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

FILED

JUN 16 2009

DEPARTMENT OF REAL ESTATE

BY: D. Freely

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)

No. H-33904 LA

HEALSTONE INVESTMENT REAL
ESTATE INC.; and, WILLIAM
HUBERT ALLEN III, individually
and as designated officer of
Healstone Investment Real
Estate Inc.; and JOHN ARLIN
METCALF,

STIPULATION
AND
AGREEMENT

Respondents.

It is hereby stipulated by and between Respondents
HEALSTONE INVESTMENT REAL ESTATE INC., and WILLIAM HUBERT ALLEN
III, individually and as designated officer of Healstone
Investment Real Estate Inc. (sometimes collectively referred to
as "Respondents"), 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 ("Accusation") filed on July 30, 2007, in this matter:

1. All issues which were to be contested and all
evidence which was to be presented by Complainant and Respondents

1 at a formal hearing on the Accusation, which hearing was to be
2 held in accordance with the provisions of the Administrative
3 Procedure Act ("APA"), shall instead and in place thereof be
4 submitted solely on the basis of the provisions of this
5 Stipulation and Agreement ("Stipulation").

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 timely filed a Notice of Defense
11 pursuant to Section 11506 of the Government Code for the purpose
12 of 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

1 result thereof, these factual allegations, without being admitted
2 or denied, will serve as a prima facie basis for the disciplinary
3 action stipulated to herein. The Real Estate Commissioner shall
4 not be required to provide further evidence to prove said factual
5 allegations.

6 5. This Stipulation is made for the purpose of
7 reaching an agreed disposition of this proceeding and is
8 expressly limited to this proceeding and any other proceeding or
9 case in which the Department of Real Estate ("Department"), the
10 state or federal government, or any agency of this state, another
11 state or federal government is involved.

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

23 7. The Order or any subsequent Order of the Real
24 Estate Commissioner made pursuant to this Stipulation shall not
25 constitute an estoppel, merger or bar to any further
26 administrative or civil proceedings by the Department of Real
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1 Estate with respect to any matters which were not specifically
2 alleged to be causes for Accusation in this proceeding but do
3 constitute a bar, estoppel and merger as to any allegations
4 actually contained in the Accusations against Respondent herein.

5 8. Respondent WILLIAM HUBERT ALLEN III understands
6 that by agreeing to this Stipulation, Respondent agrees to pay,
7 pursuant to Business and Professions Code Section 10148, the cost
8 of the audit. The amount of said cost for the audit is
9 \$4,066.74. (LA 050014 - William Hubert Allen III).

10 9. Respondent has received, read, and understands the
11 "Notice Concerning Costs of Subsequent Audit". Respondent
12 further understands that by agreeing to this Stipulation, the
13 findings set forth below in the Determination of Issues become
14 final, and the Commissioner may charge Respondent for the cost of
15 any subsequent audit conducted pursuant to Business and
16 Professions Code Section 10148 to determine if the violations
17 have been corrected. The maximum cost of the subsequent audit
18 will not exceed \$4,066.74. (LA 050014 - William Hubert Allen
19 III).

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DETERMINATION OF ISSUES

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

I.

The conduct, acts or omissions of HEALSTONE INVESTMENT REAL ESTATE INC. and WILLIAM HUBERT ALLEN III, as described in Paragraph 4, above, with respect to the Healstone Investment Real Estate Inc. audit (LA 040259), are in violation of Section 10160 of the Business and Professions Code and Sections 2731, 2726 and 2752 of Title 10, Chapter 6 of the California Code of Regulations and is a basis for discipline of Respondents' license and license rights as violation of the Real Estate Law pursuant to Code Sections 10177(d) and 10177(g).

II.

The conduct, acts or omissions of WILLIAM HUBERT ALLEN III, as described in Paragraph 4, above, with respect to the William Hubert Allen III audit (LA 050014), is in violation of Sections 10130, 10137 and 10145 of the Business and Professions Code and Sections 2832(a) and 2834 of Title 10, Chapter 6 of the California Code of Regulations and is a basis for discipline of Respondents' license and license rights as violation of the Real Estate Law pursuant to Code Sections 10177(d) and 10177(g).

