

FILED
OCT 31 1994
DEPARTMENT OF REAL ESTATE

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Kathleen Contreras

* * *

In the Matter of the Accusation of)
CAMBRIDGE MORTGAGE COMPANY,)
INC.,)
HARRY HRANT TELLALIAN,)
Respondents.)

NO. H-1233 FRESNO
N-9407078

DECISION

The Proposed Decision dated September 30, 1994, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon
on November 21, 1994.

IT IS SO ORDERED October 19, 1994.

JOHN R. LIBERATOR
Interim Commissioner

John R. Liberator

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)	
)	No. H-1233 FRESNO
)	
CAMBRIDGE MORTGAGE COMPANY, INC.)	OAH No. N-9407078
and HARRY HRANT TELLALIAN)	
)	
)	
Respondents.)	
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PROPOSED DECISION

On September 7, 1994, in Sacramento, California, Muriel Evens, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

David Seals, Counsel, represented the complainant.

Respondents were present and represented by Randal Tellalian, President of respondent Cambridge Mortgage Company, Inc.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

The complainant, Jerry E. Fiscus, a Deputy Real Estate Commissioner, made the Accusation in his official capacity.

II

The Parties stipulated to the following:

Respondents are licensed under the Real Estate Law, as follows:

- a. Cambridge Mortgage Company, Inc., as a corporate real estate broker, through Harry Hrant Tellalian as designated officer.
- b. Harry Hrant Tellalian as a real estate broker and as the designated officer for respondent Cambridge.

III

At all times mentioned herein, as the designated officer of respondent Cambridge, respondent Tellalian was responsible for the supervision and control of the activities conducted on behalf of respondent Cambridge by its officers and employees as necessary to secure full compliance with the provisions of the Real Estate Law.

IV

At all times mentioned herein, respondent Cambridge and respondent Tellalian, and both of them, engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers in the State of California within the meaning of Business and Professions Code section 10131 for or in expectation of compensation.

V

At all times mentioned herein, respondents accepted or received funds in trust from and on behalf of their principals placing them in trust accounts and at times thereafter made disbursements of such funds.

VI

Respondent Cambridge failed to provide mortgage loan disclosure statements to various borrowers from November 1992 through November 1993.

VII

An investigative audit was made by the Department of the records and bank records of respondent Cambridge for the period from November 1, 1992 to November 17, 1993, as said records related to their activities as a real estate broker.

VIII

Respondent Cambridge maintained a trust account into which trust funds were placed.

IX

The adjusted balance of the account as of November 26, 1993 was \$-2,571.18 and the trust fund accountability in the account as of November 26, 1993, was \$6,404.50. Therefore, respondent Cambridge, as of November 26, 1993, had a trust fund shortage of \$8,975.68.

X

Respondent Cambridge failed to maintain trust account records in compliance with Title 10, California Code of Regulations, section 2831 by failing to include from whom moneys were received and the amounts received from each individual in columnar records.

XI

Respondent Cambridge failed to maintain separate records in compliance with Title 10, California Code of Regulations, section 2831.1 by failing to include the daily balance after each posting or the date of deposit.

XII

Respondent Cambridge failed to reconcile the balance of all separate beneficiary records with the record of all trust funds received on a monthly basis in compliance with Title 10, California Code of Regulations, section 2831.2

XIII

Respondent Cambridge failed to deposit trust funds (in the form of credit and appraisal fees collected from prospective borrowers) into a trust account or otherwise distribute such funds within one business day following receipt of said funds in compliance with Title 10, California Code of Regulations, section 2832.

XIV

Respondent Cambridge disbursed trust funds from the account without the written consent of every principle who was an owner of the funds, causing the balance of the funds in the account to be an amount less than the existing aggregate trust fund liability of respondent Cambridge to all owners of said funds.

XV

In September, 1991, Randal Tellalian, son of respondent Tellalian, took over the operation of respondent Cambridge (then known as PFS Mortgage), at a time when the company was in poor condition. In December, 1991, respondent Tellalian was substituted in as the new broker for the corporation. They took on their new responsibilities, assuming the business practices were in compliance with laws and regulations.

In November, 1992, the business name was changed to Cambridge. Loan disclosure forms were ordered from a commercial documents business located in California. Randal Tellalian was told the forms were in compliance with all appropriate requirements. At the Department audit, respondents learned of deficiencies in the disclosure statement and have since replaced it with one in conformance with Department requirements.

