

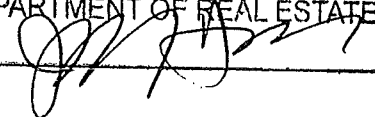
1 Department of Real Estate  
2 320 West 4th Street, Suite 350  
3 Los Angeles, CA 90013-1105

**FILED**

MAY 24 2012

4 Telephone: (213) 576-6982

DEPARTMENT OF REAL ESTATE

BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) No. H-36938 LA  
12 ) No. L-2010120956  
13 STONECREEK CAPITAL MORTGAGE )  
14 CORPORATION; and TONY NELSON, ) **Consolidated with**  
15 individually, and as designated ) **H-37228 LA/L-2011061236**  
16 officer for Stonecreek Capital ) **for Hearing**  
17 Mortgage Corporation, )  
18 Respondents. )

19 In the Matter of the Accusation of ) No. H-37228 LA  
20 ) No. L-2011061236  
21 TONY NELSON, )  
22 ) **Consolidated with**  
23 Respondent. ) **H-36938 LA/L-2010120956**  
24 ) **for Hearing**

25 In the Matter of the Accusation of ) No. H-37416 LA  
26 ) No. L-2011100481  
27 SUMMIT RIDGE, INC.; TONY )  
NELSON, formerly designated ) **Consolidated with**  
officer; and LILIANA MARISA ) **H-36938 LA/L-2011061236**  
VERA, individually, and as ) **H-37228 LA/L-2010120956**  
designated officer of Summit ) **for Hearing**  
Ridge, Inc., ) **May 10, 2012**  
Respondents. ) **STIPULATION AND**  
**AGREEMENT**

1  
2 It is hereby stipulated by and between STONECREEK  
3 CAPITAL MORTGAGE CORPORATION ("STONECREEK") and TONY NELSON,  
4 individually, and as designated broker-officer of STONECREEK  
5 and SUMMIT RIDGE, INC., (sometimes referred to as  
6 "Respondents") and the Complainant, acting by and through  
7 Cheryl Keily, Counsel for the Department of Real Estate, as  
8 follows for the purpose of settling and disposing of the  
9 following Accusations: H-36938 LA filed on November 29, 2010;  
10 H-37228 LA filed on April 27, 2011; and H-37416 LA filed on  
11 August 1, 2011.  
12

13 1. All issues which were to be contested and all  
14 evidence which was to be presented by Complainant and  
15 Respondents at a formal hearing on the Accusations, which  
16 hearing was to be held in accordance with the provisions of the  
17 Administrative Procedure Act (APA), shall instead and in place  
18 thereof be submitted solely on the basis of the provisions of  
19 this Stipulation and Agreement.  
20

21 2. Respondents have received, read and understood the  
22 Statement to Respondent, the Discovery Provisions of the APA and  
23 the Accusations filed by the Department of Real Estate  
24 ("Department") in this proceeding.  
25

26 3. On December 13, 2010, May 5, 2011, and August 12,  
27 2011, Respondents filed Notices of Defense, pursuant to Section  
11506 of the Government Code for the purpose of requesting a

1 hearing on the allegations in the Accusations. Respondents  
2 hereby freely and voluntarily withdraw said Notices of Defense.  
3 Respondents acknowledge that they understand that by withdrawing  
4 said Notices of Defense they will thereby waive their right to  
5 require the Commissioner to prove the allegations in the  
6 Accusations at a contested hearing held in accordance with the  
7 provisions of the APA and that they will waive other rights  
8 afforded to them in connection with the hearing, such as the  
9 right to present evidence in defense of the allegations in the  
10 Accusation and the right to cross-examine witnesses.  
11

12  
13 4. This Stipulation is based on the factual  
14 allegations contained in the Accusations. In the interest of  
15 expedience and economy, Respondents choose not to contest these  
16 allegations, but to remain silent and understand that, as a  
17 result thereof, these factual allegations, without being  
18 admitted or denied, will serve as a prima facie basis for the  
19 disciplinary action stipulated to herein. The Real Estate  
20 Commissioner shall not be required to provide further evidence  
21 to prove said factual allegations.  
22

23 5. This Stipulation and Respondents' decision not to  
24 contest the Accusations are made for the purpose of reaching an  
25 agreed disposition of this proceeding, and are expressly  
26 limited to this proceeding and any other proceeding or case in  
27 which the Department of Real Estate, or another licensing

1 agency of this state, another state or the federal government  
2 is involved, and otherwise shall not be admissible in any other  
3 criminal or civil proceedings.

