

Sacto

1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6982 (office)

FILED

SEP 24 2007

DEPARTMENT OF REAL ESTATE
BY: Holy

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	No. H-33693 LA
12)	
13	<u>NUESTRA CASA MORTGAGE INC.</u>)	<u>STIPULATION</u>
14	doing business as RFG Bankers,)	<u>AND</u>
15	RFG Financial Services, and)	<u>AGREEMENT</u>
16	Nuestra Casa Escrow Division;)	
17	STANLEY EVERETT HAYNES,)	
18	individually and as)	
19	designated officer of)	
20	Nuestra Casa Mortgage Inc., and)	
21	ENRIQUE FIERRO, individually and)	
22	as former designated officer of)	
23	Nuestra Casa Mortgage Inc.,)	
24)	
25)	
26)	
27	Respondents,)	

21 It is hereby stipulated by and between Respondent
22 NUESTRA CASA MORTGAGE INC. a corporate real estate broker
23 (sometimes referred to as "Respondent"), represented by Mary E.
24 Work, Esq., and the Complainant, acting by and through Elliott
25 Mac Lennan, Counsel for the Department of Real Estate
26 ("Department"), as follows for the purpose of settling and
27

1 disposing of the Accusation ("Accusation") filed on January 31,
2 2007, in this matter:

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

10 2. Respondent has received, read and understands the
11 Statement to Respondent, the Discovery Provisions of the APA and
12 the Accusation filed by the Department of Real Estate in this
13 proceeding.

14 3. Respondent timely filed a Notice of Defense
15 pursuant to Section 11506 of the Government Code for the purpose
16 of requesting a hearing on the allegations in the Accusation.
17 Respondent hereby freely and voluntarily withdraws said Notice of
18 Defense. Respondent acknowledges that it understands that by
19 withdrawing said Notice of Defense it thereby waives its right to
20 require the Commissioner to prove the allegations in the
21 Accusation at a contested hearing held in accordance with the
22 provisions of the APA and that they will waive other rights
23 afforded to it in connection with the hearing such as the right
24 to present evidence in its defense and the right to cross-examine
25 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, Respondent chooses 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 and Respondent's decision not to
11 contest the Accusation is made for the purpose of reaching an
12 agreed disposition of this proceeding and is expressly limited to
13 this proceeding and any other proceeding or case in which the
14 Department, the state or federal government, or any agency of
15 this state, another state or federal government is involved, and
16 otherwise shall not be admissible in any other criminal or civil
17 proceedings.
18

19 6. It is understood by the parties that the Real
20 Estate Commissioner may adopt this Stipulation as his Decision in
21 this matter thereby imposing the penalty and sanctions on
22 Respondent's real estate licenses and license rights as set forth
23 in the "Order" herein below. In the event that the Commissioner
24 in his discretion does not adopt the Stipulation, it shall be
25 void and of no effect and Respondent shall retain the right to a
26 hearing and proceeding on the Accusation under the provisions of
27

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 but do
9 constitute a bar, estoppel and merger as to any allegations
10 actually contained in the Accusations against Respondent herein.

11 8. Respondent understands that by agreeing to this
12 Stipulation, Respondent agrees to pay, pursuant to Business and
13 Professions Code Section 10148, the cost of audit which led to
14 this disciplinary action. The amount of said cost for the audit
15 is \$8,509.30 (Audit Report LA 040311 and LA 040297).

