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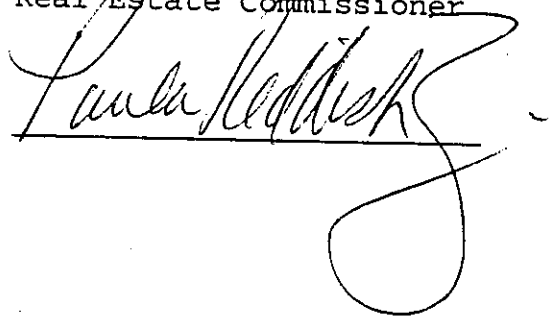
IT IS ALSO ORDERED that Respondent's license
certificate(s), pocket card(s) and all branch office license
certificates be sent to the below-listed address so that they
reach the Department on or before the effective date of the Order:

Department of Real
Attn: Licensing Flag Section
P.O. Box 187000
Sacramento, California 95818-7000

This Order shall become effective at 12 o'clock noon
on March 1, 2000.

DATED: January 27, 2000.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



1 considered by the Department to be true and correct for the
2 purpose of deciding whether or not to grant reinstatement of my
3 license.

4 I declare under penalty of perjury under the laws of the
5 State of California that the above is true and correct.

6 DATED: December 20, 1999 at Anaheim, California.

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JOAN ROSE NEMSGERN

1 Department of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, California 90013-1105
4
5 (213) 576-6911
6
7

FILED
SEP 16 1999
DEPARTMENT OF REAL ESTATE

By Laura B. Duma

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of) DRE NO. H-28039 LA
12 CENTURY 21 ACHIEVERS, INC.,)
13 MONA MAY DAILEY, and JOAN ROSE)
14 NEMSGERN, individually and as)
designated officer of,) STIPULATION AND AGREEMENT
15 Century 21 Achievers, Inc.)
16 Respondents.)

17 It is hereby stipulated by and between CENTURY 21
18 ACHIEVERS, INC., and MONA MAY DAILEY, individually and as
19 designated officer of Century 21 Achievers, Inc. (sometimes
20 collectively referred to as Respondents), and the Complainant,
21 acting by and through Elliott Mac Lennan, Counsel for the
22 Department of Real Estate, as follows for the purpose of settling
23 and disposing of the Accusation filed on February 26, 1999, in
24 this matter:

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

2. Respondents have received, read and understand the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate in this proceeding.

3. Respondents filed a Notice of Defense pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents acknowledge that they understand that by withdrawing said Notice of Defense they thereby waive their right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that they will waive other rights afforded to them in connection with the hearing such as the right to present evidence in their defense the right to cross-examine witnesses.

4. This Stipulation is based on the factual allegations contained in the Accusation. In the interest of expedience and economy, Respondents choose not to contest these allegations, but to remain silent and understand that, as a result thereof, these factual allegations, without being admitted or denied, will serve



1 as a prima facie basis for the disciplinary action stipulated to
2 herein. The Real Estate Commissioner shall not be required to
3 provide further evidence to prove said factual allegations.

4 5. This Stipulation is based on Respondents' decision
5 not to contest the allegations set forth in the Accusation as a
6 result of the agreement negotiated between the parties. This
7 Stipulation is expressly limited to this proceeding and any
8 further proceeding initiated by or brought before the Department
9 of Real Estate based upon the facts and circumstances alleged in
10 the Accusation and is made for the sole purpose of reaching an
11 agreed disposition of this proceeding without a hearing. The
12 decision of Respondents not to contest the allegations is made
13 solely for the purpose of effectuating this Stipulation. It is
14 the intent and understanding of the parties that this Stipulation
15 shall not be binding or admissible against Respondents in any
16 actions against Respondents by third parties.

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

26 7. The Order or any subsequent Order of the Real Estate
27 Commissioner made pursuant to this Stipulation shall not



1 constitute an estoppel, merger or bar to any further
2 administrative or civil proceedings by the Department of Real
3 Estate with respect to any matters which were not specifically
4 alleged to be causes for accusation in this proceeding.

