

JALLO
2003

FILED
MAY 1 2003
DEPARTMENT OF REAL ESTATE
Anna B. [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-26476 LA
))
 JAIME A. STELLOS,))
))
) Respondent.)
))

ORDER DENYING REINSTATEMENT OF LICENSE

On June 2, 1997, 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 salesperson license. A restricted real estate
salesperson license was issued to Respondent or about September
18, 1997.

On or about October 31, 2001, Respondent petitioned
for reinstatement of his real estate broker license and the
Attorney General of the State of California has been given
notice of the filing of the petition.

///

///

1 I have considered Respondent's petition and the
2 evidence and arguments in support thereof. Respondent has
3 failed to demonstrate to my satisfaction that Respondent has
4 undergone sufficient rehabilitation to warrant the reinstatement
5 of Respondent's real estate broker license, in that:

6 I

7 The Department of Real Estate ("Department") Decision
8 in case No. H-26476 LA which revoked Respondent's real estate
9 broker license, was the result of a 1996 Department
10 investigation and audit examination of Avcorp Financial Group,
11 Inc. ("Avcorp Financial"). Avcorp Financial was a licensed real
12 estate corporation for which Respondent was the designated
13 officer. The investigation and audit found numerous violations
14 of the Real Estate Law.

15 In the Decision, there was a Determination of Issues
16 made that Respondent had violated Business and Professions Code
17 ("Code") Section 10159.2 and that there was cause to revoke
18 Respondent's license pursuant to Code Sections 10176(i) and
19 10177(g). It had been found that Respondent had failed to
20 supervise the activities of Avcorp Financial and its salespeople
21 and that Respondent had engaged in dishonest and negligent
22 conduct in reference to a real estate transaction.

23 ///

24 ///

25 ///

26 ///

27 ///

1 The Decision in Case No. H-26476 LA revoked Avcorp
2 Financial's license outright. There was a Determination of
3 Issues made that there was cause to revoke Avcorp Financial's
4 license pursuant to Code Section 10177(d) for violations of the
5 Real Estate Law, and pursuant to Code Sections 10176(i) and
6 10177(g) for dishonest and negligent conduct in reference to a
7 real estate transaction.

8 II

9 Respondent's petition for reinstatement of his license
10 is governed by the Criteria of Rehabilitation set forth in the
11 California Administrative Code, Section 2911, Title 10, Chapter
12 6, California Code of Regulations ("Regulations"). Section 2911
13 provides as follows: "The following criteria have been
14 developed by the department pursuant to Section 482(a) of the
15 Business and Professions Code for the purpose of evaluating the
16 rehabilitation of an applicant for issuance or for reinstatement
17 of a license in considering whether or not to deny the issuance
18 or reinstatement on account of a crime or act committed by the
19 applicant."

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

1 It appears that Respondent has met the following
 2 applicable Criteria of Rehabilitation, Regulation 2911 (a) two
 3 years since acts; (b) restitution; (c) expungement of conviction
 4 is not applicable; (d) Penal Code Section 290 registration is
 5 not applicable (e) discharge from probation is not applicable;
 6 (f) abstinence from alcohol and controlled substances is not
 7 applicable (g) payment of fine or monetary penalty is not
 8 applicable; (h) stability of family life; (i) enrollment in
 9 educational or vocational training programs; (j) discharge of
 10 debts; (k) correction of business practices; (l) involvement in
 11 community or social programs; (m) new social and business
 12 relationships.

13 III

14 Respondent failed to submit evidence of a change in
 15 attitude from others familiar with his previous conduct and
 16 subsequent attitudes and behavioral patterns. This is cause to
 17 deny Respondent's petition pursuant to Regulation 2911(n)(2).

18 IV

19 In addition, due to the serious nature of the conduct
 20 which led to the revocation of Respondent's real estate broker
 21 license, additional time is needed to evaluate Respondent's
 22 rehabilitation.

23 ///
 24 ///
 25 ///
 26 ///
 27 ///

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

4 I am satisfied, however, that it will not be against
5 the public interest to issue a restricted real estate broker
6 license to Respondent.

7 A restricted real estate broker license shall
8 be issued to Respondent pursuant to Code Section 10156.5
9 if Respondent within nine (9) months from the date hereof makes
10 application therefor and pays the appropriate fee for
11 said license.

12 The restricted license issued to Respondent shall be
13 subject to all of the provisions of Code Section 10156.7 and to
14 the following limitations, conditions and restrictions imposed
15 under authority of Code Section 10156.6:

16 1. The restricted license issued to Respondent
17 may be suspended prior to hearing by Order of the Real Estate
18 Commissioner in the event of Respondent's conviction or plea
19 of nolo contendere to a crime which is substantially related
20 to Respondent's fitness or capacity as a real estate licensee.

