

1 ELLIOTT MAC LENNAN, Counsel (SBN 66674)
Department of Real Estate
2 320 W. 4TH Street, Suite 350
Los Angeles, CA 90013-1105

3 Telephone: (213) 576-6982 (Office)
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FILED
FEB 19 2003
DEPARTMENT OF REAL ESTATE

By K. Haderholz

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 CAMINO REAL FINANCIAL INC.,)
13 and NACHO M. MENDOZA, individually)
14 doing business as El Camino Realty,)
and as designated officer of Camino)
Real Financial Inc.)

No. H-29033 LA

STIPULATION
AND
AGREEMENT

15 Respondents.)

16 It is hereby stipulated by and between Respondents
17 CAMINO REAL FINANCIAL INC., and NACHO M. MENDOZA, individually
18 doing business as El Camino Realty, and as designated officer of
19 Camino Real Financial Inc. (sometimes collectively referred to as
20 Respondents), represented by Frank Buda, Esq., and the
21 Complainant, acting by and through Elliott Mac Lennan, Counsel
22 for the Department of Real Estate, as follows for the purpose of
23 settling and disposing of the Accusation filed on April 24, 2001,
24 in this matter:
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1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and Respondents
3 at a formal hearing on the Accusation, which hearing was to be
4 held in accordance with the provisions of the Administrative
5 Procedure Act (APA), shall instead and in place thereof be
6 submitted solely on the basis of the provisions of this
7 Stipulation and Agreement (Stipulation).

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

12 3. On May 9, 2001, Respondents filed a Notice of
13 Defense pursuant to Section 11506 of the Government Code for the
14 purpose of requesting a hearing on the allegations in the
15 Accusation. Respondents hereby freely and voluntarily withdraw
16 said Notice of Defense. Respondents acknowledge that they
17 understand that by withdrawing said Notice of Defense they
18 thereby waive their right to require the Commissioner to prove
19 the allegations in the Accusation at a contested hearing held in
20 accordance with the provisions of the APA and that they will
21 waive other rights afforded to them in connection with the
22 hearing such as the right to present evidence in their defense
23 the right to cross-examine witnesses.
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1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation. In the interest of
3 expedience and economy, Respondents choose not to contest these
4 allegations, but to remain silent and understand that, as a
5 result thereof, these factual allegations, without being admitted
6 or denied, will serve as a prima facie basis for the disciplinary
7 action stipulated to herein. The Real Estate Commissioner shall
8 not be required to provide further evidence to prove said factual
9 allegations.

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

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

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

14 8. This Stipulation and the order made pursuant to
15 this Stipulation shall have no collateral estoppel or res
16 judicata effect in any proceeding(s) in which CAMINO REAL
17 FINANCIAL INC. and NACHO M. MENDOZA and the Department are not
18 parties. This Stipulation is made and accepted with the express
19 understanding and agreement that it is for the purpose of
20 settling these proceedings only, and is not intended as, nor
21 shall be it be deemed, used, argued, or accepted as an
22 acknowledgement or admission of fact in any other judicial,
23 administrative, or other proceeding in which the Department is
24 not a party.

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1 9. Respondents understand that by agreeing to this
2 Stipulation, Respondents agree to pay, pursuant to Business and
3 Professions Code Section 10148, the cost of the audit (Camino
4 Real Financial Inc. and Nacho M. Mendoza dba El Camino Realty)
5 which led to this disciplinary action. The amount of said cost
6 is \$5,346.08.

7 10. Respondents have received, read, and understand
8 the "Notice Concerning Costs of Subsequent Audit". Respondents
9 further understand that by agreeing to this Stipulation, the
10 findings set forth below in the Determination of Issues become
11 final, and the Commissioner may charge Respondents for the cost
12 of any subsequent audit conducted pursuant to Business and
13 Professions Code Section 10148 to determine if the violations
14 have been corrected. The maximum cost of the subsequent audit
15 will not exceed \$5,346.08.

