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1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6982

APR 21 2010

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of)
12)
13 NEWPORT CAPITAL GROUP INC.; and)
14 JASON JOSEPH MCAFEE, individually)
and as designated officer of)
Newport Capital Group Inc.,)
15 Respondents,)
16)
17)

No. H-35978 LA
L-2009100411

STIPULATION
AND
AGREEMENT

18 It is hereby stipulated by and between Respondents
19 NEWPORT CAPITAL GROUP INC. and JASON JOSEPH MCAFEE, individually
20 and as designated officer of Newport Capital Group Inc.,
21 (sometimes collectively referred to as "Respondents"), and the
22 Complainant, acting by and through Elliott Mac Lennan, Counsel
23 for the Department of Real Estate, as follows for the purpose of
24 settling and disposing of the Accusation ("Accusation") filed on
25 May 15, 2009, in this matter:
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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 and the right to cross-
23 examine witnesses.
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1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation. In the interest of
3 expedience and economy, Respondents choose not to contest these
4 allegations, but to remain silent and understand that, as a
5 result thereof, these factual allegations, without being admitted
6 or denied, will serve as a prima facie basis for the disciplinary
7 action stipulated to herein. The Real Estate Commissioner shall
8 not be required to provide further evidence to prove said factual
9 allegations.

10 5. This Stipulation is made for the purpose of
11 reaching an agreed disposition of this proceeding and is
12 expressly limited to this proceeding and any other proceeding or
13 case in which the Department of Real Estate ("Department"), the
14 state or federal government, or any agency of this state, another
15 state or federal government is involved.

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 Respondent 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, acts or omissions of NEWPORT CAPITAL GROUP
14 INC. and JASON JOSEPH MCAFEE, as described in Paragraph 4, above,
15 are in violation of Sections 10159.5, 10235.5 and 10236.4 of the
16 Business and Professions Code ("Code") and Sections 2731 and
17 2847.3 of Title 10, Chapter 6 of the California Code of
18 Regulations ("Regulations") and is a basis for discipline of
19 Respondents' license and license rights as violation of the Real
20 Estate Law pursuant to Code Sections 10177(d) and 10177(g).

22 II.

23 The conduct, acts or omissions of JASON JOSEPH MCAFEE,
24 as described in Paragraph 4, above, are in violation of Code
25 Section 10159.2 and is a basis for discipline of Respondent's
26 license and license rights as violation of the Real Estate Law
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1 pursuant to Code Sections 10777(d), 10177(g) and 10177(h).

2 ORDER

3 WHEREFORE, THE FOLLOWING ORDER is hereby made:

4 I.

5 All license and license rights of Respondent NEWPORT
6 CAPITAL GROUP INC. are revoked.

7 II.

8 The real estate broker license of JASON JOSEPH MCAFEE
9 is suspended for a period of sixty (60) days from the effective
10 date of this Decision.

11 A. Provided, however, that if Respondent requests, the
12 initial thirty (30) days of said suspension (or a portion
13 thereof) shall be stayed for two (2) years upon condition that:

14 1. Respondent pays a monetary penalty pursuant to
15 Section 10175.2 of the Business and Professions Code at the rate
16 of \$83.33 per day for each day of the suspension for a total
17 monetary penalty of \$2,500.

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

23 3. No further cause for disciplinary action against
24 the real estate license of Respondent occurs within two (2) years
25 from the effective date of the Decision in this matter.
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1 4. If Respondent fails to pay the monetary penalty in
2 accordance with the terms of the Decision, the Commissioner may,
3 without a hearing, order the immediate execution of all or any
4 part of the stayed suspension, in which event the Respondent
5 shall not be entitled to any repayment nor credit, prorated or
6 otherwise, for money paid to the Department under the terms of
7 this Decision.

8 5. If Respondent pays the monetary penalty and if no
9 further cause for disciplinary action against the real estate
10 license of Respondent occurs within two (2) years from the
11 effective date of the Decision, the stay hereby granted shall
12 become permanent.

