

flag

FILED

FEB 2 2003

DEPARTMENT OF REAL ESTATE

By Jean Cunniff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	
RUSSELL HEANS MARSHALL,)	NO. H-5395 SF
)	
Respondent.)	
)	

ORDER GRANTING REINSTATEMENT OF LICENSE

On March 6, 1985, a Decision was rendered herein revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on May 10, 1985.

On February 11, 2002, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered the petition of Respondent and the evidence and arguments in support thereof including Respondent's record as a restricted licensee. Respondent has demonstrated to

1 my satisfaction that Respondent meets the requirements of law for
2 the issuance to Respondent of an unrestricted real estate broker
3 license and that it would not be against the public interest to
4 issue said license to Respondent.

5 NOW, THEREFORE, IT IS ORDERED that Respondent's
6 petition for reinstatement is granted and that a real estate
7 broker license be issued to Respondent, if Respondent satisfies
8 the following conditions within nine months from the date of this
9 Order:

10 1. Submittal of a completed application and payment
11 of the fee for a real estate broker license.

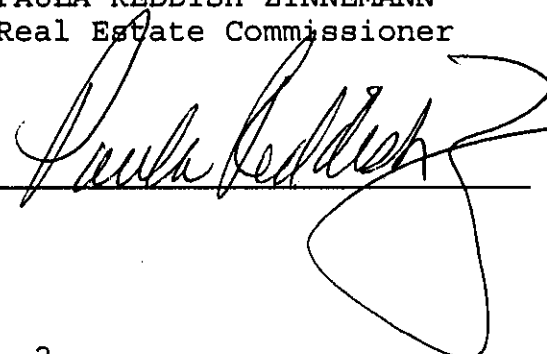
12 2. Submittal of evidence of having, since the most
13 recent issuance of an original or renewal real estate license,
14 taken and successfully completed the continuing education
15 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
16 for renewal of a real estate license.

17 3. Submittal of proof satisfactory to the Commissioner
18 of having taken and completed the trust fund accounting and
19 handling course specified in paragraph (3), subdivision (a) of
20 Section 10170.5 of the Business and Professions Code.

21 This Order shall be effective immediately.

22 DATED: January 28, 2003.

23 PAULA REDDISH ZINNEMANN
24 Real Estate Commissioner

25 
26
27

F. Long / Doc

COPY

FILED
DEC 15 1989

DEPARTMENT OF REAL ESTATE

By *Victoria Allon*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	No. H-5395 SF
RUSSELL HEANS MARSHALL,)	
Respondent.)	

ORDER GRANTING REINSTATEMENT OF LICENSE

On March 6, 1985, a Decision was rendered herein revoking the real estate broker license of respondent but granting respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to respondent on May 10, 1985, and respondent has operated as a restricted licensee without cause for disciplinary action against him since that time.

On April 27, 1989, respondent petitioned for reinstatement of said real estate broker license and the Attorney General of the State of California has been given notice of the filing of said petition.

///

1 I have considered the petition of respondent
2 and the evidence and arguments in support thereof. Respondent
3 has demonstrated to my satisfaction that he meets the
4 requirements of law for the issuance to him of an unrestricted
5 real estate broker license and that it would not be against the
6 public interest to issue said license to him.

7 NOW, THEREFORE, IT IS ORDERED that respondent's
8 petition for reinstatement is granted and that a real estate
9 broker license be issued to him if he satisfies the following
10 conditions within six months from the date of this order:

11 1. Submittal of a completed application and payment
12 of the fee for a real estate broker license.

13 2. Submittal of evidence of having, since the most
14 recent issuance of an original or renewal real estate license,
15 taken and successfully completed the continuing education
16 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
17 for renewal of a real estate license.

18 This Order shall be effective immediately.

19 DATED: November 30, 1989

20
21
22 JAMES A. EDMONDS, JR.
Real Estate Commissioner

23
24 BY: John R. Liberator
25 John R. Liberator
26 Chief Deputy Commissioner
27

1 NOW, THEREFORE, IT IS ORDERED that respondent's
2 petition for reinstatement of his real estate broker license
3 is denied.