16
17 DETERMINATION OF ISSUES

18 By reason of the foregoing, it is stipulated and agreed
19 that the following determination of issues shall be made:

20 I

21 The conduct of CAMINO REAL FINANCIAL INC., as described
22 in Paragraph 4, is in violation of Sections 10145 and 10240 of
23 the Business and Professions Code (Code) and Sections 2832.1,
24 2834, 2840 and 2950(d), 2950(g), 2950(h) and 2951 of Title 10,
25 Chapter 6 of the California Code of Regulations (Regulations) and
26 is a basis for the suspension or revocation of Respondent's
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1 license and license rights as a violation of the Real Estate Law
2 pursuant to Code Sections 10177(d) and 10177(g).

3 II

4 The conduct of NACHO M. MENDOZA, as described in
5 Paragraph 4, constitutes a failure to keep Camino Real Financial
6 Inc., in compliance with the Real Estate Law during the time that
7 he was the officer designated by a corporate broker licensee in
8 violation of Section 10159.2 of the Code. This conduct is a
9 basis for the suspension or revocation of Respondent's license
10 pursuant to Code Section 10177(h).

11 III

12 The conduct of NACHO M. MENDOZA, as described in
13 Paragraph 4, is in violation of Code Section 10145 and Regulation
14 2831, and is a basis for the suspension or revocation of
15 Respondent's license and license rights as a violation of the
16 Real Estate Law pursuant to Code Section 10177(d).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I

All licenses and licensing rights of Respondents CAMINO REAL FINANCIAL INC., and NACHO M. MENDOZA, under the Real Estate Law are revoked; provided, however, restricted real estate broker licenses shall be issued to said Respondents, pursuant to Section 10156.5 of the Business and Professions Code if Respondents:

(A) Make application thereof and pays to the Department of Real Estate the appropriate fee for the restricted license within ninety (90) days from the effective date of this Decision.

(B) Prior to and as a condition of the issuance of said restricted license, Respondent NACHO M. MENDOZA shall submit proof satisfactory to the Commissioner of having taken and completed at an accredited institution the continuing education course on trust fund accounting and handling specified on paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code.

(C) Prior to and as a condition of the issuance of any restricted license, Respondents shall first provide evidence satisfactory to the Commissioner that the trust fund deficit set forth in the Accusation and in Audit Reports LA 000144/000274 (Camino Real Financial Inc.), in the amount of \$11,212.05, as of October 31, 2000, has been cured, including the identification of the source of funds used to cure the deficit; and

1 (D) Prior to and as a condition of the issuance of any
2 restricted license, Respondent NACHO M. MENDOZA shall first
3 provide evidence satisfactory to the Commissioner that
4 Respondent has taken and passed the Professional Responsibility
5 Examination administered by the Department including the payment
6 of the appropriate examination fee. The restricted license
7 issued to Respondent shall be subject to all of the provisions
8 of Section 10156.7 of the Code and the following limitations,
9 conditions and restrictions imposed under authority of Section
10 10156.6 of that Code:

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

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

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

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2 4. Respondent NACHO M. MENDOZA shall, within nine (9)
3 months from the effective date of this Decision, present evidence
4 satisfactory to the Real Estate Commissioner that Respondent has,
5 since the most recent issuance of an original or renewal real
6 estate license, taken and successfully completed the continuing
7 education requirements of Article 2.5 of Chapter 3 of the Real
8 Estate Law for renewal of a real estate license. If Respondent
9 NACHO M. MENDOZA fails to satisfy this condition, the
10 Commissioner may order the suspension of his license until the
11 Respondent presents such evidence. The Commissioner shall afford
12 Respondent the opportunity for a hearing pursuant to the
13 Administrative Procedure Act to present such evidence.

14
15 5. Pursuant to Section 10148 of the Business and
16 Professions Code, Respondents shall pay the Commissioner's
17 reasonable cost for (a) the audits which led to this
18 disciplinary action and (b) a subsequent audits to determine if
19 Respondent CAMINO REAL FINANCIAL INC. and NACHO M. MENDOZA dba
20 EL Camino Realty are now in compliance with the Real Estate Law.
21 The cost of the audit which led to this disciplinary action is
22 \$3,944.64 (Camino Real Financial Inc.) and \$1,401.44 (Nacho M.
23 Mendoza dba EL Camino Realty). Respondents are jointly and
24 severally liable for the cost of the audits. In calculating the
25 amount of the Commissioner's reasonable cost, the Commissioner
26 may use the estimated average hourly salary for all persons
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1 performing audits of real estate brokers, and shall include an
2 allocation for travel time to and from the auditor's place of
3 work. Said amount for the prior and subsequent audits shall not
4 exceed \$10,692.16.