4  
5 6. The Order or any subsequent Order of the Real  
6 Estate Commissioner made pursuant to this Stipulation and  
7 Agreement shall not constitute an estoppel, merger or bar to any  
8 further administrative or civil proceedings by the Department  
9 with respect to any matters which were not specifically alleged  
10 to be causes for accusation in this proceeding.

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

23  
24 8. Respondents have received, read and understand the  
25 "Notice Concerning Costs of Audits." Respondents understand that  
26 by agreeing to this Stipulation and Agreement, the findings set  
27 forth below in the Determinations of Issues become final, and

1 that the Commissioner may charge Respondents for the costs of  
2 the audit which lead to the disciplinary action in H-37416 LA.  
3 Respondents understand that by agreeing to this Stipulation,  
4 Respondent NELSON agrees to pay, pursuant to Business and  
5 Professions Code ("Code") Section 10148, the cost of the  
6 original audit, which is \$22,790.20, and shall pay the  
7 Commissioner's reasonable cost for a subsequent audit to  
8 determine if Respondent SUMMIT RIDGE, INC. has corrected the  
9 violations found in the Determination of Issues.  
10

11 DETERMINATION OF ISSUES

12 By reason of the foregoing stipulations, admissions  
13 and waivers and solely for the purpose of settlement of the  
14 pending Accusations without a hearing, it is stipulated and  
15 agreed that the following determination of issues shall be made:  
16

17 1. The conduct, acts or omissions of Respondent  
18 STONECREEK CAPITAL MORTGAGE CORPORATION, as set forth in the  
19 allegations of Accusation H-36938 LA, constitute cause to  
20 suspend or revoke the real estate license and license rights of  
21 Respondent STONECREEK CAPITAL MORTGAGE CORPORATION under the  
22 provisions of Code Section 10177(g) for violation of Code  
23 Section 10148.  
24

25 2. The conduct, acts or omissions of Respondent TONY  
26 NELSON, as set forth in the Accusations constitute cause to  
27 suspend or revoke the real estate license and license rights of  
Respondent TONY NELSON as follows:

1 a. H-36938: Cause exists to suspend or revoke the  
2 real estate license and license rights of Respondent TONY  
3 NELSON under the provisions of Code Sections 10177(g) for  
4 violation of Code Section 10159.2.

5  
6 b. H-37228 LA: Cause exists to suspend or revoke the  
7 real estate license and license rights of Respondent TONY  
8 NELSON under the provisions of Code Section 10177(j).

9  
10 c. H-37416 LA: Cause exists to suspend or revoke the  
11 real estate license and license rights of Respondent TONY  
12 NELSON under the provisions of Code Section 10177(g) for  
13 violation of Code Sections 10145, 10159.5, 10240 in conjunction  
14 with Title 10, Chapter 6 of the California Code of Regulations  
15 ("Regulations"), Sections 2731, 2831, 2835, and 2834.

16 ORDER

17 WHEREFORE, THE FOLLOWING ORDER is hereby made:

18 I. The licenses and licensing rights of Respondent  
19 STONECREEK CAPITAL CORPORATION are hereby revoked.

20 II. All licenses and license rights of Respondent TONY  
21 NELSON under the Real Estate Law are suspended for a period of  
22 ninety (90) days from the effective date of this Decision.

23 A. Provided, however, that if Respondent requests, the  
24 initial thirty (30) days of said suspension (or a portion  
25 thereof) shall be stayed upon condition that:

26 1. Respondent pays a monetary penalty pursuant to  
27 Section 10175.2 of the Code at the rate of \$100.00 per day for

1 each day of the suspension for a total monetary penalty of  
2 \$3,000.