21 2. The restricted license issued to Respondent
22 may be suspended prior to hearing by Order of the Real Estate
23 Commissioner on evidence satisfactory to the Commissioner that
24 Respondent has violated provisions of the California Real Estate
25 Law, the Subdivided Lands Law, Regulations of the Real Estate
26 Commissioner or conditions attaching to the restricted license.

27 ///

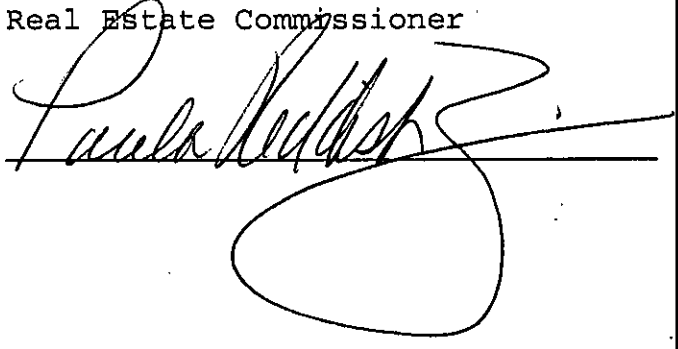
1 3. Respondent shall not be eligible to apply for
2 the issuance of an unrestricted real estate license nor for
3 the removal of any of the conditions, limitations or
4 restrictions of a restricted license until two (2) years have
5 elapsed from the effective date of this Decision.

6 4. Respondent shall within nine (9) months from the
7 date of issuance of a restricted license present evidence
8 satisfactory to the Real Estate Commissioner that Respondent has
9 taken and successfully completed the continuing education
10 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
11 for renewal of a real estate license.

12 This Order shall become effective at 12 o'clock noon
13 on May 21, 2003

14 DATED: April 28, 2003.

15 PAULA REDDISH ZINNEMANN
16 Real Estate Commissioner

17 
18
19
20
21
22
23
24

25 cc: Jamie A. Stellos
26 8033 Sunset Blvd., # 85
27 Los Angeles, CA 9046

SAC

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

FILED
JUN 20 1997
DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of	)	NO. H-26476 LA
AVCORP FINANCIAL GROUP, INC., a	)	L-9609171
corporation, dba Avcorp Financial Group,)	
and Avcorp Realty; and JAMIE A. STELLOS,)	
individually and as designated officer)	
of Avcorp Financial Group, Inc.,)	
)	
Respondents.)	

ORDER STAYING EFFECTIVE DATE

On June 2, 1997, a Decision was rendered in the above-entitled matter to become effective June 26, 1997.

IT IS HEREBY ORDERED that the effective date of the Decision of June 2, 1997, is stayed for a period of 30 days.

The Decision of June 2, 1997, shall become effective at 12 o'clock noon on July 25, 1997.

DATED: June 20, 1997.

JIM ANTT, JR.
Real Estate Commissioner

By: *[Signature]*
RANDOLPH BRENDIA
Regional Manager

SAC

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

FILED
JUL 21 1997
DEPARTMENT OF REAL ESTATE

By [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of	)	NO. H-26476 LA
AVCORP FINANCIAL GROUP, INC., a)	
corporation, dba Avcorp Financial Group)	
and Avcorp Realty; and JAMIE A. STELLOS,)	
individually and as designated officer)	
of Avcorp Financial Group, Inc.,)	
)	
Respondents.)	

ORDER STAYING EFFECTIVE DATE

On June 2, 1997, a Decision was rendered in the above-entitled matter to become effective at 12 o'clock noon on June 26, 1997.

On June 20, 1997, an Order Staying Effective Date was entered herein ordering that the effective date of the Decision of June 2, 1997, be stayed for a period of thirty (30) days, and further ordering that the Decision of June 2, 1997, become effective at 12 o'clock noon on July 25, 1997.

On July 17, 1997, Respondents AVCORP FINANCIAL GROUP, INC. and JAMIE A. STELLOS, requested an additional 10-day stay.

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 Decision of June 2, 1997, shall become effective
at 12 o'clock noon on August 4, 1997.

DATED: July 21, 1997.

