

FCAG

FILED

SEP 27 2017

BUREAU OF REAL ESTATE

By Al Deloris

1 Bureau of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, California 90013
4 Telephone: (213) 576-6982
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8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of

12 PEAK REALTY CO.; and RAFFI TAL,
13 individually and as designated officer of
14 Peak Realty Co.,

15 Respondents.

No. H-40502 LA

STIPULATION AND AGREEMENT
RE: PEAK REALTY CO.

16
17 It is hereby stipulated by and between PEAK REALTY CO. ("PRC") (license no.
18 01897136), who is represented by Steven Spile, Esq., and the Complainant, acting by and
19 through Diane Lee, Esq., Counsel for the Bureau of Real Estate, as follows for the purpose of
20 settling and disposing of the Accusation filed on or about December 29, 2016 in this matter:

21 1. All issues which were to be contested and all evidence which was to be
22 presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing
23 was to be held in accordance with the provisions of the Administrative Procedure Act ("APA"),
24 shall instead and in place thereof be submitted solely on the basis of the provisions of this
25 Stipulation and Agreement.
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1 2. Respondent PRC has received and read and understands the Statement to
2 Respondent, the Discovery Provisions of the APA, and the Accusation filed by the Bureau of
3 Real Estate in this proceeding.

4 3. On or about January 12, 2017, Respondent PRC filed a Notice of Defense
5 pursuant to California Government Code section 11506 for the purpose of requesting a hearing
6 on the allegations in the Accusation. Respondent PRC hereby freely and voluntarily withdraws
7 said Notice of Defense. Respondent PRC acknowledges that it understands that by withdrawing
8 said Notice of Defense, Respondent PRC will thereby waive its right to require the
9 Commissioner to prove the allegations in the Accusation at a contested hearing held in
10 accordance with the provisions of the APA and that it will waive other rights afforded to it in
11 connection with the hearing, such as the right to present evidence in defense of the allegations in
12 the Accusation and the right to cross-examine witnesses.

13 4. This Stipulation is based on the factual allegations contained in the Accusation
14 filed in this proceeding. In the interest of expedience and economy, Respondent PRC chooses
15 not to contest these factual allegations, but to remain silent and understands that, as a result
16 thereof, these factual statements, will serve as a prima facie basis for the disciplinary action
17 stipulated to herein. The Real Estate Commissioner shall not be required to provide further
18 evidence to prove such factual allegations.

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

24 6. It is understood by the parties that the Real Estate Commissioner may adopt
25 the Stipulation and Agreement as his Decision in this matter, thereby imposing the penalty and
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1 sanctions on Respondent PRC's real estate license and license rights as set forth in the below
2 "Order." In the event that the Commissioner in his discretion does not adopt the Stipulation and
3 Agreement, it shall be void and of no effect, and Respondent PRC shall retain the right to a
4 hearing and proceeding on the Accusation under all the provisions of the APA and shall not be
5 bound by any admission or waiver made herein.

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

10 8. Respondent PRC understands that by agreeing to this Stipulation and
11 Agreement, Respondent PRC agrees to pay, pursuant to California Business and Professions
12 Code section 10106, the cost of the investigation and enforcement with joint and several liability
13 with Respondent RAFFI TAL. The amount of total investigation and enforcement cost is
14 \$4,453.60.

15 9. Respondent PRC understands that by agreeing to this Stipulation and
16 Agreement, Respondent PRC agrees to pay, pursuant to California Business and Professions
17 Code section 10148, the cost of the audits which led to this disciplinary action. The amount of
18 said cost for the original audit (LA150048) is \$4,789.50.

19 10. Respondent PRC understands that by agreeing to this Stipulation and
20 Agreement, the findings set forth below in the Determination of Issues become final, and the
21 Commissioner may charge Respondent PRC for the cost of any subsequent audit conducted
22 pursuant to California Business and Professions Code section 10148. The maximum cost of the
23 subsequent audit will not exceed \$5,986.88.

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1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions, and waivers, it is stipulated
3 and agreed that the following determination of issues shall be made:

4 The conduct, acts, and/or omissions of Respondent PRC, as set forth in the
5 Accusation, is grounds for the suspension or revocation of all of the real estate licenses and
6 license rights of Respondent PRC under the provisions of California Business and Professions
7 Code sections 10177(d) (willful disregard or violation of Real Estate Law) and 10177(g)
8 (negligence or incompetence).

9
10 ORDER

11 WHEREFORE, THE FOLLOWING ORDER is hereby made:

12
13 (SUSPENSION)

14 I.

15 All licenses and licensing rights of Respondent PEAK REALTY CO. under the
16 Real Estate Law are suspended for a period of ninety (90) days from the effective date of this

17 Decision:

18 A. Provided, however, that the initial thirty (30) days of said suspension shall be
19 stayed upon condition that:

20 1. Respondent PRC pays a monetary penalty pursuant to California Business and
21 Professions Code section 10175.2 at the rate of \$200.00 per day for a monetary penalty of
22 \$6,000.00 total.

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

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

4 4. If Respondent PRC fails to pay the monetary penalty in accordance with the
5 terms of the Decision, the Commissioner may, without a hearing, order the immediate execution
6 of all or any part of the stayed suspension, in which event Respondent PRC shall not be entitled
7 to any repayment nor credit, prorated or otherwise, for money paid to the Bureau of Real Estate
8 under the terms of this Decision.

