FILED

December 22, 2011

DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of CAPITAL DIRECT LENDING CORPORATION, and MICHAEL HULBERT Respondent.	No. H-5540 SAC No. 409-1026-004

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On September 12, 2011, Respondent CAPITAL DIRECT LENDING CORPORATION petitioned the Commissioner to voluntarily surrender its real estate license pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent CAPITAL DIRECT LENDING CORPORATION's petition for voluntary surrender of its real estate license is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in the Declaration executed by Respondent CAPITAL DIRECT LENDING CORPORATION on November 10, 2011, (attached as Exhibit "A" hereto).

Respondent CAPITAL DIRECT LENDING CORPORATION's license certificate and pocket card shall be sent to the below-listed address so that they reach the Department on or before the effective date of this Order:

///

DEPARTMENT OF REAL ESTATE
Attention: Licensing Flag Section
P. O. Box 187000
Sacramento, CA 95818-7000

This Order shall become effective at 12 o'clock noon on 12/08/11.

DATED: 12/13/11.

BARBARA J. BIGBY
Acting Real Estate Commissioner

EXHIBIT A

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of CAPITAL DIRECT LENDING CORPORATION and, MICHAEL HULBERT, Respondents.	No. H-5540 SAC

DECLARATION

Respondent CAPITAL DIRECT LENDING CORPORATION is currently licensed as a real estate broker corporation..

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedures Act (Sections 11400 et seq., of the Government Code) CAPITAL DIRECT LENDING CORPORATION wishes to voluntarily surrender the real estate license(s) issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

CAPITAL DIRECT LENDING CORPORATION understands that by so voluntarily surrendering the license(s), that it can only be reinstated in accordance with the provisions of Section 11522 of the Government Code. CAPITAL DIRECT LENDING CORPORATION also understands that by so voluntarily surrendering its license, CAPITAL

DIRECT LENDING CORPORATION agrees to the following:

The filing of this Declaration shall be deemed as CAPITAL DIRECT LENDING CORPORATION's petition for voluntary surrender. It shall also be deemed to be an understanding and agreement by CAPITAL DIRECT LENDING CORPORATION that, CAPITAL DIRECT LENDING CORPORATION waives all rights if has to require the Commissioner to prove the allegations contained in the Accusation filed in this matter at a hearing held in accordance with the provisions of the Administrative Procedures Act (Government Code Sections 11400 et seq.), and that CAPITAL DIRECT LENDING CORPORATION also waives other rights afforded to it in connection with the hearing such as the right to discovery, the right to present evidence in defense of the allegations in the Accusation and the right to cross examine witnesses. CAPITAL DIRECT LENDING CORPORATION further agrees that upon acceptance by the Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence obtained by the Department in this matter prior to the Commissioner's acceptance, and all allegations contained in the Accusation filed in the Department Case No. H-5540 SAC, may be considered by the Department to be true and correct for the purpose of deciding whether or not to grant reinstatement of CAPITAL DIRECT LENDING CORPORATION's licenses pursuant to Government Code Section 11522.

CAPITAL DIRECT LENDING CORPORATION declares under penalty of perjury under the laws of the State of California that the above is true and correct and that it freely and voluntarily surrender its license and all license rights attached thereto.

10 November 2011
DATED

CAPITAL DIRECT LENDING CORPORATION
Respondent

By _____
MICHAEL HULBERT
Designated Officer

FILED

DEPARTMENT OF REAL ESTATE
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-2380

November 18, 2011

DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of CAPITAL DIRECT LENDING CORPORATION and, MICHAEL HULBERT Respondents.	DRE No. H-5540 SAC STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

It is hereby stipulated by and between CAPITAL DIRECT LENDING CORPORATIONS (CDL), and MICHAEL HULBERT (HULBERT), and their counsel Mary E. Work, and the Complainant, acting by and through Richard K. Uno, Counsel for the Department of Real Estate; as follows for the purpose of settling and disposing of the Accusation filed on January 27, 2011, 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 In Settlement and Order.

///

///

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

3. On February 4, 2011, Respondents CDL and HULBERT, filed a Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notices of Defense. Respondents acknowledge that they understand that by withdrawing said Notices of Defense they will 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 defense of the allegations in the Accusation and the right to cross-examine witnesses.

4. Respondents, pursuant to the limitations set forth below, hereby admit that the factual allegations or findings of fact as set forth in the Accusation filed in this proceeding are true and correct and the Real Estate Commissioner shall not be required to provide further evidence of such allegations.

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

6. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation and Agreement In Settlement and Order shall not constitute an estoppel, merger or bar to any further administrative or civil proceedings by the Department of

///

Real Estate with respect to any matters which were not specifically alleged to be causes for accusation in this proceeding.