5 Respondents shall pay such cost within 60 days of
6 receiving an invoice from the Commissioner detailing the
7 activities performed during the audit and the amount of time
8 spent performing those activities.

9 The Commissioner may suspend the license of Respondents
10 pending a hearing held in accordance with Section 11500, et seq.,
11 of the Government Code, if payment is not timely made as provided
12 for herein, or as provided for in a subsequent agreement between
13 the Respondents and the Commissioner. The suspension shall
14 remain in effect until payment is made in full or until a
15 Respondent enters into an agreement satisfactory to the
16 Commissioner to provide for payment, or until a decision
17 providing otherwise is adopted following a hearing held pursuant
18 to this condition.
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20 II

21 All licenses and licensing rights of Respondents
22 CAMINO REAL FINANCIAL INC., and NACHO M. MENDOZA under the Real
23 Estate Law are suspended for a period of one hundred (100) days
24 from the issuance of a restricted license; provided, however,
25 that if Respondents' petition said suspension (or a portion
26 thereof) shall be stayed for two (2) years upon condition that:
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1 1. Respondents pay a monetary penalty pursuant to
2 Section 10175.2 of the Business and Professions Code at a rate of
3 \$50 for each day of the suspension for a total monetary penalty
4 of \$5,000 for each Respondent, totaling \$10,000 for both
5 Respondents.

6 2. Said payment shall be in the form of a cashier's
7 check or certified check made payable to the Recovery Account of
8 the Real Estate Fund. Said check must be received by the
9 Department prior to the effective date of the Decision in this
10 matter.

11 3. No further cause for disciplinary action against
12 the real estate license of Respondents occur within two (2) years
13 from the effective date of the Decision in this matter.

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

21 5. If Respondents pay the monetary penalty and if no
22 further cause for disciplinary action against the real estate
23 licenses of Respondents occur within two (2) years from the
24 effective date of the Decision, the stay hereby granted shall
25 become permanent.
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DATED: 1-28-03

Elliott Mac Lennan
ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

* * *

EXECUTION OF THE STIPULATION

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

Respondents can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondents, to the Department at the following telephone/fax number: Elliott Mac Lennan at (213) 576-6917. Respondents agree, acknowledge and understand that by electronically sending to the Department a fax copy of Respondents' actual signature as they appear on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondents as if the

1 Department had received the original signed Stipulation and
2 Agreement.

3
4 DATED: _____

CAMINO REAL FINANCIAL INC.
BY: NACHO M. MENDOZA, D.O.,
Respondent

6
7 DATED: _____

NACHO M. MENDOZA, individually
doing business as El Camino Realty
and as designated officer of Camino
Real Financial Inc., Respondent

10
11 DATED: _____

FRANK BUDA, Attorney for
Respondents

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13 * * *

14 The foregoing Stipulation and Agreement is hereby
15 adopted as my Decision as to Respondents CAMINO REAL FINANCIAL
16 INC. and NACHO M. MENDOZA, individually and as designated officer
17 of Camino Real Financial Inc. and shall become effective at 12
18 o'clock noon
19 on _____, 2003.

20 IT IS SO ORDERED _____, 2003.

21
22 PAULA REDDISH ZINNEMANN
23 Real Estate Commissioner
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25 _____
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Department had received the original signed stipulation and Agreement.

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4 DATED 1-29-03

Nacho M. Mendoza
CAMINO REAL FINANCIAL INC.
BY: NACHO M. MENDOZA, D.O.,
Respondent

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6
7 DATED 1-29-03

Nacho M. Mendoza
NACHO M. MENDOZA, individually
doing business as El Camino Realty
and as designated officer of Camino
Real Financial Inc., Respondent

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9 AS TO FORM:

10 DATED 1-29-03

Frank A. Buda
FRANK BUDA, Attorney for
Respondents

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MAR 11

2003

IT IS SO ORDERED February 12, 2003.