5 DETERMINATION OF ISSUES

6 By reason of the foregoing stipulations, it is
7 stipulated and agreed that the following determination of issues
8 shall be made:

9 I

10 The conduct of CENTURY 21 ACHIEVERS, INC., as described
11 in Paragraph 4, is in violation of Sections 10145 and 10163 of the
12 Business and Professions Code (Code) and Sections 2731, 2831,
13 2831.1, 2831.2, 2832, 2831.2, 2950(d), 2950(g) and 2951 of Title
14 10, Chapter 6 of the California Code of Regulations and is a basis
15 for the suspension or revocation of Respondent's license and
16 license rights as a violation of the Real Estate Law pursuant to
17 Section 10177(d) of the Code.

18 II

19 Due to her short term of office as the designated broker
20 for CENTURY 21 ACHIEVERS, INC., dismissal of the Accusation filed
21 against MONA MAY DAILEY is determined to be appropriate.

22 /

23 /

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26 /

27



ORDER

WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT
TO THE WRITTEN STIPULATION OF THE PARTIES:

I

The Accusation against MONA MAY DAILEY is dismissed.

II

All licenses and licensed rights CENTURY 21 ACHIEVERS,
INC., under the Real Estate Law are revoked:

A. However, a restricted real estate broker license
shall be issued to Respondent pursuant to Section 10156.5 of the
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.

1. The restricted license issued to Respondent shall be
subject to all of the provisions of Section 10156.7 of the Code
and the following limitations, conditions and restrictions imposed
under authority of Section 10156.6 of the Code

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

3. 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



1 Law, the Subdivided Lands Law, Regulations of the Real Estate
2 Commissioner or conditions attaching to the restricted license.

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

8 5. Prior to the issuance of any restricted license,
9 Respondent shall first provide evidence satisfactory to the
10 Commissioner prior to the effective of the Decision that the
11 deficit set forth in Audit Report LA 980269, in the combined
12 amount of \$9293.74, as of October 31, 1998, has been cured,
13 including the identity of the source of funds used to cure it.

14 III

15 Pursuant to Section 10148 of the Code, Respondent
16 CENTURY 21 ACHIEVERS, INC, shall pay the Commissioner's reasonable
17 cost for an audit to determine if CENTURY 21 ACHIEVERS, INC. is in
18 compliance with the Real Estate Law. In calculating the amount of
19 the said cost, the Commissioner may use the estimated average
20 hourly salary for all persons performing audits of real estate
21 brokers, and shall include an allocation for travel time to and
22 from the auditor's place of work. Respondent shall pay such cost,
23 not to exceed \$5,200, within 60 days of receiving an invoice from
24 the Commissioner detailing the activities performed during the
25 audit and the amount of time spent performing those activities.
26 The Commissioner may suspend the restricted license issued to said
27 Respondent pending a hearing held in accordance with Section



1 11500, et seq., of the Government Code, if payment is not timely
2 made as provided for herein, or as provided for in a subsequent
3 agreement between said Respondent and the Commissioner. The
4 suspension shall remain in effect until payment is made in full or
5 until said Respondent enters into an agreement satisfactory to the
6 Commissioner to provide for payment, or until a decision providing
7 otherwise is adopted following a hearing held pursuant to this
8 condition.

9 DATED: 6-30-99 Elliott Mac Lennan
10 ELLIOTT MAC LENNAN
11 Counsel for Complainant

* * * *

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

22 DATED: 8-3-99 Mona May Dailey
23 CENTURY 21 ACHIEVERS, INC.,
24 BY: MONA MAY DAILEY

25 DATED: 8-18-99 Andrew Mc Carron
26 ANDREW MC CARRON, ESQ.
27 Counsel for Respondents

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The foregoing Stipulation and Agreement is hereby
adopted as my Decision and Order and shall become effective at 12
o' clock noon on OCT 6, 1999.

IT IS SO ORDERED September 8, 1999.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILE
JUN 8 1999
DEPARTMENT OF REAL ESTATE

Sacto Joan

In the Matter of the Accusation of)
CENTURY 21 ACHIEVERS, INC.,)
et al.,)
Respondents.)