7. In lieu of proceeding in this matter in accordance with the provisions of the APA, CDL wishes to voluntarily surrender its corporate real estate broker licenses issued by the Department, pursuant to Business and Professions Code (Code) Section 10100.2 HULBERT is the designated officer of CDL and is authorized to sign this declaration on behalf of CDL.

8. HULBERT understands that by so voluntarily surrendering CDL's license, CDL may be relicensed as a broker corporation only by petitioning for reinstatement pursuant to Section 11522 of the Government Code. HULBERT also understands that by so voluntarily surrendering CDL's license, Respondents agree to the following:

A. The filing of this Stipulation and Agreement shall be deed as CDL's declaration and petition for voluntary surrender.

B. It shall also be deemed to be an understanding and agreement by CDL that it waives all rights CDL has to require the Commission to prove the allegations contained in the Accusation filed in this matter at a hearing held in accordance with the provisions of the APA, and that CDL also waives other rights afforded to CDL in connection with the hearing such as the right to discovery, the rights to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

9. HULBERT on behalf of CDL further agrees that upon acceptance by the Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence obtained by the Department in this matter prior to the Commissioner's acceptance, and all allegations contained in the Accusation filed in the Department Case NO. H-5540 SAC, may be considered by the Department to be true and correct for the purpose of deciding whether to grant relicensure or reinstatement pursuant to Government code Section 11522.

10. HULBERT on behalf or CDL freely and voluntarily surrenders all CDL's licenses and license rights under the Real Estate Law.

DETERMINATION OF ISSUES

By reason of the foregoing stipulations, admissions and waivers, and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the acts and/or omissions of Respondents, as described in the Accusation, constitute grounds for the suspension or revocation of the licenses and license rights of CAPITAL DIRECT LENDING CORPORATION under the provisions of Sections 10137, 10176(a) and 10176(i) of the Business and Professions Code (the Code), and constitute grounds for the suspension or revocation of the licenses and license rights MICHAEL HULBERT under the provisions of Section 2725 of the Commissioners Regulations (Title 10 of the California Code of Regulations) and Sections 10159.2, 10177(d) and 10177(h) of the Code.

ORDER

A. CAPITAL DIRECT LENDING CORPORATION

CAPITAL DIRECT LENDING CORPORATIONS's (CDL) petition for voluntary surrender of its corporate real estate broker license 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 incorporated herein as part of this Stipulation and Agreement. Respondent's license certificates, pocket cards and any branch office license certificates shall be sent to the below listed address so that they reach the Department on or before the effective date of this Order:

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

B. MICHAEL HULBERT

1. The real estate broker license and license rights of Respondent MICHAEL HULBERT (HULBERT), under the Real Estate Law are suspended for a period of sixty (60)

days from the effective date of this Order; provided, however, that if HULBERT petitions, thirty (30) days of said suspension shall be stayed upon condition that:

a. HULBERT pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of $150.00 per day for thirty (30) days of the suspension for a total monetary penalty of $4,500.00.

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

c. No further cause for disciplinary action against the real estate license of HULBERT occurs within one year from the effective date of the Decision in this matter.

d. If HULBERT fails to pay the monetary penalty in accordance with the terms and conditions of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event HULBERT shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

e. If HULBERT pays the monetary penalty, and if no further cause for disciplinary action against the real estate license of Respondent occurs within one (1) year from the effective date of the Decision, the stay hereby granted shall become permanent.

2. The remaining thirty (30) days of said suspension shall be stayed for one (1) year upon the following terms and conditions:

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

b. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within one (1) year from the effective date of this Order. 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.

3. HULBERT shall, within six (6) months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If HULBERT fails to satisfy this condition, the Commissioner may order suspension of HULBERT's license until HULBERT passes the examination.

9/27/11
DATED

RICHARD K. UNO, Counsel
DEPARTMENT OF REAL ESTATE

* * *

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

Sept. 19, 2011
DATED

CAPITAL DIRECT LENDING CORPORATION
Respondent
By MICHAEL HULBERT, Designated Officer

Sept. 19, 2011
DATED

MICHAEL HULBERT
Respondent

* * *

I have reviewed this Stipulation and Agreement as to form and content and have advised my clients accordingly.

9/20/11
DATED

MARY E. WORK
Attorney For Respondents

* * *

The foregoing Stipulation and Agreement In Settlement and Order is hereby adopted by the Real Estate Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on DEC 08 2011.

IT IS SO ORDERED 11-17-11.

BARBARA BIGBY
Acting Real Estate Commissioner

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of CAPITAL DIRECT LENDING CORPORATION and, MICHAEL HULBERT, Respondents.	No. H-5540 SAC

DECLARATION

Respondent CAPITAL DIRECT LENDING CORPORATION is currently licensed as a real estate broker corporation..