4 This Order shall be effective at 12 o'clock noon on
5 JANUARY 27th , 1987.

6 DATED: December 17, 1986

7
8
9 JAMES A. EDMONDS, JR.
10 Real Estate Commissioner

11 By: *John R. Liberator*
12 JOHN R. LIBERATOR
13 Chief Deputy Commissioner

14
15
16
17
18
19
20
21
22
23
24
25
26
27

COPY

FILED
MAR 08 1985

DEPARTMENT OF REAL ESTATE

By *Mary A. Morello*
Mary A. Morello

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
UNITED MORTGAGE SERVICE, INC.)
and)
RUSSELL HEANS MARSHALL, its)
Designated Officer,)
Respondents.)

NO. H-5395 SF

DECISION

The above-entitled case was heard before Paul J. Doyle, Administrative Law Judge of the Office of Administrative Hearings, at San Francisco, California, on October 11, 1984.

The complainant was represented in the proceeding by Francis M. Lyons, Counsel, Department of Real Estate. Respondents were present at the hearing and were represented by Samuel S. Stevens, their attorney.

Evidence was received, the hearing was closed and the case submitted for decision.

On October 16, 1984, the Administrative Law Judge

1 submitted a Proposed Decision which I declined to adopt as the
2 Decision of the Real Estate Commissioner. Pursuant to Section
3 11517(c) of the Government Code of the State of California,
4 respondents were served with a copy of the Proposed Decision and
5 with notice that the case would be decided by me upon the record
6 including the transcript of proceedings held on October 11, 1984,
7 and upon any written argument offered by respondents and
8 complainant.

9 Argument has been submitted on behalf of respondent
10 Russell Heans Marshall and complainant.

11 I have given careful consideration to the record in
12 this case including the transcript of proceedings of October 11,
13 1984, and to the written argument offered on behalf of respondent
14 Russell Heans Marshall and complainant. The following shall
15 constitute the Decision of the Real Estate Commissioner in this
16 proceeding:

17 FINDINGS OF FACT

18 I

19 At all times herein mentioned, United Mortgage Service,
20 Inc., a California corporation, (respondent UMS) was licensed by
21 the Department of Real Estate of the State of California (DRE)
22 as a real estate broker. From September 1983 to the date of
23 the hearing of this case, respondent UMS was licensed as a real
24 estate broker through Russell Heans Marshall (respondent Marshall)
25 in accordance with Section 10211 of the Business and Professions
26 Code.

27 /////

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

II

At all times herein mentioned, respondent Marshall was licensed by DRE as follows:

- A. As the designated broker-officer for respondent UMS.
- B. As a real estate broker in his individual capacity.
- C. As designated broker-officer for Sattco Enterprises, a California corporation.

III

Respondent UMS and respondent Marshall presently have licenses or license rights under the provisions of Part 1 of Division 4 of the Business and Professions Code of the State of California.

IV

The Accusation herein was made by Edward V. Chiolo in his official capacity as a Deputy Real Estate Commissioner of the State of California.

V

At all times herein mentioned respondent UMS was performing services for owners of promissory notes secured by liens on real property in expectation of the receipt of compensation for its services. These services included the receiving of funds from borrowers in trust and the disbursement of these funds to note owners. Trust funds received by respondent UMS were deposited in Crocker Bank (California) Account Number 905-001345 and thereafter transferred to Crocker Bank (California) Account Number 060-451524 for disbursement to note owners.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

VI

On or about September 30, 1983, respondent UMS opened an additional trust account at Seattle First National Bank of Seattle, Washington. On or about October 18, 1983, respondent UMS caused \$200,000 in trust funds to be transferred from Crocker Bank Account 905-001345 to the Seattle First Bank account.