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III.

The conduct, acts or omissions of WILLIAM HUBERT ALLEN III, as described in Paragraph 4, above, constitutes a failure to keep Healstone Investment Real Estate Inc. in compliance with the Real Estate Law during the time that he was the officer designated by a corporate broker licensee in violation of Section 10159.2 of the Code. This conduct is a basis for the suspension or revocation of Respondent's license pursuant to Code Section 10177(h).

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All license and licensing rights of Respondent
HEALSTONE INVESTMENT REAL ESTATE INC. are revoked.

II.

All licenses and licensing rights of Respondent WILLIAM
HUBERT ALLEN III under the Real Estate Law are suspended for a
period of thirty (30) days from the effective date of this
Decision; provided, however, that all thirty days of said
suspension shall be stayed for two (2) years upon the following
terms and conditions:

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

2. That no final subsequent determination be made

1 after hearing or upon stipulation, which cause for disciplinary
2 action occurred within two years from the effective date of this
3 Decision. Should such a determination be made, the Commissioner
4 may, in his discretion, vacate and set aside the stay order and
5 reimpose all or a portion of the stayed suspension. Should no
6 such determination be made, the stay imposed herein shall become
7 permanent.

8 III.

9 Pursuant to Section 10148 of the Business and
10 Professions Code, Respondent WILLIAM HUBERT ALLEN III shall pay
11 the Commissioner's reasonable cost for (a) the underlying audit
12 (b) a subsequent audit to determine if WILLIAM HUBERT ALLEN III,
13 is now in compliance with the Real Estate Law. The cost of the
14 audit which led to this disciplinary action (LA 050014 - William
15 Hubert Allen III) is \$4,066.74. In calculating the amount of the
16 Commissioner's reasonable cost, the Commissioner may use the
17 estimated average hourly salary for all persons performing audits
18 of real estate brokers, and shall include an allocation for
19 travel time to and from the auditor's place of work. Said amount
20 for the prior and subsequent audits shall not exceed \$8,133.48.

22 Respondent WILLIAM HUBERT ALLEN III shall pay such cost
23 within 60 days of receiving an invoice from the Commissioner
24 detailing the activities performed during the audit and the
25 amount of time spent performing those activities.

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

10 IV.

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

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23
24 DATED: 4-14-09

EJL
25 ELLIOTT MAC LENNAN, Counsel for
26 the Department of Real Estate
27

* * *

EXECUTION OF THE STIPULATION

We have read the Stipulation. 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.

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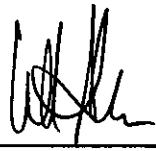
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MAILING AND FACSIMILE

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

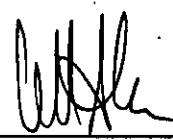
A facsimile constitutes acceptance and approval of the terms and conditions of this stipulation. Respondents agree, acknowledge and understand that by electronically sending to the Department a facsimile copy of Respondents' actual signature as it appears on the stipulation that receipt of the facsimile copy by the Department shall be as binding on Respondents as if the Department had received the original signed stipulation.

DATED: 4/20/9


HEALSTONE INVESTMENT REAL ESTATE
INC.

BY: WILLIAM HUBERT ALLEN III D.O.,
Respondent

DATED: 4/20/9


WILLIAM HUBERT ALLEN III,
individually and as designated
officer of Healstone Investment
Real Estate Inc., Respondent

* * *

1 The foregoing Stipulation and Agreement is hereby
2
3 adopted as my Decision as to Respondents HEALSTONE INVESTMENT
4 REAL ESTATE INC. and WILLIAM HUBERT ALLEN III, individually and
5 as designated officer of Healstone Investment Real Estate Inc.,
6 and shall become effective at 12 o'clock noon on

7 July 15, 2009.

8 IT IS SO ORDERED 5/19, 2009.

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10 JEFF DAVI
11 Real Estate Commissioner
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FILED

APR - 8 2009

DEPARTMENT OF REAL ESTATE

BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of

No. H-33904 LA

HEALSTONE INVESTMENT REAL
ESTATE INC.; and WILLIAM
HUBERT ALLEN III, individually
and as designated officer
of Healstone Investment Real
Estate Inc., and JOHN ARLIN
METCALF,

Respondents.

