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FILED
AUG 22 2001

DEPARTMENT OF REAL ESTATE

By Shelly Ely

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	
ROBERT CHRISTOPHER LEBORNE,)	NO. H-27739 LA
)	
Respondent.)	
)	

ORDER GRANTING REINSTATEMENT OF LICENSE

On January 20, 1999, an Order was rendered herein revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on February 16, 1999, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On June 26, 2000, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof including Respondent's
3 record as a restricted licensee. Respondent has demonstrated to
4 my satisfaction that Respondent meets the requirements of law for
5 the issuance to Respondent of an unrestricted real estate broker
6 license and that it would not be against the public interest to
7 issue said license to Respondent.

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

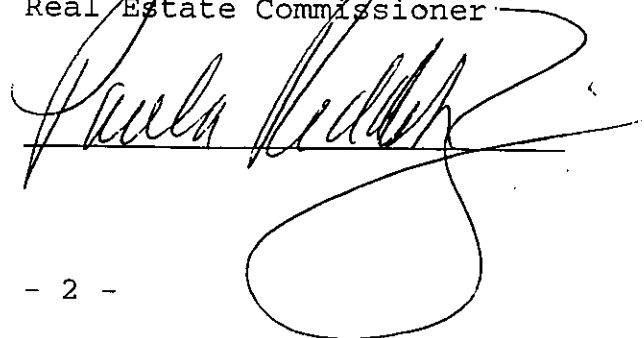
13 1. Submittal of a completed application and payment of
14 the fee for a real estate broker license.

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 Law
19 for renewal of a real estate license.

20 This Order shall be effective immediately.

21 DATED: August 1, 2001

22
23
24 PAULA REDDISH ZINNEMANN
Real Estate Commissioner

25
26 
27

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

4 (213) 897-3937

FILED
JAN 27 1999
DEPARTMENT OF REAL ESTATE

By K. Welebold

9 DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * * *

12	In the Matter of the Accusation of)	NO. H-27739 LA
13	ROBERT CHRISTOPHER LEBORNE,)	<u>STIPULATION AND AGREEMENT</u>
14)	
15	Respondent.)	
16	_____)	

17 It is hereby stipulated by and between Joseph J. Rego,
18 Counsel for ROBERT CHRISTOPHER LEBORNE dba Home Foreclosure
19 Specialists, Home Mortgage Center, and HFS Realty (sometimes
20 referred to as Respondent), and the Complainant, acting by and
21 through Elliott Mac Lennan, Counsel for the Department of Real
22 Estate, as follows for the purpose of settling and disposing of
23 the Accusation filed on June 29, 1998, in this matter:

24 1. All issues which were to be contested and all
25 evidence which was to be presented by Complainant and Respondent
26 at a formal hearing on the Accusation, which hearing was to be
27 held in accordance with the provisions of the Administrative

1 Procedure Act (APA), shall instead and in place thereof be
2 submitted solely on the basis of the provisions of this
3 Stipulation and Agreement (Stipulation).

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

8 3. Respondent timely filed a Notice of Defense,
9 pursuant to Section 11506 of the Government Code for the purpose
10 of requesting a hearing on the allegations in the Accusation.
11 Respondent hereby freely and voluntarily withdraws said Notice of
12 Defense. Respondent acknowledges that he understands that by
13 withdrawing said Notice of Defense he thereby waives his right to
14 require the Commissioner to prove the allegations in the
15 Accusation at a contested hearing held in accordance with the
16 provisions of the APA and that he will waive other rights afforded
17 to him in connection with the hearing such as the right to present
18 evidence in his defense and the right to cross-examine witnesses.

19 4. This Stipulation is based on the factual allegations
20 contained in the Accusation. In the interest of expedience and
21 economy, Respondent chooses not to contest these allegations, but
22 to remain silent and understands that, as a result thereof, these
23 factual allegations, without being admitted or denied, will serve
24 as a prima facie basis for the disciplinary action stipulated to
25 herein. The Real Estate Commissioner shall not be required to
26 provide further evidence to prove said factual allegations.