16 9. Respondent has received, read, and understands the
17 "Notice Concerning Costs of Subsequent Audit". Respondent
18 further understands that by agreeing to this Stipulation, the
19 findings set forth below in the Determination of Issues become
20 final, and the Commissioner may charge Respondent for the cost of
21 any subsequent audit conducted pursuant to Business and
22 Professions Code Section 10148 to determine if the violations
23 have been corrected. The maximum cost of the subsequent audit
24 will not exceed \$8,509.30.
25

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DETERMINATION OF ISSUES

1 By reason of the foregoing, it is stipulated and agreed
2 that the following determination of issues shall be made:
3

4 The conduct of NUESTRA CASA MORTGAGE INC., as referred
5 to in Paragraph 4, above, is in violation of Section 10145 of the
6 Business and Professions Code ("Code") and Sections 2834 and
7 2950(d) of Title 10, Chapter 6 of the California Code of
8 Regulations ("Regulations") and is a basis for the suspension or
9 revocation of Respondent's license and license rights as a
10 violation of the Real Estate Law pursuant to Code Section
11 10177(d).

ORDER

12 WHEREFORE, THE FOLLOWING ORDER is hereby made:
13

I.

14 All licenses and licensing rights of Respondent
15 NUESTRA CASA MORTGAGE INC. under the Real Estate Law are
16 suspended for a period of thirty days from the effective date of
17 this Decision; provided, however, that if Respondent requests,
18 said suspension, or a portion thereof, shall be stayed upon
19 condition that:

20 1. Pursuant to Section 10175.2 of the Business and
21 Professions Code, Respondent pays a monetary penalty of one
22 hundred dollars (\$166.66) per day or Five Thousand Dollars
23 (\$5,000) in total.

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1 2. Said payment shall be in the form of a cashier's
2 check or certified check made payable to the Recovery Account of
3 the Real Estate Fund. Said check must be received by the
4 Department prior to the effective date of the Decision.
5 in this matter.

6 3. No further cause for disciplinary action against
7 the real estate license of Respondent occurs within two (2) years
8 from the effective date of the Decision in this matter.

9 4. If Respondent fails to pay the monetary penalty in
10 accordance with the terms and conditions of the Decision, the
11 Commissioner may, without a hearing, order the immediate
12 execution of all or any part of the stayed suspension in which
13 event Respondent shall not be entitled to any repayment nor
14 credit, prorated or otherwise, for money paid to the Department
15 under the terms of this Decision.

16 5. If Respondent pays the monetary penalty and if no
17 further cause for disciplinary action against the real estate
18 license of Respondent occur within two (2) years from the
19 effective date of the Decision, the stay hereby granted shall
20 become permanent.

21 6. Respondent shall obey all laws, rules and
22 regulations governing the rights, duties and responsibilities of
23 real estate licensees in the State of California.
24

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II.

1
2 Pursuant to Section 10148 of the Business and
3 Professions Code, Respondent NUESTRA CASA MORTGAGE INC, is co-
4 jointly liable to pay the Commissioner's reasonable cost for (a)
5 the audit of Nuestra Casa Mortgage Inc. which led to this
6 disciplinary action (b) a subsequent audit to determine if
7 Respondent is now in compliance with the Real Estate Law. The
8 cost of the audit which led to this disciplinary action is
9 \$8,509.30.

10 In calculating the amount of the Commissioner's
11 reasonable cost, the Commissioner may use the estimated average
12 hourly salary for all persons performing audits of real estate
13 brokers, and shall include an allocation for travel time to and
14 from the auditor's place of work. Said amount for the prior and
15 subsequent audits shall not exceed \$17,018.60.

16
17 Respondent shall pay such cost within 60 days of
18 receiving an invoice from the Commissioner detailing the
19 activities performed during the audit and the amount of time
20 spent performing those activities.

21 The Commissioner may suspend the license of Respondent
22 pending a hearing held in accordance with Section 11500, et seq.,
23 of the Government Code, if payment is not timely made as provided
24 for herein, or as provided for in a subsequent agreement between
25 the Respondent and the Commissioner. The suspension shall remain
26 in effect until payment is made in full or until Respondent
27

1 enters into an agreement satisfactory to the Commissioner to
2 provide for payment, or until a decision providing otherwise is
3 adopted following a hearing held pursuant to this condition.

