

FILED

MAR 28 2005

DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-27385 LA
NELSON CARABALLO,)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On March 14, 2001, a Decision was rendered herein revoking Respondent's real estate salesperson license but granting Respondent the right to apply for and be issued a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on June 1, 2001. Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On April 22, 2004, Respondent petitioned for reinstatement of said real estate salesperson 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 and
2 the evidence and arguments in support thereof. Respondent
3 has demonstrated to my satisfaction that Respondent meets
4 the requirements of law for the issuance to Respondent of
5 an unrestricted real estate salesperson license and that
6 it would not be against the public interest to issue said
7 license to Respondent.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for reinstatement is granted and that a real estate
10 salesperson license be issued to Respondent, if Respondent
11 satisfies the following condition within nine (9) months
12 from the date of this Order:

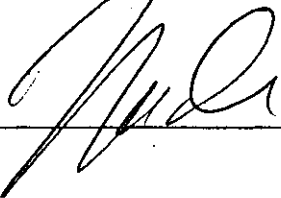
13 1. Submittal of a completed application and payment
14 of the fee for a real estate salesperson license.

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

20 This Order shall be effective immediately.

21 Dated: 3-16-05

22
23 JEFF DAVI
24 Real Estate Commissioner

25 
26 _____

27 cc: Nelson Caraballo
5623 Edgemere Drive
Torrance, CA 90503

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FILED
MAR 30 2001
DEPARTMENT OF REAL ESTATE

By Jana B. Crane

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) DRE NO. H-27385 LA
NELSON CARABALLO,) OAH NO. L-1997100342
Respondent.)

ORDER MODIFYING DISCIPLINARY ACTION
PURSUANT TO STIPULATED SETTLEMENT

On May 24, 2000, a Decision After Remand From Superior Court was rendered herein revoking the restricted real estate license and license rights of respondent NELSON CARABALLO (hereinafter sometimes referred to as respondent) under the provisions of Part 1 of Division 4 of the Business and Professions Code.

Subsequent to the rendering of said Decision, on May 24, 2000, respondent petitioned the Superior Court of the State of California in and for the County of Los Angeles, in Case No. BS 056 474, for a Writ of Mandate to compel the Real Estate Commissioner to vacate and set aside the Decision After Remand From Superior Court of May 24, 2000.

1 In consideration for the dismissal with prejudice and in
2 complete settlement of respondent's said Petition for Writ of
3 Mandate, with each party to bear his or its own costs, the
4 following order is made:

5 NOW, THEREFORE, IT IS ORDERED that respondent shall be
6 entitled to apply for and be issued a restricted real estate
7 salesperson license pursuant to Section 10156.5 of the Business
8 and Professions Code if respondent makes application therefor, and
9 pays to the Department of Real Estate the appropriate fee for the
10 restricted license within ninety days from the effective date of
11 the order herein. The restricted license issued to respondent
12 shall be subject to all the provisions of Section 10156.7 of the
13 Business and Professions Code and to the following limitations,
14 conditions, and restrictions imposed under authority of Section
15 10156.6 of that Code:

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

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

C. The restricted license issued to respondent
NELSON CARABALLO may be suspended by order of the Real Estate



1 Commissioner pending a final determination after a hearing if said
2 respondent fails to present evidence satisfactory to the
3 Department within six months from the effective date of the Order
4 herein of having taken and completed 45 hours of approved
5 continuing education offerings within the four-year period
6 immediately preceding the date on which said respondent presents
7 such evidence to the Department.

8 D. Respondent shall report in writing to the Department
9 of Real Estate, as the Real Estate Commissioner shall direct by
10 separate written order issued while the restricted license is in
11 effect, such information concerning respondent's activities for
12 which a real estate license is required as the Commissioner shall
13 deem to be appropriate to protect the public interest.

14 Such reports may include, but shall not be limited to,
15 periodic independent accountings of trust funds in the custody and
16 control of respondent and periodic summaries of salient
17 information concerning each real estate transaction in which the
18 respondent is engaged.

19 E. Respondent shall obey all laws of the United States,
20 of the State of California and its political subdivisions, and
21 shall further obey and comply with all rules and regulation of the
22 Real Estate Commissioner.

23 F. Respondent shall not be eligible to apply for the
24 issuance of an unrestricted real estate license nor the removal of
25 any of the conditions, limitations or restrictions of a restricted
26 license until two (2) years have elapsed from the date of issuance
27 of the restricted license.



