

FILED
SEP 15 2003
DEPARTMENT OF REAL ESTATE

ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)
-or- (213) 576-6982 (office)

By K. Niederholt

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-29838 LA

CALSTAR FINANCIAL SERVICES
CORPORATION dba Calstar Mortgage
Services Corporation, and
DANIEL C. ROBLES, JR.,
individually and as designated
officer of Calstar Financial
Services Corporation,

STIPULATION
AND
AGREEMENT

Respondents.

It is hereby stipulated by and between CALSTAR FINANCIAL SERVICES CORPORATION dba Calstar Mortgage Services Corporation, and DANIEL C. ROBLES, JR., individually and as designated officer of Calstar Financial Services Corporation, (sometimes collectively referred to as "Respondents"), represented by Frank M. Buda, Esq., and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on December 18, 2002, in this matter:

1 1. All issues which were to be contested and all evidence
2 which was to be presented by Complainant and Respondents at a
3 formal hearing on the Accusation, which hearing was to be held in
4 accordance with the provisions of the Administrative Procedure
5 Act ("APA"), shall instead and in place thereof be submitted
6 solely on the basis of the provisions of this Stipulation and
7 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. Respondents filed a Notice of Defense pursuant to
13 Section 11506 of the Government Code for the purpose of
14 requesting a hearing on the allegations in the Accusation.
15 Respondents hereby freely and voluntarily withdraw said Notice of
16 Defense. Respondents acknowledge that they understand that by
17 withdrawing said Notice of Defense they thereby waive their right
18 to require the Commissioner to prove the allegations in the
19 Accusation at a contested hearing held in accordance with the
20 provisions of the APA and that they will waive other rights
21 afforded to them in connection with the hearing such as the right
22 to present evidence in their defense of the allegations in the
23 Accusation and the right to cross-examine witnesses.

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1 4. This Stipulation is based on the allegations
2 contained in the Accusation. In the interest of expedience and
3 economy, Respondents choose not to contest these allegations, but
4 to remain silent and understand that, as a result thereof, these
5 allegations, without being admitted or denied, will serve as a
6 prima facie basis for the disciplinary action stipulated to
7 herein. The Real Estate Commissioner shall not be required to
8 provide further evidence to prove said allegations.

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

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

11 7. The Order or any subsequent Order of the Real
12 Estate Commissioner made pursuant to this Stipulation shall not
13 constitute an estoppel, merger or bar to any further
14 administrative or civil proceedings by the Department of Real
15 Estate with respect to any matters which were not specifically
16 alleged to be causes for Accusation in this proceeding but do
17 constitute a bar, estoppel and merger as to any allegations
18 actually contained in the Accusation against Respondents herein.

19 8. This Stipulation and the order made pursuant to
20 this Stipulation shall have no collateral estoppel or res
21 judicata effect in any proceeding(s) in which CALSTAR FINANCIAL
22 SERVICES CORPORATION and/or DANIEL C. ROBLES and the Department
23 are not parties. This Stipulation is made and accepted with the
24 express understanding and agreement that it is for the purpose of
25 settling these proceedings only, and is not intended as, nor
26 shall be it be deemed, used, argued, or accepted as an
27 acknowledgement or admission of fact in any other judicial,

1 administrative, or other proceeding in which the Department is
2 not a party.

3 DETERMINATION OF ISSUES

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

7 1.

8 The conduct, acts or omissions of CALSTAR FINANCIAL
9 SERVICES CORPORATION as described in Paragraph 4 above, is in
10 violation of Sections 10236.4, and 10240 with respect to
11 borrowers Ortiz, Velasco and Sepulveda, of the Business and
12 Professions Code ("Code") and is a basis for the suspension or
13 revocation of Respondent's license and license rights pursuant to
14 Code Sections 10177(d) and 10177(g).
15

16 2.

17 The conduct, acts or omissions of DANIEL C. ROBLES, as
18 described in Paragraph 4, constitutes a failure to ensure that
19 Calstar Financial Services Corporation was in compliance with the
20 Real Estate Law during the time that he was the officer
21 designated by a corporate broker licensee, in violation of Code
22 Section 10159.2. This conduct is a basis for the suspension or
23 revocation of Respondent's broker license and license rights
24 pursuant to Business and Professions Code Section 10177(h).
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ORDER

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

I.