VII

Between November 10 and December 6, 1983, Brian F. Ball (Ball), president of respondent UMS, caused a total of \$155,992 in trust funds to be disbursed out of the Seattle First trust account for uses and purposes not authorized by note owners. One hundred thirty-four thousand five hundred sixty-seven dollars (\$134,567) was disbursed for the benefit of Allstate Investment Corporation (Allstate). Twenty-one thousand four hundred twenty-five dollars (\$21,425) was transferred from the trust account to a general operating account of respondent UMS for "out-of-pocket costs, legal fees and administrative expenses" incurred by respondent UMS for the account of Allstate.

VIII

The disbursements of \$155,992 were purportedly made in partial repayment of a September 1982 deposit of \$236,982.46 by Allstate to the trust account that it maintained while servicing the investor accounts that were subsequently taken over by respondent UMS.

IX

The September 1982 deposit by Allstate to bring the trust account into balance was demanded by DRE as a prerequisite

1 to an agreement by DRE to forbear from a legal action to place
2 Allstate into receivership and an Accusation against the real
3 estate broker license of Allstate based upon the trust account
4 shortage.

5 X

6 The disbursements of November and December 1983
7 increased the shortage in the trust accounts maintained by
8 respondent UMS to an aggregate shortage of approximately \$241,000
9 as of December 23, 1983, but neither respondent UMS nor respondent
10 Marshall are charged in this proceeding with responsibility for
11 the trust account shortage that existed prior to the disburse-
12 ments of November and December 1983.

13 XI

14 Respondents' contention in defense of the actions by
15 Ball in disbursing \$155,992 in trust funds is that the funds
16 were the remaining obligation of respondent UMS to Allstate
17 under the "loan" agreement between Allstate and DRE. Respondents'
18 current president and respondent Marshall have apparently
19 accepted and adopted the position of Ball that DRE breached the
20 agreement of September 21, 1982, with Allstate and that Allstate
21 is thereby entitled to the return of the funds that it "loaned"
22 to the trust account. Respondents did not explain how or why
23 \$155,992 was accepted by Allstate as full satisfaction for a
24 loan of approximately \$236,000 made one year earlier. Moreover,
25 respondents offered no explanation for the \$21,425 transferred
26 from the trust account to respondent UMS's operating account as
27 a credit from Allstate for "approved reimbursable costs incurred

1 designated broker-officer for proper custody and disbursement of
2 trust funds by respondent UMS. He realized that his license as
3 broker-officer for respondent UMS might be "in jeopardy" for
4 mishandling of trust funds by respondent UMS, but was purportedly
5 unaware that his other licenses and license rights as a real
6 estate broker could be adversely affected by what he did or
7 failed to do as designated broker-officer for respondent UMS.
8 Respondent Marshall's purported perception of a "change in
9 attitude...when Ball became in control of the corporation...(and)
10 a more favorable outlook on what United Mortgage Service was
11 attempting to do" as an explanation for his failure to take any
12 effective action to control the handling of trust funds in the
13 custody of respondent UMS is not persuasive. However honorable
14 respondent Marshall's intentions might have been, his discharge
15 of responsibilities for supervision and control of corporate
16 activities fell far short of that mandated by Section 10159.2 of
17 the Business and Professions Code. By doing nothing, respondent
18 Marshall effectively aided and abetted the violation of Section
19 10145 by respondent UMS.

20 DETERMINATION OF ISSUES

21 I

22 The acts and omissions of respondent UMS described
23 above constitute grounds for disciplinary action against the
24 real estate license and license rights of respondent UMS under
25 the provisions of Sections 10176(i) and 10177(d) of the Business
26 and Professions Code.

27 /////

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

II

The acts and omissions of respondent Marshall described above constitute grounds for the imposition of disciplinary action against his real estate license and license rights under the provisions of Section 10177(h) of the Business and Professions Code.

ORDER

1. All licenses and license rights of respondent UMS under Part 1 of Division 4 of the Business and Professions Code are revoked.

2. The real estate broker licenses issued to respondent Marshall as designated officer of Sattco Enterprises and as designated officer of United Mortgage Service, Inc., are revoked.