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

6 (a) That the employing broker has read the Order of
7 the Commissioner which granted the right to a restricted
8 license; and

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

13 H. Any restricted real estate license issued to
14 respondent NELSON CARABALLO under the Real Estate Law shall be
15 suspended for a period of thirty (30) days from the date of
16 issuance; provided, however, that all thirty (30) days of said
17 suspension shall be stayed for two (2) years upon the following
18 terms and conditions:

19 1. Respondent pays a monetary penalty pursuant to
20 Section 10175.2 of the Code at the rate of \$83.33 for each day
21 of the suspension stayed, for a total monetary penalty of
22 \$2,500.

23 2. Said payment shall be in the form of a cashier's
24 check or certified check made payable to the Recovery Account
25 of the Real Estate Fund. Said check must be received by the
26 Department prior to the issuance of any restricted real estate
27 salesperson license to respondent.

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3. No further cause for disciplinary action against
the real estate license of respondent occurs within two years
from the effective date of the Order in this matter.

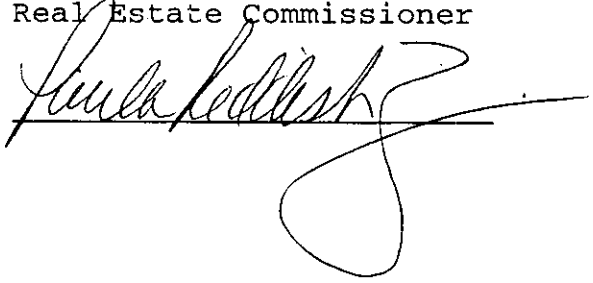
4. If Respondent fails to pay the monetary penalty
in accordance with the terms and conditions of the Order, the
Commissioner may, without a hearing, order the immediate
execution of all or any part of the stayed suspension in which
event the Respondent shall not be entitled to any repayment nor
credit, prorated or otherwise, for money paid to the Department
under the terms of this Decision.

5. If respondent pays the monetary penalty and if no
further cause for disciplinary action against the real estate
license of Order occurs within two years from the effective date
of the Decision, the stay hereby granted shall become permanent.

This Order shall be effective immediately.

DATED: March 14, 2011.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



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FILED
JUN 7 2008
DEPARTMENT OF REAL ESTATE

By *Jana B. Dow*

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	DRE No. H-27385 LA
) OAH No. L-1997100342
)
NELSON CARABALLO,)
)
Respondent.)
_____)

DECISION AFTER REMAND FROM SUPERIOR COURT

On or about February 24, 1999, a Decision was issued revoking the restricted real estate license of NELSON CARABALLO (Respondent). The Decision became effective at 12 o'clock noon on April 23, 1999.

Respondent filed a petition for Writ of Mandate in the Superior Court of the State of California, County Los Angeles, on April 2, 1999, in Case No. BS 056474 to set aside the Decision of February 24, 1999. After a hearing on Respondent's petition, the Los Angeles County Superior Court, on September 21, 1999, issued an Order directing the Department of Real Estate ("Department") to set aside its Decision of February 24, 1999, revoking Respondent's real

1 estate salesperson license and remanding the matter to the
2 Department for further consideration.

3 On February 9, 2000, respondent was asked to submit
4 further argument regarding reconsideration of the Decision of
5 February 24, 1999. No such argument has been submitted.

6 I have given due consideration to the Decision
7 issued herein by reviewing the record and have determined that
8 it was inappropriate to find that Respondent Caraballo
9 violated Section 10240 of the Business and Professions Code of
10 the State of California (Code) inasmuch as this violation was
11 not alleged in the Accusation filed in this matter. Therefore,
12 the reference to Finding "10" of the Decision to a violation
13 of Section 10240 of the Code is hereby stricken and deleted
14 from the Decision. All other Findings in the Decision shall
15 remain the same.

16 I find and determine that, considering the nature
17 and intent of Respondent's violations of Section 10130 of the
18 Code, occurring as they did, immediately after the revocation
19 of Respondent's already restricted real estate license, that
20 the proposed penalty provided for in the Decision is
21 appropriate and should not be reduced even in light of my
22 determination that Respondent cannot be found to have violated
23 Section 10140 of the Code.

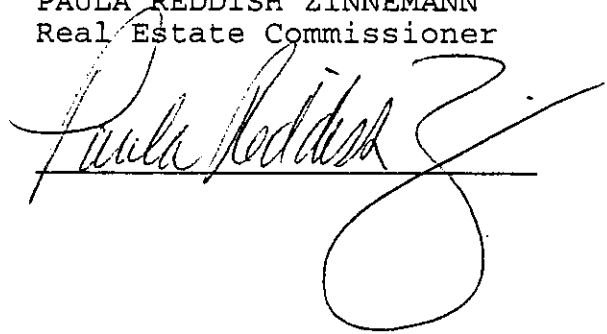
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Therefore, after due consideration, it is determined
that the restricted real estate salesperson license and
license rights of Respondent are revoked.