A. All licenses and licensing rights of Respondent
CALSTAR FINANCIAL SERVICES CORPORATION and DANIEL C. ROBLES under
the Real Estate Law are suspended for a period of ninety (90)
days from the effective date of this Decision; provided, however,
that sixty (60) days of said suspension shall be stayed for two
(2) years upon the following terms and conditions:

1. Respondents shall obey all laws, rules and
regulations governing the rights, duties and responsibilities of
a real estate licensee in the State of California.

2. That no final subsequent determination be made,
after hearing or upon stipulation, that cause for disciplinary
action occurred within two (2) years of the effective date of
this Decision. Should such determination be made, the
Commissioner may, in her discretion, vacate and set aside the
stay order and reimpose all or a portion of the stayed
suspension. Should no such determination be made, the stay
imposed herein shall become permanent.

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1 B. The initial thirty (30) day portion of said ninety
2 (90) day suspension shall commence on the effective date of this
3 Decision; provided, however, that if Respondents petitions, said
4 suspension shall be stayed upon condition that:

5 1. Pursuant to Section 10175.2 of the Business and
6 Professions Code, Respondents each pay a monetary penalty of
7 fifty dollars (\$50.00) per day totaling One Thousand Five Dollars
8 (\$1,500) each for a total of Three Thousand Dollars (\$3,000).

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

14 3. No further cause for disciplinary action against
15 the real estate license of Respondents occurs within two (2)
16 years from the effective date of the Decision in this matter.

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

24 5. If Respondents pays the monetary penalty and if no
25 further cause for disciplinary action against the real estate
26
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1 licenses of Respondent occurs within two (2) years from the
2 effective date of the Decision, the stay hereby granted shall
3 become permanent.

4
5 DATED: 8-18-03

ELLIOTT MAC LENNAN
ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

7 * * *

8
9 We have read the Stipulation and Agreement, and have
10 discussed it with our counsel. Its terms are understood by us
11 and are agreeable and acceptable to us. We understand that we
12 are waiving rights given to us by the California Administrative
13 Procedure Act (including but not limited to Sections 11506,
14 11508, 11509 and 11513 of the Government Code), and we willingly,
15 intelligently and voluntarily waive those rights, including the
16 right of requiring the Commissioner to prove the allegations in
17 the Accusation at a hearing at which we would have the right to
18 cross-examine witnesses against us and to present evidence in
19 defense and mitigation of the charges.

20 Respondents can signify acceptance and approval of the
21 terms and conditions of this Stipulation and Agreement by faxing
22 a copy of its signature page, as actually signed by Respondents,
23 to the Department at the following telephone/fax number: (213)
24 576-6917, Attention: Elliott Mac Lennan. Respondents agree,
25 acknowledge and understand that by electronically sending to the
26 Department a fax copy of Respondents' actual signatures as they
27

08/18/2003 00:00
08/18/2003 18:11 818-bb18465

NO.286 0009

1 appear on the Stipulation and Agreement, that receipt of the
2 faxed copy by the Department shall be as binding on respondents
3 as if the Department had received the original signed Stipulation
4 and Agreement.

5
6
7 DATED: 8.18.03
CALSTAR FINANCIAL SERVICES
CORPORATION
BY: DANIEL G. ROBLES, D.O.,
Respondent8
9
10 DATED: 8.18.03
DANIEL G. ROBLES, individually and
as designated officer of Calstar
Mortgage Services Corporation
Respondent11
12
13
14 DATED: 8.18.03
FRANK M. BUDA, Attorney for
Respondents
Approved as to form15
16
17 * * *

18 The foregoing Stipulation and Agreement is hereby
19 adopted as my Decision and Order and shall become effective at 12
20 o'clock noon on _____.

21 IT IS SO ORDERED _____.

22
23 PAULA REDDISH SINNEMANN
24 Real Estate Commissioner
25
26
27

1 appear on the Stipulation and Agreement, that receipt of the
2 faxed copy by the Department shall be as binding on Respondents
3 as if the Department had received the original signed Stipulation
4 and Agreement.
5
6

7 DATED: _____

CALSTAR FINANCIAL SERVICES
CORPORATION

8 BY: DANIEL C. ROBLES, D.O.,
9 Respondent
10

11 DATED: _____

DANIEL C. ROBLES, individually and
as designated officer of Calstar
Mortgage Services Corporation
Respondent
12
13
14

