

1 Department of Real Estate  
2 320 W. 4th Street, Suite 350  
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

**FILED**

**JUN 29 2023**

**DEPT. OF REAL ESTATE**

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8 **DEPARTMENT OF REAL ESTATE**

9 **STATE OF CALIFORNIA**

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11 In the Matter of the Accusation of

DRE No. H-42157 LA

12 ARIXA CAPITAL CORPORATION, and JAN  
13 BRADLEY BRZESKI, individually and as  
14 designated officer of Arixa Capital Corporation,

**STIPULATION AND AGREEMENT**  
**IN SETTLEMENT AND ORDER**

15 Respondents.

16  
17 It is hereby stipulated by and between Respondents ARIXA CAPITAL  
18 CORPORATION and JAN BRADLEY BRZESKI (collectively "Respondents") and their attorney  
19 of record, Joshua A. Rosenthal, and the Complainant, acting by and through Kevin H. Sun, Counsel  
20 for the Department of Real Estate, as follows for the purpose of settling and disposing of the  
21 Accusation filed on March 10, 2022, in this matter (Case No. H-42157 LA):

22 1. All issues which were to be contested and all evidence which was to be presented  
23 by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be  
24 held in accordance with the provisions of the Administrative Procedure Act ("APA"), shall instead  
25 and in place thereof be submitted on the basis of the provisions of this Stipulation and Agreement  
26 in Settlement and Order ("Stipulation").

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

4                   3. On or about March 22, 2022, Respondents filed Notices of Defense pursuant to  
5 Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in  
6 the Accusation. Respondents hereby freely and voluntarily withdraw said Notices of Defense.  
7 Respondents acknowledge that they understand that by withdrawing said Notices of Defense they  
8 will thereby waive their rights to require the Commissioner to prove the allegations in the  
9 Accusation at a contested hearing held in accordance with the provisions of the APA and that they  
10 will waive other rights afforded to them in connection with the hearing such as the right to present  
11 evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

12                   4. This Stipulation is based on the factual allegations contained in the Accusation.  
13 In the interest of expedience and economy, Respondents choose not to contest these allegations, but  
14 to remain silent, and understand that, as a result thereof, these factual allegations, without being  
15 admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to herein.  
16 The Real Estate Commissioner shall not be required to provide further evidence to prove said  
17 factual allegations.

18                   5. This Stipulation is made for the purpose of reaching an agreed disposition of this  
19 proceeding and is expressly limited to this proceeding and any other proceeding or case in which  
20 the Department or another licensing agency of this state, another state, or if the federal government  
21 is involved, and otherwise shall not be admissible in any other criminal or civil proceeding.

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

1 made herein.

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

6 **DETERMINATION OF ISSUES**

7 By reason of the foregoing stipulations, admissions and waivers and solely for the  
8 purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that  
9 the following determination of issues shall be made:

10 The conduct of Respondents, as described in the Accusation, are in violation of  
11 California Business and Professions Code ("Code") 10232.2, 10232.25, 10232.4, 10232.5, 10140.6  
12 10145, 10159.2, and 10176(e) and Title 10, Chapter 6, California Code of Regulations  
13 ("Regulations") Sections 2725, 2773, 2831, 2831.1, 2831.2, 2832.1, 2835, 2846, 2846.5, 2846.7,  
14 and 2846.8 and are grounds for the suspension or revocation of all of the real estate license and  
15 license rights of Respondents under the provision of Code Section 10177(d), (g), and (h) (as to JAN  
16 BRADLEY BRZESKI).

17 **ORDER**

18 WHEREFORE, THE FOLLOWING ORDER is hereby made:

19 I.

20 (ARIXA CAPITAL CORPORATION)

21 All licenses and license rights of Respondent ARIXA CAPITAL CORPORATION  
22 under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of  
23 this Decision;

24 A. Provided, however, that the initial thirty (30) days of said suspension shall be  
25 stayed for two (2) years upon the following terms and conditions:

26 1. Respondent shall pay a monetary penalty pursuant to Code section 10175.2  
27 at the rate of \$50.00 per day for each of the thirty (30) days of suspension for a total monetary

1 penalty of \$1,500.00.

