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1 Department of Real Estate  
2 320 West 4th Street, Ste. 350  
3 Los Angeles, California 90013-1105  
4 Telephone: (213) 576-6982 (office)

**FILED**

JUN 15 2009

DEPARTMENT OF REAL ESTATE  
BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11	In the Matter of the Accusation of	)	No. H-35139 LA
12	THE CAPSTONE MORTGAGE GROUP INC.	)	
13	doing business as Capstone	)	
14	Mortgage Lending; and HUMBERTO	)	
15	VEGA, individually and as	)	<u>STIPULATION</u>
16	designated officer of The	)	<u>AND</u>
17	Capstone Mortgage Group Inc.,	)	<u>AGREEMENT</u>
18	Respondents.	)	

19 It is hereby stipulated by and between Respondents  
20 THE CAPSTONE MORTGAGE GROUP INC. and HUMBERTO VEGA, individually  
21 and as designated officer of The Capstone Mortgage Group Inc.,  
22 (sometimes collectively referred to as "Respondents"), and the  
23 Complainant, acting by and through Elliott Mac Lennan, Counsel  
24 for the Department of Real Estate, as follows for the purpose of  
25 settling and disposing of the Accusation ("Accusation") filed on  
26 July 23, 2008, in this matter:

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

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

12 3. Respondents timely filed a Notice of Defense  
13 pursuant to Section 11506 of the Government Code for the purpose  
14 of requesting a hearing on the allegations in the Accusation.  
15 Respondents hereby freely and voluntarily withdraw said Notice of  
16 Defense. Respondents acknowledge that they understand that by  
17 withdrawing said Notice of Defense they thereby waive their right  
18 to require the Commissioner to prove the allegations in the  
19 Accusation at a contested hearing held in accordance with the  
20 provisions of the APA and that they will waive other rights  
21 afforded to them in connection with the hearing such as the right  
22 to present evidence in their defense and the right to cross-  
23 examine witnesses.  
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1           4. This Stipulation is based on the factual  
2 allegations contained in the Accusation. In the interest of  
3 expedience and economy, Respondents choose not to contest these  
4 allegations, but to remain silent and understand that, as a  
5 result thereof, these factual allegations, without being admitted  
6 or denied, will serve as a prima facie basis for the disciplinary  
7 action stipulated to herein. The Real Estate Commissioner shall  
8 not be required to provide further evidence to prove said factual  
9 allegations.

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

16           6. It is understood by the parties that the Real  
17 Estate Commissioner may adopt this Stipulation as his Decision in  
18 this matter thereby imposing the penalty and sanctions on  
19 Respondents' real estate licenses and license rights as set forth  
20 in the "Order" herein below. In the event that the Commissioner  
21 in his discretion does not adopt the Stipulation, it shall be  
22 void and of no effect and Respondents shall retain the right to a  
23 hearing and proceeding on the Accusation under the provisions of  
24 the APA and shall not be bound by any stipulation or waiver made  
25 herein.  
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1 7. The Order or any subsequent Order of the Real  
2 Estate Commissioner made pursuant to this Stipulation shall not  
3 constitute an estoppel, merger or bar to any further  
4 administrative or civil proceedings by the Department of Real  
5 Estate with respect to any matters which were not specifically  
6 alleged to be causes for Accusation in this proceeding but do  
7 constitute a bar, estoppel and merger as to any allegations  
8 actually contained in the Accusations against Respondent herein.

