

FILED

AUG - 5 2013

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

DEPARTMENT OF REAL ESTATE
BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 MEXIBANC MORTGAGE)
14 CORPORATION)
15 doing business as Palmas)
16 Realty.www.sellyourhomefor2percent.com,)
17 and www.vendasucasapor2porciento.com;)
18 and DAVID H. CASSFORD,)
19 as designated officer of)
20 Mexibanc Mortgage Corporation,)
21 Respondents.)

No. H-37038 LA
L-2011020978

STIPULATION
AND
AGREEMENT

19 It is hereby stipulated by and between Respondents MEXIBANC MORTGAGE
20 CORPORATION and DAVID H. CASSFORD, individually and as designated officer of
21 MEXIBANC MORTGAGE CORPORATION (sometimes collectively referred to as
22 "Respondents"), represented by Michael G. York, Esq. and the Complainant, acting by and
23 through Elliott Mac Lennan, Counsel for the Department of Real Estate, as follows for the
24 purpose of settling and disposing of the Accusation ("Accusation") filed on January 26, 2011, in
25 this matter:

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

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

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

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

23 5. This Stipulation is made for the purpose of reaching an agreed disposition of
24 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
25 which the Department of Real Estate ("Department"), the state or federal government, or any
26 agency of this state, another state or federal government is involved.

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

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

14 8. Respondents understand that by agreeing to this Stipulation, Respondents agree
15 to pay, pursuant to Business and Professions Code Section 10148, the cost of the audit. The
16 amount of said cost for the original audit (LA090054) is \$4,895.25.

17 9. Respondents have received, read, and understand the "Notice Concerning
18 Costs of Subsequent Audit". Respondents further understand that by agreeing to this Stipulation,
19 the findings set forth below in the Determination of Issues become final, and the Commissioner
20 may charge Respondents for the cost of any subsequent audit conducted pursuant to Business and
21 Professions Code Section 10148 to determine if the violations have been corrected. The
22 maximum cost of the follow-up audit will not exceed \$4,895.25.

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1 DETERMINATION OF ISSUES

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

4 I.

5 The conduct, acts or omissions of MEXIBANC MORTGAGE CORPORATION
6 and DAVID H. CASSFORD, as described in Paragraph 4, herein above, are in violation of
7 Sections 10085, 10137, 10145, 10146, 10159.5, 10160, 10236.4(b) and 10240 of the Business
8 and Professions Code ("Code") and Sections 2726, 2731, 2753, 2831, 2831.1, 2970 and 2972 of
9 Title 10, Chapter 6 of the California Code of Regulations ("Regulations") and is a basis for
10 discipline of Respondent's license and license rights as violation of the Real Estate Law pursuant
11 to Code Section 10177(d) and 10177(g).

12 II.

13 The conduct, acts or omissions of DAVID H. CASSFORD, as described in
14 Paragraph 4, herein above, are in violation of Code Section 10159.2 and is a basis for discipline
15 of Respondent's license and license rights as violation of the Real Estate Law pursuant to Code
16 Sections 10177(d), 10177(g) and 10177(h).

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1 disciplinary action against the real estate license of Respondent occurs within two (2) years from
2 the effective date of the Decision, the stay hereby granted shall become permanent.

3 B. The remaining sixty (60) days of the ninety (90) day suspension shall be stayed
4 for two (2) years upon the following terms and conditions:

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

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

15 II.

16 The real estate broker license of Respondent DAVID H. CASSFORD under the
17 Real Estate Law is revoked; provided, however, a restricted real estate broker license shall be
18 issued to Respondent, pursuant to Section 10156.5 of the Business and Professions Code, if
19 Respondent:

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

23 (B) Respondent DAVID H. CASSFORD shall, prior to and as a condition of the
24 issuance of the restricted license, submit proof satisfactory to the Commissioner of having taken
25 and successfully completed the continuing education course on trust fund accounting and
26 handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and
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1 Professions Code. Proof of satisfaction of this requirement includes evidence that Respondent
2 has successfully completed the trust fund account and handling continuing education course
3 within 120 days prior to the effective date of the Decision in this matter.

4 The restricted license issued to Respondent shall be subject to all of the provisions
5 of Section 10156.7 of the Business and Professions Code and to the followings limitations,
6 conditions and restrictions imposed under authority of Section 10156.6 of that Code.

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

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

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

20 4. Respondent shall within six months from the effective date of the restricted
21 license, take and pass the Professional Responsibility Examination administered by the
22 Department including the payment of the appropriate examination fee. If respondent fails to
23 satisfy this condition, the Commissioner may order suspension of the restricted license until
24 respondent passes the examination. The Commissioner shall afford Respondent the opportunity
25 for a hearing pursuant to the Administrative Procedure Act to present such evidence.

26 5. Respondent shall, within nine (9) months from the effective date of this
27 Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has,

1 since the most recent issuance of an original or renewal real estate license, taken and successfully
2 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
3 Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the
4 Commissioner may order the suspension of Respondent's license until Respondent presents such
5 evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to
6 the Administrative Procedure Act to present such evidence.

7 6. During the time respondent is licensed as a restricted real estate broker,
8 Respondent shall not serve as the designated broker at any corporate real estate broker unless and
9 until Respondent is the sole owner of record of the controlling shares of the corporation.