IT IS SO ORDERED May 24, 2000

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

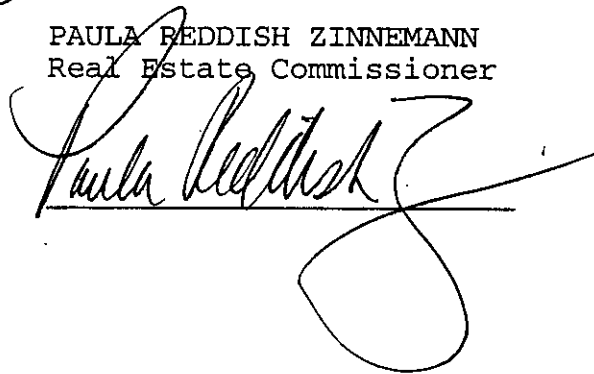


1 its actions with respect to the Real Estate Salesperson's license
2 of petitioner, Nelson Caraballo.

3 NOW, THEREFORE, IT IS HEREBY ORDERED, that the Decision
4 of February 24, 1999, revoking the restricted real estate
5 salesperson license of respondent is set aside effective September
6 21, 1999, and that the actions of the Department of Real Estate as
7 set forth in said decision be reconsidered.

8 DATED: January 12, 2000.

9
10 PAULA REDDISH ZINNEBANN
11 Real Estate Commissioner

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FILED
JUN 15 1999
DEPARTMENT OF REAL ESTATE

By *Laura B. Arme*

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-27385 LA
MARINA FUNDING REAL ESTATE)	
CORPORATION, a California corporate)	
broker; STEPHEN R. BOADT,)	
individually and as designated)	
officer of Marina Funding)	
Real Estate Corporation;)	
and NELSON CARABALLO,)	
Respondents.)	

DISMISSAL

The Accusation herein filed against STEPHEN R. BOADT is DISMISSED.

IT IS SO ORDERED this 4th day of June 1999.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

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FILED
MAR 16 1999
DEPARTMENT OF REAL ESTATE

By *Laura S. Orm*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-27385 LA
MARINA FUNDING REAL ESTATE)	
CORPORATION, a California corporate)	
broker; STEPHEN R. BOADT,)	
individually and as designated)	
officer of Marina Funding)	
Real Estate Corporation;)	
and NELSON CARABALLO,)	
)	
Respondents.)	

ORDER STAYING EFFECTIVE DATE

On February 24, 1999, a Decision was rendered in the above-entitled matter to become effective March 23, 1999.

IT IS HEREBY ORDERED that the effective date of the Decision of February 24, 1999, is stayed for a period of 30 days.

The Decision of February 24, 1999, shall become effective at 12 o'clock noon on April 23, 1999.

DATED 3-11-99

Randolph Brendia
Randolph Brendia
Regional Manager

DEPARTMENT OF REAL ESTATE

By Sama B. Orma

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-27385 LA
)	
)	L-1997100342
MARINA FUNDING REAL ESTATE)	
CORPORATION, a California corporate)	
broker; STEPHEN R. BOADT,)	
individually and as designated)	
officer of Marina Funding)	
Real Estate Corporation; and)	
NELSON CARABALLO,)	
)	
)	
)	
Respondent(s).)	

DECISION

The Proposed Decision dated January 29, 1999, 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 March 23, 1999.

IT IS SO ORDERED February 24, 1999.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
)
MARINA FUNDING REAL ESTATE) No. H-27385 LA
CORPORATION, a California corporate)
broker; STEPHEN R. BOADT,) OAH. L-1997100342
individually and as designated officer of)
Marina Funding Real Estate Corporation;)
and NELSON CARABALLO,)
)
Respondents.)
)

PROPOSED DECISION

This matter came on regularly for hearing before Leslie H. Greenfield, Administrative Law Judge, Office of Administrative Hearings, at Los Angeles, California, on November 30, 1998.

Elliot MacLennan, Real Estate Counsel, represented the complainant Department of Real Estate. Michael J. Melton, Attorney at Law, represented respondent Nelson Caraballo, who was personally present throughout the hearing. Neither respondent Stephen R. Boadt nor respondent Marina Funding Real Estate Corporation were present or represented at the hearing.

The hearing was left open until December 31, 1998, for respondent to furnish additional escrow documents. No documents having been received by January 4, 1999, the matter was deemed submitted on that date.