JIM ANTT, JR.
Real Estate Commissioner

By: *Randolph Brendia*
RANDOLPH BRENDIA
Regional Manager

FILED
JUN - 6 1997
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By C. B. [Signature]

* * * * *

In the Matter of the Accusation of)	No. H-26476 LA
AVCORP FINANCIAL GROUP, INC.,)	L-9609171
a corporation, dba Avcorp)	
Financial Group, and Avcorp)	
Realty; and JAMIE A. STELLOS,)	
individually and as designated)	
officer of Avcorp Finacial)	
Group, Inc.,)	
Respondents.)	

DECISION

The Proposed Decision dated May 14, 1997, 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 June 26, 1997.

IT IS SO ORDERED 6/2/97

JIM ANTT, JR.
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation	)	No. H 26476 LA
of)	
	)	OAH Case No. L-9609171
AVCORP FINANCIAL GROUP, INC.,)	
a corporation, dba Avcorp)	
Financial Group, and Avcorp)	
Realty; and JAMIE A. STELLOS,)	
individually and as designated)	
officer of Avcorp Financial)	
Group, Inc.,)	
)	
Respondents.)	

PROPOSED DECISION

On April 17, 1997, in Los Angeles, California, Joseph D. Montoya, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Mr. Chris Leong, Staff Counsel, represented the complainant. Mr. Michael Harris, Rogers & Harris, represented Respondents.

Evidence was received and the matter was submitted.

FINDINGS OF FACT

1. Complainant Thomas McCrady filed the Accusation and First Amendment to Accusation in his official capacity as Deputy Real Estate Commissioner, Department of Real Estate, State of California ("the Department").

2. (A) Respondent Avcorp Financial Group, Inc. ("Avcorp") is a corporation which is licensed by the Department as a corporate real estate broker, license no. 01116609. Avcorp is authorized by the Department to use two fictitious business names, Avcorp Financial Group and Avcorp Realty.

(B) Respondent Jamie A. Stellos ("Stellos") is an individual licensed by the Department as a real estate broker, license no. 00482491. At all times mentioned herein, Stellos was the designated corporate officer of Avcorp.

The Audit of Respondents' Activities--The Accusation:

3. On or about January 11, 1996, the Department completed an audit of the activities of Respondents Avcorp and Stellos for the period from September 1, 1994, through September 30, 1995. Two separate audits were conducted: one of Respondents' mortgage loan activities and one of their broker escrow activities.

4. The audit established the following violations of the Real Estate Law and Department regulations, and such violations are hereby found to have occurred:

(A) Respondents disbursed \$11,400.00 from an Avcorp trust account during the period from May 1995 and July 1995, creating a shortage in the trust account of that amount. Said shortage was not cured until October 1995;

(B) Respondents failed to maintain columnar records for their trust account number 07-760-507 ("TA # 2");

(C) Respondents failed to maintain monthly reconciliations of account TA # 2;

(D) Respondents failed to disclose to parties involved in various loan and escrow transactions that Respondent Avcorp held a financial interest in the escrow agency used in those transactions;

(E) Respondent Stellos failed to review, initial, and date material documents used by Avcorp in at least three transactions; and

(F) Respondents disbursed or allowed the disbursement of funds from trust account number 07-760-477 ("TA # 1) without the prior written consent of principals.

5. The violations of the Real Estate Law and Regulations set forth in Findings 4(A) to 4(F) above were willful and deliberate, and each therefore constitute a violation of Business and Professions Code section 10177(d).¹

¹ All statutory references hereafter shall be to the Business and Professions Code unless otherwise noted. All regulatory citations shall be to relevant sections of Title 10, California Code of Regulations ("CCR").

The Gutierrez-Saade Loan Transaction--The First Amendment to Accusation:

6. At all times mentioned herein, Ms. Miriam Escobar ("Escobar"), also known as Miriam Avila, was licensed by the Department as a real estate salesperson. At all times mentioned herein she was the sole shareholder and president of Avcorp. Further, in making the statements and representations hereafter attributed to her, she was acting as an authorized agent of Avcorp.²

7. (A) In or about April 1994, Escobar on behalf of Avcorp solicited Alfredo and Raquel Gutierrez ("the Gutierrezes") to loan \$27,300 to Mr. Julio Saade ("Saade"). Escobar told Mr. Gutierrez he would earn twelve percent interest on the loan to be paid in six monthly installments, and she further represented he would be repaid \$30,000.00 in six months. Avcorp also represented the loan would be secured by a first deed of trust upon real property owned by Mr. Saade in Los Angeles, California, and Avcorp undertook to act as a loan broker.

(B) The Gutierrezes agreed to make the loan and gave Escobar their check for \$27,400.00, also agreeing to pay Avcorp \$10.00 per month to service the loan. Escobar then deposited that check into one of Avcorp's general accounts, rather than into an escrow or trust account.