4
5 DATED: 7-4-07

ELI
6 ELLIOTT MAC LENNAN, Counsel for
7 the Department of Real Estate

8 * * *

9 EXECUTION OF THE STIPULATION

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

21 MAILING AND FACSIMILE

22 Respondent (1) shall mail the original signed signature
23 page of the stipulation herein to Elliott Mac Lennan: Attention:
24 Legal Section, Department of Real Estate, 320 W. Fourth St.,
25 Suite 350, Los Angeles, California 90013-1105. Additionally,
26 Respondent shall also (2) facsimile a copy of signed signature
27

1 page, to the Department at the following telephone/fax number:
2 (213) 576-6917, Attention: Elliott Mac Lennan.

3 A facsimile constitutes acceptance and approval of the
4 terms and conditions of this stipulation. Respondent agrees,
5 acknowledges and understands that by electronically sending to
6 the Department a facsimile copy of Respondent's actual signature
7 as it appears on the stipulation, that receipt of the facsimile
8 copy by the Department shall be as binding on Respondent as if
9 the Department had received the original signed stipulation.

10 DATED: 07/23/07 Roberto F. Gallegos
11 NUESTRA CASA MORTGAGE INC., a
12 corporate real estate broker,
13 BY: Roberto F. Gallegos, President

14 DATED: 7/26/07 MARY E. WOKK
15 MARY E. WOKK, Esq.
16 Attorney for Respondent
17 Approved as to form

18 * * *

19 The foregoing Stipulation and Agreement is hereby
20 adopted as my Decision as to Respondent NUESTRA CASA MORTGAGE
21 INC. shall become effective at 12 o'clock noon on
22 October 15, 2007.

23 IT IS SO ORDERED 8-31, 2007.

24 JEFF DAVI
25 Real Estate Commissioner
26
27

fact

1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6982 (office)

FILED

SEP 24 2007

DEPARTMENT OF REAL ESTATE
BY: *Adly*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of)
NUESTRA CASA MORTGAGE INC.)
doing business as RFG Bankers,)
RFG Financial Services, and)
Nuestra Casa Escrow Division;)
STANLEY EVERETT HAYNES,)
individually and as)
designated officer of)
Nuestra Casa Mortgage Inc., and)
ENRIQUE FIERRO, individually and)
as former designated officer of)
Nuestra Casa Mortgage Inc.,)
Respondents,)

No. H-33693 LA

STIPULATION
AND
AGREEMENT

It is hereby stipulated by and between Respondent ENRIQUE FIERRO, individually and as former designated officer of Nuestra Casa Mortgage Inc. (sometimes referred to as "Respondent"), represented by Edward Lear, Esq., and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Department of Real Estate ("Department"), as follows for

1 the purpose of settling and disposing of the Accusation
2 ("Accusation") filed on January 31, 2007, in this matter:

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

10 2. Respondent has received, read and understands the
11 Statement to Respondent, the Discovery Provisions of the APA and
12 the Accusation filed by the Department of Real Estate in this
13 proceeding.

14 3. Respondent timely filed a Notice of Defense
15 pursuant to Section 11506 of the Government Code for the purpose
16 of requesting a hearing on the allegations in the Accusation.
17 Respondent hereby freely and voluntarily withdraws said Notice of
18 Defense. Respondent acknowledges that he understand that by
19 withdrawing said Notice of Defense he thereby waive his right to
20 require the Commissioner to prove the allegations in the
21 Accusation at a contested hearing held in accordance with the
22 provisions of the APA and that he will waive other rights
23 afforded to him in connection with the hearing such as the right
24 to present evidence in his defense and the right to cross-examine
25 witnesses.
26
27

1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation. In the interest of
3 expedience and economy, Respondent chooses 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 and Respondent's decision not to
11 contest the Accusation is made for the purpose of reaching an
12 agreed disposition of this proceeding and is expressly limited to
13 this proceeding and any other proceeding or case in which the
14 Department, the state or federal government, or any agency of
15 this state, another state or federal government is involved, and
16 otherwise shall not be admissible in any other criminal or civil
17 proceedings.
18

19 6. It is understood by the parties that the Real
20 Estate Commissioner may adopt this Stipulation as his Decision in
21 this matter thereby imposing the penalty and sanctions on
22 Respondent's real estate license and license rights as set forth
23 in the "Order" herein below. In the event that the Commissioner
24 in his discretion does not adopt the Stipulation, it shall be
25 void and of no effect and Respondent shall retain the right to a
26 hearing and proceeding on the Accusation under the provisions of
27

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 but do
9 constitute a bar, estoppel and merger as to any allegations
10 actually contained in the Accusations against Respondent herein.