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

8 3. No further cause for disciplinary action against  
9 the real estate license of Respondent occurs within two (2)  
10 years from the effective date of the Decision in this matter.

11 4. If Respondent fails to pay the monetary penalty in  
12 accordance with the terms of the Decision, the Commissioner may,  
13 without a hearing, order the immediate execution of all or any  
14 part of the stayed suspension, in which event the Respondent  
15 shall not be entitled to any repayment or credit, prorated or  
16 otherwise, for money paid to the Department under the terms of  
17 this Decision.

18 5. If Respondent pays the monetary penalty and if no  
19 further cause for disciplinary action against the real estate  
20 license of Respondent occurs within two (2) years from the  
21 effective date of the Decision, the stay hereby granted shall  
22 become permanent.

23 B. The remaining sixty (60) days of the ninety (90)  
24 day suspension shall be stayed for two (2) years upon the  
25 following terms and conditions:  
26  
27

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

4                    2. That no final subsequent determination be made,  
5 after hearing or upon stipulation, that cause for disciplinary  
6 action occurred within two (2) years of the effective date of  
7 this Decision. Should such a determination be made, the  
8 Commissioner may, in his discretion, vacate and set aside the  
9 stay order and reimpose all or a portion of the stayed  
10 suspension. Should no such determination be made, the stay  
11 imposed herein shall become permanent.

12                    III. All licenses and licensing rights of Respondent  
13 TONY NELSON are indefinitely suspended unless or until  
14 Respondent provides proof satisfactory to the Commissioner, of  
15 having taken and successfully completed the continuing education  
16 course on trust fund accounting and handling specified in  
17 paragraph (3) of subdivision (a) of Section 10170.5 of the Code.  
18 Proof of satisfaction of this requirement includes evidence that  
19 respondent has successfully completed the trust fund account and  
20 handling continuing education course within 120 days prior to  
21 the effective date of the Decision in this matter.

22                    IV. Respondent shall, within six months from the  
23 effective date of this Decision, take and pass the Professional  
24 Responsibility Examination administered by the Department  
25 including the payment of the appropriate examination fee. If  
26 Respondent fails to satisfy this condition, the Commissioner may  
27



1 order suspension of Respondent's license until Respondent passes  
2 the examination.

3 V. Pursuant to Section 10148 of the Code, Respondent

4 TONY NELSON shall pay the Commissioner's reasonable cost for (a)  
5 the audit which led to the disciplinary action in H-37416 LA,  
6 and (b) a subsequent audit to determine if Respondent SUMMIT  
7 RIDGE, INC. has corrected the trust fund violations found in the  
8 Determination of Issues. In calculating the amount of the  
9 Commissioner's reasonable cost, the Commissioner may use the  
10 estimated average hourly salary for all persons performing  
11 audits of real estate brokers, and shall include an allocation  
12 for travel time to and from the auditor's place of work.

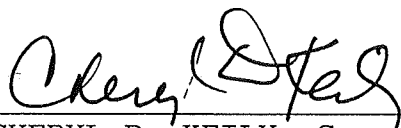
13 Respondent shall pay such cost within 60 days of receiving an  
14 invoice from the Commissioner detailing the activities performed  
15 during the audit and the amount of time spent performing those  
16 activities. The Commissioner may suspend Respondent's license  
17 pending a hearing held in accordance with Section 11500, et  
18 seq., of the Government Code, if payment is not timely made as  
19 provided for herein, or as provided for in a subsequent  
20 agreement between Respondent and the Commissioner. The  
21 suspension shall remain in effect until payment is made in full  
22 or until Respondent enters into an agreement satisfactory to the  
23 Commissioner to provide for payment, or until a decision  
24 providing otherwise is adopted following a hearing held pursuant  
25 to this condition.