8. Mr. and Mrs. Gutierrez received a promissory note and a copy of a deed of trust executed by Mr. Saade, and they received interest payments for six months. However, the deed of trust was never recorded against Mr. Saade's property. The Gutierrezes did not discover this until after Mr. Saade defaulted on the loan and they attempted to foreclose.

9. (A) After learning the deed of trust had not been recorded Mr. Gutierrez spoke to Mrs. Escobar about the problem on numerous occasions. Initially, she claimed the deed of trust had been sent to the title company for recording but that the title company had lost it. She later claimed Mr. Saade would execute another, but that he was "on vacation" in Israel.

(B) Mrs. Escobar did not assist Mr. Gutierrez in securing his loan. There is no evidence that she took any steps to have the title company make good on its alleged negligence. Instead, for at least eighteen months she put Mr. Gutierrez off with stories that the problem would be solved, but the Gutierrezes never received an original, recorded, deed of trust.

² Ms. Escobar was not made a respondent in this proceeding, though at the center of the loan transaction.

10. (A) In February 1996 the Gutierrezes filed a written complaint with the Department asserting Avcorp had deliberately failed to record the deed of trust. In response, Avcorp made a written agreement ("the settlement agreement") with the Gutierrezes ostensibly designed to repay them on the loan to Saade. The settlement agreement was executed in April 1996.

(B) As part of the settlement agreement, Escobar gave Gutierrez a \$30,000.00 promissory at twelve percent interest, all due in six months. She secured it with a second deed of trust on a rental property held by her family trust. The agreement specifically called for withdrawal of the complaint to the Department, which Mr. Gutierrez attempted to do.³

(C) As of the date of the hearing, Mr. Gutierrez had received six months interest on the Escobar's note, but no part of the principal amount had been paid.

11. (A) Escobar and Avcorp concealed material facts from the Gutierrezes relevant to the transaction. It was not disclosed that Saade had been a customer and business associate of Avcorp and Escobar for several years; nor was it disclosed that Saade was a foreign citizen. Escobar did not disclose that Saade was in financial distress, a fact well known to her, nor did she disclose that Mr. Saade owed Avcorp approximately \$27,000.00. Had Mr. and Mrs. Gutierrez known these facts they would not have loaned the money to Mr. Saade.

(B) Mr. Saade is not the record owner of the property which was to secure the loan. Instead, as of January 1996, title was vested in a Mr. and Mrs. Simons. While those individuals had executed a grant deed to Mr. Saade in 1992, that deed specifically stated it was given to secure a loan. In other words, Saade only held a mortgage against the property.⁴

12. Mr. Saade's Los Angeles property is now for sale. Although the Gutierrezes have no lien of record against it, Escobar continues to claim they will get paid from the proceeds of its sale.

³ The settlement agreement stated on the one hand that the Gutierrezes remained secured by Mr. Saade, but on the other hand stated they were releasing the other parties to the transaction.

⁴ This is established by a preliminary title report obtained by Avcorp in 1996 and introduced into evidence by that Respondent. Further, copies of recorded deeds submitted to the Department by Mr. Gutierrez with his complain show Mrs. Escobar was involved with the mortgage transaction between the Simons and Saade.

13. Respondent Stellos has continually neglected his duty to supervise Respondent Avcorp and the activities of its salesperson Escobar. He spends virtually no time at Avcorp's offices, meeting with Escobar once or twice per month for about two hours at a time. From all of the evidence it is clear that it is Escobar, and not Stellos, who is supervising the activities of Avcorp, and that Stellos has no real role in the management of that company.⁵

14. There is mitigating evidence in that neither Respondent has ever been disciplined. There is no evidence that Escobar has ever been disciplined either.

15. There is aggravating evidence. (A) Avcorp concealed material facts from Gutierrez when it solicited the loan. Thereafter, it failed to protect him and failed to take reasonable steps to remedy the purported negligence of the title company. The Gutierrezes have been substantially harmed by Respondents.

(B) On the day before the hearing in this matter, and on the day of the hearing, Respondents attempted to persuade Mr. Gutierrez not to testify. They took the position that he had agreed not to testify by making the settlement agreement, and they further offered to settle another dispute he had with them if he would not appear and give evidence.

(C) Notice is taken of a written request to continue the hearing in this matter, executed by Stellos in early April 1997, as well as the Order denying that request. Those documents establish Respondents used misleading statements in an attempt to stave off the hearing in this matter.

