

1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, California, 90012

4 (213) 897-3937

FILED
JUN - 4 1997
DEPARTMENT OF REAL ESTATE

By Laura B. Stone

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of)

No. H-27068 LA

12 JONATHAN R. CAGUIOA,
13 LANDMARK MORTGAGE INC.

) STIPULATION AND AGREEMENT
) IN SETTLEMENT AND ORDER

14 Respondents.)

15 It is hereby stipulated by and between JONATHAN R.
16 CAGUIOA (referred to as Respondent), acting by and through his
17 attorney, Ronald D. Miller, Esq. of Chase & Miller, and the
18 Complainant, acting by and through Sean Crahan, Counsel for the
19 Department of Real Estate, as follows for the purpose of settling
20 and disposing of the Accusation filed on February 27, 1997, in this
21 matter:

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

1 Settlement And Order (hereafter Stipulation).

2 2. Respondent has received, read and understands the
3 Statement to Respondent, the Discovery Provisions of the APA and
4 the Accusation, filed by the Department of Real Estate in this
5 proceeding.

6 3. Respondent filed a Notice of Defense on March 17,
7 1997, pursuant to Section 11505 of the Government Code for the
8 purpose of requesting a hearing on the allegations in the
9 Accusation. Respondent hereby freely and voluntarily withdraws
10 said Notice of Defense. Respondent acknowledges that he
11 understands that by withdrawing said Notice of Defense, he will
12 thereby waive his right to require the Commissioner to prove the
13 allegations in the Accusation at a contested hearing held in
14 accordance with the provisions of the APA and that he will waive
15 other rights afforded to him in connection with the hearing such as
16 the right to present evidence in defense of the allegations in the
17 Accusation and the right to cross-examine witnesses.

18 4. Respondent, pursuant to the limitations set forth
19 below, hereby admits that the factual allegations in Paragraphs one
20 (I) through four (IV) in the Accusation filed in this proceeding
21 are true and correct and the Real Estate Commissioner shall not be
22 required to provide further evidence to prove such allegations.

23 5. It is understood by the parties that the Real Estate
24 Commissioner may adopt the Order in this Stipulation as his
25 decision and order in this matter thereby imposing the penalty and
26 sanctions on Respondent's real estate licenses and/or license
27 rights as set forth in the below Order. In the event that the

1 Commissioner in his discretion does not adopt the Stipulation, the
2 Stipulation And Agreement In Settlement shall be void and of no
3 effect, and Respondent shall retain the right to a hearing and
4 proceeding on the Accusation under all the provisions of the APA
5 and shall not be bound by any admission or waiver made herein.

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

12 DETERMINATION OF ISSUES

13 By reason of the foregoing stipulations and waivers, made
14 solely for the purpose of settlement of the pending Accusation
15 without a hearing, it is stipulated and agreed that the following
16 Determination of Issues shall be made:

17 The conduct or omissions of Respondent JONATHAN R.
18 CAGUIOA, as set forth in paragraphs one (I) through four (IV) in
19 the Accusation constitute cause to suspend or revoke his real
20 estate salesperson license and/or license rights under the
21 provisions of Code Sections 10177.5.

22 ORDER

23 WHEREFORE, THE FOLLOWING ORDER is hereby made:

24 All licenses and license rights of Respondent JONATHAN R.
25 CAGUIOA under Part 1 of Division 4 of the Business and Professions
26 Code are revoked; provided, however, a restricted real estate
27 salesperson license shall be issued to Respondent JONATHAN R.

1 CAGUIOA pursuant to Section 10156.5 of the Code if Respondent makes
2 application therefor and pays to the Department of Real Estate the
3 appropriate fee for said licenses within ninety (90) days from the
4 effective date of the Decision. The restricted license issued to
5 Respondent CAGUIOA shall be subject to all of the provisions of
6 Section 10156.7 of the Business and Professions Code and to the
7 following limitations, conditions and restrictions imposed under
8 authority of Section 10156.6 of said Code. The restricted license
9 issued to Respondent CAGUIOA shall be subject to all of the
10 provisions of Section 10156.7 of the Business and Professions Code
11 and to the following limitations, conditions and restrictions
12 imposed under authority of Section 10156.6 of said Code:

13 (1) The restricted license may be suspended prior
14 to hearing by order of the Real Estate Commissioner in the event of
15 Respondent CAGUIOA's conviction or plea of nolo contendere to a
16 crime which bears a significant relation to Respondent's fitness or
17 capacity as a real estate licensee.

18 (2) The restricted license may be suspended prior
19 to hearing by Order of the Real Estate Commissioner on evidence
20 satisfactory to the Commissioner that Respondent CAGUIOA has,
21 during the time he holds a restricted license, violated provisions
22 of the California Real Estate Law, the Subdivided Lands Law,
23 Regulations of the Real Estate Commissioner, or the conditions
24 attaching to these restricted licenses.

25 (3) Respondent CAGUIOA shall not be eligible to
26 apply for the issuance of an unrestricted real estate license nor
27 the removal of any of the conditions, limitations or restrictions

1 of a restricted license until three (3) years have elapsed from the
2 date of issuance of the restricted license to Respondent.