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedures Act (Sections 11400 et seq., of the Government Code) CAPITAL DIRECT LENDING CORPORATION wishes to voluntarily surrender the real estate license(s) issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

CAPITAL DIRECT LENDING CORPORATION understands that by so voluntarily surrendering the license(s), that it can only be reinstated in accordance with the provisions of Section 11522 of the Government Code. CAPITAL DIRECT LENDING CORPORATION also understands that by so voluntarily surrendering its license, CAPITAL

DIRECT LENDING CORPORATION agrees to the following:

The filing of this Declaration shall be deemed as CAPITAL DIRECT LENDING CORPORATION's petition for voluntary surrender. It shall also be deemed to be an understanding and agreement by CAPITAL DIRECT LENDING CORPORATION that, CAPITAL DIRECT LENDING CORPORATION waives all rights if has to require the Commissioner to prove the allegations contained in the Accusation filed in this matter at a hearing held in accordance with the provisions of the Administrative Procedures Act (Government Code Sections 11400 et seq.), and that CAPITAL DIRECT LENDING CORPORATION also waives other rights afforded to it in connection with the hearing such as the right to discovery, the right to present evidence in defense of the allegations in the Accusation and the right to cross examine witnesses. CAPITAL DIRECT LENDING CORPORATION further agrees that upon acceptance by the Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence obtained by the Department in this matter prior to the Commissioner's acceptance, and all allegations contained in the Accusation filed in the Department Case No. H-5540 SAC, may be considered by the Department to be true and correct for the purpose of deciding whether or not to grant reinstatement of CAPITAL DIRECT LENDING CORPORATION's licenses pursuant to Government Code Section 11522.

CAPITAL DIRECT LENDING CORPORATION declares under penalty of perjury under the laws of the State of California that the above is true and correct and that it freely and voluntarily surrender its license and all license rights attached thereto.

10 November 2011
DATED

CAPITAL DIRECT LENDING CORPORATION
Respondent

By _____
MICHAEL HULBERT
Designated Officer

RICHARD K. UNO, Counsel (SBN 98275)
Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789
(916) 227-2380 (Direct)

FILED
JAN 27 2011
DEPARTMENT OF REAL ESTATE
By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of CAPITAL DIRECT LENDING CORPORATION and MICHAEL HULBERT, Respondents.	NO. H-5540 SAC ACCUSATION

The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner of the State of California, for Accusation against Respondents CAPITAL DIRECT LENDING CORPORATION (CDL) and MICHAEL HULBERT (HULBERT), is informed and alleges as follows:

1

The Complainant makes this Accusation against Respondents in her official capacity.

2

CDL is presently licensed by the Department of Real Estate (the Department) as a corporate real estate broker.

///

///

3

At all times herein mentioned until June 9, 2010, HULBERT was licensed by the Department as the designated broker/officer of CDL. As the designated broker/officer, HULBERT was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of CDL for which a real estate license is required.

4

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Section 10131(d) of the Code, including the operation and conduct of a loan brokerage business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents solicited lenders and borrowers for loans secured directly or collaterally by liens on real property, and wherein Respondents arranged, negotiated, processed and consummated such loans.

5

Whenever reference is made in an allegation in this Accusation to an act or omission of CDL, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with CDL committed such act or omission while engaged in furtherance of the business or operations of CDL and while acting within the course and scope of their corporate authority and employment.

FIRST CAUSE OF ACTION

6

Complainant refers to Paragraphs 1 through 5, above, and incorporates them herein by reference.

7

At no time within the last three years did the Department license MICHAEL LLOYD BOWMAN (BOWMAN), either as a real estate broker or as a real estate salesperson.

8

Within the three year period prior to the filing of this Accusation, Respondent CDL employed and compensated BOWMAN to perform the activities requiring a real estate license as alleged in Paragraph 4, above.

9

Within the last three years before the filing of this Accusation, BOWMAN engaged in activities including the operation and conduct of a loan brokerage business with the public wherein, on behalf of others, for compensation or in expectation of compensation; Respondents solicited lenders and borrowers for loans secured directly or collaterally by liens on real property, and wherein Respondents arranged, negotiated, processed and consummated such loans, including but not limited to that certain real property known as 152 Pearl Street, Downieville, California.

10

The facts alleged above constitute cause for the suspension or revocation of the licenses and license rights of Respondent CDL under Section 10137 (Unlawful Employment) of the Code.

SECOND CAUSE OF ACTION

11

Complainant refers to Paragraphs 1 through 10, above and incorporates the same, herein by reference.

12

On or about June 23, 2009, BOWMAN, acting on behalf of CDL, solicited Harry Bloomdale and Maureen Bloomdale (Bloomdales) to refinance a loan secured by real property known as 152 Pearl Street in Downieville, California. At this meeting, the Bloomdales indicated that they wanted a loan in the amount of $91,000.00, with a fifteen (15) year note.