DISMISSAL

The Accusation filed against JOHN ARLIN METCALF on July
30, 2007, is dismissed.

IT IS SO ORDERED this 26 day of March, 2009.

JEFF DAVI
Real Estate Commissioner

Handwritten signature/initials

FILED
JUL 30 2007
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)

Handwritten signature

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-33904 LA

HEALSTONE INVESTMENT REAL
ESTATE INC.; and WILLIAM
HUBERT ALLEN III, individually
and as designated officer
of Healstone Investment Real
Estate Inc., and JOHN ARLIN
METCALF,

FIRST AMENDED

ACCUSATION

Respondents.

The Accusation filed on April 19, 2007 is amended in
its entirety as follows:

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, for cause of Accusation
against HEALSTONE INVESTMENT REAL ESTATE INC., WILLIAM HUBERT
ALLEN III, individually and as designated officer of Healstone
Investment Real Estate Inc. and JOHN ARLIN METCALF, alleges as
follows:

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1.

1 The Complainant, Maria Suarez, acting in her official
2 capacity as a Deputy Real Estate Commissioner of the State of
3 California, makes this Accusation against HEALSTONE INVESTMENT
4 REAL ESTATE INC., WILLIAM HUBERT ALLEN III, and JOHN ARLIN
5 METCALF.
6

7 2.

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

12 LICENSE HISTORY

13 3.

14 A. At all times mentioned, HEALSTONE INVESTMENT REAL
15 ESTATE INC. ("HEALSTONE") was licensed or had license rights
16 issued by the Department of Real Estate ("Department") as a real
17 estate broker. On July 23, 2002, HEALSTONE was originally
18 licensed as a real estate broker. On July 22, 2006, ALLEN's
19 designated officer status was cancelled and HEALSTONE ceased
20 doing business.

21 B.1. At all times mentioned, WILLIAM HUBERT ALLEN III
22 ("ALLEN") was licensed or had license rights issued by the
23 Department as a real estate broker. On December 1, 1987, ALLEN
24 was originally licensed as a real estate salesperson. On
25 February 14, 2002, ALLEN was originally licensed as a real estate
26 broker. At all times mentioned, ALLEN was licensed as the
27

1 designated officer of HEALSTONE. On February 13, 2006, ALLEN's
2 broker license expired and, as aforementioned, on July 22, 2006,
3 ALLEN's designated officer status was cancelled.

4 B. At all times material herein, HEALSTONE was
5 licensed by the Department of Real Estate of the State of
6 California (hereinafter "Department") as a corporate real estate
7 broker by and through ALLEN, as the designated officer and broker
8 responsible, pursuant to Code Section 10159.2 of the Business and
9 Professions Code for supervising the activities requiring a real
10 estate license conducted on behalf HEALSTONE of by HEALSTONE's
11 officers, agents and employees, including ALLEN.

12 C. HEALSTONE and ALLEN retain license rights pursuant
13 to Code Section 10201. The Department retains jurisdiction over
14 lapsed or expired real estate licenses pursuant to Code Section
15 10103.

16 D. At all times mentioned, JOHN ARLIN METCALF
17 ("METCALF") was licensed or had license rights issued by the
18 Department as a real estate salesperson. On December 15, 2001,
19 METCALF was originally licensed as a real estate salesperson.
20 From June 23, 2003 to April 4, 2004, METCALF was employed by
21 ALLEN. From April 5, 2004 to June 27, 2005, METCALF was employed
22 by HEALSTONE.

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FIRST CAUSE OF ACTION

AUDIT OF HEALSTONE INVESTMENT REAL ESTATE INC.

4.

At all times mentioned, in the City of Irvine, County of Orange, HEALSTONE acted as a real estate broker and conducted licensed activities within the meaning of Code Section 10131(a). HEALSTONE operated a residential resale brokerage.