Case No. H-28039 LA
OAH No. L-1999040203

By *Jana B. Lane*

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, 320 West Fourth Street, 6th Floor, Suite 630, Los Angeles, California, on JULY 1, 1999, at the hour of 9 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: JUN 8 1999

DEPARTMENT OF REAL ESTATE

By: *ELIOTT MAC LENNAN*
ELLIOTT MAC LENNAN, Counsel

cc: Century 21 Allstars
Mona Mae Dailey
Joan Rose Nemsgern
Andrew McCarron, Esq., Sacto., OAH

Sachs
Lee

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

FILE
APR 28 1999
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
CENTURY 21 ACHIEVERS, INC.,)
Respondents.)

Case No. H-28039 LA)
OAH No. L-199040203)

By *Laura B. Olson*

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, 320 West Fourth Street, 6th Floor, Suite 630, Los Angeles, California, on JUNE 3, 1999, 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: APR 28 1999

DEPARTMENT OF REAL ESTATE

By: *Elliott MacLennan*
ELLIOTT MAC LENNAN, Counsel

Handwritten signature/initials

ELLIOTT MAC DONNAN, Counsel
State Bar # 66674
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

Telephone (213) 897-3937

FILED
FEB 26 1999
DEPARTMENT OF REAL ESTATE

By Laura B. Crane

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)
CENTURY 21 ACHIEVERS, INC.;)
MONA MAY DAILEY, and JOAN ROSE)
NEMSGERN, individually, and as)
designated officers of)
Century 21 Achievers, Inc.,)
Respondents.)

No. H-28039 LA

A C C U S A T I O N

The Complainant, Thomas McCrady, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, for cause of accusation against CENTURY 21 ACHIEVERS, INC. dbas Century 21 Superstars, Superstars Escrow, Superstars Mortgage, and MONA MAY DAILEY, and JOAN ROSE NEMSGERN, individually and as designated officers of Century 21 Achievers, Inc. is informed and alleges as follows:

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1
2 CENTURY 21 ACHIEVERS INC. (ACHIEVERS), MONA MAY DAILEY
3 (DAILEY), and JOAN ROSE NEMSGERN (NEMSGERN) sometimes collectively
4 referred to as Respondents, are presently licensed and/or have
5 license rights under the Real Estate Law (Part 1 of Division 4 of
6 the California Business and Professions Code).

2

7
8 All references to the "Code" are to the California
9 Business and Professions Code and all references to "Regulations"
10 are to Title 10, Chapter 6, California Code of Regulations.

3

11
12 On January 8, 1987, ACHIEVERS was first licensed by the
13 Department of Real Estate of the State of California (Department)
14 as a corporate real estate broker. From June 1, 1996 to August
15 30, 1998, NEMSGERN was the designated officer. Effective August
16 31, 1998, DAILEY became the designated officer.

4

17
18 At all times mentioned, DAILEY AND NEMSGERN were
19 licensed by the Department as designated officers of ACHIEVERS to
20 qualify it and to act for it as a real estate broker. And, as
21 provided by Section 10159.2 of the Code, were responsible for the
22 supervision and control of the activities conducted on its' behalf
23 by its officers, managers and employees as necessary to secure
24 full compliance with the provisions of the Real Estate Law
25 including the supervision of the salespersons licensed to the
26 corporation in the performance of acts for which a real estate
27 license is required.



1
2 Whenever reference is made in an allegation in the
3 accusation to an act or omission of ACHIEVERS such allegation
4 shall be deemed to mean that the officers, directors, managers,
5 employees, agents and real estate licensees employed by or
6 associated with ACHIEVERS committed such act or omission while
7 engaged in the furtherance of the business or operation of
8 ACHIEVERS and while acting within the course and scope of its
9 corporate authority, agency and employment.

6

10
11 Since January 8, 1987, in the City of Yorba Linda,
12 Los Angeles County, ACHIEVERS acted as a real estate broker,
13 within the meaning of Section 10131(a) of the Code, including the
14 operation of a residential resale property brokerage. In addition,
15 ACHIEVERS conducted broker controlled escrows under the exemption
16 set forth in Section 17006(a)(4) of the California Financial Code.