13 B. The remaining thirty (30) days of the sixty (60)
14 day suspension shall be stayed for two (2) years upon the
15 following terms and conditions:

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

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

2 II.

3 Respondent JASON JOSEPH MCAFEE shall within six (6)
4 months from the effective date of the Decision herein, take and
5 pass the Professional Responsibility Examination administered by
6 the Department including the payment of the appropriate
7 examination fee. If Respondent fails to satisfy this condition,
8 the Commissioner may order suspension of Respondent's license
9 until Respondent passes the examination.

10
11
12 DATED: 3-31-10

EJL
13 ELLIOTT MAC LENNAN, Counsel for
14 the Department of Real Estate

15 * * *

16 EXECUTION OF THE STIPULATION

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


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Respondents (1) shall mail the original signed signature page of the stipulation herein to Elliott Mac Lennan: Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350, Los Angeles, California 90013-1105. Respondents shall also (2) facsimile a copy of signed signature page, to the Department at the following telephone/fax number: (213) 576-6917, Attention: Elliott Mac Lennan.

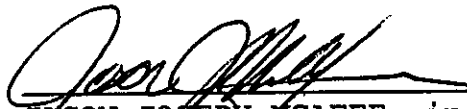
A facsimile constitutes acceptance and approval of the terms and conditions of this stipulation. Respondents agree, acknowledge and understand that by electronically sending to the Department a facsimile copy of Respondents' actual signature as it appears on the stipulation that receipt of the facsimile copy by the Department shall be as binding on Respondents as if the Department had received the original signed stipulation.

DATED: 3/12/10

Business is now
closed →


NEWPORT CAPITAL GROUP INC. a
corporate real estate broker,
Respondent
By: JASON JOSEPH MCAFEE,
designated officer of Newport
Capital Group Inc.

DATED: 3/12/10


JASON JOSEPH MCAFEE, individually
and as designated officer of
Newport Capital Group Inc.,
Respondent

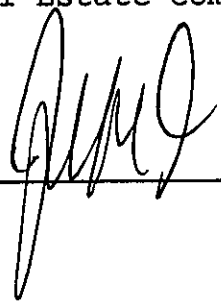
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents NEWPORT CAPITAL GROUP
INC. and JASON JOSEPH MCAFEE individually and as designated
officer of Newport Capital Group Inc. and shall become effective
at 12 o'clock noon on _____ May 11, 2010.

IT IS SO ORDERED 4-14, 2010.

JEFF DAVI
Real Estate Commissioner



2.

1 All references to the "Code" are to the California
2 Business and Professions Code and all references to "Regulations"
3 are to Title 10, Chapter 6, California Code of Regulations.
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5 LICENSE HISTORY

6 3.

7 A. Respondent NEWPORT CAPITAL GROUP INC. (hereinafter
8 "NCGI"), is presently licensed and at all times relevant herein
9 was licensed under the Real Estate Law, Part 1 of Division 4 of
10 the California Business and Professions Code (hereinafter "Code")
11 as a corporate real estate broker. Respondent NCGI has been and
12 is licensed by the Department of Real Estate of the State of
13 California (hereinafter "Department") as a corporate real estate
14 broker since April 28, 2005 by and through JASON JOSEPH MCAFEE.
15

16 B. At all times mentioned, JASON JOSEPH MCAFEE
17 ("MCAFEE") was licensed or had license rights issued by the
18 Department of Real Estate (Department) as a real estate broker.
19 On May 31, 2003, MCAFEE was originally licensed as a real estate
20 salesperson. On October 15, 2004, MCAFEE was originally licensed
21 as a real estate broker.

22 C. At all times material herein, NCGI was licensed by
23 the Department as a corporate real estate broker by and through
24 MCAFEE, as the designated officer and broker responsible,
25 pursuant to Code Sections 10159.2 and 10211 of the Business and
26 Professions Code for supervising the activities requiring a real
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1 estate license conducted on behalf NCGI of by NCGI's officers,
2 agents and employees, including MCAFEE.

