

SACTO  
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**FILED**

1 Department of Real Estate  
2 320 W. 4<sup>TH</sup> Street, Suite 350  
3 Los Angeles, CA 90013-1105

JUL 24 2012

4 Telephone: (213) 576-6982

DEPARTMENT OF REAL ESTATE  
BY: Guadalupe Valencia

5  
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8  
9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of )  
13 GREAT CAPITAL MORTGAGE INC, )  
14 and ISAIAS MARTINEZ, individually )  
15 and as former designated officer )  
16 of Great Capital Mortgage Inc, )  
17 Respondents. )

No. H-37538 LA  
2011110924

STIPULATION  
AND  
AGREEMENT

18 It is hereby stipulated by and between ISAIAS MARTINEZ,  
19 represented by Joshua A. Rosenthal, Esq. and the Complainant,  
20 acting by and through James A. Demus, Counsel for the Department  
21 of Real Estate, as follows for the purpose of settling and  
22 disposing of the Accusation filed on September 16, 2011, in this  
23 matter:

24 1. All issues which were to be contested and all  
25 evidence which was to be presented by Complainant and Respondent  
26 at a formal hearing on the Accusation, which hearing was to be  
27 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 understands 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  
26 action stipulated to herein. The Real Estate Commissioner shall  
27 not be required to provide further evidence to prove said factual

1 allegations.

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

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

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

26           8. Respondent understands that by agreeing to this  
27 Stipulation, Respondents agrees to pay, pursuant to Business and

1 Professions Code Section 10148, the cost of the audit which led  
2 to this disciplinary action. The amount of said cost is \$3,969.

3 9. Respondent has received, read, and understand the  
4 "Notice Concerning Costs of Subsequent Audit." Respondent  
5 further understands that by agreeing to this Stipulation, the  
6 findings set forth below in the Determination of Issues become  
7 final, and the Commissioner may charge Respondent for the cost of  
8 any subsequent audit conducted pursuant to Business and  
9 Professions Code Section 10148 to determine if the violations  
10 have been corrected. The maximum cost of the subsequent audit  
11 will not exceed \$3,969.

12 DETERMINATION OF ISSUES

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

15 I.

16 The conduct of ISAIAS MARTINEZ as described in  
17 Paragraph 3, hereinabove, is in violation of Business and  
18 Professions Code ("Code") Sections 10085, 10145, 10146, 10148,  
19 10160 and 10176(e) and provides a basis for discipline of his  
20 license and license rights pursuant to Code Sections 10176(e),  
21 10177(d) and 10177(g).

22 ORDER

23 WHEREFORE, THE FOLLOWING ORDER is hereby made:

24 I.

25 All licenses and licensing rights of Respondent  
26 ISAIAS MARTINEZ under the Real Estate Law are suspended for a  
27 period of ninety (90) days from the effective date of this

1 Decision; provided, however, that sixty (60) days of said  
2 suspension, shall be stayed for two (2) years upon the following  
3 terms and conditions:

4 A.

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

8 2. That no final subsequent determination be made,  
9 after hearing or upon stipulation that cause for disciplinary  
10 action occurred within two (2) years of the effective date of  
11 this Decision. Should such a determination be made, the  
12 Commissioner may, in his discretion, vacate and set aside the  
13 stay order and reimpose all or a portion of the stayed  
14 suspension. Should no such determination be made, the stay  
15 imposed herein shall become permanent.

16 B.

17 If Respondent petitions, an additional thirty (30) days  
18 shall be stayed upon condition that:

19 1. Respondent pays a monetary penalty pursuant to  
20 Section 10175.2 of the Code at the rate of \$50 for each day of  
21 the suspension for a total monetary penalty of \$1,500.

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



1 receiving an invoice from the Commissioner detailing the  
2 activities performed during the audit and the amount of time  
3 spent performing those activities. The Commissioner may, in his  
4 discretion, vacate and set aside the stay order, if payment is  
5 not timely made as provided for herein, or as provided for in a  
6 subsequent agreement between the Respondent and the Commissioner.  
7 The vacation and the set aside of the stay shall remain in effect  
8 until payment is made in full, or until Respondent enters into an  
9 agreement satisfactory to the Commissioner to provide for  
10 payment.