27



1 5. This Stipulation is based on Respondent's decision
2 not to contest the allegations set forth in the Accusation as a
3 result of the agreement negotiated between the parties. This
4 Stipulation is expressly limited to this proceeding and any
5 further proceeding initiated by or brought before the Department
6 of Real Estate based upon the facts and circumstances alleged in
7 the Accusation for the sole purpose of reaching an agreed
8 disposition of this proceeding. The decision of Respondent not to
9 contest the allegations contained in the "Order" herein below, is
10 made solely for the purpose of effectuating this Stipulation. It
11 is the intent and understanding of the parties that this
12 Stipulation shall not be binding or admissible against Respondent
13 in any actions against Respondent by third parties.

14 6. It is understood by the parties that the Real Estate
15 Commissioner may adopt the Stipulation as his Decision in this
16 matter thereby imposing the penalty and sanctions on Respondent's
17 real estate license and license rights as set forth in the "Order"
18 herein below. In the event that the Commissioner in his
19 discretion does not adopt the Stipulation, it shall be void and of
20 no effect, and Respondent shall retain the right to a hearing and
21 proceeding on the Accusation under the provisions of the APA and
22 shall not be bound by any admission or waiver made herein.

23 7. The Order or any subsequent Order of the Real Estate
24 Commissioner made pursuant to this Stipulation shall not
25 constitute an estoppel, merger or bar to any further
26 administrative or civil proceedings by the Department of Real
27



1 Estate with respect to any matters which were not specifically
2 alleged to be causes for accusation in this proceeding.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations and solely for
5 the purpose of settlement of the Accusation without a hearing, it
6 is stipulated and agreed that the following determination of
7 issues shall be made:

8 I

9 The conduct of ROBERT CHRISTOPHER LEBORNE, as described
10 in Paragraph 4, above, is in violation of Section 10145 of the
11 California Business and Professions Code (Code) and Sections 2731,
12 2831, 2831.2 and 2834 of Title 10, Chapter 6 of the California
13 Code of Regulations. This conduct is a basis for the suspension
14 or revocation of Respondent's license and license rights pursuant
15 to Section 10177(d) of the Code

16 ORDER

17 WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT

18 TO THE WRITTEN STIPULATION OF THE PARTIES:

19 I

20 All licenses and licensed rights of Respondent ROBERT
21 CHRISTOPHER LEBORNE under the Real Estate Law are revoked;
22 provided, however, a restricted real estate broker license shall
23 be issued to Respondent pursuant to Section 10156.5 of the
24 Business and Professions Code if Respondent makes application
25 therefor and pays to the Department of Real Estate the appropriate
26 fee for the restricted license within 90 days from the effective
27 date of this Decision. The restricted license issued to



1 Respondent shall be subject to all of the provisions of Section
2 10156.7 of the Business and Professions Code and to the following
3 limitations, conditions and restrictions imposed under authority
4 of Section 10156.6 of that Code:

5
6 1. The restricted license issued to Respondent may be
7 suspended prior to hearing by Order of the Real Estate
8 Commissioner in the event of Respondent's conviction or
9 plea of nolo contendere to a crime which is
10 substantially related to Respondent's fitness or
11 capacity as a real estate licensee.

12 2. The restricted license issued to Respondent may be
13 suspended prior to hearing by Order of the Real Estate
14 Commissioner on evidence satisfactory to the
15 Commissioner that Respondent has violated provisions of
16 the California Real Estate Law, the Subdivided Lands
17 Law, Regulations of the Real Estate Commissioner or
18 conditions attaching to the restricted license.

19
20 3. Respondent shall not be eligible to apply for the
21 issuance of an unrestricted real estate license nor for
22 the removal of any of the conditions, limitations or
23 restrictions of a restricted license until one year
24 has elapsed from the effective date of this Decision.

25 4. Respondent shall, within twele months from the
26 effective date of this Decision, present evidence
27 satisfactory to the Real Estate Commissioner that



1 Respondent has, since the most recent issuance of an
2 original or renewal real estate license, taken and
3 successfully completed the continuing education
4 requirements of Article 2.5 of Chapter 3 of the Real
5 Estate Law for renewal of a real estate license. If
6 Respondent fails to satisfy this condition, the
7 Commissioner may order the suspension of the restricted
8 license until the Respondent presents such
9 evidence. The Commissioner shall afford Respondent the
10 opportunity for a hearing pursuant to the Administrative
11 Procedure Act to present such evidence.