15 DATED: _____

FRANK M. BUDA, Attorney for
Respondents
Approved as to form
16
17

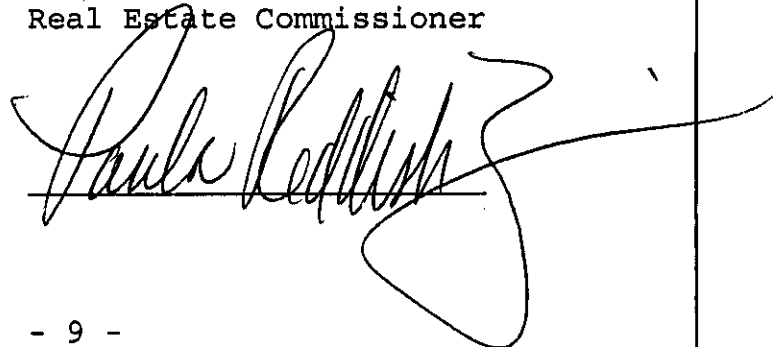
* * *

18 The foregoing Stipulation and Agreement is hereby
19 adopted as my Decision and Order and shall become effective at 12
20 o'clock noon on OCT - 6 2003
21

22 IT IS SO ORDERED

September 4, 2003.

23 PAULA REDDISH ZINNEBANN
24 Real Estate Commissioner
25
26
27



Handwritten signature/initials

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

FILED
APR 8 2003
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

By *K. Medeiros*

CALSTAR FINANCIAL SERVICES INC., ET AL.,

Case No. H-29838 LA

OAH No. L-2003010825

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 320 W. Fourth Street, Ste. 630, Los Angeles, CA on August 25 & 26, 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: APR 8 2003

By

E. J. MacLennan
ELLIOTT MAC LENNAN, Counsel

cc: Calstar Financial Services/Daniel C. Robles, Jr.
Frank M. Buda, Esq.
Sacto/OAH/KA

Back

1 ELLIOTT MAC LENNAN, Counsel
2 State Bar No. 66674
3 Department of Real Estate
320 West Fourth Street, Suite 350
4 Los Angeles, California 90013-1105
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FILED
DEC 18 2002
DEPARTMENT OF REAL ESTATE

By *K. N. [Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-29838 LA
)
CALSTAR FINANCIAL SERVICES)
CORPORATION dba Calstar Mortgage) A C C U S A T I O N
Services Corporation, and)
DANIEL C. ROBLES, JR., individually)
and as designated officer of Calstar)
Financial Services Corporation,)
)
Respondents.)

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, for cause of Accusation
against CALSTAR FINANCIAL SERVICES CORPORATION dba Calstar
Mortgage Services Corporation, and DANIEL C. ROBLES, JR.,
individually and as designated officer of Calstar Financial
Services Corporation, alleges as follows:

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3 The Complainant, Maria Suarez, acting in her official
4 capacity as a Deputy Real Estate Commissioner of the State of
5 California, makes this Accusation against CALSTAR FINANCIAL
6 SERVICES CORPORATION ("CFSC") and DANIEL C. ROBLES, JR.,
7 individually as designated officer of Calstar Financial Services
8 Corporation ("ROBLES").

9 2.

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

14 3.

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

19 4.

20 At all time herein mentioned, ROBLES was licensed by
21 the Department as the designated officer of CFSC to qualify CFSC
22 and to act for CFSC as a real estate broker and, as provided by
23 Code Section 10159.2, was responsible for the supervision and
24 control of the activities conducted on behalf of CFSC by CFSC's
25 officers, managers and employees as necessary to secure full
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1 compliance with the provisions of the Real Estate Law including
2 the supervision of the salespersons licensed to the corporation
3 in the performance of acts for which a real estate license is
4 required. CFSC'S corporate real estate broker license was
5 originally issued on October 23, 1998. ROBLES was originally
6 licensed as a real estate broker on November 17, 1994.

7 5.

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

16 6.

17 At all times herein mentioned, CFSC engaged in the
18 business as a real estate broker within the meaning of Code
19 Section 10131(d). CFSC operated as a mortgage and loan broker
20 and a "loan packager", under the fictitious business name of
21 Calstar Mortgage Services Corporation.

22 7.

23 On July 12, 2002, the Department completed an audit
24 examination of the books and records of CFSC pertaining to its
25 mortgage and loan brokerage activities, requiring a real estate
26 license as described in Paragraph 6. The audit examination
27 covered a period of time beginning on June 1, 2001 to May 31,

1 2002. The audit examination revealed violations of the Code and
2 the Regulations as set forth below, and more fully discussed in
3 Audit Report LA 010448 and the exhibits and workpapers attached
4 to said audit reports.

