

FILED

OCT -5 2012

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

1 ELLIOTT MAC LENNAN, Counsel (SBN 66674)
2 Department of Real Estate
3 320 W. 4TH Street, Suite 350
4 Los Angeles, CA 90013-1105
5 Telephone: (213) 576-6982 (Office)
6 -or- (213) 576-6911 (Direct)
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8

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

11 In the Matter of the Accusation of)
12 HARVEST FINANCIAL.NET INC.)
13 doing business as Harvest Financial;)
14 and MARK EDWIN GLASIER,)
15 individually and as designated)
16 officer of Harvest Financial.Net Inc..)
Respondents.)

DRE No. H-37786 LA
OAH No. L-2012010909

STIPULATION
AND
AGREEMENT

17 It is hereby stipulated by and between Respondents HARVEST
18 FINANCIAL.NET INC. doing business as Harvest Financial and MARK EDWIN GLASIER,
19 individually and as designated officer of Harvest Financial Inc., (sometimes collectively referred
20 to as "Respondents"), represented by Mary E. Work, Esq. and the Complainant, acting by and
21 through Elliott Mac Lennan, Counsel for the Department of Real Estate, as follows for the
22 purpose of settling and disposing of the Accusation filed on January 12, 2012, in this matter:

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

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

4 3. Respondents timely filed a Notice of Defense pursuant to Section 11506 of the
5 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
6 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents
7 acknowledge that they understand that by withdrawing said Notice of Defense they thereby waive
8 their right to require the Commissioner to prove the allegations in the Accusation at a contested
9 hearing held in accordance with the provisions of the APA and that they will waive other rights
10 afforded to them in connection with the hearing such as the right to present evidence in their
11 defense the right to cross-examine witnesses.

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

18 5. This Stipulation is made for the purpose of reaching an agreed disposition of
19 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
20 which the Department of Real Estate ("Department"), or another licensing agency of this state,
21 another state or if the federal government is involved, and otherwise shall not be admissible in
22 any other criminal or civil proceeding.

23 6. It is understood by the parties that the Real Estate Commissioner may adopt
24 this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on
25 Respondents' real estate licenses and license rights as set forth in the below "Order". In the event
26 that the Commissioner in the Commissioner's discretion does not adopt the Stipulation, the
27 Stipulation shall be void and of no effect and Respondents shall retain the right to a hearing and

1 proceeding on the Accusation under the provisions of the APA and shall not be bound by any
2 stipulation or waiver made herein.

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

7 8. Respondents understand that by agreeing to this Stipulation, Respondents agree
8 to pay, pursuant to Business and Professions Code Section 10148, the cost of the audit which led
9 to this disciplinary action. The amount of said cost is \$6,190.00.

10 9. Respondents have received, read, and understand the "Notice Concerning
11 Costs of Subsequent Audit". Respondents further understand that by agreeing to this Stipulation,
12 the findings set forth below in the Determination of Issues become final, and the Commissioner
13 may charge Respondents for the cost of any subsequent audit conducted pursuant to Business and
14 Professions Code Section 10148 to determine if the violations have been corrected. The
15 maximum cost of the subsequent audit will not exceed \$6,190.00.

16 DETERMINATION OF ISSUES

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

19 I.

20 The conduct of HARVEST FINANCIAL.NET INC. as described in Paragraph 4,
21 above, is in violation of Sections 10145, 10148 and, 10240 of the Business and Professions
22 Code ("Code") and Sections 2731, 2831, 2831.1, 2831.2, 2832(a), 2832.1, 2950(d), 2950(g),
23 2950(h), and 2951 and 2834 of Title 10, Chapter 6 of the California Code of Regulations
24 ("Regulations") and is a basis for the suspension or revocation of Respondent's license and
25 license rights as a violation of the Real Estate Law pursuant to Code Sections 10177(d) and
26 10177(g).

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1 II.

