

FILED

MAY 21 2015

BUREAU OF REAL ESTATE

By 

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

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)	No. H-38892 LA
)	
CAPITAL NETWORK FUNDING; and)	
ROBERT B. WALDMAN,)	
Individually and as designated officer of)	<u>STIPULATION</u>
Capital Network Funding,)	<u>AND</u>
)	<u>AGREEMENT</u>
Respondents.)	

It is hereby stipulated by and between Respondents CAPITAL NETWORK FUNDING and ROBERT B. WALDMAN, individually and as designated officer of Capital Network Funding (sometimes collectively referred to as "Respondents"), and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on June 3, 2013, 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").

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

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

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

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

6. It is understood by the parties that the Real Estate Commissioner may adopt this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on Respondents' real estate licenses and license rights as set forth in the "Order" herein below. In the event that the Commissioner in his discretion does not adopt the Stipulation, it shall be void and of no effect and Respondents shall retain the right to a hearing and proceeding on the Accusation under the provisions of the APA and shall not be bound by any stipulation or waiver

1 made herein.

2 7. The Order or any subsequent Order of the Real Estate Commissioner made
3 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
4 administrative or civil proceedings by the Bureau of Real Estate with respect to any matters
5 which were not specifically alleged to be causes for Accusation in this proceeding but do
6 constitute a bar, estoppel and merger as to any allegations actually contained in the Accusations
7 against Respondent herein.

8 8. Respondents understand that by agreeing to this Stipulation, Respondents agree
9 to pay, pursuant to Business and Professions Code Section 10148, the cost of the audit. The
10 amount of said cost for the original audit (LA100279 and 110191) is \$14,706.

11 9. Respondents have received, read, and understand the "Notice Concerning
12 Costs of Subsequent Audit." Respondents further understand that by agreeing to this Stipulation,
13 the findings set forth below in the Determination of Issues become final, and the Commissioner
14 may charge Respondents for the cost of any subsequent audit conducted pursuant to Business and
15 Professions Code Section 10148 to determine if the violations have been corrected. The
16 maximum cost of the follow-up audit will not exceed \$14,706.

17 10. Respondents understand that by agreeing to this Stipulation, Respondents
18 agree to pay, pursuant to Business and Professions Code Section 10106, the cost of the
19 investigation and enforcement of this matter. The amount of said cost is \$2,174.10.

20 DETERMINATION OF ISSUES

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

23 I.

24 The conduct, acts or omissions of CAPITAL NETWORK FUNDING and
25 ROBERT B. WALDMAN, as described in Paragraph 4, herein above, are in violation of Section
26 10145 of the Business and Professions Code ("Code") and Sections 2831, 2831.1, and 2831.2 of
27 Title 10, Chapter 6 of the California Code of Regulations ("Regulations") and is a basis for

1 suspension or revocation of Respondents' license and license rights as a violation of the Real
2 Estate Law pursuant to Code Sections 10177(d).

3 ORDER

4 WHEREFORE, THE FOLLOWING ORDER is hereby made:

5 I.

6 All licenses and licensing rights of Respondents CAPITAL NETWORK
7 FUNDING and ROBERT B. WALDMAN under the Real Estate Law are suspended for a period
8 of thirty (30) days from the effective date of this Decision, provided however; said suspension
9 shall be 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 date
14 of this Decision. Should such a determination be made, the Commissioner may, in his discretion,
15 vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should
16 no such determination be made, the stay imposed herein shall become permanent.

17 II.

18 Pursuant to Section 10148 of the Business and Professions Code, Respondents
19 CAPITAL NETWORK FUNDING and ROBERT B. WALDMAN, shall pay the Commissioner's
20 reasonable cost for (a) the audit which led to this disciplinary action and (b) a subsequent audit to
21 determine if Respondents are now in compliance with the Real Estate Law. The cost of the audit
22 which led to this disciplinary action is \$14,706. In calculating the amount of the Commissioner's
23 reasonable cost, the Commissioner may use the estimated average hourly salary for all persons
24 performing audits of real estate brokers, and shall include an allocation for travel time to and
25 from the auditor's place of work. Said amount for the prior and subsequent audits shall not
26 exceed \$29,520. Respondents shall pay such cost within 60 days of receiving an invoice from
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1 the Commissioner detailing the activities performed during the audit and the amount of time
2 spent performing those activities.

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

10 III.

11 All licenses and licensing rights of Respondents CAPITAL NETWORK
12 FUNDING and ROBERT B. WALDMAN, are indefinitely suspended unless or until
13 Respondents pay the sum of \$2,174.10 for the Commissioner's reasonable cost of the
14 investigation and enforcement which led to this disciplinary action by the effective date. Said
15 payment must be received by the Bureau prior to the effective date of the Order in this matter.

16
17 Respondents

18 IV.

19 As a further condition for the Commissioner to enter into this Stipulation,
20 Respondents shall provide evidence satisfactory to the Real Estate Commissioner that all
21 violations set forth below have been corrected prior to the effective date of the Stipulation.

22 V.

23
24 On May 23, 2012, the \$214,739.42 the trust fund shortage described in the audit
25 report was restored by a deposit in same amount

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1 VI.

2 As a further condition for the Commissioner to enter into this Stipulation,

3 Respondents shall provide evidence satisfactory to the Real Estate Commissioner that all
4 violations cited in the Determination of Issues have been corrected prior to the effective date of
5 the Decision.
6

7 VII.

8 All proof required by this Decision, shall be sent to the attention of Bureau of

9 Real Estate, Flag Section, P.O. Box 137013, Sacramento, CA 95813-7013. All checks, unless
10 otherwise specified, are payable to the Bureau of Real Estate. All proof required by this
11 Decision, and all payments required herein, may be made by either cashier's check or made by
12 credit card. Credit card payments shall be accompanied by Form RE 909. Proof and payments
13 shall be sent to the attention of Bureau of Real Estate, Flag Section, P.O. Box 137013,
14 Sacramento, CA 95813-7013.
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18 DATED: 5/5/15

18 EL
19 ELLIOTT MAC LENNAN,
20 Counsel for Bureau of Real Estate
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Respondents CAPITAL NETWORK FUNDING and ROBERT B. WALDMAN, and shall

become effective at 12 o'clock noon on June 19, 2015.

IT IS SO ORDERED MAY 18, 2015.



By: JEFFREY MASON
Chief Deputy Commissioner