11 III.

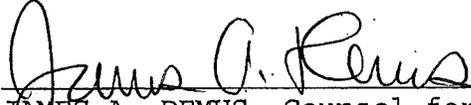
12 Respondent ISAIAS MARTINEZ shall within six (6) months  
13 from the effective date of the Decision herein, take and pass the  
14 Professional Responsibility Examination administered by the  
15 Department including the payment of the appropriate examination  
16 fee. If Respondent ISAIAS MARTINEZ fails to satisfy this  
17 condition, the Commissioner may order suspension of Respondent  
18 ISAIAS MARTINEZ's license until Respondent passes the  
19 examination.

20 IV.

21 All licenses and licensing rights of Respondent ISAIAS  
22 MARTINEZ are indefinitely suspended unless or until Respondent  
23 provides proof satisfactory to the Commissioner, of having taken  
24 and successfully completed the continuing education course on  
25 trust fund accounting and handling specified in paragraph (3) of  
26 subdivision (a) of Section 10170.5 of the Business and  
27 Professions Code. Proof of satisfaction of this requirement

1 includes evidence that respondent has successfully completed the  
2 trust fund account and handling continuing education course  
3 within 120 days prior to the effective date of the Decision in  
4 this matter.

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7 DATED: 6/29/12

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

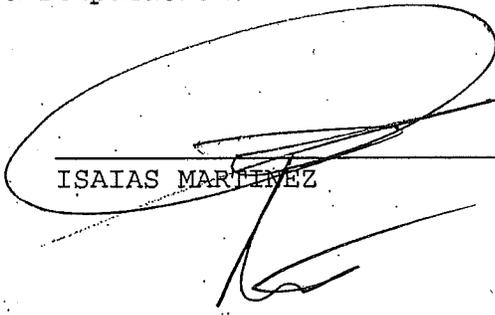
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10 EXECUTION OF THE STIPULATION

11 I have read the Stipulation and discussed it with my  
12 counsel. Its terms are understood by me and are agreeable and  
13 acceptable to me. I understand that I am waiving rights given to  
14 me by the California Administrative Procedure Act (including but  
15 not limited to Sections 11506, 11508, 11509 and 11513 of the  
16 Government Code), and I willingly, intelligently and voluntarily  
17 waive those rights, including the right of requiring the  
18 Commissioner to prove the allegations in the Accusation at a  
19 hearing at which I would have the right to cross-examine  
20 witnesses against me and to present evidence in defense and  
21 mitigation of the charges.

22 Respondent can signify acceptance and approval of the  
23 terms and conditions of this Stipulation by faxing a copy of its  
24 signature page, as actually signed by Respondent, to the  
25 Department at the following telephone/fax number: James A. Demus  
26 at (213) 576-6917. Respondent agrees, acknowledges and  
27 understands that by electronically sending to the Department a

1 ~~fax copy of Respondent's actual signature, as it appears on the~~  
2 Stipulation, that receipt of the faxed copy by the Department  
3 shall be as binding on Respondent as if the Department had  
4 received the original signed Stipulation.

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7 DATED: 06/26/2012

  
ISAIAS MARTINEZ

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10 DATED: 0126112

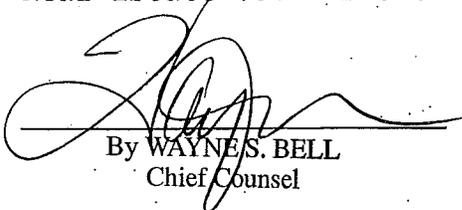
JOSHUA A. ROSENTHAL  
Attorney for Respondent

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14 The foregoing Stipulation and Agreement is hereby  
15 adopted as my Decision as to Respondent ISAIAS MARTINEZ and shall  
16 become effective at 12 o'clock noon on AUG 23 2012,  
17 2012.

18 IT IS SO ORDERED 7/18/, 2012.

19 Real Estate Commissioner

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By WAYNE S. BELL  
Chief Counsel