26 ///

27 ///

1  
2 DATED:

April 18, 2012

  
CHERYL D. KEILY, Counsel  
DEPARTMENT OF REAL ESTATE

3  
4 \* \* \*

5 I have read the Stipulation and Agreement, and its  
6 terms are understood by me and are agreeable and acceptable to  
7 me. I understand that I am waiving rights given to me by the  
8 California Administrative Procedure Act (including but not  
9 limited to Sections 11506, 11508, 11509 and 11513 of the  
10 Government Code), and I willingly, intelligently and  
11 voluntarily waive those rights, including the right of  
12 requiring the Commissioner to prove the allegations in the  
13 Accusation at a hearing at which I would have the right to  
14 cross-examine witnesses against me and to present evidence in  
15 defense and mitigation of the charges.  
16  
17

18 Respondent can signify acceptance and approval of the  
19 terms and conditions of this Stipulation and Agreement by  
20 faxing a copy of its signature page, as actually signed by  
21 Respondent, to the Department at the following telephone/fax  
22 number (213) 576-6917. Respondent agrees, acknowledges, and  
23 understands that, by electronically sending to the Department a  
24 fax copy of his actual signature as it appears on the  
25 Stipulation and Agreement, that receipt of the faxed copy by  
26 the Department shall be as binding on Respondent as if the  
27

1 Department had received the original signed Stipulation and  
2 Agreement.

3 DATED: 4/17/12

4 TONY NELSON  
Respondent

5 DATED: 4/17/12

6 TONY NELSON, as  
7 designated broker-officer,  
8 on behalf of Respondent  
9 STONECREEK CAPITAL MORTGAGE  
CORPORATION

10 I have reviewed the Stipulation and Agreement as to  
11 form and content and have advised my client accordingly.

12 DATED: \_\_\_\_\_

13 Robert M. Orr, Esq.  
14 Attorney for Respondent's  
15 TONY NELSON  
16 STONECREEK CAPITAL MORTGAGE  
CORPORATION

17 \* \* \*

18 The foregoing Stipulation and Agreement is hereby  
19 adopted as my Decision in this matter and shall become  
20 effective at 12 o'clock noon on \_\_\_\_\_, 2012.

21 IT IS SO ORDERED \_\_\_\_\_, 2012.

22 REAL ESTATE COMMISSIONER  
23  
24  
25  
26  
27

1 Department had received the original signed Stipulation and  
2 Agreement.

3 DATED: \_\_\_\_\_  
4 TONY NELSON,  
5 Respondent

6 DATED: \_\_\_\_\_  
7 TONY NELSON, as  
8 designated broker-officer,  
9 on behalf of Respondent  
10 STONECREEK CAPITAL MORTGAGE  
11 CORPORATION

12 I have reviewed the Stipulation and Agreement as to  
13 form and content and have advised my client accordingly.

14 DATED: April 17, 2012  
15 \_\_\_\_\_  
16 Robert M. Orr, Esq.  
17 Attorney for Respondents  
18 TONY NELSON  
19 STONECREEK CAPITAL MORTGAGE  
20 CORPORATION

21 \* \* \*

22 The foregoing Stipulation and Agreement is hereby  
23 adopted as my Decision in this matter and shall become  
24 effective at 12 o'clock noon on \_\_\_\_\_, 2012.

25 IT IS SO ORDERED \_\_\_\_\_, 2012.

26 REAL ESTATE COMMISSIONER  
27 \_\_\_\_\_

1 Department had received the original signed Stipulation and  
2 Agreement.

3 DATED: \_\_\_\_\_  
4 TONY NELSON,  
5 Respondent

6 DATED: \_\_\_\_\_  
7 TONY NELSON, as  
8 designated broker-officer,  
9 on behalf of Respondent  
10 STONECREEK CAPITAL MORTGAGE  
11 CORPORATION

12 I have reviewed the Stipulation and Agreement as to  
13 form and content and have advised my client accordingly.

14 DATED: \_\_\_\_\_  
15 Robert M. Orr, Esq.  
16 Attorney for Respondents  
17 TONY NELSON  
18 STONECREEK CAPITAL MORTGAGE  
19 CORPORATION

20 \* \* \*

21 The foregoing Stipulation and Agreement is hereby  
22 adopted as my Decision in this matter and shall become  
23 effective at 12 o'clock noon on JUN 22 2012 , 2012.

24 IT IS SO ORDERED May 20, 2012.

25 REAL ESTATE COMMISSIONER

26 

27 By WAYNE S. BELL  
Chief Counsel