RESIDENTIAL RESALE AUDIT

5.

On August 8, 2005, the Department completed an audit examination of the books and records of HEALSTONE pertaining to the residential resale activities described in Paragraph 4, that require a real estate license. The audit examination covered a period of time beginning on January 1, 2004 to July 7, 2005. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 040259 and the exhibits and workpapers attached to said audit report.

TRUST ACCOUNT

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, HEALSTONE accepted or received funds including funds in trust (hereinafter "trust funds") including earnest money deposits from or on behalf of actual or prospective parties to transactions handled by

1 HEALSTONE that included buyers and sellers. During the audit
2 period, HEALSTONE did not maintain a trust account.

3 RESIDENTIAL RESALE AUDIT

4 VIOLATIONS OF THE REAL ESTATE LAW

5 7.

6 In the course of activities described in Paragraphs 4
7 and 6, above, and during the examination period described in
8 Paragraph 5, Respondents HEALSTONE and ALLEN, acted in violation
9 of the Code and the Regulations in that they:

10 (a) HEALSTONE and ALLEN misrepresented to sellers N&V
11 Development LLC and Sean/Fern Clough that they held earnest money
12 deposit checks in the respective amounts of \$20,000 and \$25,000
13 when in truth and fact they did not, in violation of Section
14 10176(a) and/or 10177(g).

15 (b) Failed to maintain Listing Agreements with sellers
16 Emma Silverira, Sean/Fern Clough, and Yeong/Chun Kim, in
17 violation of Code Sections 10176(f), 10176(i) and 10177(g).

18 (c) Used the fictitious name of "Healstone", to conduct
19 licensed activities including residential resales without holding
20 a license bearing said fictitious business name, in violation of
21 Code Section 10159.5 and Regulation 2731.

22 (d) Failed to retain the salesperson license
23 certificates for Chad Hall, Charlie Frank Kennedy and Ignacio
24 Diaz, in violation of Code Section 10160 and Regulation 2753.

25 ///

1 (e) Failed to notify the Department of the employment
2 of salesperson David Belasco, as required by Code Section 10161.8
3 and Regulation 2752.

4 (f) Failed to maintain a signed/dated broker
5 salesperson agreement with real estate licensees Charlie Frank
6 Kennedy, Patrice Zeis, David Belasco, Harrison Scott Greenberg,
7 and John Metcalf, in violation of Section 2726 of the
8 Regulations.

9 (g) Failed to provide to Elena Thil Harris all records
10 including invoices of the Datoc property to between December 28,
11 2004 and April 04, 2005, in violation of Code Section 10177(g).

12 8.

13 The conduct of Respondents HEALSTONE and ALLEN, as
14 alleged and described in Paragraph 7, above, violated the Code
15 and the Regulations as set forth below:

16 PARAGRAPH

17 PROVISIONS VIOLATED

18 7(a)

Code Sections 10176(a) and 10177(g)

19
20 7(b)

Code Sections 10176(f), 10176(i)
and 10177(g)

21
22
23 7(c)

Code Section 10159.5 and Regulation
2731

1 7(d)

Code Section 10160 and Regulation
2753

3
4 7(e)

Code Section 10161.8 and Regulation
2752

6
7 7(f)

Regulation 2726

8
9
10 7(g)

Code Section 10177(g)

11
12 The foregoing violations constitutes cause for the suspension or
13 revocation of the real estate license and license rights of
14 HEALSTONE and ALLEN under the provisions of Code Sections
15 10176(a), 10176(f), 10176(i), 10177(d) and/or 10177(g).
16

17 SECOND CAUSE OF ACTION

18 AUDIT OF WILLIAM ALLEN HUBERT III

19 9.

20 At all times mentioned, in the City of Irvine, County
21 of Orange, ALLEN acted as a real estate broker and conducted
22 licensed activities within the meaning of Code Section 10131(b).
23 ALLEN operated a property management brokerage.

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PROPERTY MANAGEMENT AUDIT

10.