17
18 Audit No. LA 980349

19 Designated Officer Joan Rose Nemsgern

20 (Residential Resale Brokerage and Broker Escrow Audit)

21 7

22 On January 25, 1999, the Department completed a field audit
23 examination of the books and records of ACHIEVERS dbas Century 21
24 Superstars and Superstars Escrow pertaining to its residential
25 resale and escrow activities referred to in Paragraph 6. The
26 audit examination covered a period of time beginning on October 1,
27 1997 and ending on August 30, 1998. The audit examination



1 revealed violations of the Code and the Regulations as set forth
2 in the following paragraphs.

3 8

4 In connection with the activities described in Paragraph
5 6, above, ACHIEVERS accepted or received funds in trust (trust
6 funds) from or on behalf of actual or prospective buyers and
7 sellers. Thereafter it made disposition of such funds. ACHIEVERS
8 maintained the following trust accounts at the Commerica Bank in
9 Costa Mesa, California, during the audit period as set forth
10 below:

11 "Superstars-Achievers Inc./Superstars Escrow Central (T/A #1)
12 Account Number 1890504507"

13 "Superstars-Achievers Inc./Placentia Trust Account (T/A #2)
14 Account Number 1890812199"

15 "Superstars-Achievers Inc./Trust Account (T/A #3)
16 Account Number 1890811191"

17 "Superstars-Achievers Inc./Anaheim Hills Escrow Trust Account
18 Account Number 1890712159" (T/A #4)

19 "Superstars-Achievers Inc./Escrow Trust Account (T/A #5)
20 Account Number 18900712142"

21 9

22 With respect to the trust funds referred to in Paragraph
23 8, ACHIEVERS:

24 (a) Permitted, allowed or caused the disbursement of
25 trust funds from T/A #2 where the disbursement of these funds
26 reduced the total of aggregate funds in the trust account, to an
27 amount which, on August 30, 1998, was \$8,656.42 less than the
existing aggregate trust fund liability of ACHIEVERS to every



1 principal who was an owner of these funds, without first obtaining
2 their prior written consent, as required by Section 10145 of the
3 Code and Section 2832.1, 2950(d), 2950(g) and 2951 of the
4 Regulations;

5 (b) Permitted, allowed or caused the disbursement of
6 trust funds from T/A #5 where the disbursement of these funds
7 reduced the total of aggregate funds in the trust account, to an
8 amount which, on August 30, 1998, was \$464.65 less than the
9 existing aggregate trust fund liability of ACHIEVERS to every
10 principal who was an owner of these funds, without first obtaining
11 their prior written consent, as required by Section 10145 of the
12 Code and Section 2832.1 of the Regulations;

13 (c) Failed to maintain an adequate or complete control
14 record in the form of a columnar record in chronological order of
15 all trust funds received in T/A #2, as required by Section 2831 of
16 the Regulations;

17 (d) Failed to maintain a complete or accurate separate
18 record for each beneficiary or transaction, thereby failing to
19 account for all trust funds received in T/A #2, deposited into,
20 and disbursed from the trust account, as required by Section
21 2831.1 of the Regulations;

22 (e) Failed to perform an accurate monthly
23 reconciliation of the balance of all separate beneficiary or
24 transaction records maintained pursuant to Section 2831.1 of the
25 Regulations with the record of all trust funds received and
26 disbursed by T/A #2 as required by Section 2831.2 of the
27 Regulations;



1 (f) Failed to designate T/A #1 as a trust account and
2 failed to establish T/A #1-5 in the name of the licensed corporate
3 broker, as required by Section 2832 of the Regulations; and

4 (g) Failed to disburse trust funds in T/A #3 belonging
5 in part to the broker and in part to the broker's principal within
6 twenty-five days of their deposit where there was no dispute
7 between the broker and the broker's principal as to the broker's
8 portion of the funds, as required by Section 2835 of the
9 Regulations.