10 III.

11 Pursuant to Section 10148 of the Business and Professions Code, Respondents
12 MEXIBANC MORTGAGE CORPORATION and DAVID H. CASSFORD, shall pay the
13 Commissioner's reasonable cost for (a) the audit which led to this disciplinary action and (b) a
14 subsequent audit to determine if Respondents are now in compliance with the Real Estate Law.
15 The cost of the audit which led to this disciplinary action is \$4,895.25. In calculating the amount
16 of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly
17 salary for all persons performing audits of real estate brokers, and shall include an allocation for
18 travel time to and from the auditor's place of work. Said amount for the prior and subsequent
19 audits shall not exceed \$9,790.50. Respondents shall pay such cost within 60 days of receiving
20 an invoice from the Commissioner detailing the activities performed during the audit and the
21 amount of time spent performing those activities.

22 The Commissioner may suspend the license of a Respondent pending a hearing
23 held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely
24 made as provided for herein, or as provided for in a subsequent agreement between the
25 Respondents and the Commissioner. The suspension shall remain in effect until payment is
26 made in full or until a Respondent enters into an agreement satisfactory to the Commissioner to
27 provide for payment, or until a decision providing otherwise is adopted following a hearing held

1 pursuant to this condition.

2 IV.

3 Respondents MEXIBANC MORTGAGE CORPORATION and DAVID H.

4 CASSFORD shall, within six (6) months from the effective date of this Decision, present
5 evidence satisfactory to the Real Estate Commissioner that:

6 (A) With respect to the Homeowners in the tables below:

7 (1) Restitution of fees paid for consulting and documentation services has been

8 made;

9 (2) Unless determined by the Real Estate Commissioner to be satisfied or not

10 applicable; and

11 (3) If Respondents fail to satisfy either condition (1) or (2), the Commissioner

12 may order the suspension of Respondents licenses until Respondents present such evidence. The

13 Commissioner shall afford Respondents the opportunity for a hearing pursuant to the

14 Administrative Procedure Act to present such evidence.

15 (B) To the extent that restitution repayment is applicable:

16 (1) Respondents shall deliver or mail the restitution payments, by certified mail,

17 return receipt requested, to the Homeowners last address on file with or known to Respondents in

18 the tables, below.

19 (2) If any of the payments are returned by the Post Office marked "unable to

20 deliver," Respondents shall employ a locator service (that may include or be limited to the

21 Internet or other database retrieval search) to try and locate the aforesaid borrowers. Repayments

22 shall then be made to the addresses recommended by the locator service.

23 (3) If unable to effect repayment after using a locator service, Respondents shall

1 provide reasonable proof satisfactory to the Commissioner of their efforts to comply with the
2 provisions of this Paragraph.

3 (4) If the Commissioner determines that proof to be unsatisfactory, the
4 Commissioner shall so advise Respondents, and indicate what additional reasonable efforts
5 should be made to make repayment to the Homeowners.

6 (5) If Respondents fail to satisfy this condition, the Commissioner may order
7 suspension of Respondents' license until Respondents effect compliance herein and/or order that
8 undeliverable or undelivered restitution payments escheat to the State of California.

9 (6) If the Commissioner determines that proof to be unsatisfactory and that
10 reasonable efforts have not been made to locate the Homeowners, the Commissioner may, by
11 separate order, suspend Respondents' license for thirty (30 days).

12 (C) All proof shall be submitted to Department Counsel Elliott Mac Lennan,
13 Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350, Los Angeles,
14 California 90013-1105, on or before the effective date of this Decision.

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18 Table: Consulting and Documentation Restitution per Accusation

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Homeowner	Date	Service	Advance Fee
Sebastian Hinojosa	12-15-07	Consult/Modify	\$1,499
Jesus Perez	10-25-07	Modification	\$990
Manuel Valenzuela	09-18-08	Consult/Modify	\$2,000
Nicolas Alba	05-23-09	Consult/Modify	unknown
Lisbeth Contreras	07-14-09	Consult/Modify	\$2,300

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Table: Additionally Complaints not included in Accusation

Homeowner	Date	Service	Advance Fee
Luis Elizondo Vargas		Consult/Modify	\$1,499
Jose Juan Velasquez Flor and Flor Salgado	5-27-09 7-24-09	Consult/Modify	\$2,000

DATED: 7-31-12

E L L
ELLIOTT MAC LENNAN, Counsel for
Department of Real Estate

EXECUTION OF THE STIPULATION

We have read the Stipulation and Agreement and discussed it with our attorney. 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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MAILING AND FACSIMILE

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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. Respondents shall also (2) facsimile a copy of signed signature page, to the Department at the following telephone/fax number: (213) 576-6917, Attention: 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.

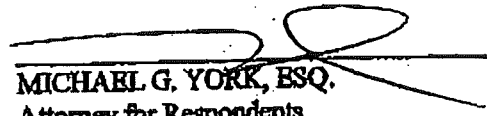
DATED: 7/30/12


MEXIBANC MORTGAGE CORPORATION,
Respondent
By: DAVID H. CASSFORD, as designated officer

DATED: 7/30/12


DAVID H. CASSFORD, Respondent,
Individually and as designated officer

DATED: 7-31-12


MICHAEL G. YORK, ESQ.
Attorney for Respondents
Approved as to form

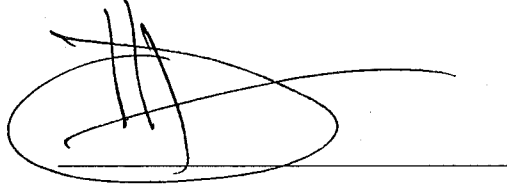
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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents MEXIBANC MORTGAGE CORPORATION and DAVID H. CASSFORD, and shall become effective at 12 o'clock noon on September 4, 2013.

IT IS SO ORDERED July 29, 2013 ..

REAL ESTATE COMMISSIONER

A handwritten signature in black ink, consisting of several vertical strokes and a large, sweeping horizontal stroke that loops back to the left, all contained within a horizontal line.

By: JEFFREY MASON
Chief Deputy Commissioner