11 8. Respondent understand that by agreeing to this
12 Stipulation, Respondent agrees to pay, pursuant to Business and
13 Professions Code Section 10148, the cost of audit which led to
14 this disciplinary action. The amount of said cost for the audit
15 is \$8,509.30 (Audit Report LA 040311 and LA 040297).

16 9. Respondent has received, read, and understand the
17 "Notice Concerning Costs of Subsequent Audit". Respondent
18 further understands that by agreeing to this Stipulation, the
19 findings set forth below in the Determination of Issues become
20 final, and the Commissioner may charge Respondent for the cost of
21 any subsequent audit conducted pursuant to Business and
22 Professions Code Section 10148 to determine if the violations
23 have been corrected. The maximum cost of the subsequent audit
24 will not exceed \$8,509.30.
25

26 ///
27

DETERMINATION OF ISSUES

1
2 By reason of the foregoing, it is stipulated and agreed
3 that the following determination of issues shall be made:

4 I.

5 The conduct of ENRIQUE FIERRO, as referred to in
6 Paragraph 4, above, is in violation of Sections 10145 and 10240
7 and of the Business and Professions Code ("Code") and Sections
8 2834 and 2950(d) of Title 10, Chapter 6 of the California Code of
9 Regulations ("Regulations") and is a basis for the suspension or
10 revocation of Respondent's license and license rights as a
11 violation of the Real Estate Law pursuant to Code Section
12 10177(d).

13 II.

14 The conduct of ENRIQUE FIERRO, as described in
15 Paragraph 4, constitutes a failure to keep NUESTRA CASA MORTGAGE
16 INC. in compliance with the Real Estate Law during the time that
17 he was the officer designated by a corporate broker licensee in
18 violation of Section 10159.2 of the Code. This conduct is a
19 basis for the suspension or revocation of Respondent's license
20 pursuant to Code Section 10177(h).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondent ENRIQUE FIERRO, under the Real Estate Law are suspended for a period of thirty days from the effective date of this Decision; provided, however, that if Respondent requests, said suspension, or a portion thereof, shall be stayed upon condition that:

1. Pursuant to Section 10175.2 of the Business and Professions Code, Respondent pays a monetary penalty of one hundred dollars (\$166.66) per day or Five Thousand Dollars (\$5,000) in total.

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

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

4. If Respondent fails to pay the monetary penalty in accordance with the terms and conditions of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event Respondent shall not be entitled to any repayment nor

1 credit, prorated or otherwise, for money paid to the Department
2 under the terms of this Decision.

3 5. If Respondent pays the monetary penalty and if no
4 further cause for disciplinary action against the real estate
5 license of Respondent occur within two (2) years from the
6 effective date of the Decision, the stay hereby granted shall
7 become permanent.

8 6. Respondent shall obey all laws, rules and
9 regulations governing the rights, duties and responsibilities of
10 real estate licensees in the State of California.

