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**FILED**

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DEPARTMENT OF REAL ESTATE  
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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,

A C C U S A T I O N

Respondents.

The Complainant, Maria Suarez, a Deputy Real Estate  
Commissioner of the State of California, for cause of Accusation  
against CAPITAL MORTGAGE LENDING and DONALD EDWARD STOLAN,  
individually and as former designated officer of Capital Mortgage  
Lending, alleges as follows:

1.

The Complainant, Maria Suarez, acting in her official  
capacity as a Deputy Real Estate Commissioner of the State of  
California, makes this Accusation against CAPITAL MORTGAGE  
LENDING and DONALD EDWARD STOLAN.

///

1 2.

2 All references to the "Code" are to the California  
3 Business and Professions Code and all references to "Regulations"  
4 are to Title 10, Chapter 6, California Code of Regulations.

5 LICENSE HISTORY

6 3.

7 A. CAPITAL MORTGAGE LENDING ("CAPITAL") is presently  
8 licensed and/or has license rights issued by the Department of  
9 Real Estate ("Department") as a corporate real estate broker.  
10 CAPITAL was originally licensed as a corporate real estate broker  
11 on April 14, 2009.

12 B. At all times mentioned, DONALD EDWARD STOLAN  
13 ("STOLAN") was licensed and/or had license rights issued by the  
14 Department as a real estate broker. STOLAN was originally  
15 licensed as a real estate broker on February 14, 2006.

16 C. From April 14, 2009, through July 16, 2010, CAPITAL  
17 was licensed by the Department as a corporate real estate broker  
18 by and through STOLAN, as the designated officer and broker  
19 responsible, pursuant to Code Section 10159.2 for supervising the  
20 activities requiring a real estate license conducted on behalf of  
21 CAPITAL or by CAPITAL's officers, agents and employees, including  
22 STOLAN.

23 BROKERAGE

24 CAPITAL MORTGAGE LENDING

25 4.

26 At all times mentioned, in the City of Irvine, County  
27 of Orange, CAPITAL and STOLAN acted as real estate brokers

1 conducting licensed activities within the meaning of Code Section  
2 10131(d): soliciting borrowers, or negotiating loans, or  
3 performing services for borrowers in connection with loans  
4 secured by liens on real property.

#### 5 AUDITS

#### 6 CAPITAL MORTGAGE LENDING

#### 7 5.

8 On September 3, 2010, the Department completed audit  
9 examinations of the books and records of CAPITAL pertaining to  
10 the activities described in Paragraph 4 which require a real  
11 estate license. The audit examinations covered a period of time  
12 from June 1, 2008 to May 28, 2010. The audit examinations  
13 revealed violations of the Code and the Regulations as set forth  
14 in the following paragraphs, and as more fully discussed in Audit  
15 Reports LA 090258 and LA 100026 and the exhibits and workpapers  
16 attached to said audit reports.

#### 17 VIOLATIONS OF THE REAL ESTATE LAW

#### 18 6.

19 In the course of activities described in Paragraph 4  
20 above and during the examination period described in Paragraph 5,  
21 Respondents CAPITAL and STOLAN acted in violation of the Code and  
22 the Regulations in that:

23 (a) Respondents solicited borrowers and collected  
24 advance fees from borrowers for loan modification transactions,  
25 without submitting an advance fee agreement for review by the  
26 Commissioner, in violation of Code Section 10085 and Regulation  
27 2970.

1 (b) Respondents collected advance fees from borrower  
2 Nelson Pena, in connection with a loan modification transaction,  
3 without placing the advance fees into a trust account, in  
4 violation of Code Sections 10145 and 10146.

5 (c) CAPITAL solicited and collected advance fees from  
6 borrowers in June and July 2008, before obtaining a real estate  
7 broker license from the Department, in violation of Code Section  
8 10130.

9 (d) Respondents did not retain all documents regarding  
10 loan modifications and advance fee deposits for examination by  
11 the Department, in violation of Code Section 10148.

