

1 ELLIOTT MAC LENNAN, Counsel (SBN 66674)
2 Department of Real Estate
3 320 W. 4TH Street, Suite 350
4 Los Angeles, CA 90013-1105

5 Telephone: (213) 576-6982 (Office)
6 -or- (213) 576-6911 (Direct)

FILED
FEB 21 2002
DEPARTMENT OF REAL ESTATE

By R. Niederhals

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-29160 LA

12 THE LOAN FACTORY INC., and BRIAN)
13 ROBERT LAURSEN, individually and)
14 as designated officer of)
The Loan Factory Inc.)

STIPULATION
AND
AGREEMENT

15 Respondents.)

16 It is hereby stipulated by and between Respondents
17 THE LOAN FACTORY INC., and BRIAN ROBERT LAURSEN, individually and
18 as designated officer of The Loan Factory Inc., (sometimes
19 collectively referred to as Respondents), and the Complainant,
20 acting by and through Elliott Mac Lennan, Counsel for the
21 Department of Real Estate, as follows for the purpose of settling
22 and disposing of the Accusation filed on July 26, 2001, in this
23 matter:

24
25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and Respondents
27 at a formal hearing on the Accusation, which hearing was to be

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

5
6 2. Respondents have received, read and understand the
7 Statement to Respondent, the Discovery Provisions of the APA and
8 the Accusation filed by the Department of Real Estate in this
9 proceeding.

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

22
23 4. This Stipulation is based on the factual
24 allegations contained in the Accusation. In the interest of
25 expedience and economy, Respondents choose not to contest these
26 allegations, but to remain silent and understand that, as a
27 result thereof, these factual allegations, without being admitted

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

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

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

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

9 8. This stipulation and the order made pursuant to
10 this stipulation shall have no collateral estoppel or res
11 judicata effect in any proceeding(s) in which THE LOAN FACTORY
12 INC. and BRIAN ROBERT LAURSEN and the Department are not parties.
13 This stipulation is made and accepted with the express
14 understanding and agreement that it is for the purpose of
15 settling these proceedings only, and is not intended as, nor
16 shall be it be deemed, used, argued, or accepted as an
17 acknowledgement or admission of fact in any other judicial,
18 administrative, or other proceeding in which the Department is
19 not a party.
20

21 9. Respondents understand that by agreeing to this
22 Stipulation, Respondents agree to pay, pursuant to Business and
23 Professions Code Section 10148, the cost of the audit which led
24 to this disciplinary action. The amount of said cost is
25 \$3,661.55.
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1 Real Estate Law during the time that he was the officer
2 designated by a corporate broker licensee in violation of Code
3 Section 10159.2. This conduct is a basis for the suspension or
4 revocation of Respondent's license pursuant to Code Section
5 10177(h).

6
7 ORDER

8 WHEREFORE, THE FOLLOWING ORDER is hereby made:

9 I

10 All licenses and licensing rights of Respondents THE
11 LOAN FACTORY INC., and BRIAN ROBERT LAURSEN, under the Real
12 Estate Law are revoked; provided, however, restricted real estate
13 broker licenses shall be issued to said Respondents, pursuant to
14 Section 10156.5 of the Business and Professions Code if
15 Respondents:

16 (A) Make application therefor and pay to the
17 Department of Real Estate the appropriate fee for the restricted
18 license within ninety (90) days from the effective date of this
19 Decision. The restricted license issued to Respondents shall be
20 subject to all of the provisions of Section 10156.7 of the
21 Business and Professions Code and the following limitations,
22 conditions and restrictions imposed under authority of Section
23 10156.6 of the Business and Professions Code; and

24 (B) Provide, prior to the issuance of any restricted
25 license, evidence satisfactory to the Commissioner that the two
26 trust fund deficits set forth in Audit Report LA 000258, in total
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1 amount of \$40,916.39, have been cured, including the identity of
2 the source of funds used to cure them.

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

8 2. The restricted license issued to Respondents may
9 be suspended prior to hearing by Order of the Real Estate
10 Commissioner on evidence satisfactory to the Commissioner that a
11 Respondent has violated provisions of the California Real Estate
12 Law, the Subdivided Lands Law, Regulations of the Real Estate
13 Commissioner or conditions attaching to the restricted license.