9 DETERMINATION OF ISSUES

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

12 The conduct, acts or omissions of THE CAPSTONE MORTGAGE  
13 GROUP INC. and HUMBERTO VEGA, as described in Paragraph 4, above,  
14 are in violation of Sections 10160, 10236.4 and 10176(g) of the  
15 Business and Professions Code ("Code") and Section 2753 of Title  
16 10, Chapter 6 of the California Code of Regulations  
17 ("Regulations") and is a basis for discipline of Respondents'  
18 license and license rights as violation of the Real Estate Law  
19 pursuant to Code Sections 10176(a), 10177(d) and 10177(g).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

The license and licensing rights of Respondents THE  
CAPSTONE MORTGAGE GROUP INC., and HUMBERTO VEGA, under the Real  
Estate Law, are suspended for a period of sixty (60) days from  
the effective date of this Decision:

A. Provided, however, that if Respondents request, the  
initial thirty (30) days of said suspension (or a portion  
thereof) shall be stayed for two (2) years upon condition that:

1. Each Respondent pays a monetary penalty pursuant to  
Section 10175.2 of the Business and Professions Code at the rate  
of \$50.00 per day for each day of the suspension for a monetary  
penalty of \$1,500, or \$3,000 total.

2. 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.

3. No further cause for disciplinary action against  
the real estate license of Respondents occur within two (2) years  
from the effective date of the Decision in this matter.

4. If Respondents fail to pay the monetary penalty in  
accordance with the terms of the Decision, the Commissioner may,  
without a hearing, order the immediate execution of all or any

1 part of the stayed suspension, in which event the Respondent  
2 shall not be entitled to any repayment nor credit, prorated or  
3 otherwise, for money paid to the Department under the terms of  
4 this Decision.

5 5. If Respondents pay the monetary penalty and if no  
6 further cause for disciplinary action against the real estate  
7 license of Respondent occurs within two (2) years from the  
8 effective date of the Decision, the stay hereby granted shall  
9 become permanent.

10 B. The remaining thirty (30) days of the sixty (60)  
11 day suspension shall be stayed for two (2) years upon the  
12 following terms and conditions:

13 (a) Respondents shall obey all laws, rules and  
14 regulations governing the rights, duties and responsibilities of  
15 a real estate licensee in the State of California; and

16 (b) That no final subsequent determination be made  
17 after hearing or upon stipulation, that cause for disciplinary  
18 action occurred within two (2) years from the effective date of  
19 this Decision. Should such a determination be made, the  
20 Commissioner may, in his discretion, vacate and set aside the  
21 stay order and reimpose all or a portion of the stayed  
22 suspension. Should no such determination be made, the stay  
23 imposed herein shall become permanent.  
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1 prove the allegations in the Accusation at a hearing at which we  
2 would have the right to cross-examine witnesses against us and to  
3 present evidence in defense and mitigation of the charges.

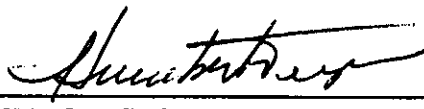
4 MAILING AND FACSIMILE

5 Respondents (1) shall mail the original signed  
6 signature page of the stipulation herein to Elliott Mac Lennan:  
7 Attention: Legal Section, Department of Real Estate, 320 W.  
8 Fourth St., Suite 350, Los Angeles, California 90013-1105.

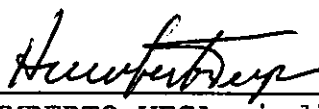
9 Respondents shall also (2) facsimile a copy of signed signature  
10 page, to the Department at the following telephone/fax number:  
11 (213) 576-6917, Attention: Elliott Mac Lennan.

12 A facsimile constitutes acceptance and approval of the  
13 terms and conditions of this stipulation. Respondents agree,  
14 acknowledge and understand that by electronically sending to the  
15 Department a facsimile copy of Respondents' actual signature as  
16 it appears on the stipulation that receipt of the facsimile copy  
17 by the Department shall be as binding on Respondents as if the  
18 Department had received the original signed stipulation.  
19