2                   2. Said payment shall be in the form of a cashier's check made payable to the  
3 Department of Real Estate. Said check must be delivered to the Department of Real Estate, Flag  
4 Section, P.O. Box 137013, Sacramento, CA 95813-7013, **prior to the effective date of this**  
5 **Decision and Order.**

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

8                   4. If Respondent fails to pay the monetary penalty in accordance with the  
9 terms and conditions of the Decision, the suspension shall go into effect automatically with regard  
10 to said Respondent. Respondent shall not be entitled to any repayment nor credit, prorated or  
11 otherwise, for money paid to the Department under the terms of this Decision and Order.

12                   5. If Respondent pays the monetary penalty and if no further cause for  
13 disciplinary action against the real estate license of Respondent occurs within two (2) years from  
14 the effective date of the Decision, the stay hereby granted shall become permanent.

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

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

19                   2. That no final subsequent determination be made after hearing or upon  
20 stipulation, that cause for disciplinary action occurred within two (2) years from the effective date  
21 of this Decision. Should such a determination be made, the Commissioner may, in his discretion,  
22 vacate and set aside the stay order and re-impose all or a portion of the stayed suspension. Should  
23 no such determination be made under this section, the stay imposed herein shall become permanent.

24                   II.

25                   (JAN BRADLEY BRZESKI)

26                   All licenses and license rights of Respondent JAN BRADLEY BRZESKI under the  
27 Real Estate Law are suspended for a period of sixty (60) days from the effective date of this

1 Decision;

2 A. Provided, however, that the initial thirty (30) days of said suspension shall be  
3 stayed for two (2) years upon the following terms and conditions:

4 1. Respondent shall pay a monetary penalty pursuant to Code section 10175.2  
5 at the rate of \$50.00 per day for each of the thirty (30) days of suspension for a total monetary  
6 penalty of \$1,500.00.

7 2. Said payment shall be in the form of a cashier's check made payable to the  
8 Department of Real Estate. Said check must be delivered to the Department of Real Estate, Flag  
9 Section, P.O. Box 137013, Sacramento, CA 95813-7013, **prior to the effective date of this**

10 **Decision and Order.**

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

13 4. If Respondent fails to pay the monetary penalty in accordance with the  
14 terms and conditions of the Decision, the suspension shall go into effect automatically with regard  
15 to said Respondent. Respondent shall not be entitled to any repayment nor credit, prorated or  
16 otherwise, for money paid to the Department under the terms of this Decision and Order.

17 5. If Respondent pays the monetary penalty and if no further cause for  
18 disciplinary action against the real estate license of Respondent occurs within two (2) years from  
19 the effective date of the Decision, the stay hereby granted shall become permanent.

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

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

24 2. That no final subsequent determination be made after hearing or upon  
25 stipulation, that cause for disciplinary action occurred within two (2) years from the effective date  
26 of this Decision. Should such a determination be made, the Commissioner may, in his discretion,  
27 vacate and set aside the stay order and re-impose all or a portion of the stayed suspension. Should

1 no such determination be made under this section, the stay imposed herein shall become permanent.

2 C. All licenses and licensing rights of Respondent are indefinitely suspended unless  
3 or until Respondent provides proof satisfactory to the Commissioner, of having taken and  
4 successfully completed the continuing education course on trust fund accounting and handling  
5 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions  
6 Code. Proof of satisfaction of these requirements includes evidence that Respondent has  
7 successfully completed the trust fund account and handling continuing education courses, no earlier  
8 than 120 days prior to the effective date of the Decision and Order in this matter. Proof of  
9 completion of the trust fund accounting and handling course must be delivered to the Bureau of  
10 Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-  
11 8758, prior to the effective date of this Decision and Order.

12 III.

13 (ARIXA CAPITAL CORPORATION and JAN BRADLEY BRZESKI)


14 A. All licenses and licensing rights of Respondents are indefinitely suspended unless  
15 or until Respondents pay the sum of \$2,997.07 for the Commissioner's reasonable costs of the  
16 investigation and enforcement which led to this disciplinary action. Said payment shall be in the  
17 form of a cashier's check made payable to the Department of Real Estate. **The payment for the**  
18 **investigative and enforcement costs must be delivered to the Department of Real Estate, Flag**  
19 **Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this**  
20 **Decision and Order.** If Respondents fail to satisfy this condition, the Commissioner shall order  
21 suspension of Respondents' licenses and license rights until the sum is paid.