2 The conduct of MARK EDWIN GLASIER, as described in Paragraph 4, above,
3 constitutes a failure to keep Harvest Financial Inc. in compliance with the Real Estate Law
4 during the time that he was the officer designated by a corporate broker licensee in violation of
5 Section 10159.2 of the Code. This conduct is a basis for the suspension or revocation of
6 Respondent's license pursuant to Code Sections 10177(d), 10177(g) and 10177(h).

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8 ORDER

9 WHEREFORE, THE FOLLOWING ORDER is hereby made:

10 I.

11 All licenses and licensing rights of Respondents HARVEST FINANCIAL.NET
12 INC. and MARK EDWIN GLASIER, under the Real Estate Law are suspended for a period of
13 ninety (90) days from the effective date of this Decision:

14 A. Provided, however, that if Respondent requests, the initial forty-five (45) days
15 of said suspension (or a portion thereof) shall be stayed for two (2) years upon condition that:

16 1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the
17 Business and Professions Code at the rate of \$100.00 per day for each day of the suspension for a
18 monetary penalty of \$4,500 for each Respondent, or \$9,000 total.

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

22 3. No further cause for disciplinary action against the real estate license of
23 Respondents occur within two (2) years from the effective date of the Decision in this matter.

24 4. If Respondents fail to pay the monetary penalty in accordance with the terms of
25 the Decision, the Commissioner may, without a hearing, order the immediate execution of all or
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1 any part of the stayed suspension, in which event the Respondent shall not be entitled to any
2 repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of
3 this Decision.

4 5. If Respondents pay the monetary penalty and if no further cause for
5 disciplinary action against the real estate license of Respondent occurs within two (2) years from
6 the effective date of the Decision, the stay hereby granted shall become permanent.

7
8 B. The remaining forty-five (45) days of the ninety (90) day suspension shall be
9 stayed for two (2) years upon the following terms and conditions:

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

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

21 Pursuant to Section 10148 of the Business and Professions Code, Respondents
22 shall pay the Commissioner's reasonable cost for (a) the audit(s) which led to this disciplinary
23 action and (b) a subsequent audits to determine if Respondents HARVEST FINANCIAL.NET
24 INC. and MARK EDWIN GLASIER are now in compliance with the Real Estate Law. The cost
25 of the audit which led to this disciplinary action is \$6,190. In calculating the amount of the
26 Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary
27 for all persons performing audits of real estate brokers, and shall include an allocation for travel

1 time to and from the auditor's place of work. Said amount for the prior and subsequent audits
2 shall not exceed \$12,380.00 Respondents are jointly and severally liable for the cost of the
3 audits.

4 Respondents shall pay such cost within 60 days of receiving an invoice from the
5 Commissioner detailing the activities performed during the audit and the amount of time spent
6 performing those activities.

7 The Commissioner may suspend the license of Respondents pending a hearing
8 held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely
9 made as provided for herein, or as provided for in a subsequent agreement between the
10 Respondents and the Commissioner. The suspension shall remain in effect until payment is
11 made in full or until a Respondent enters into an agreement satisfactory to the Commissioner to
12 provide for payment, or until a decision providing otherwise is adopted following a hearing held
13 pursuant to this condition.

14 III.

15 Pursuant to Section 10106 of the Business and Professions Code, Respondents
16 shall pay the Commissioner's reasonable cost for investigation and enforcement costs which led
17 to this disciplinary action. The cost of the investigation and enforcement which led to this
18 disciplinary action is \$246.60. In calculating the amount of the Commissioner's reasonable cost,
19 the Commissioner may use the estimated average hourly salary for all persons performing
20 investigation and enforcement of real estate brokers, and shall include an allocation for travel
21 time to and from the special investigator and/or attorney's place of work. Respondents are jointly
22 and severally liable for the cost of the investigation and enforcement costs.

23 Respondents shall pay such cost within 60 days of receiving an invoice from the
24 Commissioner detailing the activities performed during the audit and the amount of time spent
25 performing those activities.