20  
21 DATED: 4/23/09

  
22 THE CAPSTONE MORTGAGE GROUP INC., a  
23 corporate real estate broker,  
24 BY: HUMBERTO VEGA D.O., Respondent

25 DATED: 4/23/09

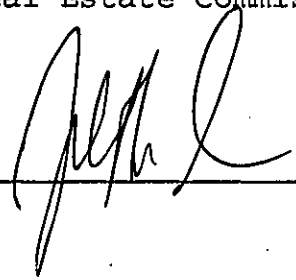
  
26 HUMBERTO VEGA, individually and as  
27 designated officer of THE CAPSTONE  
MORTGAGE GROUP INC., Respondent

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The foregoing Stipulation and Agreement is hereby  
adopted as my Decision as to Respondents THE CAPSTONE MORTGAGE  
GROUP INC. and HUMBERTO VEGA, individually and as designated  
officer of The Capstone Mortgage Group Inc. and shall become  
effective at 12 o'clock noon on July 6, 2009.

IT IS SO ORDERED S-19, 2009.

JEFF DAVI  
Real Estate Commissioner



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1 ELLIOTT MAC LENNAN, SBN 66674  
2 Department of Real Estate  
3 320 West 4th Street, Ste. 350  
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)  
6 -or- (213) 576-6982 (office)

**FILED**

JUL 23 2008

DEPARTMENT OF REAL ESTATE

BY: *H. B. ...*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) No. H- 35139 LA  
12 THE CAPSTONE MORTGAGE GROUP INC., ) A C C U S A T I O N  
13 doing business as Capstone )  
14 Mortgage Lending; and HUMBERTO VEGA, )  
15 individually and as designated )  
16 officer of Capstone Mortgage )  
17 Group Inc., )  
18 Respondents. )

19 The Complainant, Robin Trujillo, a Deputy Real Estate  
20 Commissioner of the State of California, for cause of Accusation  
21 against THE CAPSTONE MORTGAGE GROUP INC., doing business as  
22 Capstone Mortgage Lending; and HUMBERTO VEGA, individually and as  
23 designated officer of The Capstone Mortgage Group Inc., alleges  
24 as follows:

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1.

1 The Complainant, Robin Trujillo, acting in her official  
2 capacity as a Deputy Real Estate Commissioner of the State of  
3 California, makes this Accusation against THE CAPSTONE MORTGAGE  
4 GROUP INC. and HUMBERTO VEGA.  
5

2.

6 All references to the "Code" are to the California  
7 Business and Professions Code and all references to "Regulations"  
8 are to Title 10, Chapter 6, California Code of Regulations.  
9

10 LICENSE HISTORY

3.

11 A. At all times mentioned, THE CAPSTONE MORTGAGE GROUP  
12 INC. ("CAPSTONE") and HUMBERTO VEGA ("VEGA") were licensed or had  
13 license rights issued by the Department of Real Estate  
14 ("Department") as real estate brokers.  
15

16 B. At all times material herein, CAPSTONE was licensed  
17 by the Department of Real Estate of the State of California  
18 (hereinafter "Department") as a corporate real estate broker by  
19 and through VEGA, as the designated officer and broker  
20 responsible, pursuant to Code Section 10159.2 of the Business and  
21 Professions Code for supervising the activities requiring a real  
22 estate license conducted on behalf CAPSTONE of by CAPSTONE's  
23 officers, agents and employees, including VEGA. CAPSTONE was  
24 originally licensed as a corporate real estate broker on March  
25 24, 2004. Since CAPSTONE's inception, VEGA has been the  
26  
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1 designated officer. CAPSTONE's license expired on March 23, 2008  
2 without renewal. The Department retains jurisdiction over  
3 expired or lapsed licenses pursuant to Code Section 10103, and;

4 C. At all times material herein, VEGA was licensed by  
5 the Department as a real estate broker. VEGA was initially  
6 licensed as a real estate broker on April 18, 1986. On July 13,  
7 2000, in Case No. H-28639 LA, an ORDER TO DESIST AND REFRAIN was  
8 filed against Respondent HUMBERTO VEGA, as set forth below in  
9 detail in Paragraph 12.

10 BROKERAGE

11 4.