9 5. If Respondent PRC pays the monetary penalty and if no further cause for
10 disciplinary action against the real estate license of Respondent PRC occurs within three (3)
11 years from the effective date of the Decision, the stay hereby granted shall become permanent.

12 B. The remaining sixty (60) days of the ninety (90) day suspension shall be stayed
13 for three (3) years upon the following terms and conditions:

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

16 2. That no final subsequent determination be made after hearing or upon
17 stipulation, that cause for disciplinary action occurred within three (3) years from the effective
18 date of this Decision. Should such a determination be made, the Commissioner may, in his
19 discretion, vacate, and set aside the stay order and re-impose all or a portion of the stayed
20 suspension. Should no such determination be made, the stay imposed herein shall become
21 permanent.

22 3. Respondent PRC shall not employ, name, and/or designate Respondent RAFFI
23 TAL as its designated officer.

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1 (INVESTIGATION AND ENFORCEMENT COSTS)

2 II.

3 All license and license rights of Respondent PRC are indefinitely suspended
4 unless or until Respondent PRC pays the sum of \$4,453.60 for the Commissioner's reasonable
5 cost for investigation and enforcement which led to this disciplinary action. Respondent PRC is
6 jointly and severally liable with Respondent RAFFI TAL for the cost for investigation and
7 enforcement. Said payment shall be in the form of a cashier's check made payable to the Bureau
8 of Real Estate. The investigative and enforcement costs must be delivered to the Bureau of Real
9 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date
10 of this Decision and Order.

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12 (AUDIT COSTS)


13 III.

14 Pursuant to California Business and Professions Code section 10148, Respondent
15 PRC shall pay \$4,789.50 for the Commissioner's cost of the audit which led to this disciplinary
16 action. Respondent PRC shall pay this \$4,789.50 within sixty (60) days of receiving an invoice
17 therefore from the Commissioner. Payment of audit costs should not be made until Respondent
18 PRC receives the invoice. If Respondent PRC fails to satisfy this condition in a timely manner as
19 provided for herein, the real estate license of Respondent PRC shall automatically be suspended
20 until payment is made in full, or until a decision providing otherwise is adopted following a
21 hearing held pursuant to this condition.

22 Pursuant to California Business and Professions Code section 10148, Respondent
23 PRC shall pay the Commissioner's reasonable cost, not to exceed \$5,986.88, for an audit to
24 determine if Respondent PRC has corrected the violations found in the Determination of Issues.
25 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the

1 estimated average hourly salary for all persons performing audits of real estate broker(s), and
2 shall include an allocation for travel time to and from the auditor's place of work. Respondent
3 PRC shall pay such cost within sixty (60) days of receiving an invoice therefor from the
4 Commissioner. Payment of the audit costs should not be made until Respondent PRC receives
5 the invoice. If Respondent PRC fails to satisfy this condition in a timely manner as provided for
6 herein, the real estate licenses of Respondent PRC shall automatically be suspended until
7 payment is made in full, or until a decision providing otherwise is adopted following a hearing
8 held pursuant to this condition.

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10 DATED: 08/23/2017



DIANE LEE
Counsel for Complainant

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

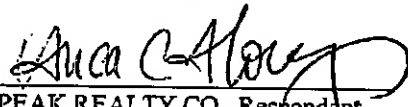
21 Respondent PRC shall mail the original signed signature page of the stipulation
22 herein to Bureau of Real Estate, 320 W. 4th St., Suite 350, Los Angeles, California 90013-1105,
23 Attention: Diane Lee, Esq. (Legal Section).

24 Respondent PRC's signature below constitutes acceptance and approval of the
25 terms and conditions of this Stipulation and Agreement. Respondent PRC agrees,

1 acknowledges, and understands that by signing this Stipulation and Agreement, Respondent
 2 PRC is bound by its terms as of the date of such signature and that this agreement is not subject
 3 to rescission or amendment at a later date except by a separate Decision and Order of the Real
 4 Estate Commissioner.

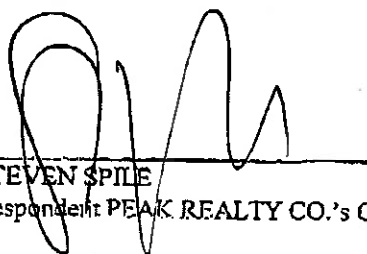
5 In the event of time constraints before an administrative hearing, Respondent
 6 PRC can signify acceptance and approval of the terms and conditions of this Stipulation and
 7 Agreement by emailing a scanned copy of the signature page, as actually signed by Respondent
 8 PRC, to the Bureau counsel assigned to this case. Respondent PRC agrees, acknowledges, and
 9 understands that by electronically sending the Bureau a scan of Respondent PRC's actual
 10 signature as it appears on the Stipulation and Agreement, that receipt of the scan by the Bureau
 11 shall be binding on Respondent PRC as if the Bureau had received the original signed
 12 Stipulation and Agreement.

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 14 DATED: 8/21/2017


 PEAK REALTY CO., Respondant
 By: Anca Claudia Horovitz, Designated
 Officer (license no. 01349506)

17 I have reviewed the Stipulation and Agreement as to form and content, and have
 18 advised my client accordingly.

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 20 DATED: 8/23/2017


 STEVEN SPILE
 Respondent PEAK REALTY CO.'s Counsel

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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent PEAK REALTY CO. in this matter and shall become effective at 12 o'clock noon on

OCT 17 2017

IT IS SO ORDERED 9/8, 2017.

WAYNE S. BELL
REAL ESTATE COMMISSIONER