3. A. The real estate broker license issued to respondent Marshall in his individual capacity is revoked.

B. A restricted real estate broker license shall be issued to respondent Marshall in his individual capacity or in a representative capacity other than as a designated broker-officer for respondent UMS pursuant to Section 10156.5 of the Business and Professions Code upon receipt by the Department of Real Estate of an application and the appropriate fee for the license within 90 days from the effective date of this Decision.

/////
/////
/////

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

C. The restricted license issued to respondent
Marshall 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 said Code:

(1) The restricted license 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 bears a significant
relation to respondent's fitness as a real estate
licensee.

(2) The restricted license may be suspended
prior to hearing by order of the Real Estate
Commissioner on receipt of 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.

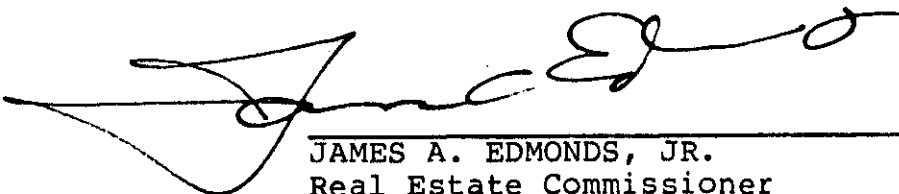
(3) If the respondent fails within six months
from the effective date of this Decision to present
evidence satisfactory to the Real Estate Commissioner
of having successfully completed the continuing
education requirements specified in Section 10170.5
of the Business and Professions Code within the four-
year period immediately preceding the date on which
respondent presents such evidence to the Department,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

The Real Estate Commissioner may order the suspension of the restricted license until the respondent presents evidence of having satisfied the requirements of Section 10170.5. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

This Decision shall become effective at 12 o'clock noon on March 28, 1985.

IT IS SO ORDERED 3-6, 1985.



JAMES A. EDMONDS, JR.
Real Estate Commissioner

COPY

FILED
NOV 05 1984

DEPARTMENT OF REAL ESTATE

By *Mary A. Morello*
Mary A. Morello

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
UNITED MORTGAGE SERVICE, INC.)
and)
RUSSELL HEANS MARSHALL, its)
Designated Officer)
Respondents.)

NO. H-5395 SF
OAH NO. N 22872

NOTICE

TO: UNITED MORTGAGE SERVICE, INC. and
RUSSELL HEANS MARSHALL, Respondents
and
SAMUEL S. STEVENS, their Counsel

YOU ARE HEREBY NOTIFIED that the Proposed Decision
herein dated October 16, 1984, of the Administrative Law Judge
is not adopted as the Decision of the Real Estate Commissioner.
A copy of the Proposed Decision dated October 16, 1984, is
attached for your information.

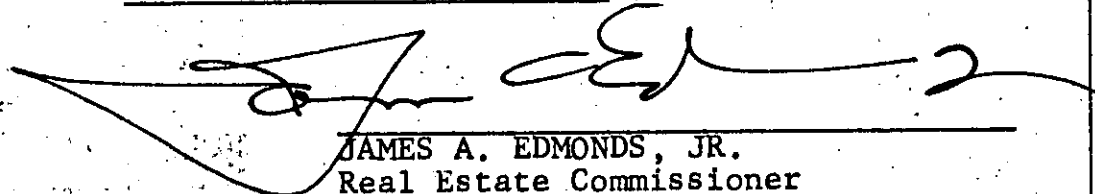
In accordance with Section 11517(c) of the Government
Code of the State of California, the disposition of this case

1 will be determined by me after consideration of the record
2 herein including the transcript of the proceedings held on
3 October 11, 1984, and any written argument hereafter submitted
4 on behalf of respondents and complainant.

5 Written argument of respondents to be considered by me
6 must be submitted within 15 days after receipt of the transcript
7 of the proceedings of October 11, 1984, at the San Francisco
8 office of the Department of Real Estate unless an extension of
9 the time is granted for good cause shown.