12  
13 At all times mentioned, in the City and County of Orange,  
14 CAPSTONE acted as a real estate broker conducting licensed  
15 activities within the meaning of Code Section 10131(d) by  
16 operating a mortgage and loan brokerage dba Capstone Lending  
17 Group. CAPSTONE engaged in activities with the public wherein  
18 lenders and borrowers were solicited for loans secured directly  
19 or collaterally by liens on real property, wherein such loans  
20 were arranged, negotiated, processed and consummated on behalf of  
21 others for compensation or in expectation of compensation and for  
22 fees often collected in advance.

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1 FIRST CAUSE OF ACTION

2 AUDIT EXAMINATION

3 5.

4 On April 10, 2008, the Department completed an audit  
5 examination of the books and records of CAPSTONE pertaining to  
6 the mortgage and loan activities described in Paragraph 4, which  
7 require a real estate license. The audit examination covered a  
8 period of time beginning on January 1, 2005 to February 29, 2008.  
9 The audit examination revealed violations of the Code and the  
10 Regulations as set forth in the following paragraphs, and more  
11 fully discussed in Audit Report LA 070226 and the exhibits and  
12 work papers attached to said audit report.  
13

14 TRUST ACCOUNT

15 6.

16 During the audit period CAPSTONE did not maintain a  
17 trust account pertaining to its mortgage loan activity or for the  
18 trust funds it collected and received.

19 VIOLATIONS OF THE REAL ESTATE LAW

20 7.

21 In the course of activities described in Paragraphs 4  
22 and 6, above, and during the examination period described in  
23 Paragraph 5, Respondents CAPSTONE and VEGA, acted in violation of  
24 the Code and the Regulations in that they:  
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1 (a) VEGA negligently handled Juanita Foster's Uniform  
2 Residential Loan Application Form 1003, wherein contained within  
3 the Form 1003 was a Verification of Employment listing Nick,  
4 Todd, Cat Inc. as her employer, a corporation owned in part by  
5 Cat D. Nguyen, the principal owner of CAPSTONE. Juanita Foster  
6 never worked for Nick, Todd, Cat Inc. VEGA signed the Form 1003  
7 as Interviewer and Nick B. Matthews, an unlicensed principal of  
8 Nick, Todd, Cat Inc., signed the bogus Verification of  
9 Employment, in violation of Code Sections 10176(i) and/or  
10 10177(g).

11 (b) (1) Failed to provide, maintain or retain a true and  
12 correct copy of a Department of Real Estate approved Mortgage  
13 Loan Disclosure Statement signed by the broker for borrowers  
14 Cathcart, Biran, Coakley, Gruenhagen, Orelllana, Salguero,  
15 Markert, Benscoter and Foster, in violation of Code Section 10240  
16 and 10241 and Regulation 2840; and

17 (b) (2) Failed to disclose yield spread premiums from  
18 lenders on the approved Mortgage Loan Disclosure Statement for  
19 the aforesaid borrowers, in violation of Code Section 10240 and  
20 Regulation 2840.  
21

22 (c) Failed to display the Department's telephone number  
23 and the name of CAPSTONE's representative for the aforesaid  
24 borrowers and for borrower Glen/Janet Pellicano on their Mortgage  
25 Loan Disclosure Statements, as required by Code Section  
26 10236.4(b).  
27

1 (d) Permitted and/or caused the disbursement of trust  
2 funds to credit report companies on the representation that these  
3 amounts were needed to pay for credit report fees, which payments  
4 exceeded the actual costs of these services. Respondents did not  
5 disclose these "mark-ups" to borrower-beneficiaries Cathcart and  
6 Salguero of said trust funds, and did not obtain their consent to  
7 these "mark-ups". Respondents retained the difference between  
8 the amounts paid and the actual costs of the services, in  
9 violation of Code Sections 10176(a) and 10176(g).