10 10

11 The conduct of ACHIEVERS, described in Paragraph 9,
12 above, violated the Code and the Regulations now set forth:

13	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
14	9(a)	Section 10145 of the Code, and
15		Sections 2832.1, 2950(d), 2950(g) and 2951 of
16		the Regulations
17		
18	9(b)	Section 10145 of the Code, and
19		Sections 2832.1 of the Regulations
20		
21	9(c)	Section 10145 of the Code, and
22		Sections 2831 of the Regulations
23		
24	9(d)	Section 10145 of the Code, and
25		Section 2831.1 of the Regulations
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9(e) Section 10145 of the Code, and
Section 2831.2 of the Regulations

9(f) Section 10145 of the Code, and
Section 2832 of the Regulations; and

9(g) Sections 10145 and 10176(e) of the Code, and
Section 2835 of the Regulations

Each of the foregoing violations separately constitutes cause for the suspension or revocation of the real estate license and license rights of ACHIEVERS under Section 10177(d) and 10176(e) of the Code as indicated.

Audit No. LA 980269
Designated Officer Mona May Dailey
(Residential Resale Brokerage and Broker Escrow Audit)

11

On January 25, 1999, the Department completed a field audit examination of the books and records of ACHIEVERS dbas Century 21 Superstars and Superstars Escrow pertaining to its residential resale and escrow activities referred to in Paragraph 6. The audit examination covered a period of time beginning on August 31, 1998 and ending on October 31, 1998. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs.

/

1
2 In connection with the activities described in Paragraph
3 6, above, Respondent ACHIEVERS accepted or received funds in trust
4 (trust funds) from or on behalf of actual or prospective buyers
5 and sellers. Thereafter they made disposition of such funds.
6 Respondent ACHIEVERS maintained the following trust accounts at
7 the Commerica Bank in Costa mesa, California, during the audit
8 period as set forth below:

9 "Superstars-Achievers Inc./Superstars Escrow Central (T/A #1)
Account Number 1890504507"

10 "Superstars-Achievers Inc./Placentia Trust Account (T/A #2)
11 Account Number 1890812199"

12 "Superstars-Achievers Inc./Trust Account (T/A #3)
Account Number 1890811191"

13 "Superstars-Achievers Inc./Anaheim Hills Escrow Trust Account
14 Account Number 1890712159" (T/A #4)

15 "Superstars-Achievers Inc./Escrow Trust Account (T/A #5)
16 Account Number 18900712142"

17
18 With respect to the trust funds referred to in Paragraph
19 12, ACHIEVERS:

20 (a) Permitted, allowed or caused the disbursement of
21 trust funds from T/A #2 where the disbursement of these funds
22 reduced the total of aggregate funds in the trust account, to an
23 amount which, on October 31, 1998, was \$8,829.09 less than the
24 existing aggregate trust fund liability of ACHIEVERS to every
25 principal who was an owner of these funds, without first obtaining
26 their prior written consent, as required by Section 10145 of the
27



1 Code and Section 2832.1, 2950(d), 2950(g) and 2951 of the
2 Regulations;

3 (b) Permitted, allowed or caused the disbursement of
4 trust funds from T/A #5 where the disbursement of these funds
5 reduced the total of aggregate funds in the trust account, to an
6 amount which, on October 31, 1998, was \$464.65 less than the
7 existing aggregate trust fund liability of ACHIEVERS to every
8 principal who was an owner of these funds, without first obtaining
9 their prior written consent, as required by Section 10145 of the
10 Code and Section 2832.1 of the Regulations;

11 (c) Failed to maintain an adequate or complete control
12 record in the form of a columnar record in chronological order of
13 all trust funds received in T/A #2, as required by Section 2831 of
14 the Regulations;

15 (d) Failed to maintain a complete or accurate separate
16 record for each beneficiary or transaction, thereby failing to
17 account for all trust funds received in T/A #2, deposited into,
18 and disbursed from the trust account, as required by Section
19 2831.1 of the Regulations;

20 (e) Failed to perform an accurate monthly
21 reconciliation of the balance of all separate beneficiary or
22 transaction records maintained pursuant to Section 2831.1 of the
23 Regulations with the record of all trust funds received and
24 disbursed by T/A #2 as required by Section 2831.2 of the
25 Regulations;

26
27



1 (f) Failed to designate T/A #1 as a trust account and
2 failed to establish T/A #1-5 in the name of the licensed corporate
3 broker, as required by Section 2832 of the Regulations; and

4 (g) Failed to disburse trust funds in T/A #3 belonging
5 in part to the broker and in part to the broker's principal within
6 twenty-five days of their deposit where there was no dispute
7 between the broker and the broker's principal as to the broker's
8 portion of the funds, as required by Section 2835 of the
9 Regulations.