10 Written argument of complainant to be considered by me
11 must be submitted within 15 days after receipt of the argument
12 of respondents at the San Francisco office of the Department of
13 Real Estate unless an extension of the time is granted for good
14 cause shown.

15 DATED: 10-31-84

16 
17
18

JAMES A. EDMONDS, JR.
Real Estate Commissioner

19
20
21
22
23
24
25
26
27

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

UNITED MORTGAGE SERVICE, INC.

and

RUSSELL HEANS MARSHALL, its
Designated Officer,

Respondents.

No. H-5395 SF

OAH No. N 22872

PROPOSED DECISION

This matter came before Paul J. Doyle, Administrative Law Judge, State of California, Office of Administrative Hearings, on October 11, 1984, in San Francisco, California.

Francis M. Lyons, Counsel, represented the complainant.

Respondents were present and were represented by their attorney Samuel S. Stevens, 2145 The Alameda, San Jose, California 95126.

The matter was submitted and the following decision is hereby proposed and recommended for adoption:

FINDINGS OF FACT

I

At all times mentioned herein the following licenses, issued by the Department of Real Estate, were in effect:

A. United Mortgage Service, Inc., (UMS) the corporate respondent, to act as a real estate broker through its designated broker-officer, Russell Heans Marshall. This license is scheduled to expire on June 22, 1986;

B. Russell Heans Marshall to act as a real estate broker in an individual capacity. This license is scheduled to expire on April 27, 1988.

C. Russell Heans Marshall to act as a real estate broker as the designated officer of the corporate respondent, United Mortgage Service, Inc. This license is scheduled to expire on June 22, 1986.

D. Russell Heans Marshall to act as a real estate broker as the designated officer of Sattco Enterprises, a California corporation. This license is scheduled to expire on April 4, 1986. It was represented, however, that Sattco Enterprises is now a defunct corporation.

II

The accusation was made by Edward V. Chiolo, a Deputy Real Estate Commissioner, in that capacity only.

III

At the time of the violations hereinafter found United Mortgage Service, Inc., the corporate respondent was operating as a mortgage loan broker in the State of California while respondent Marshall was the designated officer of this corporate respondent at said times.

IV

As a mortgage loan broker respondent would receive funds from borrowers in trust and disburse these trust funds to lenders... secured by real estate mortgages. The corporate respondent did so in expectation of compensation.

V

These trust funds were maintained in Crocker Bank (California) Account 905-001345 as the collecting trust account and Crocker Bank (California) Account 060-451524 as the disbursing trust account.

VI

On or about September 30, 1983 the corporate respondent opened a "servicing depository" at the Seattle First National Bank (Seattle, Washington) as account 55298384. And on or about October 18, 1983 the corporate respondent transferred by wire \$200,000 from the above collecting account to the Seattle First account.

VII

During November and December 1983, and within an approximate 30-day period, the corporate respondent transferred a total of \$155,992 out of the Seattle First account for its own use and benefit.

VIII

Such use and benefit was, ostensibly, to repay an alleged loan it made from the Allstate Investment Corporation. In any event, the transfer of said \$155,992 was for some use and benefit of the corporate respondent since said funds were not replenished nor used by the trust fund - nor otherwise utilized for the benefit of the trust fund.

IX

This dishonest transfer and conversion then caused a shortage or deficit in the trust fund of, approximately \$150,000. (Credits being given for the recouping of advances previously made to investors of the corporate respondent).

X

Respondent Marshall, who has been the designated broker-officer of the corporate respondent since September of 1983, failed to exercise reasonable supervision and control over those corporate acts previously found in Findings VI through IX.

XI

At one time the Allstate Investment Corporation (AIC) was the parent company of the corporate respondent, United Mortgage Service, Inc. (UMS).

When, prior to September of 1982 a trust fund shortage was discovered in the UMS trust account, by the Department, AIC agreed in writing to place \$236,982.46 into the trust fund - and such other sums as required to absolve the deficit.