11 II.

12 Pursuant to Section 10148 of the Business and
13 Professions Code, Respondent ENRIQUE FIERRO, is co-jointly
14 liable to pay the Commissioner's reasonable cost for (a) the
15 audit of Nuestra Casa Mortgage Inc. which led to this
16 disciplinary action (b) a subsequent audit to determine if
17 Respondent are now in compliance with the Real Estate Law. The
18 cost of the audit which led to this disciplinary action is
19 \$8,509.30. In calculating the amount of the Commissioner's
20 reasonable cost, the Commissioner may use the estimated average
21 hourly salary for all persons performing audits of real estate
22 brokers, and shall include an allocation for travel time to and
23 from the auditor's place of work. Said amount for the prior and
24 subsequent audits shall not exceed \$17,018.60.
25

26 ///

1 Respondent 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 Respondent
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 Respondent and the Commissioner. The suspension shall remain
10 in effect until payment is made in full or until Respondent
11 enters into an agreement satisfactory to the Commissioner to
12 provide for payment, or until a decision providing otherwise is
13 adopted following a hearing held pursuant to this condition.

14
15 III.

16 All licenses and licensing rights of Respondent ENRIQUE
17 FIERRO are indefinitely suspended unless or until Respondent
18 provides proof satisfactory to the Commissioner, of having taken
19 and successfully completed the continuing education course on
20 trust fund accounting and handling specified in paragraph (3) of
21 subdivision (a) of Section 10170.5 of the Business and
22 Professions Code. Proof of satisfaction of this requirement
23 includes evidence that respondent has successfully completed the
24 trust fund account and handling continuing education course
25 within 120 days prior to the effective date of the Decision in
26 this matter.
27

1
2 DATED:

7/6/03

ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

3
4 * * *

5 EXECUTION OF THE STIPULATION

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

18 MAILING AND FACSIMILE

19 Respondent (1) shall mail the original signed signature
20 page of the stipulation herein to Elliott Mac Lennan: Attention:
21 Legal Section, Department of Real Estate, 320 W. Fourth St.,
22 Suite 350, Los Angeles, California 90013-1105. Additionally,
23 Respondent shall also (2) facsimile a copy of signed signature
24 page, to the Department at the following telephone/fax number:
25 (213) 576-6917, Attention: Elliott Mac Lennan.

26 ///

1 A facsimile constitutes acceptance and approval of the
2 terms and conditions of this stipulation. Respondent agrees,
3 acknowledges and understands that by electronically sending to
4 the Department a facsimile copy of Respondent's actual signature
5 as it appears on the stipulation, that receipt of the facsimile
6 copy by the Department shall be as binding on Respondent as if
7 the Department had received the original signed stipulation.

8
9 DATED: 7/26/07

Enrique Fierro
ENRIQUE FIERRO individually and as
former designated officer of
Nuestra Casa Mortgage Inc.,
Respondent

10
11
12 DATED: 8/2/07

E. Lear
EDWARD LEAR, Esq.
Attorney for Respondent
Approved as to form

13
14
15 * * *

16
17 The foregoing Stipulation and Agreement is hereby
18 adopted as my Decision as to Respondent ENRIQUE FIERRO,
19 individually and as former designated officer of Nuestra Casa
20 Mortgage Inc. and shall become effective at 12 o'clock noon on
21 October 15, 2007.

22 IT IS SO ORDERED 8-31, 2007.

23
24 JEFF DAVI
Real Estate Commissioner

25
26 *Jeff Davi*
27
- 10 -

Photo plug

1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6982

FILED
APR 12 2007
DEPARTMENT OF REAL ESTATE

By *K. Knecht*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

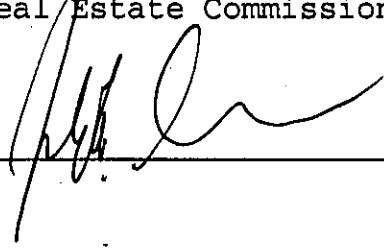
In the Matter of the Accusation of)	No. H-33693 LA
STANLEY EVERETT HAYNES,)	
individually and as)	
designated officer of)	
Nuestra Casa Mortgage Inc.,)	
)	
Respondent.)	

DISMISSAL

On Accusation filed against STANLEY EVERETT HAYNES on
January 31, 2007, is dismissed.

IT IS SO ORDERED this 3rd day of April, 2007.

