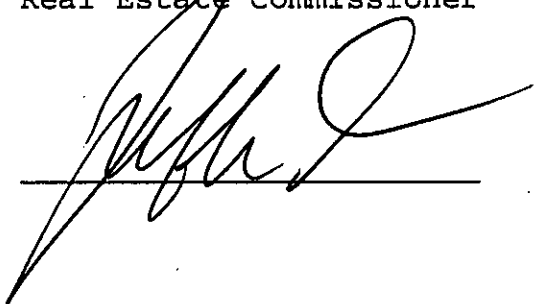

26 MARY E. WORK,
27 Attorney for Respondents

* * *

1 The foregoing Stipulation and Agreement is hereby
2 adopted as my Decision as to Respondents STOIC CAPITAL CORP. and
3 THOMAS PATRICK PATTENAUE, individually and as designated officer
4 of Stoic Capital Corp. and shall become effective at 12 o'clock
5 noon on APR - 2, 2007.
6

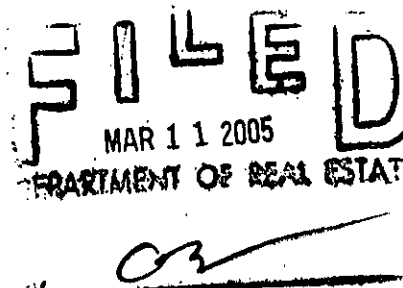
7 IT IS SO ORDERED 2/22, 2007.
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9 JEFF DAVI
10 Real Estate Commissioner
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A handwritten signature in dark ink, appearing to read 'Jeff Davi', is written over a horizontal line. The signature is stylized with a large, sweeping 'J' and a long, horizontal stroke extending to the right.

6AC
1 CHRIS LEONG, Counsel (SBN 141079)
Department of Real Estate
2 320 West Fourth Street, Suite 350
Los Angeles, CA 90013-1105

3 Telephone: (213) 576-6982
4 -or- (213) 576-6910 (Direct)
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7



8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA
10 * * *

11 In the Matter of the Accusation of)
12 STOIC CAPITAL CORP., a) No. H-31748 LA
corporation and THOMAS PATRICK) A C C U S A T I O N
13 PATTENAUDE, individually and as)
designated officer of)
14 Stoic Capital Corp.,)
15)
Respondents.)
16)

17 The Complainant, Maria Suarez, a Deputy Real Estate
18 Commissioner of the State of California, for cause of
19 Accusation against STOIC CAPITAL CORP., a corporation
20 (hereafter "SCC") and THOMAS PATRICK PATTENAUDE, individually
21 and as designated officer of Stoic Capital Corp (hereafter
22 "PATTENAUDE") (hereafter sometimes referred to as
23 "Respondents"), is informed and alleges in her official
24 capacity as follows:

25 1.

26 Respondent SCC is presently licensed and/or has
27 license rights under the Real Estate Law, Part 1 of Division 4

1 of the California Business and Professions Code (hereafter
2 "Code") as a corporate real estate broker.

3 2.

4 Respondent PATTENAUDE is presently licensed and/or
5 has license rights under the Real Estate Law, Part 1 of
6 Division 4 of the Code as a real estate broker and as the
7 designated officer of SCC.

8 3.

9 At all times material herein, Kristin Greenfield
10 (hereafter "Greenfield") was not licensed or had license rights
11 under the Real Estate Law, Part 1 of Division 4 of the Code as
12 a real estate salesperson or broker. Greenfield was employed
13 by SCC.

14 4.

15 At all times material herein, Respondents engaged in
16 the business of, acted in the capacity of, advertised or
17 assumed to act as real estate brokers for others in the State
18 of California, within the meaning of Code Section 10131(d),
19 including the operation and conduct of a real estate mortgage
20 loan business with the public wherein Respondents solicited
21 borrowers and lenders of loans secured by interest in real
22 property in expectation of compensation.

23 FIRST CAUSE OF ACCUSATION

24 AUDIT NO. LA 020281

25 5.

26 On April 22, 2003, the Department of Real Estate
27 (hereafter "Department") concluded its examination of

1 Respondents' books and records pertaining to Respondents'
2 activities as real estate brokers in Audit Report No.
3 LA 020281, covering a period from approximately February 1,
4 2002 to February 28, 2003. The examination revealed violations
5 of the Code and of Title 10, Chapter 6, California Code of
6 Regulations (hereafter "Regulations"), as set forth below, and
7 as more specifically set forth in Audit Report No. LA
8 020281, and the related audit report and working papers
9 attached thereto.

10 6.

11 At all times herein, in connection with the real
12 estate sales, loan and loan servicing activity described in
13 Paragraph 4 above, Respondents accepted or received funds,
14 including funds in trust (hereafter "trust funds") from or on
15 behalf of actual and prospective parties to transactions
16 handled by Respondents and thereafter made deposits and/or
17 disbursements of such funds. Respondents did not maintain a
18 trust account for loan activities.

19 7.

20 Respondents failed to maintain Mortgage Loan
21 Disclosure Statements that were signed by the broker in files
22 of borrowers, including Wood, Murry Price, Walcott Briggs and
23 Wilson, in violation of Code Section 10240.

