

FILED

JUL 30 2013

DEPARTMENT OF REAL ESTATE
BY: [Signature]

ELLIOTT MAC LENNAN, Counsel (SBN 66674)
Department of Real Estate
320 W. 4TH Street, Suite 350
Los Angeles, CA 90013-1105

Telephone: (213) 576-6982 (Office)
(213) 576-6911 (Direct)

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
CAPITAL BENEFIT MORTGAGE, INC.; and)
MARCEL PETER BRUETSCH,)
individually and as designated)
officer of Capital Benefit Mortgage, Inc.,)
Respondents.)

DRE No. H-38467 LA
OAH No. L-2012110421

STIPULATION
AND
AGREEMENT

It is hereby stipulated by and between Respondents CAPITAL BENEFIT MORTGAGE, INC. and MARCEL PETER BRUETSCH, individually and as designated officer of Capital Benefit Mortgage, Inc. (sometimes collectively referred to as "Respondents"), represented by 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 filed on October 12, 2012, in this matter:

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

1 2. Respondents have received, read and understand the Statement to Respondent, the
2 Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate in
3 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
8 waive their right to require the Commissioner to prove the allegations in the Accusation at a
9 contested hearing held in accordance with the provisions of the APA, and that they will waive
10 other rights afforded to them in connection with the hearing such as the right to present
11 evidence in their defense and the right to cross-examine witnesses.

12 4. This Stipulation is based on the factual allegations contained in the Accusation. In
13 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
16 to herein. The Real Estate Commissioner shall not be required to provide further evidence to
17 prove said factual allegations.

18 5. This Stipulation is made for the purpose of reaching an agreed disposition of this
19 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 this
24 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
26 event that the Commissioner in the Commissioner's discretion does not adopt the Stipulation,
27 the Stipulation shall be void and of no effect, and Respondents shall retain the right to a hearing

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

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

7 8. Respondents understand that by agreeing to this Stipulation, Respondents agree to
8 pay, pursuant to Business and Professions Code Section 10106, the cost of the investigation and
9 enforcement of this matter. The amount of said cost is \$2,366.05.
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11 DETERMINATION OF ISSUES

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

14 I.

15 The conduct of CAPITAL BENEFIT MORTGAGE, INC., as described in Paragraph 4
16 above, is in violation of Sections 10148, 10233, 10232.4, 10236.4, 10238(f) and 10240 of the
17 Business and Professions Code ("Code") and Sections 2842.5, and 2846 of Title 10, Chapter 6
18 of the California Code of Regulations ("Regulations") and is a basis for the suspension or
19 revocation of Respondents' license and license rights as a violation of the Real Estate Law
20 pursuant to Code Sections 10177(d) and 10177(g).

21 II.

22 The conduct of MARCEL PETER BRUETSCH, as described in Paragraph 4 above,
23 constitutes a failure to keep Capital Benefit Mortgage, Inc. in compliance with the Real Estate
24 Law during the time that he was the officer designated by a corporate broker licensee in
25 violation of Section 10159.2 of the Code. This conduct is a basis for the suspension or
26 revocation of Respondent's license pursuant to Code Section 10177(h) and Regulation 2725.
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B. The remaining thirty (30) days of the forty-five (45) day suspension shall be stayed for two (2) years upon the following terms and conditions:

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

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

II.

Pursuant to Section 10106 of the Business and Professions Code, Respondents

shall pay the Commissioner's reasonable cost for investigation and enforcement costs which led to this disciplinary action. The cost of the investigation and enforcement which led to this disciplinary action is \$2,366.05. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing investigation and enforcement of real estate brokers, and shall include an allocation for travel time to and from the special investigator and/or attorney's place of work. Respondents are jointly and severally liable for the cost of the investigation and enforcement costs. Respondents shall pay such cost within 60 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities.

1 The Commissioner may suspend the license of Respondents pending a hearing
2 held in accordance with Section 11500, et seq., of the Government Code, if payment is not
3 timely made as provided for herein, or as provided for in a subsequent agreement between the
4 Respondents and the Commissioner. The suspension shall remain in effect until payment is
5 made in full or until a Respondent enters into an agreement satisfactory to the Commissioner to
6 provide for payment, or until a decision providing otherwise is adopted following a hearing
7 held pursuant to this condition.
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11 DATED: 6-14-13

11 EJL
12 ELLIOTT MAC LENNAN, Counsel for
13 Department of Real Estate
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16 EXECUTION OF THE STIPULATION

17 We have read the Stipulation and have discussed it with our attorney. Its terms
18 are understood by us and are agreeable and acceptable to us. We understand that we are
19 waiving rights given to us by the California Administrative Procedure Act (including but not
20 limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we are
21 willingly, intelligently and voluntarily waive those rights, including the right of requiring the
22 Commissioner to prove the allegations in the Accusation at a hearing at which we would have
23 the right to cross-examine witnesses against us and to present evidence in defense and
24 mitigation of the charges.
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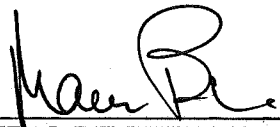
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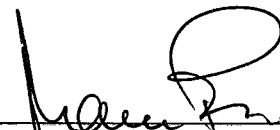
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Respondents can signify acceptance and approval of the terms and conditions of this Stipulation by faxing a copy of its signature page, as actually signed by Respondents, to the Department at the following facsimile number: Elliott Mac Lennan at (213) 576-6917. Respondents agree, acknowledge and understand that by electronically sending to the Department a fax copy of Respondents' actual signature as they appear on the Stipulation, that receipt of the faxed copy by the Department shall be as binding on Respondents as if the Department had received the original signed Stipulation.

DATED: 6/6/2013


CAPITAL BENEFIT MORTGAGE, INC.
BY: MARCEL PETER BRUETSCH,
Respondent

DATED: 6/6/2013


MARCEL PETER BRUETSCH, individually and
as designated officer of Capital Benefit Mortgage
Inc., Respondent

DATED: _____

MARY E. WORK, ESQ.
Attorney for Respondents

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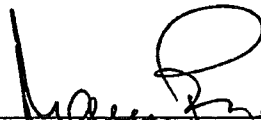
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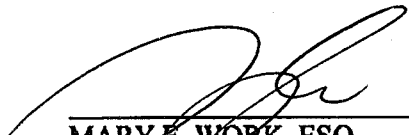
DATED: 6/6/2013


CAPITAL BENEFIT MORTGAGE, INC.
BY: MARCEL PETER BRUETSCH,
Respondent

DATED: 6/6/2013


MARCEL PETER BRUETSCH, individually and
as designated officer of Capital Benefit Mortgage
Inc., Respondent

DATED: 6/11/13


MARY E. WORK, ESQ.
Attorney for Respondents

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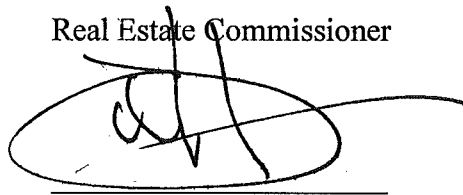
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1 The foregoing Stipulation and Agreement is hereby adopted as my Decision as
2 to Respondents CAPITAL BENEFIT MORTGAGE, INC. and MARCEL PETER
3 BRUETSCH, individually and as designated officer of Capital Benefit Mortgage, Inc. and shall
4 become effective at 12 o'clock noon on August 19, 2013.

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6 IT IS SO ORDERED July 19, 2013.

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8 Real Estate Commissioner

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12 By: JEFFREY MASON
13 Chief Deputy Commissioner
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