3 BROKERAGE

4 4.

5 At all times mentioned, in the City of Newport Beach,
6 County of Orange, NCGI acted as a real estate broker and
7 conducted licensed activities within the meaning of Code Section
8 10131(d). NCGI engaged in the business of a mortgage and loan
9 brokerage including soliciting borrowers and lenders and
10 negotiating the terms of loans secured by real property between
11 borrowers and third party lenders for or in expectation of
12 compensation.

13 DEPARTMENTAL INVESTIGATION

14 5.

15 During 2008 the Department conducted an investigation
16 pertaining to the mortgage and loan activities described in
17 Paragraph 4, which require a real estate license. The
18 investigation revealed violations of the Code and the Regulations
19 as set forth in the following paragraphs:

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VIOLATIONS OF THE REAL ESTATE LAW

6.

In the course of activities described in Paragraph 5 above, Respondents NCGI and MCAFEE, acted in violation of the Code and the Regulations and with respect to NCGI's letter advertisement and solicitation of January 30, 2008, as follows:

(a) Used the fictitious names of "Newport Capital", "Newport Capital Group" and "Newport Capital Group Commercial Finance" to conduct licensed activities including brokering mortgage loans on NCGI's website without holding a license bearing said fictitious business names, in violation of Code Section 10159.5 and Regulation 2731.

(b) The letter advertisement fails to state under whose license the loan will be made, in violation of Code Section 10235.5.

(c) Failed to display the Department's license number, in violation of Code Section 10236.4; and

(d) Failed to disclose that NCGI was a real estate broker licensed by the Department of Real Estate. As such, NCGI's absence of disclosure is insufficient to satisfy disclosure requirements of Regulation 2847.3, in violation of said Regulation.

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DISCIPLINARY STATUTES AND REGULATIONS

7.

The conduct of Respondents NCGI and MCAFEE, as alleged and described in Paragraph 6, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
6 (a)	Code Section 10159.5 and Regulation 2731
6 (b)	Code Section 10235.5
6 (c)	Code Section 10236.4
6 (d)	Regulation 2847.3

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of NCGI and MCAFEE under the provisions of Code Sections 10177(d) and/or 10177(g).

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NEGLIGENCE

8.

The overall conduct of Respondents NCGI and MCAFEE constitutes negligence. This conduct and violation are cause for the discipline of the real estate license and license rights of said Respondents pursuant to Code Section 10177(g).

SUPERVISION AND COMPLIANCE

9.

The overall conduct of Respondent MCAFEE constitutes a failure on his part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of NCGI as required by Code Section 10159.2, and to keep NCGI in compliance with the Real Estate Law, and is cause for the suspension or revocation of the real estate license and license rights of MCAFEE pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

IN AGGRAVATION

On February 06, 2008, the Department filed an Order to Desist and Refrain against Respondents NEWPORT CAPITAL GROUP INC. and JASON JOSEPH MCAFEE, individually and as designated officer of Newport Capital Group Inc. Said order was served on Respondents on March 14, 2008. Respondents were ordered to comply with Business and Professions Code Sections 10235 and 17533.6 and Regulations 2848(2) and 2848(12). Respondents failed to do so.

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 the license and license rights of Respondents
5 NEWPORT CAPITAL GROUP INC. and JASON JOSEPH MCAFEE, individually
6 and as designated officer of Newport Capital Group Inc., under
7 the Real Estate Law (Part 1 of Division 4 of the Business and
8 Professions Code) and for such other and further relief as may be
9 proper under other applicable provisions of law including
10 restitution pursuant to the provisions of the Administrative
11 Procedure Act.

12 Dated at Los Angeles, California

13 this 12 day of May 2009.

14 Robin Trujillo
15 Deputy Real Estate Commissioner

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24 cc: Newport Capital Group Inc.
25 c/o Jason Joseph McAfee D.O.
26 Robin Trujillo
27 Sacto
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