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

19 4. Respondent BRIAN ROBERT LAURSEN shall, within nine
20 (9) months from the effective date of this Decision, present
21 evidence satisfactory to the Real Estate Commissioner that
22 Respondent has, since the most recent issuance of an original or
23 renewal real estate license, taken and successfully completed the
24 continuing education requirements of Article 2.5 of Chapter 3 of
25 the Real Estate Law for renewal of a real estate license. If
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1 Respondent BRIAN ROBERT LAURSEN fails to satisfy this condition,
2 the Commissioner may order the suspension of the restricted
3 license until the Respondent presents such evidence. The
4 Commissioner shall afford Respondent the opportunity for a
5 hearing pursuant to the Administrative Procedure Act to present
6 such evidence.

7
8 5. Respondent BRIAN ROBERT LAURSEN shall within six
9 (6) months from the effective date of the restricted license,
10 take and pass the Professional Responsibility Examination
11 administered by the Department including the payment of the
12 appropriate examination fee. If Respondent fails to satisfy
13 this condition, the Commissioner may order suspension of the
14 restricted license until Respondent passes the examination.

15 6. Pursuant to Code Section 10148, Respondents shall
16 pay the Commissioner's reasonable cost for (a) the audits which
17 led to this disciplinary action and (b) a subsequent audits to
18 determine if Respondent THE LOAN FACTORY INC.. and BRIAN ROBERT
19 LAURSEN are now in compliance with the Real Estate Law. The cost
20 of the audit which led to this disciplinary action is \$3,661.55.
21 In calculating the amount of the Commissioner's reasonable cost,
22 the Commissioner may use the estimated average hourly salary for
23 all persons performing audits of real estate brokers, and shall
24 include an allocation for travel time to and from the auditor's
25 place of work. Said amount for the prior and subsequent audits
26 shall not exceed \$7,323.10
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1 Respondents shall pay such cost within 60 days of
2 receiving an invoice from the Commissioner detailing the
3 activities performed during the audit and the amount of time
4 spent performing those activities.

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

16
17 DATED: 2-4-02

E. J. L.

ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

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20 * * *

21 EXECUTION OF THE STIPULATION

22 We have read the Stipulation and Agreement.
23 Its terms are understood by us and are agreeable and
24 acceptable to us. We understand that we are waiving
25 rights given to us by the California Administrative
26 Procedure Act (including but not limited to Sections 11506,
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1 11508, 11509 and 11513 of the Government Code), and we willingly,
2 intelligently and voluntarily waive those rights, including the
3 right of requiring the Commissioner to prove the allegations in
4 the Accusation at a hearing at which we would have the right to
5 cross-examine witnesses against us and to present evidence in
6 defense and mitigation of the charges.

7 Respondents can signify acceptance and approval of the
8 terms and conditions of this Stipulation and Agreement by faxing
9 a copy of its signature page, as actually signed by Respondents,
10 to the Department at the following telephone/fax number: Elliott
11 Mac Lennan at (213) 576-6917. Respondents agree, acknowledge and
12 understand that by electronically sending to the Department a fax
13 copy of Respondents' actual signature as they appear on the
14 Stipulation and Agreement, that receipt of the faxed copy by the
15 Department shall be as binding on Respondents as if the
16 Department had received the original signed Stipulation and
17 Agreement.
18

19 DATED: _____

20 THE LOAN FACTORY INC.
21 BY: BRIAN ROBERT LAURSEN, D.O.,
Respondent

22
23 DATED: _____

24 BRIAN ROBERT LAURSEN, individually
25 and as designated officer of The
26 Loan Factory Inc., Respondent
27

1 11508, 11509 and 11513 of the Government Code), and we willingly,
 2 intelligently and voluntarily waive those rights, including the
 3 right of requiring the Commissioner to prove the allegations in
 4 the Accusation at a hearing at which we would have the right to
 5 cross-examine witnesses against us and to present evidence in
 6 defense and mitigation of the charges.