22 B. Pursuant to Code Sections 10148, Respondent shall pay the Commissioner's  
23 reasonable costs for the audit which led to this disciplinary action in the amount of \$8,548.84.  
24 Respondent shall pay such costs within sixty (60) days of receiving an invoice therefore from the  
25 Commissioner. Payment of the audit costs should not be made until Respondent receives the  
26 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,  
27 Respondent's real estate licenses shall automatically be suspended until payment is made in full, or

1 until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

2 C. Pursuant to Code section 10148 of the Code, Respondent shall pay the  
3 Commissioner's reasonable costs, not to exceed \$10,686.05, for a subsequent audit to determine if  
4 Respondent has corrected the violations found in the Determination of Issues. In calculating the  
5 amount of the Commissioner's reasonable costs, the Commissioner may use the estimated average  
6 hourly salary for all persons performing audits of real estate brokers, and shall include an allocation  
7 for travel time to and from the auditor's place of work. Respondent shall pay such costs within  
8 sixty (60) days of receiving an invoice therefor from the Commissioner. Payment of the audit costs  
9 should not be made until Respondent receive the invoice. If Respondent fails to satisfy this  
10 condition in a timely manner as provided for herein, Respondent's real estate licenses shall  
11 automatically be suspended until payment is made in full, or until a decision, providing otherwise,  
12 is adopted following a hearing held pursuant to this condition.

13  
14 DATED: 5/9/2023

  
Kevin H. Sun, Counsel for  
Department of Real Estate

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18 **EXECUTION OF THE STIPULATION**

19 We have read the Stipulation, have discussed it with our counsel, and its terms are  
20 understood by us and are agreeable and acceptable to us. We understand that we are waiving rights  
21 given to us by the California Administrative Procedure Act (including but not limited to Sections  
22 11506, 11508, 11509 and 11513 of the Government Code), and we willingly, intelligently and  
23 voluntarily waive those rights, including the right of requiring the Commissioner to prove the  
24 allegations in the Accusation at a hearing at which we would have the right to cross-examine  
25 witnesses against us and to present evidence in defense and mitigation of the charges.

26 Respondents shall mail the original signed signature page of the stipulation herein to  
27 Kevin H. Sun, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350,

1 Los Angeles, California 90013-1105.

2 In the event of time constraints before an administrative hearing, Respondents can  
3 signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by  
4 emailing a scanned copy of the signature page, as actually signed by Respondents, to the  
5 Department counsel assigned to this case. Respondents agree, acknowledge and understand that by  
6 electronically sending the Department a scan of Respondents' actual signature as it appears on the  
7 Stipulation and Agreement that receipt of the scan by the Department shall be binding on  
8 Respondents as if the Department had received the original signed Stipulation. Respondents shall  
9 also mail the original signed signature page of this Stipulation to the Department counsel.

10 Respondents' signatures below constitute acceptance and approval of the terms and  
11 conditions of this Stipulation. Respondents agree, acknowledge and understand that by signing this  
12 Stipulation, Respondents are bound by its terms as of the date of such signatures and that this  
13 agreement is not subject to rescission or amendment at a later date except by a separate Decision  
14 and Order of the Real Estate Commissioner.


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16 DATED: 5/3/23

  
ARIXA CAPITAL CORPORATION  
Respondent  
By: 

17  
18  
19 DATED: 5/3/23

  
JA  
Respondent

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21  
22 DATED: 5/3/23

  
Hargrave & Rosenthal  
Counsel for Respondents  
Approved as to Form

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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents ARIXA CAPITAL CORPORATION and JAN BRADLEY BRZESKI in this matter and shall become effective at 12 o'clock noon on JUL 31 2023, 2023.

IT IS SO ORDERED 6-23-23, 2023.

DOUGLAS R. McCAULEY  
REAL ESTATE COMMISSIONER