///

///

13

On or about September 23, 2009, BOWMAN met with the Bloomdales and presented them with loan documents to sign. The loan documents indicated that the loan amount was $95,000.00, which caused the Bloomdales to question that amount. BOWMAN represented that $3,343.23 was to go to a "third party", which caused the original $91,000.00 amount to go to $95,000.00. Despite reservations and after being told that the lender would not redraft the documents to reflect the $91,000.00, the Bloomdales signed the loan documents.

14

On about September 24, 2009, BOWMAN advised the Bloomdales that First American Title Company would not accept their loan application as written and that new documents would have to be prepared and signed.

15

On or about October 6, 2009, BOWMAN met with the Bloomdales and presented new loan documents, which reflected a loan amount of $98,500.00. The Bloomdales noted this inconsistency with their request for a loan in the amount of $91,000.00 and raised their concern with BOWMAN. His response was that he would correct the amount later. The Bloomdales in reliance on BOWMAN's representation, signed the documents.

16

On or about October 14, 2009, the Bloomdales received a phone call from Coleen Crane of Chicago Title, who asked if they had authorized a wire transfer of funds in the amount of $98,500.00 to Erlinda Roel, BOWMAN's girlfriend. The Bloomdales replied that they did not authorize any wire transfers, did not know who Erlinda Roel was and that the loan amount that they approved was not $98,500.00. Ms. Crane advised that the Bloomdales speak to HULBERT, designated broker/officer for CDL. This is the first time that the Bloomdales knew that HULBERT was involved with CDL.

///

///

17

The Bloomdales called HULBERT with their concerns about the wire transfer. In response, he indicated that he would try to get their money back.

18

Chicago Title froze the escrow account and demanded that BOWMAN return the money, which he did. The Bloomdales recovered their funds with the actions of Chicago Title.

19

The representations made by BOWMAN to the Bloomdales set out above were false, and BOWMAN knew that they were false when he made those representations. The true facts were that BOWMAN did not intend to obtain a loan in the requested amount of $91,000.00, did not intend to correct loan documents showing the loan amount as $95,000.00, did not intend to correct the loan documents showing the loan amount as $98,500.00 and did not intend to obtain a loan for the benefit of the Bloomdales, but intended to convert the loan proceeds to the benefit of Erlinda Poel and BOWMAN made these misrepresentations to fraudulently induce the Bloomdales to hire him for a refinance of their loan and convert their funds.

20

The above acts and/or omissions of CDL violate and constitute grounds for disciplinary action under Sections 10176(a) (Substantial Misrepresentation) and 10176(i) (Conduct Constituting Fraud or Dishonest Dealing) of the Code.

THIRD CAUSE OF ACTION

21

Complainant refers to Paragraphs 1 through 20, above, and incorporates them herein by reference.

22

At all times above mentioned, Respondent HULBERT was responsible, as the designated broker/officer of Respondent CDL, for the supervision and control of the activities

conducted on behalf of the corporation by its officers and employees. Respondent HULBERT failed to exercise reasonable supervision and control over the mortgage lending activities and employment activities of Respondent CDL. In particular, Respondent HULBERT permitted, ratified and/or caused the conduct described in the First and Second Causes of Accusation, above, to occur, including but not limited to the employment of unlicensed persons to conduct licensed acts, and failed to provide to borrowers and/or failed to maintain signed copies of the Mortgage Lender Disclosure Statement, and failed to take reasonable steps, including the implementation of policies, rules, procedures, and systems, to ensure the compliance of Respondent CDL with the Real Estate Law, including but not limited to the refinancing of the loan secured by real property known as 152 Pearl Street, Downieville, California.

23

At all times herein above mentioned, HULBERT, was responsible as the supervising designated broker/officer for CDL, for the supervision and control of the activities conducted on behalf of CDL's business by its employees. HULBERT failed to exercise reasonable supervision and control over the property management activities of CDL. In particular, HULBERT permitted, ratified and/or caused the conduct described above, to occur, and failed to take reasonable steps, including but not limited to the handling of trust funds, supervision of employees, and the implementation of policies, rules, and systems to ensure the compliance of the business with the Real Estate Law and the Regulations.

24

The above acts and/or omissions of HULBERT violate Section 10159.2 (Responsibility/Directing Officer) of the Code and Section 2725 (Broker Supervision) of the Regulations and constituted grounds for disciplinary action under the provisions of Sections 10177(d) (Willful Disregard/Violation of Real Estate Law) and 10177(h) (Broker Supervision) of the Code.

///

///

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof a Decision be rendered imposing disciplinary action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other provisions of law.

Tricia D. Sommers

TRICIA D. SOMMERS
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 14th day of January, 2011.