

• SACTO flag

DEPARTMENT OF REAL ESTATE
BY: Goodwin Nakarai

STATE OF CALIFORNIA

* * *

IT IS HEREBY ORDERED that Respondent U S CAPITAL GROUP INC 's petition for voluntary surrender of its real estate broker license(s) is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated October 26, 2011 (attached as Exhibit "A" hereto). Respondent's license

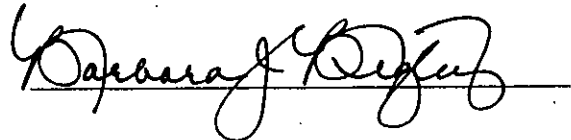
1 certificate(s), pocket card(s) and any branch office license
2 certificate(s) shall be sent to the below listed address so that
3 they reach the Department on or before the effective date of this
4 Order:

5 DEPARTMENT OF REAL ESTATE
6 Attn: Licensing Flag Section
7 P. O. Box 187000
8 Sacramento, CA 95818-7000

9 This Order shall become effective at 12 o'clock noon
10 **DEC 19 2011**
11 on _____

12 DATED: 11-17-11

13 BARBARA J. BIGBY
14 Acting Real Estate Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-37089 LA
) L-2011030818
)
U S CAPITAL GROUP INC and RAFAEL)
EDUARDO VARGAS, individually, and)
formerly as designated officer of)
U S Capital Group Inc,)
Respondents.)

DECLARATION

My name is RAFAEL EDUARDO VARGAS and I am authorized and empowered to sign this declaration on behalf of U S CAPITAL GROUP INC, which is licensed as a corporate real estate broker and/or has license rights with respect to said license.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code), U S CAPITAL GROUP INC wishes to voluntarily surrender its real estate license issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

1 I understand that U S CAPITAL GROUP INC, by so
2 voluntarily surrendering its license, can only have it reinstated
3 in accordance with the provisions of Section 11522 of the
4 Government Code. I also understand that by so voluntarily
5 surrendering its license, U S CAPITAL GROUP INC agrees to the
6 following:

7 The filing of this Declaration shall be deemed as its
8 petition for voluntary surrender. It shall also be deemed to be
9 an understanding and agreement by U S CAPITAL GROUP INC that it
10 waives all rights it has to require the Commissioner to prove the
11 allegations contained in the Accusation filed in this matter at a
12 hearing held in accordance with the provisions of the
13 Administrative Procedure Act (Government Code Sections 11400 et
14 seq.), and that it also waives other rights afforded to it in
15 connection with the hearing such as the right to discovery, the
16 right to present evidence in defense of the allegations in the
17 Accusation and the right to cross-examine witnesses. I further
18 agree on behalf of U S CAPITAL GROUP INC that upon acceptance by
19 the Commissioner, as evidenced by an appropriate order, all
20 affidavits and all relevant evidence obtained by the Department
21 in this matter prior to the Commissioner's acceptance, and all
22 allegations contained in the Accusation filed in the Department
23 Case No. H-37089 LA, may be considered by the Department to be
24 true and correct for the purpose of deciding whether or not to
25 grant reinstatement of the license of U S CAPITAL GROUP INC,
26 pursuant to Government Code Section 11522.

27

1 I declare under penalty of perjury under the laws of
2 the State of California that the above is true and correct and
3 that I am acting freely and voluntarily on behalf of U S CAPITAL
4 GROUP INC to surrender its license and all license rights
5 attached thereto.

6 10/26/11 Fontana, CA
7 Date and Place

Rafael Eduardo Vargas
U S CAPITAL GROUP INC
by RAFAEL EDUARDO VARGAS

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Flag

FILED

NOV 30 2011

Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

DEPARTMENT OF REAL ESTATE
BY: Demus Valerius

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-37089 LA
)	L-2011030818
)	
U S CAPITAL GROUP INC and <u>RAFAEL</u>)	<u>STIPULATION AND AGREEMENT</u>
<u>EDUARDO VARGAS</u> , individually, and)	
formerly as designated officer of)	
U S Capital Group Inc,)	
)	
Respondents.)	

It is hereby stipulated by and between RAFAEL EDUARDO VARGAS, and the Complainant, acting by and through James A. Demus, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent 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. Respondent has received, read and understands the
2 Statement to Respondent, the Discovery Provisions of the APA and
3 the Accusation filed by the Department of Real Estate in this
4 proceeding.