On September 14, 2005, the Department completed an audit examination of the books and records of ALLEN pertaining to the residential resale activities described in Paragraph 9, that require a real estate license. The audit examination covered a period of time beginning on January 1, 2004 to May 31, 2005. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 050014 and the exhibits and workpapers attached to said audit report.

TRUST ACCOUNT

11.

At all times mentioned, in connection with the activities described in Paragraph 4, above, ALLEN accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties to transactions including landlords and tenants handled by ALLEN 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 ALLEN in the bank accounts as follows:

"Healstone Property Management LLC - Elena Apts Account
9058583"
Farmers & Merchants Bank
Long Beach, CA

("B/A #1")

1 "Mary L. Datoc - Healstone Property Management LLC
9058583"

2 Farmers & Merchants Bank
3 Long Beach, CA

("B/A #2")

4
5 "Mary L. Datoc - Healstone Property Management LLC
9059490"

6 Farmers & Merchants Bank
7 Long Beach, CA

("B/A #3")

8
9 PROPERTY MANAGEMENT AUDIT

10 VIOLATIONS OF THE REAL ESTATE LAW

11 12.

12 In the course of activities described in Paragraphs 9
13 and 11, above, and during the examination period described in
14 Paragraph 10, Respondents ALLEN and METCALF, acted in violation
15 of the Code and the Regulations in that they:

16 (a) ALLEN employed and compensated real estate
17 salesperson METCALF as a property manager, who was not licensed
18 under ALLEN, for performing acts for which a real estate license
19 is required, including managing all properties that were under
20 management by ALLEN, in violation of Code Section 10137. METCALF
21 was licensed by ALLEN between June 23, 2003 to April 4, 2004.
22 METCALF was licensed by HEALSTONE between April 5, 2004 to June
23 7, 2005. ALLEN compensated METCALF \$6,859.53 during a time when
24 he was licensed under HEALSTONE.

25 (b) ALLEN failed to place trust funds, including
26 deposits and rents, accepted on behalf of another into the hands
27

1 of the owner of the funds, a neutral escrow depository or into a
2 trust fund account in the name of the trustee at a bank or other
3 financial institution, as required by Code Section 10145 and
4 Regulation 2832(a). ALLEN maintained eleven (11) bank accounts
5 for various real properties under management into which he
6 deposited trust funds.

7 (c) ALLEN permitted salespersons METCALF and Charlie
8 Frank Kennedy to be authorized to make withdrawals and
9 signatories on the bank account into which trust funds were
10 deposited without written authorization, in violation of Code
11 Section 10145 and Regulation 2834.

12 (d) ALLEN performing property management activities
13 under HEALSTONE without first obtaining a real estate license
14 from the Department, in violation of Code Section 10130.

15 (e) ALLEN used the fictitious name of "Healstone
16 Property Management LLC", to conduct licensed activities
17 including property management without holding a license bearing
18 said fictitious business name, in violation of Code Section
19 10159.5 and Regulation 2731.

20 (f) MECALF performed property management services
21 requiring a real estate license and received compensation from
22 ALLEN in the amount of \$6,859.5, during a time when METCALF was
23 employed by HEALSTONE. METCALF performed property management
24 services for ALLEN between June 23, 2003 and April 4, 2004.
25 METCALF continued to manage all of ALLEN's properties between
26
27

1 April 5, 2004 to June 7, 2005, was he was licensed by HEALSTONE.
2 METCALF accepted compensation from a person other than the broker
3 under whom he was at the time licensed, in violation of Code
4 Section 10137.

5 13.

6 The conduct of Respondents ALLEN and METCALF, as
7 alleged and described in Paragraph 12, above, violated the Code
8 and the Regulations as set forth below:

9 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
10 12(a)	Code Section 10137
11	
12	
13 12(b)	Code Section 10145 and Regulation
14	2832
15	
16	
17 12(c)	Code Section 10145 and Regulation
18	2834
19	
20 12(d)	Code Section 10130
21	
22	
23 12(e)	Code Section 10159.5 and
24	Regulation 2731
25	
26 12(f)	Code Section 10137
27	

1 The foregoing violations constitute cause for the suspension or
2 revocation of the real estate license and license rights of ALLEN
3 and METCALF under the provisions of Code Sections 10137, 10177(d)
4 and/or 10177(g).