PAULA RODRIGUEZ ZENNERMANN
Real Estate Commissioner

Paula Rodriguez

Nacho
gls

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

FILED
AUG - 5 2002
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

By *K. Mederhols*

CAMINO REAL FINANCIAL INC., ET AL.,

}
}

Case No. H-29033 LA

OAH No. L-2002050386

Respondent

**CONTINUED
NOTICE OF HEARING ON ACCUSATION**

To the above named respondent:

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, Ste. 630, Los Angeles, CA on February 4, 5, & 6, 2003, 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 on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the 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.

DEPARTMENT OF REAL ESTATE

Dated: August 5, 2002

By *Elliott MacLennan*
ELLIOTT MAC LENNAN, Counsel

cc: Camino Real Financial Inc./Nacho Mendoza
Frank M. Buda, Esq./Sacto/OAH/RJ

Sacto gls

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

FILED
FEB - 8 2002
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

By *K. W. Riederholz*

CAMINO REAL FINANCIAL INC., ET AL.,

}
}

Case No. H-29033 LA

OAH No. L-2001050386

Respondent

**CONTINUED
NOTICE OF HEARING ON ACCUSATION**

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Ste. 630, Los Angeles, California on March 7 & 8, 2002, 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 on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the 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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DEPARTMENT OF REAL ESTATE

Dated: February 8, 2002

By *ELI*
ELLIOTT MAC LENNAN, Counsel

cc: Camino Real Financial Inc.
Nacho M. Mendoza
Frank M. Buda, Esq. Sacto OAH RJ

Sacto
RJ

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
NOV - 1 2001
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

By R. Hinderholt

CAMINO REAL FINANCIAL INC., et al.,

}

Case No. H-29033 LA

OAH No. L-2001050386

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 320 W. Fourth St., Ste. 630, Los Angeles, CA on December 3 & 4, 2001, 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 on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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DEPARTMENT OF REAL ESTATE

Dated: November 1, 2001

By [Signature]
Counsel

cc: Camino Real Financial Inc.
Nacho M. Mendoza
Frank M. Buda, Esq.
Sacto OAH RJ

kw

Sacto

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

FILED
AUG 3 2001
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

By: M. Mendoza

CAMINO REAL FINANCIAL INC., et al.,

}
}

Case No. H-29033 LA

OAH No. L-2001050386

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings 320 W. Fourth St., Ste. 630, Los Angeles, CA

on Oct. 3 & 4, 2001, 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 on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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DEPARTMENT OF REAL ESTATE

Dated: August 3, 2001

By *M. Mendoza*

Counsel

cc: Camino Real Financial Inc.
Nacho M. Mendoza
Frank M. Buda, Esq.
Sacto
OAH
RJ

Handwritten signature

FILED
MAY 30 2001
DEPARTMENT OF REAL ESTATE

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

By *K. N. ...*

In the Matter of the Accusation of

CAMINO REAL FINANCIAL INC., ET AL.,

}
}

Case No. H- 29033 LA

OAH No. L-2001050386

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 320 W. Fourth St., Ste. 630, Los Angeles, CA on August 1, 2001, 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 on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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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.

DEPARTMENT OF REAL ESTATE

Dated: May 30, 2001

By *E. MacLennan*
ELLIOTT MAC LENNAN Counsel

cc: Camino Real Fiancial Inc.
Nacho M. Mendoza
Sacto
OAH
RJ

facts given

1 ELLIOTT MAC LENNAN, Counsel
2 State Bar No. 66674
3 Department of Real Estate
4 320 West Fourth Street, Suite 350
5 Los Angeles, California 90013-1105
6
7
8 (213) 576-6911

FILED
APR 24 2001
DEPARTMENT OF REAL ESTATE

By *K. Kuderholt*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

11	In the Matter of the Accusation of)	NO. H- 29033 LA
12	CAMINO REAL FINANCIAL INC., and)	
13	NACHO M. MENDOZA, individually)	A C C U S A T I O N
14	doing business as El Camino)	
15	Realty, and as designated officer)	
16	of Camino Real Financial Inc.,)	
)	
)	
	Respondents.)	