12 II

13 Pursuant to Section 10148 of the Code, Respondent ROBERT
14 CHRISTOPHER LEBORNE shall pay the Commissioner's reasonable cost
15 for an audit to determine if Respondent is presently in compliance
16 with the Real Estate Law. In calculating the amount of the
17 Commissioner's reasonable cost, the Commissioner may use the
18 estimated average hourly salary for all persons performing audits
19 of real estate brokers, and shall include an allocation for travel
20 time to and from the auditor's place of work. Respondent shall
21 pay such cost, not to exceed \$3,800, within 45 days of receiving
22 an invoice from the Commissioner detailing the activities
23 performed during the audit and the amount of time spent performing
24 those activities. The Commissioner may suspend the restricted
25 license issued to Respondent pending a hearing held in accordance
26 with Section 11500, et seq., of the Government Code, if payment is
27 not timely made as provided for herein, or as provided for in a



1 subsequent agreement between the Respondent and the Commissioner.
2 The suspension shall remain in effect until payment is made in
3 full or until Respondent enters into an agreement satisfactory to
4 the Commissioner to provide for payment, or until a decision
5 providing otherwise is adopted following a hearing held pursuant
6 to this condition.

7 DATED: 12-11-98

E. M. W.
8 ELLIOTT MAC LENNAN
9 Counsel for Complainant

10 * * * *

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

21
22 DATED: 9/22/98

Robert Christopher LeBorne
23 ROBERT CHRISTOPHER LEBORNE,
24 Respondent

25 DATED: 10/16/98

Joseph J. Rego
26 JOSEPH J. REGO, ESQ.,
27 Attorney for Respondent

* * * *

1
2 The foregoing Stipulation and Agreement is hereby adopted
3 as my Decision and shall become effective at 12 o'clock noon on
4 February 16 _____, 1999.

5 IT IS SO ORDERED January 20 _____, 1999.

6 JOHN R. LIBERATOR
7 Acting Commissioner

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9 John R. Liberator
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photo plus

1 ELLIOTT MAC LENNAN, Counsel
2 State Bar No. 66674
3 Department of Real Estate
4 107 South Broadway, Room 8107
5 Los Angeles, California 90012
6 Telephone (213) 897-3937

FILED
JUN 29 1998
DEPARTMENT OF REAL ESTATE

By *K. Viederholt*

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of)
12 ROBERT CHRISTOPHER LEBORNE,)
13)
14)
15 Respondent.)
16 _____)

No. H-27739 LA
A C C U S A T I O N

17 The Complainant, Thomas McCrady, acting in his official
18 capacity as a Deputy Real Estate Commissioner of the State of
19 California, for cause of accusation against ROBERT CHRISTOPHER
20 LEBORNE dba Home Foreclosure Specialists and Home Mortgage Center,
21 is informed and alleges as follows:

22 I

23 ROBERT CHRISTOPHER LEBORNE (LEBORNE), sometimes referred
24 to as Respondent, is presently licensed and/or has license rights
25 under the Real Estate Law (Part 1 of Division 4 of the California
26 Business and Professions Code).

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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, LEBORNE was licensed or had license rights issued by the Department of Real Estate (Department). LEBORNE was initially licensed by the Department as a real estate broker on June 25, 1980.

IV

At all times mentioned, in the City and County of San Diego, Respondent LEBORNE acted as real estate broker, within the meaning of Section 10131(a) of the Code in that he operated a real estate resale business for properties repossessed by the Veterans Administration with the public wherein, and for compensation or in expectation of compensation, LEBORNE sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, solicited or obtained listings of, or negotiated the purchase, sale or exchange of real property.