JEFF DAVI
Real Estate Commissioner



Handwritten initials/signature

FILED
JAN 31 2007
DEPARTMENT OF REAL ESTATE

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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. Kuderholt*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-33693 LA
)	
NUESTRA CASA MORTGAGE INC.,)	<u>A C C U S A T I O N</u>
doing business as RFG Bankers,)	
RFG Financial Services, and)	
Nuestra Casa Escrow Division,)	
STANLEY EVERETT HAYNES,)	
individually and as)	
designated officer of)	
Nuestra Casa Mortgage Inc., and)	
ENRIQUE FIERRO, individually and)	
as former designated officer of)	
Nuestra Casa Mortgage Inc.,)	
)	
)	
Respondents.)	

The Complainant, Janice Waddell, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against NUESTRA CASA MORTGAGE INC. dba doing business as RFG Bankers, RFG Financial Services, and Nuestra Casa Escrow Division, STANLEY EVERETT HAYNES, individually and as designated officer of Nuestra Casa Mortgage Inc., and ENRIQUE FIERRO,

1 individually and as designated officer of Nuestra Casa Mortgage
2 Inc., alleges as follows:

3 1.

4 The Complainant, Janice Waddell, acting in her official
5 capacity as a Deputy Real Estate Commissioner of the State of
6 California, makes this Accusation against NUESTRA CASA MORTGAGE
7 INC., STANLEY EVERETT HAYNES and ENRIQUE FIERRO.

8 2.

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

12 LICENSE HISTORY

13 3.

14 A. NUESTRA CASA MORTGAGE INC. At all times mentioned,
15 NUESTRA CASA MORTGAGE INC. ("NCMI") was licensed or had license
16 rights issued by the Department of Real Estate ("Department") as
17 a real estate broker. On August 13, 2001, NCMI was originally
18 licensed as a real estate broker. ENRIQUE FIERRO was the
19 designated officer.

20 B. STANLEY EVERETT HAYNES. At all times mentioned,
21 STANLEY EVERETT HAYNES ("HAYNES") was licensed or had license
22 rights issued by the Department of Real Estate (Department) as a
23 real estate broker. On April 11, 1986, HAYNES was originally
24 licensed as a real estate broker. On August 14, 2005, HAYNES was
25 licensed as the designated officer of NCMI.

26 ///
27

1 C. ENRIQUE FIERRO. At all times mentioned, ENRIQUE
2 FIERRO ("FIERRO") was licensed or had license rights issued by
3 the Department of Real Estate (Department) as a real estate
4 broker. On August 12, 1993, FIERRO was originally licensed as a
5 real estate salesperson. On February 24, 1998, FIERRO was
6 originally licensed as a real estate broker. From August 14,
7 2001 until August 14, 2005, HAYNES was licensed as the designated
8 officer of NCMI.

9 D. At all times material herein, NCMI was licensed by
10 the Department of Real Estate of the State of California
11 (hereinafter "Department") as a corporate real estate broker by
12 and through HAYNES and FIERRO, as the designated officers and
13 brokers responsible, pursuant to Code Section 10159.2 of the
14 Business and Professions Code for supervising the activities
15 requiring a real estate license conducted on behalf NCMI of by
16 NCMI's officers, agents and employees, including HAYNES and
17 FIERRO.
18

19 BROKERAGE

20 NUESTRA CASA MORTGAGE INC.

21 4.

22 At all times mentioned, in the City of Santa Ana,
23 County of Orange, NCMI acted as a real estate broker and
24 conducted licensed activities within the meaning of:

25 A. Code Section 10131(d). NCMI operated a mortgage and
26 loan brokerage dba RFG Bankers and RFG Financial Services, and
27

1 B. In addition, NCMi conducted broker-controlled
2 escrows through its escrow division, Nuestra Casa Escrow
3 Division, under the exemption set forth in California Financial
4 Code Section 17006(a)(4) for real estate brokers performing
5 escrows incidental to a real estate transaction where the broker
6 is a party and where the broker is performing acts for which a
7 real estate license is required.