5 3. Respondent filed a Notice of Defense pursuant to
6 Section 11506 of the Government Code for the purpose of
7 requesting a hearing on the allegations in the Accusation.
8 Respondent hereby freely and voluntarily withdraws said Notice of
9 Defense. Respondent acknowledges that he understands that by
10 withdrawing said Notice of Defense he thereby waives his right to
11 require the Commissioner to prove the allegations in the
12 Accusation at a contested hearing held in accordance with the
13 provisions of the APA and that he will waive other rights
14 afforded to him in connection with the hearing such as the right
15 to present evidence in her defense and the right to cross-examine
16 witnesses.

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

26 5. This Stipulation is based on Respondent's decision
27 not to contest the allegations set forth in the Accusation as a

1 result of the agreement negotiated between the parties. This
2 Stipulation is expressly limited to this proceeding and any
3 further proceeding initiated by or brought before the Department
4 of Real Estate based upon the factual allegations in the
5 Accusation and is made for the sole purpose of reaching an agreed
6 disposition of this proceeding. The decision of Respondent not
7 to contest the allegations contained in the "Order" herein below,
8 is made solely for the purpose of effectuating this Stipulation.
9 It is the intent and understanding of the parties that this
10 Stipulation shall not be binding or admissible against Respondent
11 in any actions against Respondent by third parties.

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

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

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2 DATED:

10/31/11


JAMES A. DEMUS, Counsel for
the Department of Real Estate

3
4 EXECUTION OF THE STIPULATION

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

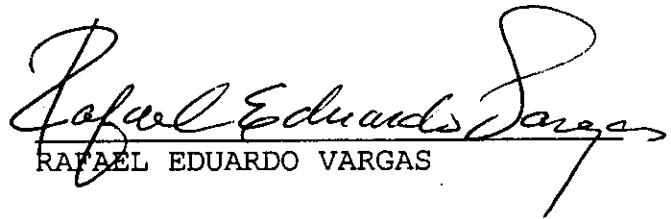
15 FACSIMILE TRANSMISSION

16 Respondent can signify acceptance and approval of the
17 terms and conditions of this Stipulation and Agreement by faxing
18 a copy of its signature page, as actually signed by Respondent,
19 to the Department at the following telephone/fax number:
20 Attention: James A. Demus at (213) 576-6917. Respondent agrees,
21 acknowledges and understands that by electronically sending to
22 the Department a fax copy of Respondent's actual signature as it
23 appears on the Stipulation and Agreement, that receipt of the
24 faxed copy by the Department shall be as binding on Respondent as
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1 if the Department had received the original signed Stipulation
2 and Agreement.

3 DATED:

10/26/11

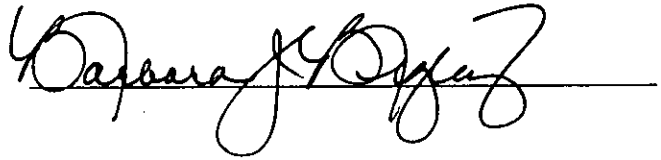

RAFAEL EDUARDO VARGAS

5 * * * *

6 The foregoing Stipulation and Agreement is hereby
7 adopted as my Decision and shall become effective at 12 o' clock
8 noon on DEC 19 2011, 2011.

9 IT IS SO ORDERED 11/17, 2011.

10 BARBARA J. BIGBY
11 Acting Real Estate Commissioner

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FILED

FEB 25 2011

JAMES DEMUS, Counsel (SBN 225005)
Department of Real Estate
320 West Fourth St., #350
Los Angeles, CA 90013

(213) 576-6982
(213) 576-6910 (direct)

DEPARTMENT OF REAL ESTATE
BY: *Chun B. Qian*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-37089-LA

U S CAPITAL GROUP INC and RAFAEL
EDUARDO VARGAS, individually, and
formerly as designated officer of
U S Capital Group Inc,

Respondents.

A C C U S A T I O N

The Complainant, Robin Trujillo, a Deputy Real Estate
Commissioner of the State of California, for cause of
Accusation against U S CAPITAL GROUP INC and RAFAEL EDUARDO
VARGAS, individually, and formerly as designated officer of U S
Capital Group Inc, is informed and alleges as follows:

1.