Oral and documentary evidence and evidence by way of stipulation on the record having been received and the matter submitted, the Administrative Law Judge finds as follows:

1. Thomas McCrady, Deputy Real Estate Commissioner, Department of Real Estate, made the Accusation in his official capacity.
2. Respondents Marina Funding Real Estate Corporation (MFREC), Stephen R. Boadt (BOADT), and Nelson Caraballo (CARABALLO) are all presently licensed and/or have license rights under the Real Estate Law of the State of California.
3. Respondent MFREC was licensed by the Department as a corporate real estate broker on May 29, 1996 by and through Boadt as designated officer. Said license expires May 28, 2000.

4. Respondent BOADT has been licensed as a Real Estate Broker by the Department since at least September 25, 1993. On May 29, 1996, he was licensed as designated officer for respondent MFREC and as such was responsible for the supervision and control of the activities conducted on behalf of MFREC by its officers, managers and employees as necessary including the supervision of salespersons licensed to the corporation. Said license expires May 28, 2000.

5. Respondent, Caraballo was licensed by the Department as a Real Estate Salesperson on May 3, 1985. Said license was revoked by the Department effective October 14, 1996 and respondent was issued a restricted license on February 6, 1997. Said restricted license expires on February 5, 2001. Respondent's wife is the sole shareholder of MFREC.

6. At all times herein mentioned, Respondent MFREC and BOADT acted as real estate brokers within the meaning of:

A. Business and Professions Code section 10131(a) including the operation and conduct of a real estate sales brokerage with the public wherein respondent, on behalf of others, solicited prospective sellers and purchasers and negotiated the purchase and sale of real property, for and in expectation of compensation; and

B. Section 10131(d) of the Business and Professions Code, including the operation of a mortgage loan brokerage with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed, and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance

7. On May 19, 1997, the Department completed an audit examination of the books and records of respondent MFREC pertaining to the licensed activities described above, for the period of time beginning January 1, 1996 and ending on February 28, 1997. The audit examination revealed violations of the Business and Professions Code and Title 10 of the California Code of Regulations as set forth in the following Findings.

8. Respondent CARABALLO negotiated mortgage loan refinancing for the following borrowers: Josefina Bautista and Alfredo Bautista Macabulos (3833n W. 134th Place, Hawthorne); Ramon and Maria Valino (4323 W. 138th Place, Hawthorne), and Jose and Rosalba Dillon (14813 Gravella, Lawndale), between October 14, 1996 and February 5, 1997, when his license was revoked.

9. In the course of the mortgage loan brokerage activities described above, MFREC and BOADT, with full knowledge that CABARALLO was not licensed by the Department in any capacity between October 14, 1996 and February 5, 1997, employed and compensated CABARALLO to perform acts described above for which a real estate license is required.

10. In connection with the business of obtaining loans from third party lenders as described above, respondents MFREC, BOADT, and CABARALLO, failed to deliver to borrowers a Mortgage Loan Disclosure Statement in writing containing all of the information required by Business and Professions Code section 10241, to various borrowers including those specified in Finding 8 above before said borrowers became obligated to perform under the terms of their loans.

(a) Respondents concealed from the aforesaid borrowers that Respondent MFREC was to receive a rebate from mortgage lenders.

(b) Respondents indicated that all closing costs were disclosed under the "Paid to Broker" category while failing to disclose closing costs under the "Paid to Others" category, thus misrepresenting and intentionally rendering inaccurate respondent's MFREC disclosure to the aforesaid borrowers.

11. The conduct of respondent BOADT, constitutes a failure on his part, as officer designated by a corporate broker license, to exercise reasonable care over the licensed activities of MFREC and over CARABALLO, the sole loan agent and real estate salesperson of MFREC.

12. On May 22, 1997, the Department completed an audit examination of the books and records pertaining to the activities of BOADT, in his individual real estate broker capacity, for the period of time beginning January 1, 1996 and ending on February 28, 1997. The audit examination revealed violations of the Business and Professions Code and Title 10 of the California Code of Regulations as set forth in the following Findings.

13. This Audit examination revealed that respondent BOADT, for the year 1996, failed to review, initial and date each instrument prepared by real estate salespeople under his supervision which may have a material effect upon the rights and obligations of a party to the transaction including, but not limited to, the loan application with reference to the real property located at 3306 W. 59th Street, Los Angeles, and the Offer to Purchase with reference to the real property located at 3609 Keystone, Culver City.

14. Respondent BOADT failed to notify the Department of his present address for his office and principal place of business.

15. Respondent BOADT failed to notify the Department of the cancellation of the six of his seven branch offices for which a license had been issued by the Department.

