

LISSETE GARCIA, Counsel (SBN 211552)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
Direct: (213) 576-6914
Fax: (213) 576-6917

FILED

JAN 24 2013

DEPARTMENT OF REAL ESTATE
BY: CR

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-38271 LA
)
BLUESTONE MORTGAGE, INC.,) FIRST AMENDED ACCUSATION
LORENZO LAZARO, individually and)
as former designated officer of)
Bluestone Mortgage, Inc., and)
ANA E. LAZARO,)
)
Respondents.)
)

This First Amended Accusation amends the Accusation
filed on July 18, 2012. The Complainant, Robin Trujillo, a
Deputy Real Estate Commissioner of the State of California, for
cause of Accusation against BLUESTONE MORTGAGE, INC., LORENZO
LAZARO, individually and as former designated officer of
Bluestone Mortgage, Inc., and ANA E. LAZARO ("Respondents"), is
informed and alleges as follows:

1.

The Complainant, Robin Trujillo, a Deputy Real Estate
Commissioner of the State of California, makes this Accusation
in her official capacity.

1 2.

2 From July 19, 2007, through July 18, 2011, Respondent
3 BLUESTONE MORTGAGE, INC. ("BLUESTONE") was licensed by the
4 Department of Real Estate ("Department") as a corporate real
5 estate broker, Department ID 01817809. Respondent BLUESTONE's
6 license expired on July 18, 2011. Respondent BLUESTONE has
7 renewal rights pursuant to Business and Professions Code
8 ("Code") Section 10201. The Department retains jurisdiction
9 pursuant to Code Section 10103.
10

11 3.

12 From June 9, 2009, through the present, Respondent
13 LORENZO LAZARO has been licensed by the Department as a real
14 estate broker, Department ID 01862498.
15

16 4.

17 From July 2, 2009 through July 18, 2011, Respondent
18 BLUESTONE was acting by and through Respondent LORENZO LAZARO as
19 its officer pursuant to Code Section 10159.2 to be responsible
20 for ensuring compliance with the Real Estate Law.
21

22 5.

23 From February 23, 1980, through the present,
24 Respondent ANA E. LAZARO was licensed by the Department as a
25 real estate salesperson, Department ID 00772552. At all times
26 relevant, Respondent ANA E. LAZARO was licensed under the
27 employment of LORENZO LAZARO.
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6.

Respondent BLUESTONE is a California corporation.
Respondents LORENZO LAZARO and ANA E. LAZARO are officers and

1 directors of BLUESTONE.

2 FIRST CAUSE OF ACCUSATION
3 (Suspended Corporate Status)

4 7.

5 On March 1, 2011, the California Franchise Tax Board
6 suspended the corporate powers, rights and privileges of
7 Respondent BLUESTONE pursuant to the provisions of the
8 California Revenue and Taxation Code. BLUESTONE's corporate
9 status remains suspended.

10 8.

11 The suspension of Respondent BLUESTONE is in violation
12 of Real Estate Commissioner, Title 10, Chapter 6, California
13 Code of Regulations ("Regulations") Section 2742, subdivision
14 (c) and constitutes grounds to suspend or revoke Respondent
15 BLUESTONE's corporate real estate broker license pursuant to
16 Code Section 10177(d).

17 9.

18 The conduct, acts and/or omissions of Respondent
19 LORENZO LAZARO as set forth in Paragraphs 7 and 8, above, in
20 failing to adequately supervise the activities of Respondent
21 BLUESTONE is in violation of Code Section 10159.2 and
22 constitutes grounds to discipline the license and/or license
23 rights of Respondent LORENZO LAZARO pursuant to Code Sections
24 10177(h), 10177(d) and/or 10177(g).

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13.