The Complainant, Robin Trujillo, a Deputy Real Estate
Commissioner of the State of California, makes this Accusation
in her official capacity.

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2.

U S CAPITAL GROUP INC (hereinafter "USCGI") presently has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code"), as a corporate real estate broker. On April 18, 2010, USCGI's license expired. Pursuant to Code Section 10201, USCGI retains renewal rights for two years. The Department of Real Estate ("Department") holds jurisdiction over the lapsed license, pursuant to Code Section 10103.

3.

RAFAEL EDUARDO VARGAS (hereinafter "VARGAS") is presently licensed and/or has license rights under the Real Estate Law, as a real estate broker. He was also designated officer of USCGI between April 19, 2006 and April 18, 2010.

4.

At all times material herein, Respondents USCGI and VARGAS were engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California, within the meaning of Code Sections 10131(d) and 10131.2, including brokering mortgage loans and performing loan modification activities and claiming, demanding, charging, receiving, collecting or contracting for the collection of an advance fee, within the meaning of Code Section 10026, including, but not limited to, the following loan modification activities with respect to loans which were secured by liens on real property.

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1 5.

2 FIRST CAUSE FOR ACCUATION

3 (ADVANCE FEE AGREEMENT)

4 In or about August 2008, USCGI solicited Deanna
5 Milazzo ("Milazzo") via email, offering to perform a
6 modification of Milazzo's loan, which was secured by her
7 property located at 1424 N. Gardenia Avenue, Ontario, CA. On
8 or about August 28, 2008, Milazzo entered into a loan
9 modification agreement with USCGI, which arranged for Milazzo
10 to pay of \$2,500 in advance fees. Milazzo also issued \$800
11 checks to USCGI as advance fees on at least three separate
12 occasions.

13 6.

14 The agreement made by USCGI, as described in
15 Paragraph 5 above, constitutes an advance fee agreement within
16 the meaning of Code Section 10026. USCGI and VARGAS failed to
17 submit the advance fee agreement, described in paragraphs 5
18 above, to the Commissioner ten days before using it, in
19 violation of Code Sections 10085 and 10085.5, as well as
20 Section 2970 of Title 10, California Code of Regulations
21 ("Regulations"). This provides cause for the suspension or
22 revocation of the licenses and license rights of Respondents
23 USCGI and VARGAS pursuant to Code Sections 10085, 10177(d)
24 and/or 10177(g).

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1 7.

2 SECOND CAUSE FOR ACCUASATION

3 (FICTITIOUS BUSINESS NAME)

4 On or about June 20, 2008, USCGI and VARGAS filed a
5 fictitious business name statement with the Auditor/Controller
6 -Recorder for the County of San Bernardino. The fictitious
7 business name filed by Respondents was "U.S. Capital Group Inc.
8 Foreclosure Div." This name was also used in the loan
9 modification agreement described in paragraph 5 above.

10 8.

11 Respondents have never applied with the Department to
12 use this fictitious business name described in paragraph 7
13 above. This constitutes a violation of Code Section 10159.5 and
14 Regulation 2731 and provides cause for the suspension or
15 revocation of the licenses and license rights of USCGI and
16 VARGAS pursuant to Code Sections 10177(d) and/or 10177(g)

17 9.

18 THIRD CAUSE OF ACCUSATION

19 (SUPERVISION AND COMPLIANCE)

20 The conduct, acts and/or omissions of Respondent
21 VARGAS, as set forth above, constitutes a breach of
22 responsibility by the corporate officer in charge, in violation
23 of Code Section 10159.2 and Regulation 2725. It also provides
24 cause for the suspension or revocation of the licenses and
25 license rights of Respondent VARGAS pursuant to Code Sections
26 10177(d), 10177(h) and/or 10177(g).

27 ///

1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all the licenses and license rights of
5 Respondents U S CAPITAL GROUP INC and RAFAEL EDUARDO VARGAS
6 under the Real Estate Law, and for such other and further
7 relief as may be proper under other applicable provisions of
8 law.

9 Dated at Los Angeles, California

10 this 15 day of December, 2010.

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13 _____
14 Robin Trujillo
15 Deputy Real Estate Commissioner
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25 cc: U S CAPITAL GROUP INC
26 Rafael Eduardo Vargas
27 Robin Trujillo
Sacto.