(D) Ms. Escobar appeared evasive throughout her testimony, purportedly unable to recall basic information about the Gutierrez/Saade transaction. Based on her demeanor, the content of her testimony, the evidence contradicting her testimony, and her efforts to keep Mr. Gutierrez from testifying, she is discredited as a witness.

⁵ At the hearing Stellos was unable to name all the salespeople in Avcorp's employ, or name either of the banks that Avcorp wholesales loans for. He could not describe a single pending transaction, including property management transactions.

DETERMINATION OF ISSUES

1. Cause exists to suspend or revoke Respondent Avcorp's license pursuant to Code section 10177(d) for violations of the Code and for violations of Title 10 of the California Code of Regulations ("CCR"), as follows:

(A) Section 10145 of the Code as set forth in Finding 4(A), above;

(B) Section 2831 of the CCR, as set forth in Finding 4(B), above;

(C) Section 2831.2 of the CCR, as set forth in Finding 4(C), above;

(D) Section 2950(h) of the CCR, as set forth in Finding 4(D), above;

(E) Code section 10159.2 and CCR section 2725, as set forth in Finding 4(E), above;

(F) Code section 10145, as set forth in Finding 4(F), above.

2. Cause exists to suspend or revoke Respondent Stellos's license pursuant to Code section 10159.2 for failing to supervise Avcorp's activities and those of its salespeople, and for failing to prevent Avcorp's violations of the Code and the Regulations, as set forth in Determination 1, above, based on Findings 2(B), 4, 9 through 11, and 13.

3. Cause exists to suspend or revoke Respondents' licenses pursuant to section 10176(i) of the Business and Professions Code. Respondents have engaged in dishonest conduct as those terms are used in the statute, based on Findings 11 and 15.

4. Cause exists to suspend or revoke Respondents' licenses pursuant to section 10177(g) of the Code. Respondents were, at a minimum, negligent in their failure to assure that the Gutierrezes loan would be secured, based on Findings 8 and 9.

5. There are mitigating factors and aggravating factors, based on Findings 14 and 15.

Discussion

When the entire record is weighed, it becomes clear that Respondent Stellos has been acting as a "rent-a-broker" for Avcorp and Mrs. Escobar. He admittedly has no participation in the day-

to-day activities of the corporation. Stellos could not testify in any detail about basic aspects of Avcorp's operation or about business matters he had discussed with Mrs. Escobar at their purported bi-monthly meetings in the two or three months before the hearing. Indeed, he could not even recall the names of all three of the company's salespeople.

At best, Avcorp neglected to have the Gutierrez-Saade loan secured, and then neglected to rectify the situation. If the title company had truly lost the Saade trust deed, Avcorp should have taken steps to have the title company resolve the matter as Avcorp was acting as agent for Gutierrez.

There is disturbing evidence and reasonable inferences that Escobar never intended to have the deed of trust recorded, although on this record such can not be determined by clear and convincing evidence. It is clear that Mrs. Escobar concealed material facts about the borrower from Mr. Gutierrez before the loan was made; there is also reason to believe she knew Saade did not have a perfected title to the property.⁶

Respondents claimed that they never received service of the supplemental accusation, and only learned of it shortly before the hearing. However, the Department has a proof of service in its file which establishes under the Government Code, section 11507, that Respondents were served. While it does not have the return receipt, that document may have been misplaced after the pleading was sent to Respondents. Further, based on Respondents' dishonesty in requesting a continuance of this case and Mrs. Escobar's lack of credibility, their claim of non-receipt of the supplemental accusation is rejected.

Although neither Respondent has any prior record of discipline, their wrongful practices must be curbed in order to protect the public from further harm. Plainly Mrs. Escobar is misusing Avcorp's corporate license, and will continue to do so no matter who the corporation's designated officer is. Therefore, it is appropriate to revoke Avcorp's license in order to protect the public from further harm.

There is reason to believe that Respondent Stellos will simply rent his license out to another corporation if the opportunity presents itself. In this case he allowed Mrs. Escobar to misuse the corporation, and in a sense his own license, to the

⁶ Copies of recorded deeds submitted by Mr. Gutierrez with his complaint to the Department support the title report referred to in footnote 3; i.e., they show the transaction between Saade and the Simons, record title holders. Those recorded deeds also show that Saade's address was care of Avcorp, and that Escobar caused the mortgage grant deed to be recorded.

detriment of Mr. and Mrs. Gutierrez, but was less than contrite about the matter at the hearing. Therefore, he should not be allowed to act as a broker in the future. However, because the evidence points to the conclusion that his wrongdoing was one of omission, rather than commission, he should be allowed to work as a salesman under the supervision of some other broker if he so desires.