Code Section 10026, in pertinent part, defines an advance fee as a fee that is claimed, demanded, charged, received, or collected by a licensee for services requiring a license. A person who proposes to collect an advance fee as defined in Code Section 10026 must submit to the Commissioner not less than ten calendar days before publication or other use, all materials to be used in advertising, promoting, soliciting and negotiating an agreement calling for the payment of an advance fee including the form of advance fee agreement proposed for use, pursuant to Section 2970, Regulations of the Real Estate Commissioner, Title 10, Chapter 6, California Code of Regulations ("Regulations"). Code Section 10085 also allows the Commissioner to require that any and all materials used in obtaining advance fee agreements, including contract forms, be submitted at least 10 calendar days before they are used.

14.

In, or around July of 2009, Respondent ANA E. LAZARO, while working as an agent on behalf of BLUESTONE, solicited and offered loan services to Maxwell B., including services to assist him in negotiating with lenders, foreclosure forbearance, loan modification, or obtaining a short sale of his real property. Respondents engaged in the business of claiming, demanding, charging receiving, collecting or contracting for the collection of advance fees, within the meaning of Code Section 10026, for activities with respect to loans which were secured by liens on real property.

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15.

On October 6, 2009, Maxwell B. paid an advance fee of \$1,875 to BLUESTONE for short sale, loan modification or negotiation services. On May 7, 2010, Maxwell B. paid an additional advance fee of \$2,000 to BLUESTONE for said services. Respondent ANA E. LAZARO made misrepresentations to Maxwell B. in order to induce Maxwell B. to enter into an advance fee agreement including, among others, that BLUESTONE could obtain a loan modification for Maxwell B. Respondents failed to perform the short sale, loan modification or negotiation services that had been promised to Maxwell B. Respondents failed to provide an accounting of any services done for Maxwell B. or an accounting of the advance fees collected from Maxwell B.

16.

Respondents BLUESTONE and LORENZO LAZARO failed to comply with the requirements of advance fee agreements pursuant to Code Section 10085 and Regulation 2970.

17.

Respondents failed to comply with the requirements for handling of advance fees in violation of Code Section 10146.

18.

On October 11, 2009, then Governor Arnold Schwarzenegger signed Senate Bill 94 (Calderon), and the legislation took effect immediately upon his signature. Thus, California law prohibited any person, including real estate licensees and attorneys, from demanding or collecting an advance fee from a consumer for loan modification or mortgage loan forbearance services affecting 1 - 4 unit residential dwellings.

19.

The following notice was prominently featured on the Department's website as of October 11, 2009:

"IF YOU ARE A REAL ESTATE BROKER, OR THE DESIGNATED OFFICER OF A LICENSED CORPORATION, WHO HAS BEEN ISSUED A "NO OBJECTION" LETTER BY THE DEPARTMENT OF REAL ESTATE FOR LOAN MODIFICATION OR OTHER MORTGAGE LOAN FORBEARANCE SERVICES, YOU CAN NO LONGER ENTER INTO THESE AGREEMENTS EFFECTIVE AS OF OCTOBER 11, 2009, NOR CAN YOU COLLECT ANY ADVANCE FEES FOR SUCH SERVICES. Agreements entered into and advance fees collected prior to October 11, 2009 are not affected. Advance fees inadvertently collected after October 11, 2009 must be fully refunded. All real estate licensees should become familiar with the provisions of SB94 as there are substantial administrative and criminal penalties for violations."

20.

The conduct, acts and/or omissions of Respondents as set forth above, are in violation of Code Sections 10085, 10085.5, 10085.6, 10146 and Regulation Section 2970 and constitute grounds for the suspension or revocation of the licenses and license rights of Respondents pursuant to Code Sections 10177(d) and/or 10177(g).

21.

Respondents' conduct, acts and/or omissions as set forth above, constitute grounds for the suspension or revocation of the licenses and license rights of Respondents pursuant to Code Sections 10176(a) (making any substantial misrepresentation), 10176(b) (making any false promises of a

1 character likely to influence, persuade or induce), 10176(i)
2 (conduct...which constitutes fraud or dishonest dealing), 10177(d)
3 (violation of the Real Estate Law), and/or 10177(g)
4 (negligence).

5 22.