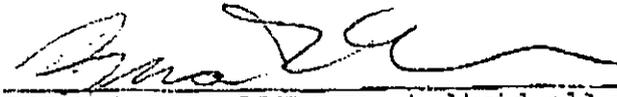
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 8 terms and conditions of this Stipulation and Agreement by faxing
 9 a copy of its signature page, as actually signed by Respondents,
 10 to the Department at the following telephone/fax number: Elliott
 11 Mac Lennan at (213) 576-6917. Respondents agree, acknowledge and
 12 understand that by electronically sending to the Department a fax
 13 copy of Respondents' actual signature as they appear on the
 14 Stipulation and Agreement, that receipt of the faxed copy by the
 15 Department shall be as binding on Respondents as if the
 16 Department had received the original signed Stipulation and
 17 Agreement.
 18

19 DATED: 01/22/02



THE LOAN FACTORY INC.
 BY: BRIAN ROBERT LAURSEN, D.O.,
 Respondent

22
 23 DATED: 01/22/02



BRIAN ROBERT LAURSEN, individually
 and as designated officer of The
 Loan Factory Inc., Respondent

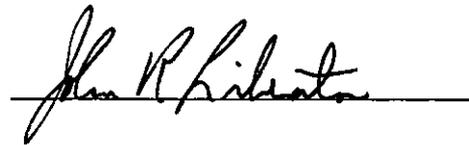
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents THE LOAN FACTORY INC.,
and BRIAN ROBERT LAURSEN, individually and as designated officer
of The Loan Factory Inc., and shall become effective at 12
o'clock noon on March 13, 2002.

IT IS SO ORDERED February 13, 2002

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



BY: John R. Liberator
Chief Deputy Commissioner

Handwritten initials/signature

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
SEP 18 2001
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

THE LOAN FACTORY INC. and
BRIAN ROBERT LAURSEN,

By *R. Studerholdt*
Case No. H-29160 LA
OAH No. L-2001080337

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 January 9, 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.

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: September 18, 2001

By *E. MacLennan*
ELLIOTT MAC LENNAN *Counsel*

cc: The Loan Factory Inc.
Brian Robert Laursen
Sacto
OAH
RG Dagnino

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ELLIOTT MAC LENNAN, Counsel
State Bar No. 66674
Department of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, California 90013-1105

(213) 576-6911

FILED
JUL 26 2001
DEPARTMENT OF REAL ESTATE

By: *K. M. ...*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) NO. H-29160 LA
)
THE LOAN FACTORY INC., and)
BRIAN ROBERT LAURSEN, individually) A C C U S A T I O N
doing business as The Loan Factory,)
and as designated officer)
of The Loan Factory Inc.,)
)
)
)
Respondents.)

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, for cause of Accusation
against THE LOAN FACTORY INC., and BRIAN ROBERT LAURSEN,
individually doing business as The Loan Factory and as
designated officer of The Loan Factory Inc., alleges as follows:

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1.

The Complainant, Maria Suarez, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against THE LOAN FACTORY INC. and BRIAN ROBERT LAURSEN (LAURSEN).

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.

THE LOAN FACTORY INC. and LAURSEN (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").

THE LOAN FACTORY INC.

FIRST CAUSE OF ACCUSATION

4.

At all time herein mentioned, LAURSEN was licensed by the Department as the designated officer of THE LOAN FACTORY INC. to qualify it and to act for it 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 THE LOAN FACTORY INC. by its officers, managers and

1 employees as necessary to secure full compliance with the
2 provisions of the Real Estate Law including the supervision of
3 the salespersons licensed to the corporation in the performance
4 of acts for which a real estate license is required. LAURSEN
5 was originally licensed as a real estate broker on September 1,
6 1993. THE LOAN FACTORY INC. was originally licensed on November
7 1, 1989.

8 5.

9 Whenever reference is made in an allegation in the
10 Accusation to an act or omission of THE LOAN FACTORY INC., such
11 allegation shall be deemed to mean that the officers, directors,
12 managers, employees, agents and real estate licensees employed
13 by or associated with THE LOAN FACTORY INC., including LAURSEN,
14 committed such act or omission while engaged in the furtherance
15 of its business or operation and while acting within the course
16 and scope of its corporate authority, agency and employment.

17 6.

18 At all times herein mentioned, THE LOAN FACTORY INC.,
19 on behalf of others in expectation of compensation, engaged in
20 the business, acted in the capacity of, advertised or assumed to
21 act as a real estate broker within the meaning of:

22 A. Section 10131(d) of the Code. THE LOAN FACTORY
23 INC. operated as a mortgage and loan broker, including
24 soliciting borrowers and lenders and negotiating and servicing
25 loans on real property; and,

26 B. In addition, THE LOAN FACTORY INC. conducted
27 broker controlled escrows through its escrow division under the

1 exemption set forth in Section 17006(a)(4) of the California
2 Financial Code.

3 7.