16. In connection with the activities described above, respondent BOADT, through his salesperson Vishundyal Mohabir (Mohabir) of Southern Pacific Mortgage, failed to provide a Mortgage Loan Disclosure Statement in writing containing all the information required by Business and Professions Code section 10241 to various borrowers, including, but not limited to, Prem Singh and Lalita Maharaj before said borrowers became obligated to perform under the terms of their loans.

17. The audit examination described above, revealed that BOADT failed to initiate and maintain Broker-Salesperson agreements with BOADT's salespeople including Mohabir, and failed to forward the completed Broker-Salesperson agreement for Peter Pane, Louis Oberman, Dorothy Eccard and Lilla Grajeda to the Department.

18. Respondent CARABALLO's contention that he had not received rebates from mortgage lenders at the time of the issuance of the disclosure statements fails to excuse his failure to advise the borrowers that he might be receiving such rebates in the future and further fails to excuse respondent from notifying the borrowers by revised written amendment that he had in fact received the rebates.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

Respondent MFREC

1. Cause exists to suspend or revoke the real estate license of respondent pursuant to Business and Professions Code section 10177(d) for violating the following:

A. Business and Professions Code section 10137, by reason of Finding 9.

B. Business and Professions Code section 10240, by reason of Finding 10.

C. 10 California Code of Regulations section 2840,
by reason of Finding 10.

2. Further cause exists to suspend or revoke the real estate license of respondent pursuant to Business and Professions Code section 10176 (a), (g) and (i), by reason of Finding 10.

Respondent BOADT

1. Cause exists to suspend or revoke the real estate license of respondent pursuant to Business and Professions Code section 10177(d) for violating the following:

A. Business and Profession Code section 10137, by reason of Finding 9.

B. Business and Profession Code section 10240, by reason of Finding 10.

C. 10 California Code of Regulation section 2840, by reason of Finding 10.

D. Business and Profession Code section 10159.2, by reason of Finding 11.

E. 10 California Code of Regulation section 2725, by reason of Finding 13.

F. Business and Profession Code section 10165, by reason of Finding 14.

G. Business and Profession Code section 10163, by reason of Finding 15.

H. Business and Profession Code section 10240, by reason of Finding 16.

I. 10 California Code of Regulation section 2840, by reason of Finding 16.

J. 10 California Code of Regulation section 2726, by reason of Finding 17.

Respondent CARABALLO

1. Cause exists to suspend or revoke the real estate license of respondent pursuant to Business and Professions Code section 10177(d) for violating the following:

A. Business and Professions Code section 10130, by reason of Finding 8.

B. Business and Profession Code section 10240, by reason of Finding 10.

C. 10 California Code of Regulation section 2840, by reason of Finding 10.

* * * * *

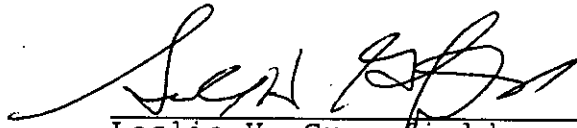
WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. All licenses and licensing rights of respondent MFREC under the Real Estate Law are revoked.

2. All licenses and licensing rights of respondent Stephen R. Boadt under the Real Estate Law are revoked.

3. All licenses and licensing rights of respondent Nelson Caraballo under the Real Estate Law are revoked.

Dated: January 29, 1999



Leslie H. Greenfield
Administrative Law Judge
Office of Administrative Hearings

LHG:me

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
NOV 17 1998
DEPARTMENT OF REAL ESTATE

* * * *

In the Matter of the Accusation of) Case No. H-27385 LA
) OAH No. L-1997100342 Laura B. Orson
MARINA FUNDING REAL ESTATE)
CORPORATION et al.,)
)
Respondents.)

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on NOVEMBER 30, 1998, at the hour of 9:00 a.m. or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: NOV 17 1998

DEPARTMENT OF REAL ESTATE

By: E. M. Lennan
ELLIOTT MAC LENNAN, Counsel

cc: Marina Funding Real Estate Corp.
Stephen R. Boadt .
Nelson Caraballo
Michael J. Melton, Esq.
Sacto., OAH

Sacto Gary

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
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DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of) Case No. H-27385 LA
) OAH No. L- 1997100342
MARINA FUNDING REAL ESTATE)
et al.,)
Respondents.)