5 8.

6 At all times mentioned, in connection with the
7 activities described in Paragraph 6, above, CFSC accepted or
8 received funds in trust (trust funds) from or on behalf of
9 borrowers and lenders, and thereafter made disposition of such
10 funds. Respondent did not maintain a trust account during the
11 audit period, nor was Respondent required to do so.

12 9.

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

15 (a) Received undisclosed compensation via rebates from
16 lenders for yield spread premiums, mortgage fees, and other
17 rebates including "SRP" rebates (service rebate premiums paid by
18 Federal Housing Authority to CFSC) earned in connection with
19 Respondent's mortgage loan activities requiring a real estate
20 license. The rebates were not disclosed in the Mortgage Loan
21 Disclosure Statements/Good Faith Estimates provided to various
22 borrowers or by other documentation provided to various
23 borrowers including but not limited to borrowers Patel
24 (\$6,571.48), Velasco (\$3,527.00), Michel (\$550.00), and Paramo
25 \$2,418.75, until after the time the borrowers had signed loan
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documents. CFSC received \$13,067.23 in total undisclosed compensation, as required by Code Section 10240 and 10176(g).

(b) Failed to provide and/or maintain on file for a period of three years a true and correct copy of a Department of Real Estate approved Mortgage Loan Disclosure Statement signed and dated by the broker and by borrowers Ortiz, Michel, Paramo and Sepulveda, as required by Code Section 10240.

(c) Failed to provide and/or maintain Alternative Approved Borrower Disclosure Statement in writing containing all the information required by Code Section 10241 and Regulation 2840.1 to various borrowers including but not limited to Ortiz and Sepulveda, before these borrowers became obligated to perform under the terms of their loans, as required by Code Section 10240 and Regulation 2840.

(d) Failed to display the Department's license information and telephone number on all advertisements where there is a solicitation for borrowers or potential investors, to wit, on Mortgage Loan Disclose Statements and the Lender Purchaser Disclosure Statements, as required by Code Section 10236.4.

10.

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

PARAGRAPH

PROVISIONS VIOLATED

1 9(a)

Code Section 10240 and
10176(g)

2 9(b)

Code Section 10240

3 9(c)

Code Section 10241 and
Regulation 2840

4 9(d)

Code Section 10236.4

5
6
7
8 Each of the foregoing violations separately constitutes cause
9 for the suspension or revocation of the real estate license and
10 license rights of CFSC under the provisions of Code Sections
11 10176(g), 10177(d) and/or 10177(g).

12 11.

13 The overall conduct of Respondent ROBLES constitutes a
14 failure on his part, as officer designated by a corporate broker
15 licensee, to exercise the reasonable supervision and control
16 over the licensed activities of CFSC as required by Code Section
17 10159.2, and to keep CFSC in compliance with the Real Estate
18 Law, and is cause for the suspension or revocation of the real
19 estate license and license rights of ROBLES pursuant to the
20 provisions of Code Sections 10177(g) and/or 10177(h).

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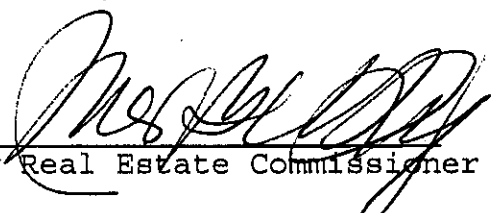
25 ///

26 ///

1 WHEREFORE, complainant prays that a hearing be
2 conducted on the allegations of this Accusation and, that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and licensing rights of Respondents
5 CALSTAR FINANCIAL SERVICES CORPORATION dba Calstar Mortgage
6 Services Corporation, and DANIEL C. ROBLES, JR., individually
7 and as designated officer of Calstar Financial Services
8 Corporation, under the Real Estate Law (Part 1 of Division 4 of
9 the Business and Professions Code) and for such other and
10 further relief as may be proper under other applicable
11 provisions of law.
12

13 Dated at Los Angeles, California

14 this 11TH day of November 2002.

15 
16 Deputy Real Estate Commissioner
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23
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25 cc: Calstar Financial Services Corporation
26 c/o Daniel C. Robles, Jr.
27 Maria Suarez
Sacto
KA