4 On May 25, 2001, the Department completed an audit
5 examination (LA 000258) of the books and records of THE LOAN
6 FACTORY INC. pertaining to its mortgage and loan brokerage, loan
7 servicing, and escrow activities requiring a real estate license
8 as described in Paragraph 6. The audit examination covered a
9 period of time beginning on January 1, 1999 to December 31,
10 2000. The audit examination revealed violations of the Code and
11 the Regulations as set forth in the following paragraphs.

12 8.

13 At all times mentioned, in connection with the
14 activities described in Paragraph 6, above, THE LOAN FACTORY
15 INC. accepted or received funds in trust (trust funds) from or
16 on behalf of borrowers and lenders, and thereafter made
17 disposition of such funds. Respondent THE LOAN FACTORY INC.
18 maintained the following trust accounts during the audit period
19 into which were deposited certain of these funds at:

20
21 "The Loan Factory Servicing Trust Account
22 Account No. 04292-13852"
23 Bank of America
24 Tarzana, CA 91356

25 "The Loan Factory Escrow Trust Account
26 Account No. 04299-13849"
27 Bank of America
Tarzana, CA 91356

1
2 With respect to the trust funds referred to in
3 Paragraph 8, it is alleged that THE LOAN FACTORY INC.:

4 (a) Permitted, allowed or caused the disbursement of
5 trust funds from the trust account where the servicing trust
6 account, to an amount which, on December 29, 2000, was
7 \$7,106.13, less than the existing aggregate trust fund liability
8 of THE LOAN FACTORY INC. to every principal who was an owner of
9 said funds, without first obtaining the prior written consent of
10 the owners of said funds, as required by Code Section 10145 and
11 Regulations 2832.1, 2950(d) and (g), and 2951.

12 (b) Permitted, allowed or caused the disbursement of
13 trust funds from the trust account where the escrow trust
14 account, to an amount which, on December 29, 2000, was
15 \$33,810.26, less than the existing aggregate trust fund
16 liability of THE LOAN FACTORY INC., to every principal who was
17 an owner of said funds, without first obtaining the prior
18 written consent of the owners of said funds, as required by Code
19 Section 10145 and Regulations 2832.1, 2950(d) and (g), and 2951.

20 (c) Failed to maintain an adequate control record in
21 the form of a columnar record in chronological order of all
22 trust funds received for the servicing trust account, as
23 required by Regulations 2831 and 2950(d).
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1 (d) Failed to advise all parties to its escrow
2 division of its ownership of the escrow holding agency, in
3 violation Code Section 10145 and Regulation 2950(h); and

4 (e) Failed to notify the Department of its whereabouts
5 after its main office located at 17141 Ventura Blvd., suite 204,
6 Encino, California, was abandoned, in violation of Code Section
7 10162 and Regulation 2715.

8 10.

9 The conduct of Respondent THE LOAN FACTORY INC.,
10 described in Paragraph 9, violated the Code and the Regulations
11 as set forth below:

12
13 PARAGRAPH

PROVISIONS VIOLATED

14 9(a)

Code Section 10145 and
15 Regulations 2832.1,
16 2950(d)&(g) and 2951

17
18 9(b)

Code Section 10145 and
19 Regulations 2832.1,
20 2950(d)&(g) and 2951

21
22 9(c)

Code Section 10145 and
23 Regulation 2831 and 2950(d)

24
25
26 9(d)

Code Section 10145 and
27 Regulation 2950(h)

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9(e)

Code Section 10162 and
Regulation 2715

Each of the foregoing violations separately constitutes cause for the suspension or revocation of the real estate license and license rights of THE LOAN FACTORY INC. under the provisions of Code Sections 10165, 10177(d) and 10177(g).

11.

The overall conduct of Respondent LAURSEN constitutes a failure on his part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of THE LOAN FACTORY INC. as required by Code Section 10159.2, and to keep it in compliance with the Real Estate Law, is cause for the suspension or revocation of the real estate license and license rights of LAURSEN pursuant to the provisions of Code Sections 10159.2 and 10177(h).

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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 all licenses and licensing rights of Respondents THE LOAN FACTORY INC., and BRIAN ROBERT LAURSEN, individually doing business as The Loan Factory and as designated officer of THE LOAN FACTORY 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 July, 2001.

MARIA SUAREZ

Deputy Real Estate Commissioner

cc: The Loan Factory
Brian Robert Laursen
Sacto
RGD
MS