10 (e) Failed to retain the salesperson license  
11 certificate for salespersons Barrera, Luke and Markert, in  
12 violation of Code Section 10160 and Regulation 2753; and

13 (f) Used the fictitious name of "The Capstone Group",  
14 to conduct licensed activities including mortgage loans without  
15 holding a license bearing said fictitious business name, in  
16 violation of Code Section 10159.5 and Regulation 2731.

17  
18 DISCIPLINE STATUTES AND REGULATIONS

19 8.

20 The conduct of Respondents CAPSTONE and VEGA described  
21 in Paragraph 7, above, violated the Code and the Regulations as  
22 set forth below:

23 PARAGRAPH

PROVISIONS VIOLATED

24 7(a)

Code Sections 10176(i) and/or  
25 10177(g)  
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7(b) Code Section 10240 and Regulation  
2840

7(c) Code Section 10236.4(b)

7(d) Code Section 10176(g)

7(e) Code Section 10160 and Regulation  
2753

7(f) Code Section 10159.5 and Regulation  
2731

The foregoing violations constitutes cause for the suspension or  
revocation of the real estate license and license rights of  
CAPSTONE and VEGA, under the provisions of Code Sections and  
10176(g) for undisclosed compensation, 10176(i) for fraud and  
dishonest dealing, 10177(d) for violation of the Real Estate Law  
and/or 10177(g) for negligence.

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1 SECOND OF ACTION

2 NEGLIGENCE MISREPRESENTATION

3 9.

4 Respondents CAPSTONE and VEGA intentionally engaged in  
5 the conduct above set forth in Paragraph 7(a) above with  
6 reference to the Juanita Foster loan transaction. In the  
7 alternative, Respondents CAPSTONE and VEGA engaged in deceit by  
8 way of negligent misrepresentation, in violation of and Code  
9 Section 10176(a) for misrepresentation and/or 10177(g) for  
10 negligence.

11 NEGLIGENCE

12 10.

13 The overall conduct of Respondents CAPSTONE and VEGA  
14 constitutes negligence or incompetence. This conduct and  
15 violation are cause for the suspension or revocation of the real  
16 estate license and license rights of said Respondents pursuant to  
17 the provisions of Code Section 10177(g).

18 SUPERVISION AND COMPLIANCE

19 11.

20 The overall conduct of Respondent VEGA constitutes a  
21 failure on his part, as officer designated by a corporate broker  
22 licensee, to exercise the reasonable supervision and control over  
23 the licensed activities of CAPSTONE as required by Code Section  
24 10159.2 and Regulation 2725, and to keep CAPSTONE in compliance  
25 with the Real Estate Law, and is cause for the suspension or  
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1 revocation of the real estate license and license rights of VEGA  
2 pursuant to the provisions of Code Sections 10177(d), 10177(g)  
3 and 10177(h).

4 PRIOR DEPARTMENTAL ACTION

5 12.

6 On July 13, 2000, in Case No. H-28639 LA, an ORDER TO  
7 DESIST AND REFRAIN was filed against Respondent HUMBERTO VEGA  
8 formerly dba First National Mortgage Company of America, under  
9 Section 10086 of the Code (Engaging in Prohibited Activity, Order  
10 to Desist and Refrain) for violations of Code Sections 10161.8(b)  
11 and 10240 and Section 2715 of Title 10, Chapter 6, California  
12 Code of Regulations.

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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 the license and license rights of Respondents THE  
5 CAPSTONE MORTGAGE GROUP INC. and HUMBERTO VEGA, under the Real  
6 Estate Law (Part 1 of Division 4 of the Business and Professions  
7 Code) and for such other and further relief as may be proper  
8 under other applicable provisions of law.

9 Dated at Los Angeles, California

10 this 24 day of June 2008.

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12 \_\_\_\_\_  
13 Deputy Real Estate Commissioner

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24 cc: The Capstone Mortgage Group Inc.  
25 c/o Humberto Vega D.O.  
26 Robin Trujillo  
27 Sacto  
Audits - Gina Chou