Respondents had been depositing certain trust receipts into the general account and then transferring the funds into the trust account. In addition, the bookkeeper was not properly crediting individual accounts. As a result of the audit, these practices have changed to comply with Department requirements.

Respondents showed a sincere desire to comply with the Department laws and regulations and have already made numerous changes to do so.

DETERMINATION OF ISSUES

I

Cause for discipline of respondents' licenses for violation of Business and Professions Code sections 10177(d), 10145 and 10240 and Title 10, California Code of Regulations sections, 2831, 2831.1, 2831.2, 2832, 2832.1 and 2840 was established by Findings V-XV.

II

Additional cause for discipline of respondent Tellalian's license for violation of Business and Professions Code section 10177(h) was established by Findings V-XV.

ORDER

I

All licenses and licensing rights of respondent Tellalian under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that code:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until 2 years have elapsed from the effective date of this Decision.
4. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the

respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.


5. Pursuant to section 10148 of the Business and Professions Code, respondent shall pay the Commissioner's reasonable cost for an audit to determine if respondent has corrected the trust fund violation(s) found in paragraph I of 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 time to and from the auditor's place of work. Respondent shall pay such cost within 45 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 suspend the restricted license issued to respondent pending a hearing held in accordance with section 11500, et seq., of the Government Code, 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 suspension 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, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

II

All licenses and licensing rights of respondent Cambridge under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that code:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until 2 years have elapsed from the effective date of this Decision.

Dated: September 30, 1994



MURIEL EVENS
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

CAMBRIDGE MORTGAGE COMPANY, INC.,
HARRY HRANT TELLALIAN,

}

By Kathleen Contreras

Case No. H-1233 FRESNO

OAH No. N-9407078

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at The
Office of Administrative Hearings, 501 J Street, Suite 220,
Second Floor Hearing Rooms, Sacramento, California 95814

on Wednesday -- September 7, 1994, at the hour of 10:00 AM.
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: July 18, 1994

DEPARTMENT OF REAL ESTATE

By David B. Seals
DAVID B. SEALS *Counsel*

1 DAVID B. SEALS, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789

FILED
JUN 27 1994

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of)
12 CAMBRIDGE MORTGAGE)
13 COMPANY, INC., and)
14 HARRY HRANT TELLALIAN,)
15 Respondents.)

NO. H-1233 FRESNO

ACCUSATION

16 The Complainant, Jerry E. Fiscus, a Deputy Real Estate
17 Commissioner of the State of California for cause of Accusation
18 against CAMBRIDGE MORTGAGE COMPANY, INC. and HARRY HRANT
19 TELLALIAN, is informed and alleges as follows:

20 I

21 The Complainant, Jerry E. Fiscus, a Deputy Real Estate
22 Commissioner of the State of California, makes this Accusation in
23 his official capacity.

24 II

25 Respondents are licensed and/or have license rights
26 under the Real Estate Law, Part 1 of Division 4 of the California
27 Business and Professions Code (hereinafter "Code") as follows:

- 1 (a) CAMBRIDGE MORTGAGE COMPANY, INC. (hereinafter
2 "Respondent CAMBRIDGE"), as a corporate real
3 estate broker, through HARRY HRANT TELLALIAN
4 (hereinafter "Respondent TELLALIAN") as
5 designated officer.
- 6 (b) Respondent TELLALIAN as a real estate broker
7 and as the designated officer for Respondent
8 CAMBRIDGE.

9 III

10 At all times mentioned herein, as the designated officer
11 of Respondent CAMBRIDGE, Respondent TELLALIAN was responsible for
12 the supervision and control of the activities conducted on behalf
13 of Respondent CAMBRIDGE by its officers and employees as necessary
14 to secure full compliance with the provisions of the Real Estate
15 Law.

16 IV

17 Whenever reference is made in an allegation in this
18 Accusation to an act or omission of Respondent CAMBRIDGE, such
19 allegation shall be deemed to mean that the officers, directors,
20 employees, agents and real estate licensees employed by or
21 associated with Respondent CAMBRIDGE committed such act or
22 omissions while engaged in furtherance of the business or
23 operation of Respondent CAMBRIDGE and while acting within the
24 course and scope of their corporate authority and employment.