It did so in return for the forbearance of the Department from appointing a receiver and also for forbearing to bring an accusation concerning this shortage. The agreement also stated that, after AIC's audit of the trust fund, it could withdraw funds from the account should there be an excess. In fact, AIC did not conduct the audit as promised, thus requiring the Department to do the same. That audit of the UMS trust account discovered a shortage over and above the \$236,982.46 but AIC did not deposit additional funds, as promised, to correct this additional deficit.

Later when UMS became a separate and distinct entity from its once parent-company, AIC, there was, allegedly, an agreement wherein UMS would repay AIC the sum of some \$236,000. The source of such repayment was not specified but that source could not legitimately be the funds in the UMS trust; this, since the \$236,000 was placed in the trust account for the benefit of the beneficiary-investors thereof - and not for the purpose of merely preserving the assets of the loan for later repayment.

In any event, when the Department subsequently filed an accusation against AIC (an action separate and distinct from this proceeding), AIC apparently then believed the Department had "breached" the aforesaid agreement. AIC thus demanded repayment of the \$236,000 from UMS - and it was UMS's decision to dip into the trust funds to pay AIC \$155,992 (Finding VIII).

For reasons not satisfactorily explained the \$155,992 supposedly acted as full satisfaction of the "loan" of some \$236,000; and whether interest was to be charged by AIC on this supposed "loan" was not known.

XII

The corporate respondent in this action offered the above as an explanation and defense of its trust shortage of some \$150,000 (Finding IX). But such a defense does not lie for all reasons at law - among which are the following: (1) Even assuming there had been a breach by the Department of its agreement with AIC, it was not established that the operative effect of this breach would be to lawfully permit AIC to withdraw its "loaned" funds from the UMS trust fund; (2) Even if such were the operative effect of the alleged breach such would not be a defense, nor an excuse, nor even mitigation for an entity separate and distinct from AIC; that is, not a defense to UMS. Such a defense would only have been available to a party to that agreement (AIC). (3) The UMS trust fund's purpose was for the benefit of the UMS investors - and not for the purpose of securing any obligation which UMS may (or may not) have owed to AIC. But, basically and solely, such a defense does not and could not lie since the audit period in question,

which resulted in the deficit of approximately \$150,000 (Finding IX), covered a period of some thirty (30) days in late 1983 - and bore no relationship to the prior agreements or understandings between AIC and UMS nor between AIC and the Department.

XIII

The current president and sole stockholder of the corporate respondent, UMS, while employed by UMS at the time of the shortages found in Findings VIII and IX, was not then its president or sole stockholder.

XIV

Respondent Marshall was the designated officer of UMS during the times of the subject transfers and shortages.

Under his individual license (as a real estate broker) he was, and currently is, employed by another real estate broker in a branch office where he has no responsibility or control over the finances. In this office he primarily engages in the sale of residential property and has incurred no known complaints or disciplinary action with respect to any activity under this individual license.

XIV

Corporate respondent, UMS, filed Chapter 11 bankruptcy proceedings on September 14, 1984 but continues to operate its business as a "debtor in possession".

DETERMINATION OF ISSUES

A.

Respondents violated Section 10145 of the California Business and Professions Code constituting grounds for the imposition of disciplinary action under Section 10176(i) of said Code.

B.

Respondent Marshall is also subject to disciplinary action by reason of the provisions of Section 10177(h) of said Code.

ORDER

not adapted } Each and every license set forth in Finding I hereof, together with all rights and privileges in each of said licenses is hereby revoked - save and except the individual license of respondent, Russell Heans Marshall. The accusation is dismissed as to this individual license only.

DATED: OCT 16, 1984



PAUL J. DOYLE
Administrative Law Judge

PJD:jat

FILED
NOV 05 1984

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Laward Beck

In the Matter of the Accusation of
ROSEANN MARIE PEREZ,
Respondent(s)

Case No. H-2055 SAC
N-23853

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 OFFICE OF ADMINISTRATIVE HEARINGS, 717 K Street, Suite 409, Hearing Room 415, Sacramento

on the 1st day of March, 1985, at the hour of 9:30 p.m. or as soon thereafter as the matter can be heard, upon the charges made in the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person, nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, 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.