V

At all times mentioned, Respondent accepted or received funds in trust (trust funds) from or on behalf of actual or prospective buyers and sellers, and thereafter made disposition of such funds. Respondent maintained the following trust accounts into which he deposited certain of these funds:

/
/

1 "Robert Christopher Leborne DBA Home Foreclosure
2 Specialists/HFS Realty Real Estate Trust
3 Account Number 0303922601"
4 Grossmont Bank
5 San Diego, California

6 VI

7 On March 5, 1998, the Department completed a field
8 examination of the books and records of LEBORNE pertaining to the
9 activities described in Paragraph IV. The audit examination
10 covered the period of time beginning on January 1, 1997 and ending
11 on December 31, 1997. The audit examination revealed violations
12 of the Code and the Regulations now set forth.

13 VII

14 With respect to the trust funds referred to in Paragraph
15 VI, it is alleged that LEBORNE:

16 (a) Permitted, allowed or caused the disbursement of
17 trust funds from the trust account where the disbursement of said
18 funds reduced the total of aggregate funds in the trust account,
19 to an amount which, on December 31, 1997, was \$2,040.00 less than
20 the existing aggregate trust fund liability of LEBORNE to every
21 principal who was an owner of said funds, without first obtaining
22 the prior written consent of the owners of said funds, as required
23 by Section 10145 of the Code and Section 2832.1;

24 (b) Failed to maintain an adequate control record in
25 the form of a columnar record in chronological order of all trust
26 funds received, as required by Section 2831 of the Regulations;

27 (c) Failed to maintain a separate record for each
beneficiary or transaction, thereby failing to account for all



1 trust funds received, deposited into, and disbursed from the trust
2 account, as required by Section 2831.1 of the Regulations;

3 (d) Failed to perform a monthly reconciliation of the
4 balance of all separate beneficiary or transaction records
5 maintained pursuant to Regulation 2831.1 with the record of all
6 trust funds received and disbursed from the trust account, as
7 required by Regulation 2831.2; and

8 (e) Permitted real estate salesperson Jovita Minas
9 Leborne, who had been formerly licensed to LEBORNE but presently
10 not affiliated with any broker, to remain an authorized signatory
11 on the trust account, in violation of Section 2834 of the
12 Regulations.

13 VIII

14 The conduct of Respondent LEBORNE, described in
15 Paragraph VII, violated the Code and the Regulations as set forth:

16	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
17	VIII (a)	Section 10145 of the Code, and
18		Section 2832.1 of the Regulations
19		
20	VIII (b)	Section 10145 of the Code, and
21		Section 2831 of the Regulations
22		
23	VIII (c)	Section 10145 of the Code, and
24		Section 2831.1 of the Regulations
25		
26	VIII (d)	Section 10145 of the Code, and
27		Section 2831.2 of the Regulations, and

1 VIII (e)

Section 10145 of the Code, and

2 Section 2834 of the Regulations,

3 Each of the foregoing violations separately constitutes cause for
4 the suspension or revocation of the real estate license and
5 license rights of LEBORNE under Section 10177(d) of the Code.

6 IX

7 The audit examination also revealed that LEBORNE used
8 the fictitious names of "HFS, Inc.," "HFS" and "HFS Realty" to
9 conduct licensed activities without holding a license bearing said
10 fictitious business names. The conduct of Respondent LEBORNE, in
11 failing to obtain licenses for use of the aforesaid names, is in
12 violation of Regulation 2731 and is cause to suspend or revoke
13 Respondent's real estate license and license rights under Section
14 10177(d) of the Code.

15 X

16 The audit examination further revealed that in eight
17 sales transactions LEBORNE represented to the Veterans
18 Administration that an earnest money deposit in the amount of
19 \$1,000.00 had been collected from the buyer. In truth and fact in
20 only one of the eight transactions, the Ashok Gara, for the
21 5150 - B North River Road, San Diego, California real property
22 evidenced an earnest money deposit actually deposited. The
23 conduct of LEBORNE constitutes the making of a substantial
24 misrepresentation. This conduct and violation are cause to
25 suspend or revoke the real estate license and license rights of
26 Respondent LEBORNE under Section 10176(a) of the Code.

27



The overall conduct of Respondent LEBORNE constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of Respondent LEBORNE under the provisions of Section 10177(g) of the Code.

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 the license and license rights of Respondent ROBERT CHRISTOPHER LEBORNE 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 29th day of June, 1998.

THOMAS MC CRADY
Deputy Real Estate Commissioner

cc: Robert Christopher Leborne
Sacto
PI

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