3 (4) Respondent CAGUIOA shall submit with any
4 application for license under an employing broker, or any
5 application for transfer to a new employing broker, a statement
6 signed by the prospective employing real estate broker on a form
7 approved by the Department of Real Estate which shall certify:

8 (a) That the employing broker has read the
9 Accusation filed herein and the Decision of the
10 Commissioner which granted the right to a
11 restricted license; and

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

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

23 (5) Respondent CAGUIOA shall, within nine (9)
24 months from the effective date of this Decision, present evidence
25 satisfactory to the Real Estate Commissioner that Respondent has,
26 since the most recent issuance of an original or renewal real
27 estate license, taken and successfully completed the continuing

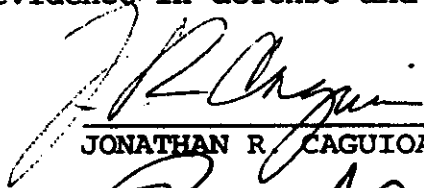


1 education requirements of Article 2.5 of Chapter 3 of the Real
2 Estate Law for renewal of a real estate license. If Respondent
3 fails to satisfy this condition, the Commissioner may order the
4 suspension of the restricted license until the Respondent presents
5 such evidence. The Commissioner shall afford Respondent the
6 opportunity for a hearing pursuant to the Administrative Procedure
7 Act to present such evidence.

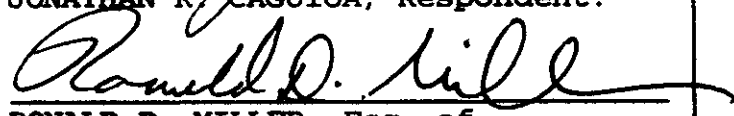
8 * * * * *

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

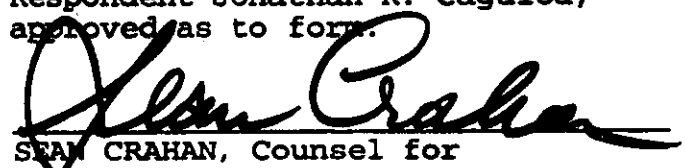
20 DATED: 4-30-97


JONATHAN R. CAGUIOA, Respondent.

21
22 DATED: 5-2-97


RONALD D. MILLER, Esq. of
Chase & Miller, Counsel for
Respondent Jonathan R. Caguioa,
approved as to form.

23
24
25 DATED: 5-5-97


SEAN CRAHAN, Counsel for
Complainant.

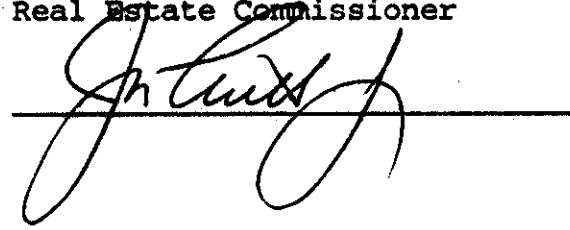
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The foregoing Stipulation And Agreement In Settlement is
hereby adopted as my Decision and Order as to Respondent JONATHAN
R. CAGUIOA and shall become effective at 12 o'clock noon on
June 24, 1997.

DATED: 5/30 1997.

JIM ANTT, JR.
Real Estate Commissioner



FILED
JUN - 4 1997
DEPARTMENT OF REAL ESTATE

By Laura B. Brown

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) No. H-27068 LA
JONATHAN R. CAGUIOA and)
LANDMARK MORTGAGE INC.)
Respondent.)

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on May 5, 1997, and the findings of fact set forth herein are based on one or more of the following: (1) respondent's express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

I

(a) On February 27, 1997, Thomas Mc Crady made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, to respondent's last known mailing address on file with the Department on February 27, 1997.

(b) On May 5, 1997, no Notice of Defense having been filed by Respondent LANDMARK MORTGAGE INC. within the time prescribed by Section 11506 of the Government Code, Respondent LANDMARK MORTGAGE INC.'s default was entered herein. Respondent CAGUIOA is severed from this decision.

II

LANDMARK MORTGAGE INC. (hereafter Respondent LANDMARK) is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "Code"). At all times herein mentioned, Respondent LANDMARK was licensed by the Department of Real Estate of the State of California (Department) as a corporate real estate broker. Respondent Landmark's license expired May 5, 1996 and has not been renewed. Complainant retains jurisdiction in these proceedings pursuant to Code Section 10103.

III

On or about August 10, 1995, in the United States District Court, Central District of California, in case No. 95-3287 SVW, Judgment was entered against Respondents CAGUIOA and LANDMARK arising from a fraudulent loan application prepared by Respondent CAGUIOA, as agent of Respondent LANDMARK, in connection with the purchase by Norma I. Lopez of 1617 East 220th Street, Carson, California, for a loan to be funded by Provident Savings Bank. Respondents were acting within the meaning of Code Section 10131(b). The Judgment is based on acts of fraud, misrepresentation or deceit in a transaction for which a license is required. Said Judgment is final.

