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MAY 08 2012

Department of Real Estate
320 W. 4TH Street, Suite 350
Los Angeles, CA 90013-1105

Telephone: (213) 576-6982

DEPARTMENT OF REAL ESTATE
BY: Luis A. Dela Cruz

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)

No. H-37087 LA
L-2011031450

CAPITAL MORTGAGE LENDING; and)

DONALD EDWARD STOLAN,)

individually and as former)
designated officer of Capital)
Mortgage Lending,)

STIPULATION
AND
AGREEMENT

Respondents,)

It is hereby stipulated by and between Respondent
DONALD EDWARD STOLAN, represented by Frank M. Buda, Esq. 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 ("Accusation") filed on
February 25, 2011, 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

1 Procedure Act ("APA"), shall instead and in place thereof be
2 submitted solely on the basis of the provisions of this
3 Stipulation and Agreement ("Stipulation").

4 2. Respondent has received, read and understands the
5 Statement to Respondent, the Discovery Provisions of the APA and
6 the Accusation filed by the Department of Real Estate in this
7 proceeding.

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

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

4 5. This Stipulation is made for the purpose of
5 reaching an agreed disposition of this proceeding and is
6 expressly limited to this proceeding and any other proceeding or
7 case in which the Department of Real Estate ("Department"), the
8 state or federal government, or any agency of this state, another
9 state or federal government is a party.

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

21 7. The Order or any subsequent Order of the Real
22 Estate Commissioner made pursuant to this Stipulation shall not
23 constitute an estoppel, merger or bar to any further
24 administrative or civil proceedings by the Department of Real
25 Estate with respect to any matters which were not specifically
26 alleged to be causes for Accusation in this proceeding but do
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1 constitute a bar, estoppel and merger as to any allegations
2 actually contained in the Accusation against Respondent herein.

3 8. Respondent understands that by agreeing to this
4 Stipulation, Respondent agrees to pay, pursuant to Business and
5 Professions Code Section 10148, the cost of the audits which led
6 to this disciplinary action. The cost of said audits was
7 \$8,029.50.

8 9. Respondent has received, read, and understands the
9 "Notice Concerning Costs of Subsequent Audit." Respondent
10 further understands that by agreeing to this Stipulation, the
11 findings set forth below in the Determination of Issues become
12 final, and the Commissioner may charge Respondent for the cost of
13 any subsequent audit conducted pursuant to Business and
14 Professions Code Section 10148 to determine if the violations
15 have been corrected.
16

17 DETERMINATION OF ISSUES

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

20 The conduct of DONALD EDWARD STOLAN as described in
21 Paragraph 4 above, is a basis for discipline of Respondent's
22 license and license rights as violations of the Real Estate law
23 pursuant to Business and Professions Code ("Code") Sections
24 10165, 10177(d), 10177(g) and 10177(h).

25 ORDER

26 WHEREFORE, THE FOLLOWING ORDER is hereby made:
27

I.

All licenses and licensing rights of Respondent DONALD EDWARD STOLAN under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Decision; provided, however, that sixty (60) days of said suspension, shall be stayed for two (2) years upon the following terms and conditions:

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

2. That no final subsequent determination be made, after hearing or upon stipulation that cause for disciplinary action occurred within two (2) years of the effective date of this Decision. 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.

II.

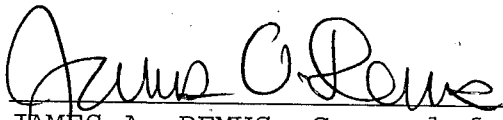
All licenses and licensing rights of Respondent DONALD EDWARD STOLAN are indefinitely suspended unless or until Respondent provides evidence satisfactory to the Real Estate Commissioner of payment of restitution in the amount of \$3,995 to Nelson Pena.

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III.

Pursuant to Section 10148 of the Business and Professions Code, Respondent shall pay the Commissioner's reasonable cost for: a) the audit which led to this disciplinary action and b) a subsequent audit to determine if Respondent has corrected the trust fund violations found in the Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel costs, including mileage, time to and from the auditor's place of work and per diem. Respondent shall pay such costs within 60 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may, in his discretion, vacate and set aside the stay order, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The vacation and the set aside of the stay shall remain in effect until payment is made in full, or until Respondent enters into an agreement satisfactory to the Commissioner to provide for payment.

DATED: 11/4/11


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

04/29/1997 02:45 001

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11/04/2011 FRI 8:43 FAX *** FRANK BUDA

0008/012

EXECUTION OF THE STIPULATION

I have read the Stipulation and discussed it with my counsel. 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.