10 . 14

11 The conduct of ACHIEVERS, described in Paragraph 13,
12 above, violated the Code and the Regulations now set forth:

13 PARAGRAPH

PROVISIONS VIOLATED

14 13(a) Section 10145 of the Code, and
15 Sections 2832.1, 2950(d), 2950(g) and 2951 of
16 the Regulations

17
18 13(b) Section 10145 of the Code, and
19 Sections 2832.1 of the Regulations

20
21 13(c) Section 10145 of the Code, and
22 Sections 2831 of the Regulations

23
24 13(d) Section 10145 of the Code, and
25 Section 2831.1 of the Regulations
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13(e) Section 10145 of the Code, and
Section 2831.2 of the Regulations

13(f) Section 10145 of the Code, and
Section 2832 of the Regulations; and

13(g) Sections 10145 and 10176(e) of the Code, and
Section 2835 of the Regulations

Each of the foregoing violations separately constitutes cause for the suspension or revocation of the real estate license and license rights of ACHIEVERS under Section 10177(d) and 10176(e) of the Code as indicated.

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The audit examination also revealed that Respondent ACHIEVERS, DAILEY and NEMSGERN used the fictitious name of "Superstars-Achievers Inc. and "Superstars Central" to conduct licensed activities on behalf of ACHIEVERS without holding a license bearing these fictitious business names. Their conduct in failing to obtain licenses for use of these names, is in violation of Section 2731 of the Regulations and is cause to suspend or revoke their real estate licenses and license rights under Section 10177(d) of the Code.

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The audit investigation further revealed that ACHIEVERS, DAILEY and NEMSGERN used the 18200 Yorba Linda Blvd., Suite 203B, Yorba Linda, California address as a branch office to conduct

1 licensed activities with having obtained a license for this branch
2 office. Their conduct in failing to obtain a license for use of
3 the this branch office is in violation of Section 10163 of the
4 Code and is cause to suspend or revoke their real estate licenses
5 and license rights under Section 10177(d) of the Code.

6 17

7 The overall conduct of ACHIEVERS constitutes negligence
8 and/or incompetence. The conduct and violations described above
9 are cause to suspend or revoke the real estate license and license
10 rights of ACHIEVERS pursuant to Section 10177(g) of the Code.

11 18

12 The overall conduct of DAILEY and NEMSGERN constitutes
13 negligence and/or incompetence. The conduct and violations
14 described above are cause to suspend or revoke the real estate
15 license and license rights of DAILEY and NEMSGERN pursuant to
16 Section 10177(g) of the Code.

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18 The overall conduct of DAILEY and NEMSGERN, constitutes
19 a failure on their part, as officers designated by a corporate
20 broker licensee, responsible for the supervision and control over
21 the activities conducted on behalf of ACHIEVERS by its officers,
22 managers and employees as necessary to secure full compliance with
23 the provisions of the Real Estate Law. This conduct is cause for
24 the suspension or revocation of their real estate licenses and
25 license rights pursuant to Sections 10159.2 and 10177(d) of the
26 Code.

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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 licenses and license rights of Respondents CENTURY 21 ACHIEVERS, INC., MONA MAY DAILEY, and JOAN ROSE NEMSGERN, individually and as designated officers of Century 21 Achievers, 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 26th day of February, 1999.


Deputy Real Estate Commissioner

cc Mona May Dailey, D.O.
c/o Century 21 Achievers, Inc.
Sacto
EC
Audit Section
Joan Rose Nemsgern
TM