25 V

26 That at all times herein mentioned, Respondent CAMBRIDGE
27 and Respondent TELLALIAN, and both of them, engaged in the

1 business of, acted in the capacity of, advertised, or assumed to
2 act as real estate brokers in the State of California within the
3 meaning of Section 10131 of the Code for or in expectation of
4 compensation.

5 VI

6 That at all times mentioned herein, Respondent CAMBRIDGE
7 and Respondent TELLALIAN accepted or received funds in trust
8 (hereafter trust funds) from and on behalf of their principals
9 placing them in trust accounts and at times thereafter made
10 disbursements of such funds.

11 VII

12 Respondent CAMBRIDGE failed to provide mortgage loan
13 disclosure statements to various borrowers from November, 1992
14 through November, 1993 in violation of Section 10240 of the Code
15 and Section 2840, Title 10, California Code of Regulations
16 (Regulations).

17 VIII

18 An investigative audit was made by the Department of the
19 records and bank records of Respondent CAMBRIDGE for the period
20 from November 1, 1992 to November 17, 1993, as said records
21 related to their activities as a real estate broker.

22 IX

23 Respondent CAMBRIDGE maintained a trust account
24 into which trust funds were placed, at: Wells Fargo Bank,
25 2245 S. Mooney Boulevard., Visalia, CA 93722; Account No.
26 0583-108600.

27 ///

X

The adjusted balance of the account as of November 26, 1993 was a negative Two Thousand Five Hundred Seventy-One and 18/100 Dollars (-\$2,571.18) and the trust fund accountability in the account as of November 26, 1993 was Six Thousand Four Hundred Four and 50/100 Dollars (\$6,404.50). Therefore, Respondent CAMBRIDGE, as of November 26, 1993, had a trust fund shortage of Eight Thousand Nine Hundred Seventy-Five and 68/100 Dollars (\$8,975.68).

XI

Respondent CAMBRIDGE failed to maintain trust account records in compliance with Section 2831 of the Regulations by failing to include from whom moneys were received and the amounts received from each individual in columnar records.

XII

Respondent CAMBRIDGE failed to maintain separate records in compliance with Section 2831.1 of the Regulations by failing to include the daily balance after each posting or the date of deposit.

XIII

Respondent CAMBRIDGE failed to reconcile the balance of all separate beneficiary records with the record of all trust funds received on a monthly basis in compliance with Section 2831.2 of the Regulations.

XIV

Respondent CAMBRIDGE failed to deposit trust funds (in the form of credit and appraisal fees collected from prospective

1 borrowers) into a trust account or otherwise distribute such funds
2 within one business day following receipt of said funds in
3 compliance with Section 2832 of the Regulations.

4 XV

5 Respondent CAMBRIDGE disbursed trust funds from the
6 account without the written consent of every principal who was an
7 owner of the funds, causing the balance of the funds in the
8 account to be an amount less than the existing aggregate trust
9 fund liability of Respondent CAMBRIDGE to all owners of said funds
10 in violation of Section 10145 of the Code and Section 2832.1 of
11 the Regulations.

12 XVI

13 The acts and/or omissions of Respondents described above
14 are grounds for the revocation or suspension of Respondents'
15 licenses under the following sections of the Business and
16 Professions Code and the Regulations:

- 17 (a) As to Respondents CAMBRIDGE MORTGAGE COMPANY,
18 INC. and HARRY HRANT TELLALIAN, and each of
19 them, under Section 10177(d) in conjunction
20 with Section 10145 and Section 10240 of the
21 Code, and Sections 2831, 2831.1, 2831.2, 2832,
22 2832.1, and 2840 of the Regulations; and,
23 (b) As to Respondent HARRY HRANT TELLALIAN only,
24 under Section 10177(g) and/or 10177(h) of the
25 Code.

26 ///

27 ///

1 WHEREFORE, Complainant prays that a hearing be conducted
2 on the allegations of this Accusation and that upon proof thereof,
3 a decision be rendered imposing disciplinary action against all
4 licenses and license rights of Respondents, and each of them,
5 under the Real Estate Law (Part 1 of Division 4 of the Business
6 and Professions Code) and for such other and further relief as may
7 be proper under other provisions of law.

8
9
10 
11 JERRY E. FISCUS
12 Deputy Real Estate Commissioner

13 Dated at Fresno, California,
14 this 6th day of June, 1994.