8 AUDIT EXAMINATION

9 NUESTRA CASA MORTGAGE INC.

10 5.

11 On June 30, 2005, the Department completed an audit
12 examination of the books and records of NCMi pertaining to the
13 mortgage and loan and broker-escrow activities described in
14 Paragraph 4, that require a real estate license. The audit
15 examination covered a period of time beginning on August 1, 2003
16 to April 30, 2005. The audit examination revealed violations of
17 the Code and the Regulations as set forth in the following
18 paragraphs, and more fully discussed in Audit Reports LA 040311
19 and LA 040297 and the exhibits and workpapers attached to said
20 audit report, including the Addendum to Audit Report dated July
21 14, 2005.

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TRUST ACCOUNTS

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, NCMI accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties to transactions handled by NCMI and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by NCMI in the bank accounts as follows:

"Nuestra Casa Mortgage Inc.
Account No. 234-8049103"
Wells Fargo Bank
18356 Irvine Blvd., Floor 1
Tustin, California ("escrow trust account")

VIOLATIONS OF THE REAL ESTATE LAW

7.

In the course of activities described in Paragraphs 4 and 6, above, and during the examination period described in Paragraph 5, Respondents NCMI, HAYNES and FIERRO, acted in violation of the Code and the Regulations in that they:

(a) Permitted, allowed or caused the disbursement of trust funds from the escrow trust account, where the disbursement of funds reduced the total of aggregate funds in the escrow trust account, to an amount which, on April 30, 2005, was \$16,820.35, less than the existing aggregate trust fund liability of NCMI to

1 every 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), 2950(g) and 2951. On June 15, 2005, the shortage was
5 cured.

6 (b) (1) Failed to provide, maintain or retain a true and
7 correct copy of a Department of Real Estate approved Mortgage
8 Loan Disclosure Statement signed by the broker for borrowers
9 Vinceta Rivero and Ramon Bernal, in violation of Code Section
10 10240 and 10241 and Regulation 2840.1.

11 (b) (2) Failed to disclose yield spread premiums from
12 lenders on the approved Mortgage Loan Disclosure Statement for
13 the aforesaid borrowers Ramiro Alameda and Aurelio Andrade, in
14 violation of Code Section 10240, 10241 and Regulation 2840.

15 (c) Failed to disclose the correct corporation license
16 number #01222958 on the Mortgage Loan Disclosure Statements
17 provided to borrowers and instead disclosed license number
18 #01208600 of another corporation, RFG Group Inc., in violation of
19 Regulation 2847.3.

20 (d) Failed to retain the original salesperson license
21 certificates for Kenia Duenas, Nelida Espinosa and Martha Lozano,
22 in violation of Code Section 10160 and Regulation 2753.

23 (e) Failed to maintain an accurate and complete control
24 record in the form of a columnar record in chronological order of
25 all trust funds received, deposited and disbursed by the escrow
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1 trust account, as required by Code Section 10145 and Regulations
2 2831, 2950(d) and 2951.

3 (f) Failed to maintain an accurate and complete
4 separate record for each beneficiary or transaction, thereby
5 failing to account for all trust funds received, deposited into
6 and disbursed from the escrow trust account, as required by Code
7 Section 10145 and Regulation 2831.1, 2950(d) and 2951.

8 (g) Failed to disclose in writing to all parties of
9 NCMI's financial interest and ownership of its escrow division
10 Nuestra Case Escrow Division, as required by Code Section 10145
11 and Regulation 2950(h).