17 The Complainant, Thomas McCrady, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against CAMINO REAL FINANCIAL INC., and NACHO M. MENDOZA,
20 individually doing business as El Camino Realty and as
21 designated officer of Camino Real Financial Inc.,
22 alleges as follows:

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1.

The Complainant, Thomas McCrady, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against CAMINO REAL FINANCIAL INC. (CRF), and NACHO M. MENDOZA (MENDOZA).

2.

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.

3.

CRF and MENDOZA (sometimes hereinafter referred to as Respondents) are presently licensed or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code").

CAMINO REAL FINANCIAL INC.
FIRST CAUSE OF ACCUSATION

4.

At all time herein mentioned, MENDOZA was licensed by the Department as the designated officer of CRF to qualify CRF and to act for CRF as a real estate broker and, as provided by Code Section 10159.2, was responsible for the supervision and control of the activities conducted on behalf of CRF 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

1 in the performance of acts for which a real estate license is
2 required. MENDOZA was originally licensed as a real estate
3 broker on April 30, 1984.

4 5.

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

13 6.

14 At all times herein mentioned, CRF on behalf of others
15 in expectation of compensation, engaged in the business, acted
16 in the capacity of, advertised or assumed to act as a real
17 estate broker within the meaning of:

18 A. Section 10131(d) of the Code. CRF operated as a
19 mortgage and loan broker, including soliciting borrowers and
20 lenders and negotiating and servicing loans on real property;
21 and,

22 B. In addition, CRF conducted broker controlled
23 escrows through its escrow division under the exemption set
24 forth in Section 17006(a)(4) of the California Financial Code.

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7.

On January 2, 2001, the Department completed an audit examination (LA 000144/000274) of the books and records of CRF pertaining to its mortgage and loan brokerage and escrow activities requiring a real estate license as described in Paragraph 6. The audit examination covered a period of time beginning on January 1, 1998 to October 31, 2000. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs.

8.

At all times mentioned, in connection with the activities described in Paragraph 6, above, CRF accepted or received funds in trust (trust funds) from or on behalf of borrowers and lenders, and thereafter made disposition of such funds. Respondent CRF maintained the following escrow trust account during the audit period into which were deposited certain of these funds at:

"Camino Real Financial Escrow Division Trust Account
Account No. 1 638 0069 3794"
U. S. Bank
Whittier Hills, CA

9.

With respect to the trust funds referred to in Paragraph 8, it is alleged that CRF:

(a) Permitted, allowed or caused the disbursement of trust funds from the trust account where the trust account, to an amount which, on October 31, 2000, was \$11,212.05, less than the existing aggregate trust fund liability of CRF to every

1 principal who was an owner of said funds, without first
2 obtaining the prior written consent of the owners of said funds,
3 as required by Code Section 10145 and Regulations 2832.1,
4 2950(d) & (g), and 2951. The principal amount of the deficit
5 herein was the result of negative balance escrows.

6 (b) Failed to advise all parties to its escrow
7 division of its ownership of said escrow division, in violation
8 Code Section 10145 and Regulation 2950(h); and

9 (c) Permitted unlicensed and unbonded person Lainie
10 Mendoza, to be an authorized signatory on the trust account, in
11 violation of Code Section 10145 and Regulation 2834.

12 10.

13 The conduct of Respondent CRF, described in Paragraph
14 9, violated the Code and the Regulations as set forth below:

15	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
16		
17	9(a)	Code Section 10145 and
18		Regulations 2832.1,
19		2950(d)&(g) and 2951
20		
21	9(b)	Code Section 10145 and
22		Regulation 2950(h)
23		
24	9(c)	Code Section 10145 and
25		Regulation 2834
26		/
27		/

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

5 11.

6 The audit examination moreover revealed that CRF
7 conducted the purchase escrow for seller Patricia Rojo when CRF
8 was not a party to the escrow and accordingly did not represent
9 either buyer or seller or act as a mortgage loan broker. CRF
10 therefore engaged in conducting an unauthorized third party
11 escrow for which CRF received an escrow fee of \$1,380. MENDOZA
12 represented seller Patricia Rojo in his individual license
13 capacity and not in his capacity as designated officer of CRF.
14 This conduct is cause to suspend or revoke the real estate
15 license and license of CRF under the provisions of Code Section
16 10177(g).