DATED: November 5, 1984

DEPARTMENT OF REAL ESTATE

By Robin T. Wilson
ROBIN T. WILSON Counsel

FILED
NOV 05 1984

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Laura A. Beck

In the Matter of the Accusation of
GEORGE MARIANI SARAGLOW
aka GEORGE MARIANI,
Respondent(s)

Case No. H-2056 SAC
N-23816

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 OFFICE OF ADMINISTRATIVE HEARINGS, 717 K Street,
Suite 409, Hearing Room 416, Sacramento

on the 5th day of March, 1985, at the hour of 1:30 p.m.
or as soon thereafter as the matter can be heard, upon the charges made in the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person, nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, 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.

DATED: November 5, 1984

DEPARTMENT OF REAL ESTATE
By Robin T. Wilson
ROBIN T. WILSON Counsel

COPY

FILED
JUN 08 1984

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Mary A. Morelle
Mary A. Morelle

In the Matter of the Accusation of
UNited MORTGAGE SERVICE, INC. and
RUSSELL HEANS MARSHALL, its
Designated Officer
Respondent(s)

Case No. H-5395 SF
N 22872

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 Office of Administrative Hearings, State Building, 455 Golden Gate Avenue, Room 2248, San Francisco, California on the 11th & 12th day of October, 1984, at the hour of 9:00 A.M., ^{Two Day Hearing} or as soon thereafter as the matter can be heard, upon the charges made in the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person, nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, 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.

DATED: June 8, 1984

DEPARTMENT OF REAL ESTATE
BY Francis M. Lyons
FRANCIS M. LYONS Counsel

COPY

FILED
APR 10 1984

1 FRANCIS M. LYONS, Counsel
DEPARTMENT OF REAL ESTATE
2 185 Berry Street, Room 5816
San Francisco, CA 94107-1770

DEPARTMENT OF REAL ESTATE

3 Telephone: (415) 557-3220

By: *Mary A. Morello*
Mary A. Morello

5

6

7

8

BEFORE THE DEPARTMENT OF REAL ESTATE

9

STATE OF CALIFORNIA

10

- - -

11

In the Matter of the Accusation of)

NO. H-5395 SF

12

UNITED MORTGAGE SERVICE, INC.)

ACCUSATION

13

and)

14

RUSSELL HEANS MARSHALL, its)

Designated Officer,)

15

Respondents.)

16

17

The complainant, EDWARD V. CHIOLO, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against UNITED MORTGAGE SERVICE, INC. and RUSSELL HEANS MARSHALL, is informed and alleges as follows:

21

I

22

That UNITED MORTGAGE SERVICE, INC. and RUSSELL HEANS MARSHALL (hereinafter respondents) are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code).

26

II

27

That at all times herein mentioned, UNITED MORTGAGE

1 SERVICE, INC. was, and presently is, licensed by the Department
2 of Real Estate to act as a real estate broker by and through
3 RUSSELL HEANS MARSHALL as designated broker-officer. That said
4 license will expire on June 22, 1986.

5 That at all times herein mentioned, RUSSELL HEANS
6 MARSHALL was, and presently is, licensed by the Department of
7 Real Estate as a real estate broker in his individual capacity
8 and as designated officer of UNITED MORTGAGE SERVICE, INC., a
9 California corporation and as designated officer of Sattco
10 Enterprises, a California corporation. That said individual
11 real estate broker license will expire on April 27, 1984; that
12 said real estate broker license as designated officer of UNITED
13 MORTGAGE SERVICE, INC. will expire on June 22, 1986; that said
14 real estate broker license as designated officer of Sattco
15 Enterprises will expire on April 4, 1986.