12 (e) CAPITAL used the unlicensed fictitious business  
13 name "Capital Mortgage" in mortgage loan transactions, in  
14 violation of Code Section 10159.5 and Regulation 2731.

15 (f) CAPITAL maintained more than one place of  
16 business, without first obtaining a branch office license from  
17 the Department, in violation of Code Section 10163 and Regulation  
18 2715.

19 (g) Respondents did not retain copies of Department  
20 approved Mortgage Loan Disclosure Statements ("MLDS") signed by  
21 borrowers and brokers, to show the MLDS were provided to  
22 borrowers within three business days after the borrowers signed  
23 their loan applications, in violation of Code Section 10240 and  
24 Regulation 2840.

25 (h) Respondents did not notify the Department of the  
26 employment of salespersons Angela Gibbs and Sheryl Deluca, in  
27 violation of Code Section 10161.8 and Regulation 2752.

(i) When CAPITAL performed escrow services, CAPITAL did not disclose within the escrow instructions STOLAN's interests as stockholder, officer and owner, in violation of Code Section 10176(g) and Regulation 2950(h).

(j) CAPITAL did not have borrowers Nancy & Thai Vu and Edward & Tracy Stewart sign amended escrow instructions, in violation of Regulation 2950(b).

7.

The conduct of Respondents CAPITAL and STOLAN, described in Paragraph 6, above, violated the Code and the Regulations as set forth below:

PARAGRAPH

PROVISIONS VIOLATED

6(a)

Code Section 10085 and Regulation 2970

6(b)

Code Sections 10145 and 10146

6(c)

Code Section 10130

6(d)

Code Section 10148

6(e)

Code Section 10159.5 and Regulation 2731

6(f)

Code Section 10163 and Regulation 2715

1           6(g)                           Code Section 10240 and Regulation  
2   2840  
3  
4           6(h)                           Code Section 10161.8 and Regulation  
5   2752  
6  
7           6(i)                           Code Section 10176(g) and  
8   Regulation 2950(h)  
9  
10          6(j)                           Regulation 2950(b)  
11

12                   The foregoing violations constitute cause for the  
13 suspension or revocation of the real estate license and license  
14 rights of CAPITAL and STOLAN, under the provisions of Code  
15 Sections 10165, 10176(g), 10177(d) and/or 10177(g).

16   NEGLIGENCE

17   8.

18                   The overall conduct of Respondents CAPITAL and STOLAN  
19 constitutes negligence or incompetence. This conduct and  
20 violation are cause for the suspension or revocation of the real  
21 estate license and license rights of said Respondents pursuant to  
22 Code Section 10177(g).

23   SUPERVISION AND COMPLIANCE

24   9.

25                   The overall conduct of Respondent STOLAN constituted a  
26 failure on his part, as a former officer designated by a  
27 corporate broker licensee, to exercise reasonable supervision and

1 control over the licensed activities of CAPITAL as required by  
2 Code Section 10159.2, and to keep CAPITAL in compliance with the  
3 Real Estate Law, and is cause for the suspension or revocation of  
4 the real estate license and license rights of STOLAN pursuant to  
5 the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

6 WHEREFORE, Complainant prays that a hearing be  
7 conducted on the allegations of this Accusation and that upon  
8 proof thereof, a decision be rendered imposing disciplinary  
9 action against the license and license rights of Respondents  
10 CAPITAL MORTGAGE LENDING and DONALD EDWARD STOLAN, individually  
11 and as former designated officer of Capital Mortgage Lending,  
12 under the Real Estate Law (Part 1 of Division 4 of the Business  
13 and Professions Code) and for such other and further relief as  
14 may be proper under other applicable provisions of law.

15 Dated at Los Angeles, California

16  
17 this 5<sup>th</sup> day of January 2011.

18  
19   
20 Maria Suarez  
21 Deputy Real Estate Commissioner  
22

23 CC: CAPITAL MORTGAGE LENDING  
24 DONALD EDWARD STOLAN  
25 Maria Suarez  
26 Sacto  
27 Audits