17 12.

18 The audit examination also revealed that CRF failed to
19 provide and/or maintain a statement in writing, a Mortgage Loan
20 Disclosure Statement, containing all the information required by
21 Section 10241 of the Code to various borrowers including but not
22 limited to: Mangum, Rodriguez/Palafox, Hernandez, and Muniz
23 before these borrowers became obligated to perform under the
24 terms of their loans. These omission are a violation of Code
25 Section 10240 and Regulation 2840. This conduct constitutes
26 cause for the suspension or revocation of the real estate
27

1 license and license rights of Respondent CRF pursuant to Code
2 Section 10177(d).

3 13.

4 The audit examination also revealed that CRF did not
5 disclose to the following borrowers, Gutierrez, Naranjo,
6 Mireles, Mangum, Rodriguez, Hernandez and Muniz, that it
7 received rebates and service release premiums from lenders for
8 mortgage loans arranged through said lenders in the total amount
9 of \$17,062. The conduct of taking a secret profit undisclosed
10 to the aforesaid borrowers constitutes a violation of Code
11 Section 10176(g) and is cause for the suspension or revocation
12 of the real estate license and license rights of Respondent CRF
13 under the provisions thereunder.

14 14.

15 The overall conduct of CRF and MENDOZA constitutes
16 negligence or incompetence. This conduct and violation are
17 cause for the suspension or revocation of the real estate
18 license and license rights of said Respondents under the
19 provisions of Code Section 10177(g).

20 15.

21 The overall conduct of Respondent MENDOZA, constitutes
22 a failure on his part, as officer designated by a corporate
23 broker licensee, to exercise the reasonable supervision and
24 control over the licensed activities of CRF as required by Code
25 Section 10159.2, and to keep it in compliance with the Real
26 Estate Law, is cause for the suspension or revocation of the
27

1 real estate license and license rights of MENDOZA pursuant to
2 the provisions of Code Sections 10159.2 and 10177(h).

3 FACTS IN AGGRAVATION

4 16.

5 The audit examination also revealed that CRF failed to
6 contain a statement in the escrow instructions for its escrow
7 division which included the name of the licensee and the State
8 of California department issuing the license or authority under
9 which CRF operated said escrow company. This conduct
10 constitutes a violation of Section 17403.4 of the California
11 Financial Code.

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NACHO M. MENDOZA

Doing Business As El Camino Realty

SECOND CAUSE OF ACCUSATION

Complainant incorporates herein by reference the Preamble and the allegations of Paragraphs 1 through 16, inclusive, herein above.

17.

At all times herein mentioned, MENDOZA, doing business as El Camino Realty, acted as a real estate broker within the meaning of:

A. Section 10131(a) of the Code as a residential resale broker.

18.

On December 27, 2000, the Department completed an audit examination (LA 00207) of the books and records of MENDOZA pertaining to his residential resale activities requiring a real estate license as described in Paragraph 17. The audit examination covered a period of time beginning on January 1, 1998 to October 31, 2000. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs.

19.

At all times mentioned, in connection with the activities described in Paragraph 17, above, MENDOZA accepted or received funds in trust (trust funds) from or on behalf of buyers and sellers and thereafter made disposition of such

1 funds. Respondent MENDOZA did not maintain a trust account
2 during the audit period.

3 20.

4 With respect to the trust funds referred to in
5 Paragraph 19, it is alleged that MENDOZA:

6 (a) Failed to maintain an adequate control record in
7 the form of a columnar record in chronological order of all
8 trust funds received included maintaining a record of earnest
9 money deposits made to escrow, as required by Sections 2831,
10 2950(d) and 2951 of the Regulations;

11 21.

12 The conduct of Respondent MENDOZA dba El Camino
13 Realty, described in Paragraph 20, above, violated the Code and
14 the Regulations as set forth below:

15 PARAGRAPH

PROVISIONS VIOLATED

16 20(a)

Code Section 10145 and
17 Regulation 2831

18 The foregoing violations separately constitutes cause for the
19 suspension or revocation of the license rights of MENDOZA under
20 the provisions of Code Section 10177(d).

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