16 III

17 That the complainant, EDWARD V. CHILOLO, a Deputy Real
18 Estate Commissioner of the State of California, acting in his
19 official capacity as such and not otherwise, makes this accusation
20 against respondents.

21 IV

22 That at all times herein mentioned, UNITED MORTGAGE
23 SERVICE, INC., by and through RUSSELL HEANS MARSHALL, engaged
24 in the business of, acted in the capacity of, advertised, or
25 assumed to act as a real estate broker in the State of California
26 within the meaning of Section 10131(d) of the Business and
27 Professions Code of the State of California (hereinafter the

1 Code) including the operation of a mortgage loan brokerage
2 business with the public wherein loans secured directly or
3 collaterally by liens on real property were serviced and payments
4 were collected thereon on behalf of others, all for or in
5 expectation of compensation.

6 V

7 That at all times herein mentioned, in connection with
8 the aforesaid mortgage loan activities, respondents accepted or
9 received funds in trust (hereinafter trust funds) from or on
10 behalf of lenders and borrowers and at times thereafter made
11 disbursements of such trust funds.

12 VI

13 That during the month of January 1984, and thereafter,
14 an investigative audit was made by the Department of Real Estate
15 of the records and bank records of respondents as said records
16 related to respondents' licensed activities.

17 VII

18 That it was ascertained by said audit that during
19 October, November, and December 1983, respondents maintained
20 for loan servicing purposes trust bank accounts No. 905-001345
21 and No. 060-451524 at Crocker Bank, San Francisco, California
22 and servicing depository account No. 55298384 at Seattle First
23 National Bank, Seattle, Washington (hereinafter The Sea First
24 Account).

25 VIII

26 That it was further ascertained by said audit that
27 on or about October 18, 1983, respondents transferred by wire

1 transfer trust funds in the amount of TWO HUNDRED THOUSAND DOLLARS
2 (\$200,000) from said Crocker Bank trust account No. 905-001345 to
3 The Sea First Account.

4 IX

5 That respondents failed to maintain said trust funds in
6 The Sea First Account, but instead, thereafter during November and
7 December 1983 caused the transfer of approximately ONE HUNDRED
8 FIFTY-SIX THOUSAND DOLLARS (\$156,000) of said trust funds to be
9 made, and in violation of Section 10145 of the Code converted or
10 appropriated said transferred funds to their own uses and benefit.

11 X

12 That the conversion or appropriation of said trust
13 funds from The Sea First Account by respondents caused a shortage
14 of approximately ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000)
15 in the trust accounts of UNITED MORTGAGE SERVICE, INC.

16 XI

17 That respondent Marshall, as designated broker-officer
18 for UNITED MORTGAGE SERVICE, INC., failed to exercise reasonable
19 supervision and control over the activities of UNITED MORTGAGE
20 SERVICE, INC. for which a real estate license is required, as
21 those activities are alleged in Paragraphs IV, V, VII, VIII, IX and
22 X above.

23 XII

24 That by reason of the facts as alleged in Paragraphs IV
25 through XI above, respondents have violated Section 10145 of the
26 Code and said acts and omissions constitute grounds for
27 disciplinary action under the provisions of Sections 10176(i)

1 and 10177(d) of the Code.

2 XIII

3 That the facts as alleged in Paragraphs IV through XII
4 above constitute grounds for discipline against respondent
5 Marshall under the provisions of Section 10177(h) of the Code.

6 * * * * *

7 WHEREFORE, complainant prays that a hearing be
8 conducted on the allegations of this Accusation and that upon
9 proof thereof, a decision be rendered imposing disciplinary
10 action against all licenses and license rights of respondents
11 under the Real Estate Law (Part 1 of Division 4 of the Business
12 and Professions Code) and for such other and further relief as
13 may be proper under other applicable provisions of law.

14 *Edward V. Chio*

15 _____
16 EDWARD V. CHIOLO
Deputy Real Estate Commissioner

17 Dated at San Francisco, California
18 this 10th day of April, 1984.

19
20
21
22
23
24
25
26
27