26 The Commissioner may suspend the license of Respondents pending a hearing
27 held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely

1 made as provided for herein, or as provided for in a subsequent agreement between the
2 Respondents and the Commissioner. The suspension shall remain in effect until payment is
3 made in full or until a Respondent enters into an agreement satisfactory to the Commissioner to
4 provide for payment, or until a decision providing otherwise is adopted following a hearing held
5 pursuant to this condition.

6 IV.

7 All licenses and licensing rights of Respondents are indefinitely suspended unless
8 or until Respondents provide proof satisfactory to the Commissioner that the trust fund deficits of
9 \$3,729.34 and \$782.00 respectively, totaling \$4,511.34, set forth in the Accusation has been
10 restored, including the identification of the source of funds used to cure the deficit.
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12 V.

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

23 Respondent MARK EDWIN GLASIER, shall within six (6) months from the
24 effective date of the Decision herein, take and pass the Professional Responsibility Examination
25 administered by the Department including the payment of the appropriate examination fee. If
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1 Respondent fails to satisfy this condition, the Commissioner may order suspension of
2 Respondent's license until Respondent passes the examination. The Commissioner shall afford
3 Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present
4 such evidence.

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6 VII.

7 Respondent MARK EDWIN GLASIER, shall, within nine (9) months from the
8 effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner
9 that Respondent has, since the most recent issuance of an original or renewal real estate license,
10 taken and successfully completed the continuing education requirements of Article 2.5 of
11 Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to
12 satisfy this condition, the Commissioner may order the suspension of Respondent's license until
13 Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity
14 for a hearing pursuant to the Administrative Procedure Act to present such evidence.
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17 DATED: 8-3-12

18 EJL
19 ELLIOTT MAC LENNAN, Counsel for
20 the Department of Real Estate

21 * * *

22 EXECUTION OF THE STIPULATION

23 We have read the Stipulation and have discussed it with our attorney. Its terms are
24 understood by us and are agreeable and acceptable to us. We understand that we are waiving
25 rights given to us by the California Administrative Procedure Act (including but not limited to
26 Sections 11506, 11508, 11509 and 11513 of the Government Code), and we are willingly,
27 intelligently and voluntarily waive those rights, including the right of requiring the


1 Commissioner to prove the allegations in the Accusation at a hearing at which we would have the
2 right to cross-examine witnesses against us and to present evidence in defense and mitigation of
3 the charges.

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5 FACSIMILE

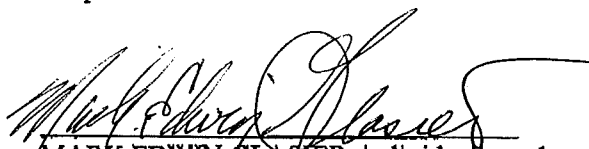
6 Respondents can signify acceptance and approval of the terms and conditions of
7 this Stipulation by faxing a copy of its signature page, as actually signed by Respondents, to the
8 Department at the following facsimile number: Elliott Mac Lennan at (213) 576-6917.

9 Respondents agree, acknowledge and understand that by electronically sending to the Department
10 a fax copy of Respondents' actual signature as they appear on the Stipulation, that receipt of the
11 faxed copy by the Department shall be as binding on Respondents as if the Department had
12 received the original signed Stipulation.


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14 DATED: 7/23/2012


HARVEST FINANCIAL, NET INC.,
BY: MARK EDWIN GLASIER,
Respondent

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18 DATED: 7/23/2012


MARK EDWIN GLASIER, individually and as
designated officer of Harvest Financial Inc.,
Respondent

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22 DATED: 7/27/12


MARY E. WORK, ESQ.
Attorney for Respondents

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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents HARVEST FINANCIAL.NET INC. and MARK EDWIN GLASIER, individually and as designated officer of Harvest Financial.Net Inc. and shall become effective at 12 o'clock noon on November 5, 2012.

IT IS SO ORDERED 8/21, 2012.

REAL ESTATE COMMISSIONER