DETERMINATION OF ISSUES

I

The entry of the Judgment as above described constitutes cause for the suspension or revocation of Respondent LANDMARK MORTGAGE INC's real estate licenses and license rights under Code Section 10177.5.

II

The standard of proof applied was clear and convincing proof to a reasonable certainty.

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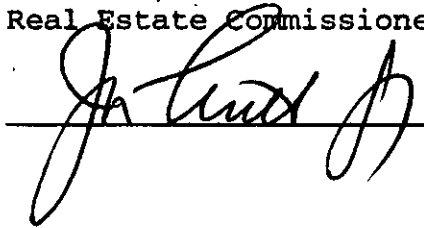
ORDER

All real estate licenses and license rights of
LANDMARK MORTGAGE INC. are hereby revoked.

This Decision shall become effective at
12 o'clock noon on June 24, 1997.

DATED: 5/21, 1997.

JIM ANTT, JR.
Real Estate Commissioner

A handwritten signature in dark ink, appearing to read "Jim Antt, Jr.", is written over a horizontal line.

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FILED
MAY 05 1997
DEPARTMENT OF REAL ESTATE

By *James Clark*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) No. H-27068 LA
)
JONATHAN R. CAGUIOA and) DEFAULT ORDER
LANDMARK MORTGAGE INC.)
)
Respondents.)
_____)

Respondent, LANDMARK MORTGAGE INC., having failed to file a Notice of Defense within the time required by Section 11506 of the Government Code, is now in default. It is, therefore, ordered that a default be entered on the record in this matter.

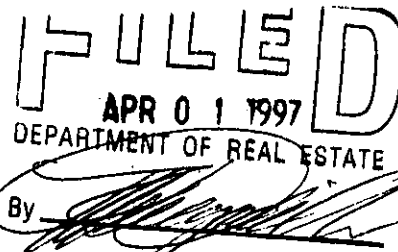
IT IS SO ORDERED 5 May 1997.

JIM ANTT, JR.
Real Estate Commissioner

Randolph Brendia
By: Randolph Brendia
Regional Manager

SACTO

195-0817-002
BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA



In the Matter of the Accusation and)

) NOTICE OF HEARING ON ACCUSATION

JONATHAN R. CAGUIOA,)

) Case No. H-27068 LA

LANDMARK MORTGAGE, INC.)

) L- 9703229

) Respondents.)

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 West First Street, Los Angeles, California 90012 on June 18, 1997. at 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.

Dated: April 1, 1997

DEPARTMENT OF REAL ESTATE

By: _____

SEAN CRAHAN, DRE, Counsel

cc: Jonathan R. Caguioa & Landmark Mtg.
Ronald D. Miller, Esq.
PL, OAH & SACTO

SACTO

SEAN CRAHAN, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
FEB 27 1997
DEPARTMENT OF REAL ESTATE

By *[Signature]*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-27068 LA
JONATHAN R. CAGUIOA and)	<u>A C C U S A T I O N</u>
LANDMARK MORTGAGE INC.)	
Respondent.)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against JONATHAN R. CAGUIOA and LANDMARK MORTGAGE INC, is informed and alleges as follows:

I

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

II

JONATHAN R. CAGUIOA (hereafter Respondent CAGUIOA) is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "Code"). At all times herein mentioned,

1 Respondent was and is licensed by the Department of Real Estate
2 of the State of California (Department) as a real estate
3 salesperson.

4 III

5 LANDMARK MORTGAGE INC (hereafter Respondent LANDMARK)
6 is presently licensed and/or has license rights under the Real
7 Estate Law, Part 1 of Division 4 of the Business and Professions
8 Code (hereinafter "Code"). At all times herein mentioned,
9 Respondent was licensed by the Department of Real Estate of the
10 State of California (Department) as a corporate real estate
11 broker. Respondent LANDMARK's license expired May 5, 1996 and
12 has not been renewed. Complainant retains jurisdiction in these
13 proceedings pursuant to Code Section 10103.

14 IV

15 On or about August 10, 1995, in the United States
16 District Court, Central District of California, in case No.
17 95-3287 SVW, Judgment was entered against Respondents CAGUIOA
18 and LANDMARK arising from a fraudulent loan application prepared
19 by Respondent CAGUIOA, as agent of Respondent LANDMARK, in
20 connection with the purchase by Norma I. Lopez of 1617 East
21 220th Street, Carson, California, for a loan to be funded by
22 Provident Savings Bank. Respondents were acting within the
23 meaning of Code Section 10131(b). The Judgment is based on acts
24 of fraud, misrepresentation or deceit in a transaction for which
25 a license is required. Said Judgment is final.

26 V

27 The entry of the Judgment as above described

1 constitutes cause for the suspension or revocation of
2 Respondents' real estate licenses and license rights under Code
3 Section 10177.5.

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

12 Dated at Los Angeles, California this ___th day of February,
13 1997.

14
15 THOMAS MCCRADY /

16 Thomas McCrady
17 Deputy Real Estate Commissioner
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25 cc: Jonathan R. Caguioa
26 Landmark Mortgage Inc
Sacto.
CPL

27 SC/sc