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

DATED: 11/4/2011
DONALD EDWARD STOLAN Respondent

1
2 DATED:

11-4-11

Frank M. Buda

3 FRANK M. BUDA

4 Attorney for Respondents

5 * * *

6 The foregoing Stipulation and Agreement is hereby
7 adopted as my Decision as to Respondent DONALD EDWARD STOLAN and
8 shall become effective at 12 o'clock noon on
9 _____, 2011;

10 IT IS SO ORDERED _____, 2011.

11
12 BARBARA J. BIGBY

13 Acting Real Estate Commissioner
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2 DATED: _____

3 FRANK M. BUDA
4 Attorney for Respondents

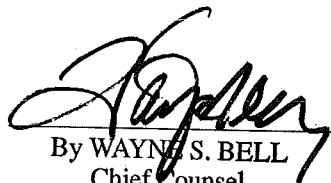
5 * * *

6 The foregoing Stipulation and Agreement is hereby
7 adopted as my Decision as to Respondent DONALD EDWARD STOLAN and
8 shall become effective at 12 o'clock noon on **MAY 29 2012**

9 IT IS SO ORDERED

4/22/2012

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11 Real Estate Commissioner

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14 By WAYNE S. BELL
15 Chief Counsel
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FILED

MAY 08 2012

DEPARTMENT OF REAL ESTATE
BY: Guzalysa Kibru

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-37087 LA
)
CAPITAL MORTGAGE LENDING; and,)
DONALD EDWARD STOLAN,)
individually and as former)
designated officer of Capital)
Mortgage Lending,)
Respondents.)

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On February 25, 2011, an Accusation was filed in this matter against Respondent CAPITAL MORTGAGE LENDING.

On November 4, 2011, Respondent petitioned the Commissioner to voluntarily surrender its real estate broker license(s) pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent CAPITAL MORTGAGE LENDING'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

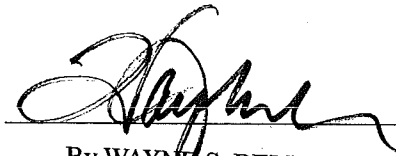
1 agreement expressed in Respondent's Declaration dated November 4,
2 2011(attached as Exhibit "A" hereto). Respondent's license
3 certificate(s), pocket card(s) and any branch office license
4 certificate(s) shall be sent to the below listed address so that
5 they reach the Department on or before the effective date of this
6 Order:

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

10 This Order shall become effective at 12 o'clock noon
11 on MAY 29 2012

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13 DATED: 4/22/2012

14 Real Estate Commissioner

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17 
18 By WAYNE S. BELL
Chief Counsel

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of
CAPITAL MORTGAGE LENDING; and
DONALD EDWARD STOLAN,
individually, and as former
designated officer of Capital
Mortgage Lending,
Respondents,

No. H-37087 LA
L-2011031450

DECLARATION

My name is Donald Edward Stolan and I am authorized and
empowered to sign this declaration on behalf of CAPITAL MORTGAGE
LENDING.

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) CAPITAL MORTGAGE LENDING
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 CAPITAL MORTGAGE LENDING, 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, CAPITAL MORTGAGE LENDING 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 CAPITAL MORTGAGE LENDING that
10 it waives all rights it has to require the Commissioner to prove
11 the allegations contained in the Accusation filed in this matter
12 at a 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 CAPITAL MORTGAGE LENDING that upon acceptance
19 by 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-37087 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 CAPITAL MORTGAGE LENDING's license
26 pursuant to Government Code Section 11522.

04/29/1997 07:45 001

PAGE 01/02

11/04/2011 PRI 9:44 FAX --- Frank Buda

2012/013

1 I agree to pay the Commissioner's reasonable cost for
2 the audit which led to this action. In calculating the amount of
3 the Commissioner's reasonable cost, the Commissioner may use the
4 estimated average hourly salary for all persons performing audits
5 of real estate brokers, and shall include an allocation for
6 travel time to and from the auditor's place of work. I will pay
7 such cost within 60 days of receiving an invoice from the
8 Commissioner detailing the activities performed during the audit
9 and the amount of time spent performing those activities.

10 I am aware that if I petition for reinstatement in the
11 future, that payment of the audit costs will be a condition of
12 reinstatement.

13 I declare under penalty of perjury under the laws of
14 the State of California that the above is true and correct and
15 that I am acting freely and voluntarily on behalf of CAPITAL
16 MORTGAGE LENDING to surrender its license and all license rights
17 attached thereto.

18 11/4/2011 Newport Beach, CA
19 Date and Place

20 CAPITAL MORTGAGE LENDING by
21 DONALD EDWARD STOLAN
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1 I agree to pay the Commissioner's reasonable cost for
2 the audit which led to this action. In calculating the amount of
3 the Commissioner's reasonable cost, the Commissioner may use the
4 estimated average hourly salary for all persons performing audits
5 of real estate brokers, and shall include an allocation for
6 travel time to and from the auditor's place of work. I will pay
7 such cost within 60 days of receiving an invoice from the
8 Commissioner detailing the activities performed during the audit
9 and the amount of time spent performing those activities.

10 I am aware that if I petition for reinstatement in the
11 future, that payment of the audit costs will be a condition of
12 reinstatement.

13 I declare under penalty of perjury under the laws of
14 the State of California that the above is true and correct and
15 that I am acting freely and voluntarily on behalf of CAPITAL
16 MORTGAGE LENDING to surrender its license and all license rights
17 attached thereto.

18
19 _____
Date and Place

CAPITAL MORTGAGE LENDING by
DONALD EDWARD STOLAN