By *Laura B. Orona*

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on NOVEMBER 3, 1998, at the hour of 9:00 a.m. or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: OCT - 7 1998

DEPARTMENT OF REAL ESTATE

By: *Elliott MacLennan*
ELLIOTT MAC LENNAN, Counsel

cc: Marina Funding Real Estate Corp.
Stephen R. Boadt
Nelson Caraballo
Michael J. Melton, Esq.
Sacto. , OAH

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

FILE
AUG 25 1998
DEPARTMENT OF REAL EST

In the Matter of the Accusation of) Case No. H-27385 LA
) OAH No. L- 1997100342
MARINA FUNDING REAL ESTATE,)
CORPORATION, et al.,)
Respondents.)

By Laura B. Stone

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on OCTOBER 1, 1998, at the hour of 9:00 a.m. or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of hearing.

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.

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Dated: AUG 25 1998

DEPARTMENT OF REAL ESTATE

By: [Signature]
ELLIOTT MAC LENNAN, Counsel

cc: Marina Funding Real Estate Corp.
Stephen R. Boadt
Nelson Caraballo
Michael J. Melton, Esq. Sacto. OAH

Sacto Dept

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

FILED
MAY - 5 1998
OFFICE OF REAL ESTATE

In the Matter of the Accusation of)
MARINA FUNDING REAL ESTATE,)
CORPORATION, et al.,)
Respondents.)

Case No. H-27385 LA
OAH No. L- 1997100342

By *Sam B. Crow*

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on AUGUST 4, 1998, at the hour of 9:00 a.m. or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of hearing.

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Dated: MAY - 5 1998

DEPARTMENT OF REAL ESTATE

By: *E. L.*
ELLIOTT MAC LENNAN, Counsel

cc: Marina Funding Real Estate Corp.
Stephen R. Boadt
Nelson Caraballo
Michael J. Melton, Esq.
Sacto.
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file*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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FILE
NOV 13 1997
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of) Case No. H-27385 LA
) OAH No. L- 1997100342
MARINA FUNDING REAL ESTATE)
CORPORATION, et al.,)
Respondents.)

By *Diana B. Wilson*

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on JANUARY 2, 1998, at the hour of 9:00 a.m. or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of hearing.

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.

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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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: NOV 13 1997

DEPARTMENT OF REAL ESTATE

By: *E. M. L.*
ELLIOTT MAC LENNAN, Counsel

cc: Marina Funding Real Estate Corp.
Stephen R. Boadt
Nelson Caraballo
Sacto.
OAH
Michael J. Melton, Esq.

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FILED
OCT - 3 1997
DEPARTMENT OF REAL ESTATE

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ELLIOTT MAC LENNAN, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012
(213) 897-3937

By *James B. Dune*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-27385 LA
MARINA FUNDING REAL ESTATE)	
CORPORATION, a California corporate)	<u>A C C U S A T I O N</u>
broker; STEPHEN R. BOADT,)	
individually and as designated)	
officer of Marina Funding)	
Real Estate Corporation;)	
and NELSON CARABALLO,)	
Respondents.)	

The Complainant, Thomas Mc Crady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against MARINA FUNDING REAL ESTATE CORPORATION, a California corporate broker; STEPHEN R. BOADT, individually and as designated officer of Marina Funding Real Estate Corporation, and individually dba Seville Real Estate, dba Southern Pacific Mortgage, dba Central West Financial, and dba Marina Pacific Realty; and, NELSON CARABALLO, is informed and alleges in his official capacity as follows:

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I

MARINA FUNDING REAL ESTATE CORPORATION (MFREC), STEPHEN R. BOADT (BOADT), and NELSON CARABALLO (CARABALLO), sometimes collectively referred to as Respondents, are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code).

II

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

III

At all times mentioned, MFREC was licensed by the Department of Real Estate of the State of California (Department) as a corporate real estate broker by and through BOADT as designated officer. MFREC was first licensed by the Department on May 29, 1996. Prior to May 29, 1996, licensed mortgage loan activities were conducted under another corporation, Marina Funding Corporation, owned by CARABALLO.

IV

At all times mentioned herein, Respondent NELSON CARABALLO was licensed or had license rights issued by the Department as a real estate salesperson. CARABALLO was first licensed on May 3, 1985. CARABALLO's real estate salesperson license was revoked on October 14, 1996, in Department of Real Estate Case No. H-26530 LA. Leana N. Caraballo, wife of Respondent CARABALLO is the president and sole shareholder of Respondent MFREC. CARABALLO's license history is as follows:

<u>Employment Period</u>	<u>Employing Broker</u>
4-24-95 - 7-4-96	Marina Funding Corporation
9-9-96 - 10-13-96	Marina Funding Real Estate
10-14-96 - 2-5-97	License revoked Case No. H-26530 LA
2-6-97 - Current	Restricted salesperson license

V

At all times mentioned, BOADT was licensed by the Department as designated officer of MFREC to qualify MFREC and to act for MFREC as a real estate broker and, as provided by Section 10159.2 of the Code, was responsible for the supervision and control of the activities conducted on behalf of MFREC by its officers, managers and employees as necessary to secure full compliance with the provisions of the Real Estate Law including the supervision of the salespersons licensed to the corporation in the performance of acts for which a real estate license is required.