5 NEGLIGENCE

6 14.

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

12 COMPLIANCE AND SUPERVISION

13 15.

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

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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 HEALSTONE INVESTMENT REAL ESTATE INC. and WILLIAM HUBERT ALLEN
6 III, individually and as designated officer of Healstone
7 Investment Real Estate Inc. under the Real Estate Law (Part 1 of
8 Division 4 of the Business and Professions Code) and for such
9 other and further relief as may be proper under other applicable
10 provisions of law.

11 Dated at Los Angeles, California

12 this *26th day of July 2007*
13 *[Signature]*
14 Deputy Real Estate Commissioner
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23 cc: Healstone Investment Real Estate Inc.
24 c/o William Hubert Allen III D.O.
25 John Arlin Metcalf
26 Maria Suarez
27 Sacto
Audits - Milad Farag and Rolly Acuna

*facts
file*

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)

FILED
APR 19 2007
DEPARTMENT OF REAL ESTATE

By *K. Kederholt*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H- 33904 LA

WILLIAM HUBERT ALLEN III, and
JOHN ARLIN METCALF,

A C C U S A T I O N

Respondents.

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, acting in her official
capacity, for cause of Accusation against WILLIAM HUBERT ALLEN
III and JOHN ARLIN METCALF, is informed and alleges as follows:

1.

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.

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LICENSE HISTORY

2.

A. At all times mentioned, WILLIAM HUBERT ALLEN III ("ALLEN") was licensed or had license rights issued by the Department of Real Estate ("Department") as a real estate broker. On November 12, 2002, ALLEN was originally licensed as broker.

B. At all times mentioned, JOHN ARLIN METCALF ("METCALF"), was licensed or had license rights issued by the Department as a real estate salesperson. On December 15, 2001, METCALF was originally licensed as a real estate salesperson. METCALF was employed by ALLEN from June 23, 2003 to April 4, 2005. METCALF was employed by Healstone Investment Real Estate Inc. from April 5, 2005 to June 27, 2005 to April 4, 2005.

3.

At all times mentioned, in the City of Irvine, County of Orange, ALLEN acted as real estate broker and conducted licensed activities within the meaning of Code Section 10131(b). ALLEN operated a property management brokerage.

4.

On September 14, 2005, the Department completed an audit examination of the books and records of ALLEN, pertaining to the property management activities described in Paragraph 3, that require a real estate license. The audit examination covered a period of time beginning on January 1, 2004 through May 31, 2005. The audit examination revealed violations of the Code and the Regulations as set forth below, and more fully discussed

1 in Audit Report LA 050014 and the exhibits and workpapers
2 attached to said audit report.

3 5.

4 At all times mentioned, in connection with the
5 activities described in Paragraph 4, ALLEN accepted or received
6 funds in trust (trust funds) from or on behalf of landlords and
7 tenants. Thereafter ALLEN made disposition of such funds. ALLEN
8 maintained the following trust accounts into which he deposited
9 certain of these funds:

10
11 "Healstone Property Services LLC - Elena Apts. Account ("B/A #1")
12 Account No. 9058427"
13 Farmers & Merchants Bank
14 Long Beach, California

15
16 "Healstone Property Services LLC - Elena Apts. Account ("B/A #2")
17 Account No. 9058583"
18 Farmers & Merchants Bank
19 Long Beach, California

20
21 "Mary L. Datoc - Healstone Property Management LLC ("B/A #3")
22 Account No. 9059490"
23 Farmers & Merchants Bank
24 Long Beach, California

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1 With respect to the licensed property management
2 activities referred to in Paragraphs 3 and 5, and the audit
3 examination including the exhibits and workpapers referred to in
4 Paragraph 4, it is alleged that ALLEN or METCALF, where noted:

5 (a) ALLEN employed or compensated METCALF after
6 METCALF's employment was terminated by ALLEN on April 4, 2005,
7 ALLEN paid METCALF a total of \$6,859.53 between June 29, 2005 and
8 December 20, 2005, during a time when METCALF was employed by
9 Healstone Investment Real Estate Inc., in violation of Code
10 Section 10137.