12 (h) (1) Failed to place trust funds, accepted on behalf
13 of another into the hands of the owner of the funds, a neutral
14 escrow depository or into a trust fund account in the name of the
15 broker at a bank or other financial institution not later than
16 three business days following receipt of the funds by the broker
17 or by the broker's salesperson, in violation of Code Section
18 10145 and Regulation 2832(a); and

19 (h) (2) While acting in the capacity of an escrow holder
20 in a real estate purchase and sale, exchange or loan transaction,
21 failed to place trust funds, accepted on behalf of another into
22 the hands of the owner of the funds, a neutral escrow depository
23 or into a trust fund account in the name of the broker at a bank
24 or other financial institution not later than the next business
25 day following receipt of the funds by the broker or by the
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1 broker's salesperson, as required by Code Section 10145 and
2 Regulation 2832(e).

3 (i) Permitted an unlicensed and unbonded person, Paula
4 Duffy, NCMI's escrow officer, to be an authorized signatory on
5 the escrow trust account, in violation of Code Section 10145 and
6 Regulation 2834.

7 (j) Failed to obtain a license for use of the branch
8 office located at 1665 E. 4th Street, Suite 207, Santa Ana,
9 California 92701 for NCMI's corporation escrow division, Nuestra
10 Casa Escrow Division, in violation of Code Section 10163 and
11 Regulation 2715; and

12 (k) HAYNES and FIERRO had no system in place for
13 regularly monitoring his compliance with the Real Estate Law
14 especially in regard to establishing policies to review trust
15 fund handling, in violation of Code Section 10159.2 and
16 Regulation 2725.

17
18 8.

19 The conduct of Respondents NCMI, HAYNES and FIERRO,
20 described in Paragraph 7, above, violated the Code and the
21 Regulations as set forth below:

22 PARAGRAPH

PROVISIONS VIOLATED

23
24 7(a)

Code Section 10145 and Regulations
25 2832.1, 2950(d), 2950(g), and 2951
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- 7(b) Code Section 10240 and 10241 and Regulation 2840.1
- 7(c) Code Section ^{2847.3} 2747.3 and Regulation 2747.3
- 7(d) Code Section 10160 and Regulation 2753
- 7(e) Code Section 10145 and Regulations 2831, 2950(d) and 2951
- 7(f) Code Section 10145 and Regulations 2831.1, 2950(d) and 2951
- 7(g) Regulation 2950(h)
- 7(h) Regulation 2832(a) and 2832(e)
- 7(i) Code Section 10145 and Regulation 2834
- 7(j) Code Section 10163 and Regulation 2715
- 7(k) Code Section 10159.2 and Regulation 2725

1 The foregoing violations constitutes cause for the suspension or
2 revocation of the real estate license and license rights of NCMI,
3 HAYNES and FIERRO, under the provisions of Code Sections 10165,
4 10177(d) and/or 10177(g).

5 9.

6 The overall conduct of Respondents NCMI, HAYNES and
7 FIERRO constitutes negligence or incompetence. This conduct and
8 violation are cause for the suspension or revocation of the real
9 estate license and license rights of Respondents NCMI, HAYNES and
10 FIERRO pursuant to Code Section 10177(g).

11 10.

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

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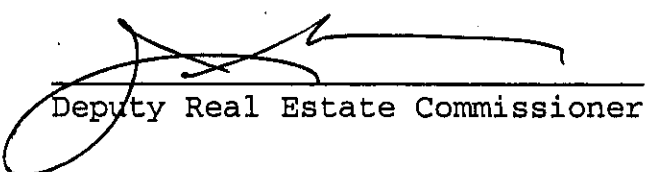
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against the license and license rights of Respondents
5 NUESTRA CASA MORTGAGE INC., STANLEY EVERETT HAYNES and ENRIQUE
6 FIERRO, under the Real Estate Law (Part 1 of Division 4 of the
7 Business and Professions Code) and for such other and further
8 relief as may be proper under other applicable provisions of law.

9 Dated at Los Angeles, California

10 this *27 July 2006*

11 
12 Deputy Real Estate Commissioner

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24 cc: Nuestra Case Mortgage Inc.
25 c/o Stanley Everett Haynes D.O.
26 Enrique Fierro
27 Janice Waddell
Sacto
Audits - Elenita R. Morales