VI

Whenever reference is made in an allegation in the Accusation to an act or omission of MFREC such allegation shall be deemed to mean that the officers, directors, managers, employees, agents and real estate licensees employed by or associated with MFREC, including BOADT, committed such act or omission while engaged in the furtherance of the business or operation of MFREC and while acting within the course and scope of its corporate authority, agency and employment.

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VII

At all times mentioned, MFREC and BOADT were acting as the agent or employee of the other and within the course and scope of such agency or employment.

VIII

At all times mentioned, in the Cities of Lawndale and Los Angeles, Los Angeles County, California, Respondent MFREC and Respondent BOADT acted as real estate brokers within the meaning of:

A. Section 10131(a) of the Code, including the operation and conduct of a real estate sales brokerage with the public wherein Respondents, on behalf of others, solicited prospective sellers and purchasers and negotiated the purchase and sale of real property, for and in expectation of compensation; and

B. Section 10131(d) of the Code, including the operation of a mortgage loan brokerage with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed, and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance.

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IX

On May 19, 1997, the Department completed an audit examination of the books and records pertaining to the activities of MFREC described in Paragraph VIII, above, for a period of time beginning on January 1, 1996, and ending on February 28, 1997. That examination revealed violations of the Code and the Regulations as set forth in the following paragraphs.

X

CARABALLO negotiated mortgage loan refinancing for the following borrowers: Josefina Bautista and Alfredo Bautista Macabulos (3833 W. 134th Place, Hawthorne); Ramon and Maria Valino (4323 W. 138th Place, Hawthorne); and, Jose and Rosalba Dillon (14813 Gravelle, Lawndale), between October 14, 1996, and February 5, 1997, a period of time when his license had been revoked, as described in Paragraph IV. This is in violation of Section 10130 of the Code and is cause to suspend or revoke his restricted license and license rights under Section 10177(d) or 10177(f) of the Code.

XI

In course of the mortgage loan brokerage activities described in Paragraph VIII, MFREC and BOADT, with full knowledge that CARABALLO was not licensed by the Department in any capacity, between October 14, 1996, and February 5, 1997, as described in Paragraph IV, employed and compensated him to perform acts for which a real estate license is required including originating loans, soliciting and interviewing borrowers and lenders, and



1 negotiating loans secured by liens on real property, for or in
2 expectation of compensation for the following borrowers, Josefina
3 Bautista and Afredo Bautista, Ramon and Maria Valino, and, Jose
4 and Rosalba Dillon, in violation of Section 10137 of the Code.
5 This conduct and violation are cause to suspend or revoke the
6 licenses and license rights of Respondents MFREC and BOADT under
7 the provisions of Section 10137 of the Code.

8 XII

9 In connection with the business of obtaining loans from
10 third party lenders, as described in Paragraph VIII, Respondents
11 MFREC and BOADT failed to deliver to borrowers a Mortgage Loan
12 Disclosure Statement, a statement in writing containing all the
13 information required by Section 10241 of the Code, to various
14 borrowers including Josefina Bautista and Afredo Bautista, Ramon
15 and Maria Valino, and, Jose and Rosalba Dillon before said
16 borrowers became obligated to perform under the terms of their
17 loans.

18 (a) Respondents MFREC and BOADT concealed from the
19 aforesaid borrowers that Respondent MFREC was to receive a rebate
20 from mortgage lenders.

21 (b) Respondents MFREC and BOADT indicated that all
22 closing costs were disclosed under the "Paid to Broker" category
23 while failing to disclose closing costs under the "Paid to Others"
24 category, thus misrepresenting and intentionally rendering
25 inaccurate Respondent's MFREC disclosure to the aforesaid
26 borrowers.

27



1 (c) These omissions, which would have required
2 disclosure of all compensation received by Respondent MFREC and
3 paid to others by MFREC, constitutes a violation of Section 10240
4 of the Code and Section 2840 of the Regulations and are cause to
5 suspend or revoke the licenses and license rights of Respondents
6 MFREC and BOADT pursuant to Sections 10176(a), 10176(g), 10176(i)
7 and 10177(d) of the Code.