11 (b) ALLEN failed to place funds accepted on behalf of
12 tenants in the form of security deposits and rental receipts for
13 the trust accounts, into the hands of the owner of the funds,
14 into a neutral escrow depository or into a trust fund account in
15 the name of the broker as trustee at a bank or other financial
16 institution, in violation of Code Section 10145 of the Code and
17 Regulation 2832.

18 (c) ALLEN permitted an unlicensed and unbonded persons,
19 METCALF and Charlie Kennedy, to be an authorized signatories on
20 the trust accounts, in violation of Code Section 10145 and
21 Regulation 2834.

22 (d) ALLEN paid compensation for property management
23 services requiring a real estate license for Healstone Property
24 Management LLC, who was not licensed by the Department, in
25 violation of Code Section 10137.

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1 (e) ALLEN used the fictitious name "Healstone Property
2 Management LLC" to conduct real property management activities
3 without holding a license bearing this fictitious business name,
4 in violation of Code Section 10159.5 and Regulation 2731.

5 (f) METCALF performed property management services
6 requiring a real estate license and received compensation from
7 ALLEN in the amount of \$6,859.53, during a time when METCALF was
8 employed by Healstone Investment Real Estate Inc. METCALF
9 performed property management services for ALLEN between June 29,
10 2005 and December 20, 2005. METCALF accepted compensation from a
11 person other than the broker under whom he was at the time
12 licensed, in violation of Code Section 10137.

13 7.

14 The conduct of Respondents ALLEN and METCALF, described
15 in Paragraph 6, above, violated the Code and the Regulations as
16 set forth:

17 <u>PARAGRAPH</u>	18 <u>PROVISIONS VIOLATED</u>
19 6(a)	20 Code Section 10137 (ALLEN)
21 6(b)	22 Code Section 10145 and Regulation 2832 23 (ALLEN)
24 6(c)	25 Code Section 10145 and Regulation 2834 26 (ALLEN)

27

1 6(d) Code Section 10137 (ALLEN)

2
3 6(e) Code Section 10159.5 and Regulation 2731
4 (ALLEN)

5 6(f) Code Section 10137 (METCALF)

6
7 Each of the foregoing violations constitute cause for the
8 suspension or revocation of the real estate license and license
9 rights of WILLIAM HUBERT ALLEN III and JOHN ARLIN METCALF under
10 the provisions of Code Sections 10137, 10177(d) and/or 10177(g)
11 and 10177(h).

12 8.

13 The overall conduct of ALLEN constitutes negligence or
14 incompetence. This conduct and violation are cause for the
15 suspension or revocation of the real estate license and license
16 rights of Respondent ALLEN pursuant to Code Section 10177(g).

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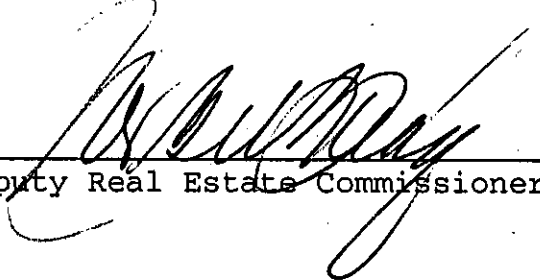
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against the license and license rights of Respondents
5 WILLIAM HUBERT ALLEN III and JOHN ARLIN METCALF, under the Real
6 Estate Law (Part 1 of Division 4 of the Business and Professions
7 Code) and for such other and further relief as may be proper
8 under other applicable provisions of law.

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10 Dated at Los Angeles, California

11 this *30th* day of *March* 2007.

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14 Deputy Real Estate Commissioner
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25 cc: William Hubert Allen Iii
26 Maria Suarez
27 Sacto
Audits - Rolly Acuna