ORDER

1. All licenses and licensing rights of Respondent Avcorp Financial Group under the Real Estate Law are hereby revoked, based on Determinations of Issues 1, and 3 through 5.

2. All licenses and licensing rights of Respondent Jamie A. Stellos under the Real Estate Law are hereby revoked based on Determinations of Issues 2 through 5; provided, however, a restricted real estate salesperson's license shall be issued to Respondent Stellos 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 limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code, below.

A. Respondent's restricted license shall be actually suspended for a period of thirty (30) days commencing the date such restricted license becomes effective.

B. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of that Respondent's conviction or plea of nolo contendere to a crime which is substantially related to that Respondent's fitness or capacity as a real estate licensee.

C. 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 licenses.

D. Respondent Stellos 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 three (3) years have elapsed from the effective date of this Decision.

E. Respondent Stellos 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 Stellos 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.

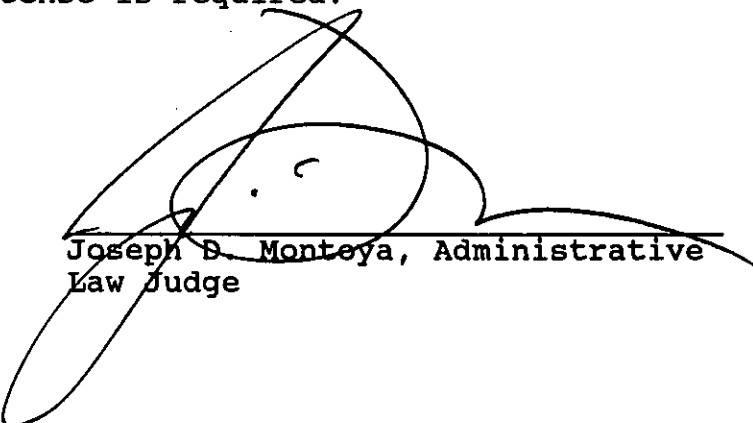
F. Respondent Stellos shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until Respondent passes the examination.

G. Respondent shall submit with any application for a license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

(1) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(2) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

May 14, 1997


Joseph D. Montoya, Administrative
Law Judge

SAC

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
AVCORP FINANCIAL GROUP, INC.,)
a corporation, dba Avcorp)
Financial Group and Avcorp Realty;)
and JAMIE A. STELLOS, individually)
and as designated officer of)
Avcorp Financial Group, Inc.,)

Case No. H-26476 LA

OAH No. L-9609171

Respondent(s)

FILED
OCT 2 1996
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

By C. Leong

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 314 W. First Street, Los Angeles, CA 90012 on THURSDAY, APRIL 17, 1997, at the hour of 9:00 A.M., 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.

DEPARTMENT OF REAL ESTATE

Dated: October 2, 1996

By Chris Leong
CHRIS LEONG, Counsel

cc: Avcorp Financial Group, Inc.
Jamie A. Stellos
✓ Sacto.
OAH

CEB

RE 501 (La Mac 11/92)

SAC

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

CHRIS LEONG, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, CA 90012

(213) 897-3937

FILED
SEP 20 1996
DEPARTMENT OF REAL ESTATE

By C. Bay

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of	)	No. H-26476 LA
)	
AVCORP FINANCIAL GROUP, INC., a	)	<u>FIRST AMENDMENT</u>
corporation, dba Avcorp Financial Group,	)	<u>TO ACCUSATION</u>
and Avcorp Realty; and JAMIE A. STELLOS,)	
individually and as designated officer)	
of Avcorp Financial Group, Inc.,)	
)	
Respondent(s).)	

The Accusation heretofore filed on about February 28, 1996, in the above-mentioned matter is hereby amended as follows:

15.

Complainant incorporates by reference Paragraphs 1 through 14, of his Accusation filed on February 28, 1996.

16.

On or about April 28, 1994, Alfredo and Raquel Gutierrez (hereinafter the Gutierrezes) were solicited by AVCORP and its agent, Miriam R. Escobar, to loan \$27,300.00 to Julio Saade. After acceptance of Escobar's proposal and delivery of

1 funds to AVCORP, the Gutierrezes received a prommissory note of
2 \$30,000.00, secured by a first deed secured by real property
3 located at 114 W. 60th St., Los Angeles, CA. In a loan service
4 contract dated April 28, 1994, AVCORP and Escobar contracted
5 with the Gutierrezes to service the loan for \$10.00 per month
6 and agreed to record the note and trust deed with the County
7 Recorder. The loan had a term of six months and only called for
8 a prepayment of interest with a balloon payment due on October
9 28, 1994 of the full \$30,000.00.