8 XIII

9 The conduct of Respondent BOADT, constitutes a failure
10 on his part, as officer designated by a corporate broker licensee,
11 to exercise reasonable supervision and control over the licensed
12 activities of MFREC, and over CARABALLO, the sole loan agent and
13 real estate salesperson of MFREC, as required by Section 10159.2
14 of the Code, and is cause for the suspension or revocation of the
15 real estate license and license rights of BOADT pursuant to the
16 provisions of Sections 10159.2, 10177(d) and 10177(h) of the Code.

17 Audit No. LA 960294

18 XIV

19 On May 22, 1997, the Department completed an audit
20 examination of the books and records pertaining to the activities
21 of BOADT, in his individual real estate broker capacity, dba
22 Seville Real Estate, dba Southern Pacific Mortgage, dba Central
23 West Financial, and dba Marina Pacific Realty, described in
24 Paragraph VIII, above, beginning on January 1, 1996, and ending on
25 February 28, 1997, which revealed violations of the Code and the
26 Regulations as set forth in the following paragraphs.

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XV

The audit examination Audit No. LA 960294, described in Paragraph XIV, revealed that Respondent BOADT, for the year 1996, failed to review, initial and date each instrument prepared by real estate salespeople under his supervision which may have a material effect upon the rights or obligations of a party to the transaction including, but not limited to, the loan application with reference to the real property located at 3306 W. 59th Street, Los Angeles, California, and the Offer to Purchase with reference to the real property located at 3609 Keystone, Culver City, California, in violation of Section 2725 of the Regulations. This conduct and violation are cause to suspend or revoke the license and license rights of Respondent BOADT under Sections 10177(d) and 10177(h) of the Code.

XVI

Respondent BOADT failed to notify the Department of his present address for his office and principal place of business. This conduct constitutes a violation of Section 10162 of the Code and Section 2715 of the Regulations, and is cause to suspend or revoke the real estate license and license rights of Respondent BOADT under Sections 10165 and 10177(d) of the Code.

XVII

The conduct of Respondent BOADT, in failing to notify the Department of the cancellation of the six of his seven branch offices for which a license had been issued by the Department wherein said branch offices had been used by BOADT to conduct the licensed activities described in Paragraph VIII, is in violation

1 of Section 10163 of the Code and is cause to suspend or revoke
2 Respondent BOADT's real estate license and license rights under
3 Section 10177(d) of the Code.

4 XVIII

5 In connection with the activities described above in
6 Paragraph VIII, Respondent BOADT, through his salesperson
7 Vishundyal Mohabir of Southern Pacific Mortgage, failed to provide
8 a Mortgage Loan disclosure Statement, a statement in writing
9 containing all the information required by Section 10241 of the
10 Code to various borrowers including, but not limited to, Prem
11 Singh and Lalta Maharaj before said borrowers became obligated to
12 perform under the terms of their loans. This omission constitutes
13 a violation of Section 10240 of the Code and Section 2840 of the
14 Regulations and is cause to suspend or revoke the license and
15 license rights of Respondent BOADT pursuant to Section 10177(d) of
16 the Code.

17 XIX

18 The audit examination Audit No. LA 960294, described in
19 Paragraph XIV, revealed that BOADT failed to initiate and maintain
20 written Broker-Salesperson agreements with BOADT's salespeople,
21 including Vishundyal Mohabir, and failed to forward the completed
22 Broker-Salesperson agreements for Peter Pane, Louis Oberman,
23 Dorothy Eccard and Lilla Grajeda to the Department, in violation
24 of Regulation 2726. This conduct and violation are also cause to
25 suspend or revoke BOADT's license and license rights under
26 Sections 10177(d) and 10177(h) of the Code.
27 /



1 WHEREFORE, Complainant prays that a hearing be conducted
2 on the allegations of this Accusation and, that upon proof
3 thereof, a decision be rendered imposing disciplinary action
4 against all licenses and license rights of Respondents MARINA
5 FUNDING REAL ESTATE CORPORATION, a California corporate broker,
6 STEPHEN R. BOADT, and NELSON CARABALLO under the Real Estate Law
7 (Part 1 of Division 4 of the Business and Professions Code) and
8 for such other and further relief as may be proper under other
9 applicable provisions of law, including the imposition of a fine
10 of up to \$10,000 pursuant to the provisions of Section 10139.5 of
11 the Business and Professions Code.

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13 Dated at Los Angeles, California

14 this 3rd day of October, 1997.

Thomas Mc Crady

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Thomas Mc Crady,
Deputy Real Estate Commissioner

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cc: Marina Funding Real Estate.
Stephen R. Boadt, Designated Officer
Nelson Caraballo
Sacto
MGS

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