24 8.

25 The conduct, acts and omissions of Respondents SCC
26 and PATTENAUDE, as described above, violated the Code and the
27 Regulations as set forth above and constitutes cause for the

1 suspension or revocation of all real estate licenses and
2 license rights of Respondent under the provisions of Code
3 Sections 10176(g), 10177(d) and/or 10177(g).

4 SECOND CAUSE OF ACCUSATION

5 9.

6 On or about February 21, 2002, to May 15, 2002,
7 Michael B. Wilson and his wife (hereafter "the Wilsons") began
8 the process of negotiating a loan for the purchase of a new
9 home with Greenfield at SCC. Greenfield misrepresented to the
10 Wilsons the loan terms and failed to pay her portion of the
11 points in full that she agreed to split with them. The Wilsons
12 received a Good Faith Estimate for 2 loans. The first was an
13 80% loan with a 6.5% fixed rate for 30 years and the second
14 loan was a 20% loan with an 8.5% fixed rate for 15 years.
15 Subsequently, Greenfield informed the Wilsons that she had
16 misread the loan papers and discovered that the loan was a 95%
17 loan, which was not acceptable to the Wilsons. Greenfield then
18 found a loan with the same 6.5% rate for the first loan, but a
19 higher interest rate of 10.4%, on the second loan. The Wilsons
20 were agreeable to this; however, when they went to the escrow
21 company to sign final loan documents they discovered that the
22 first loan was an adjustable rate loan, which was not what was
23 promised to them. The Wilsons demanded that Greenfield fix the
24 problem. Greenfield then proceeded to get the Wilsons a 6.75%
25 fixed rate on the first loan with 3.5 points being charged by
26 the lender. Greenfield promised the Wilsons that she would pay
27 \$2,810 towards the points. The Wilsons stated that they were

1 forced to accept this or lose the house. After the loan
2 funded, Greenfield gave the Wilsons \$2,000 in cash and a
3 personal check in the amount of \$810, which came back non-
4 sufficient funds. Greenfield is not licensed by the DRE. The
5 acts of Greenfield required a license under Section 10131(d).
6 Greenfield violated Code Section 10130.

7 10.

8 The conduct, acts and omissions of Respondents SCC
9 and PATTENAUDE, in employing and/or compensating Greenfield, is
10 in violation of Code Section 10137 and constitutes cause for
11 the suspension or revocation of all real estate licenses and
12 license rights of Respondents under the provisions of Code
13 Sections 10137, 10177(d) and 10177(g).

14 THIRD CAUSE OF ACCUSATION

15 11.

16 On or about January 22, 2004, in a follow up of audit
17 findings, a Declaration/Questionnaire was mailed to Demetrik
18 Lee Briggs (hereafter, Briggs). Briggs completed
19 Declaration/Questionnaire received on February 18, 2004,
20 indicated that he received purchase loans in the amounts of
21 \$199,200.00 and \$49,800.00, which closed on September 27, 2002,
22 for property located at 1739 Dalesi Dr., Pinole, California,
23 and was not aware that SCC received a lender rebate in the
24 total amount of \$1,494.00. Briggs indicated that Greenfield
25 negotiated the terms of the loan with him. The acts of
26 Greenfield required a license under Code Section 10131(d).
27 Greenfield violated Code Section 10130.

12.

The conduct, acts and omissions of Respondents SCC and PATTEAUDE, in employing and/or compensating Greenfield is in violation of Code Section 10137 and constitutes cause for the suspension or revocation of all real estate licenses and license rights of Respondents under the provisions of Code Sections 10137, 10177(d) and 10177(g).

IN AGGRAVATION

13.

On or about January 22, 2004, in a follow up of audit findings, a Declaration/Questionnaire was mailed to P. Michael Murray (hereafter, Murray). Murray completed Declaration/Questionnaire received on February 20, 2004, indicated that he received purchase loans in the amounts of \$287,200.00 and \$35,900.00, which closed on March 1, 2002, for property located at 12438 Laurel Terrace Drive, Los Angeles, CA. Murray indicated that Greenfield negotiated the terms of the loan with him. In addition, he indicated that Greenfield compiled his loan application paperwork, pulled his credit report, kept in touch with the lender, and assured him everything would close on time. Greenfield assembled the documents from the lender and brought them directly to the escrow on the closing day. Greenfield is not licensed by the DRE. The acts of Greenfield required a license under Code Section 10131(d). Greenfield violated Code Section 10130.

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
4 action against all licenses and/or license rights of
5 Respondents STOIC CAPITAL CORP., a corporation (hereafter
6 "SCC") and THOMAS PATRICK PATTENAUDE, individually and as
7 designated officer of Stoic Capital Corp, under the Real Estate
8 Law (Part 1 of Division 4 of the Business and Professions
9 Code), and for such other and further relief as may be proper
10 under other applicable provisions of law.

11 Dated at Los Angeles, California
12 this 9th day of March 2005.

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15 Deputy Real Estate Commissioner
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23 cc: Stoic Capital Corp.
24 Thomas Patrick Pattenaude
25 M. Suarez
26 Sacto
27 LA Audit/Weaver
KA