10 17.

11 The Gutierrezes have only received a total of \$900.00.
12 When they attempted to foreclose on the note and trust deed, they
13 discovered that said documents were never recorded.

14 THIRD CAUSE OF ACCUSATION

15 (Violation by Respondents of Section 10176(a) and (i) of the
16 Code)

17 18.

18 As a Third Cause of Accusation, Complainant
19 incorporates herein by this reference the Preamble and each of
20 the allegations in Paragraphs 1 through 17, herein above.

21 19.

22 The conduct of Respondents in misrepresenting that the
23 promissory note and trust deed would be recorded, as alleged in
24 Paragraphs 16 and 17, constitutes violation under Section
25 10176(a) and (i) of the Code. Said conduct is cause for the
26 suspension or revocation of all licenses and license rights of
27 Respondents under Real Estate Law.

FOURTH CAUSE OF ACCUSATION

(Violation by Respondents of Section 10177(g) of the Code)

20.

As a Fourth Cause of Accusation, Complainant incorporates herein by this reference the Preamble and each of the allegations in Paragraphs 1 through 17, herein above.

21.

The conduct of Respondents in failing to record the note and deed of trust as stated above, constitutes negligence and is a violation of Section 10177(g) of the Code and is cause for the suspension or revocation of all licenses and license rights of Respondents under Real Estate Law.

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/



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

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents AVCORP FINANCIAL GROUP, INC., a corporation, dba Avcorp Financial Group and Avcorp Realty; and JAMIE A. STELLOS, individually and as designated officer of Avcorp Financial Group, Inc., under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California
this 20th day of September, 1996.

THOMAS McCRADY
Deputy Real Estate Commissioner

cc: Jamie A. Stellos
Avcorp Financial Group, Inc.
Sacto.
TCD
Los Angeles Audit Section

SAC

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

CHRIS LEONG, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, CA 90012

(213) 897-3937

FILED
FEB 28 1996
DEPARTMENT OF REAL ESTATE

By C. [Signature]

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of	)	No. H-26476 LA
AVCORP FINANCIAL GROUP, INC., a	)	<u>ACCUSATION</u>
corporation, dba Avcorp Financial Group,)	
and Avcorp Realty; and JAMIE A. STELLOS,)	
individually and as designated officer)	
of Avcorp Financial Group, Inc.,)	
)	
Respondent(s).)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against AVCORP FINANCIAL GROUP, INC., a corporation, dba Avcorp Financial Group and Avcorp Realty (hereinafter "AVCORP"); and JAMIE A. STELLOS, individually and as designated officer of Avcorp Financial Group, Inc. (hereinafter "STELLOS") (hereinafter sometimes referred to as "Respondents"), is informed and alleges as follows:

1.

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in his official capacity.

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

2.

All Sections of Title 10, Chapter 6, California Code of Regulations, are hereinafter referred to as "Regulations".

3.

At all times herein mentioned, STELLOS was and still is licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a real estate broker in his individual capacity and as the designated officer of AVCORP, and was responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the Real Estate Law as set forth in Section 10159.2 of the Code.

4.

At all times herein mentioned, AVCORP was licensed by the Department as a corporate real estate broker.

5.

All further references to AVCORP shall be deemed to refer to, in addition to AVCORP, the officers, directors, employees, agents and real estate licensees employed by or associated with AVCORP, who at all times herein mentioned were engaged in the furtherance of the business or operations of said parties and who were acting within the course and scope of their corporate authority and employment.

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

6.

At all times mentioned herein, in Los Angeles County, California, Respondents 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 Section 10131(d) of the Code, wherein they arranged, negotiated, processed, and consummated on behalf of others, or collected payments or performed services for borrowers or lenders for loans secured by interests in real property for compensation or in expectation of compensation. In addition, Respondents conducted broker escrow activities under Section 17006 of the California Financial Code.

AUDIT

7.

On or about January 11, 1996, the Department completed an audit of the activities of Respondents, for the period from September 1, 1994 through September 30, 1995. Audit number LA 950116, was performed regarding the mortgage loan activities of Respondents and audit number LA 950160, was performed regarding the broker escrow activities of Respondents. The results of the audits are set forth in Paragraphs 8 through 10.

8.

During 1994 and 1995, in connection with their real estate business activities, Respondents accepted or received funds in trust (hereinafter "trust funds") from or on behalf of borrowers and thereafter made disbursements of such funds. These trust funds were maintained by Respondents in two trust

1 accounts at Imperial Bank, 201 N. Figueroa St. Los Angeles, CA.
2 The first account was in the name of Avcorp Financial Group Inc.
3 Client Trust Account, Account number 07-760-477 (hereinafter
4 "TA#1"). The second account was in the name of Avcorp Financial
5 Group Inc. Escrow Trust Account, Account number 07-760-507
6 (hereinafter "TA#2").

7

9.

8

In connection with those funds described in

9

Paragraph 8, Respondents:

10

(a) disbursed \$11,400.00 and maintained a shortage of
11 this amount from May 1995 to July 1995, without funds being
12 received and without posting this transaction on the ledgers, in
13 violation of Section 10145 of the Code; in October 1995, a
14 deposit of \$11,400.00 was made into the trust account;

15

(b) failed to maintain columnar records of trust fund
16 for TA#2, in violation of Section 2831 of the Regulations;

17

(c) failed to maintain monthly reconciliation of the
18 columnar records to the separate record of each beneficiary for
19 TA#2, in violation of Section 2831.2 of the Regulations;

20

(d) failed to disclose to parties in transactions of
21 its financial interest in the escrow holding agency, including
22 the loan files of: J. Mesa, R. & J. Esparza and R., B. & F.
23 Prado, in violation of Section 2950(h) of the Regulations;

24

(e) maintained and used a fictitious business name,
25 Avcorp Property Management, when it was not licensed by the
26 Department, in violation of Section 2731 of the Regulations;

27

(f) failed to review, initial and date material

1 documents for clients, including the loan files of: J. Mesa, R.
2 & J. Esparza and R., B. & F. Prado, in violation of Section
3 10159.2 of the Code and Section 2725 of the Regulations.

4 10.

5 AVCORP and STELLOS violated Section 10145 of the Code
6 and Regulation 2832.1 by disbursing or allowing the disbursement
7 of funds from TA#1, without prior written consent of every
8 principal who then was an owner of trust funds in said accounts
9 wherein the disbursement reduced the balance of funds in the
10 combined accounts, as of September 30, 1995, to an amount which
11 was approximately \$7,015.28 less than the existing aggregate
12 trust fund liability to all owners of said trust funds.

13 FIRST CAUSE OF ACCUSATION

14 (Violation by Respondents of Sections 10145, 10159.2 and
15 10177(d) of the Code and Sections 2725, 2831, 2831.2, 2832.1 and
16 2950(h) of the Regulations)

17 11.

18 As a First Cause of Accusation, Complainant
19 incorporates herein by this reference the Preamble and each of
20 the allegations in Paragraphs 1 through 10, herein above.

21 12.

22 The conduct of Respondents in handling trust funds to
23 perform mortgage loan brokerage activities and broker escrow
24 activities, as alleged in Paragraphs 8 through 10, constitutes
25 violations under Sections 10145 and 10159.2 of the Code and
26 Sections 2725, 2831, 2831.2, 2832.1 and 2950(h) of the
27 Regulations. Said conduct is cause pursuant to Section 10177(d)

1 of the Code for the suspension or revocation of all licenses and
2 license rights of Respondents under Real Estate Law.

3 SECOND CAUSE OF ACCUSATION

4 (Violation by Respondent STELLOS of Sections 10159.2 and
5 10177(h) of the Code)

6 13.

7 As a Second Cause of Accusation, Complainant
8 incorporates herein by this reference the Preamble and each of
9 the allegations in Paragraphs 1 through 10, herein above.

10 14.

11 The conduct of Respondent STELLOS in allowing
12 Respondent AVCORP to violate Sections 10145, 10159.2 and
13 10177(d) of the Code and Sections 2725, 2831, 2831.2, 2832.1 and
14 2950(h) of the Regulations is cause for the suspension or
15 revocation of all licenses and license rights of Respondent
16 STELLOS under Real Estate Law, pursuant to Sections 10159.2 and
17 10177(h) of the Code.

18 /
19 /
20 /
21 /
22 /
23 /
24 /
25 /
26 /
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

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents AVCORP FINANCIAL GROUP, INC., a corporation, dba Avcorp Financial Group and Avcorp Realty; and JAMIE A. STELLOS, individually and as designated officer of Avcorp Financial Group, Inc., under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California
this 28th day of February, 1996.

THOMAS MCCRADY
Deputy Real Estate Commissioner

cc: Avcorp Financial Group, Inc.
Jamie A. Stellos
Sacto.
TCD
Los Angeles Audit Section