6 The conduct, acts and/or omissions of Respondent
7 LORENZO LAZARO, in allowing Respondents BLUESTONE and ANA E.
8 LAZARO to violate the Real Estate Law, as set forth above,
9 constitutes a failure by Respondent LAZARO, as the officer
10 designated by the corporate broker licensee, to exercise the
11 supervision and control over the activities of Respondents
12 BLUESTONE and ANA E. LAZARO, as required by Code Section 10159.2
13 and Regulation 2725, is cause to suspend or revoke the real
14 estate license and license rights of Respondent LORENZO LAZARO
15 under Code Sections 10177(h), 10177(d) and/or 10177(g).

16 THIRD CAUSE OF ACCUSATION
17 (Audit)

18 23.

19 There is hereby incorporated in this Third, separate,
20 Cause of Accusation, all of the allegations contained in
21 Paragraphs 1 through 22 above, with the same force and effect as
22 if herein fully set forth.

23 24.

24 On October 25, 2012, the Department completed an audit
25 examination of the books and records of Respondent BLUESTONE
26 pertaining to the mortgage loan, advance fee and loan
27 negotiation and modification service activities described above,
28 which require a real estate license. The audit examination

1 covered a period of time from July 2, 2009, to July 17, 2011.
2 The audit examination revealed violations of the Code and the
3 Regulations as set forth in the following paragraphs, and more
4 fully discussed in Audit Report LA 110200 and the exhibits and
5 work papers attached to said Audit Report.

6 25.

7 Violations

8 In the course of activities described above and during
9 the examination period described in Paragraph 24, Respondents
10 acted in violation of the Code and the Regulations as follows:

11 (A) Respondents BLUESTONE and LORENZO LAZARO failed
12 to establish and/or maintain a trust account at a bank or other
13 recognized financial institution in the name of the broker for
14 deposit of advance fees collected from borrower Maxwell B.,
15 thereby depositing trust funds in BLUESTONE's general account
16 and thus commingling trust funds with BLUESTONE's funds, in
17 violation of Code Sections 10145, 10176(e) and Regulation 2832.

18 (B) Respondents BLUESTONE and LORENZO LAZARO
19 collected advance fees in connection with loan modification and
20 negotiation services without submitting an advance fee agreement
21 for review and approval to the Department, in violation of Code
22 Section 10085 and Regulation 2970.

23 (C) Respondents BLUESTONE and LORENZO LAZARO
24 collected an advance fee from borrower Maxwell B. and deposited
25 same into BLUESTONE's general bank account at Wells Fargo Bank
26 (Account No. XXXXXX7583), thereby failing to establish and
27
28

1 maintain a trust account at a bank or other recognized financial
2 institution in the name of the broker for deposit of advance
3 fees collected by Respondents, in violation of Code Section
4 10146.

5 (D) Respondents collected advance fees from borrower
6 Maxwell B. on May 7, 2010 (after passage of SB 94), in violation
7 of Code Section 10085.6.

8 (E) Respondents BLUESTONE and LORENZO LAZARO
9 collected advance fees for services in connection with loans
10 secured by liens on real property without maintaining an
11 accounting content to borrowers showing, in which trust accounts
12 the funds were deposited and details of how the funds were
13 disbursed, including the amount allocated or disbursed for
14 overhead costs and profit, in violation of Code Section 10146
15 and Regulation 2972.

16 (F) Respondent ANA E. LAZARO engaged in activities
17 including, but not limited to, negotiating a loan modification
18 for borrower Maxwell B. when ANA E. LAZARO was not licensed
19 under the employment of Respondent BLUESTONE, in violation of
20 Code Section 10137.

21 (G) Respondents BLUESTONE and LORENZO LAZARO used the
22 unlicensed fictitious business name "Bluestone Mortgage" not
23 BLUESTONE MORTGAGE, INC., in connection with mortgage loan
24 activities without a license bearing such fictitious name, in
25 violation of Code Section 10159.5 and Regulation 2731.

26 (H) Respondent BLUESTONE failed to retain records in
27
28

1 connection with activities requiring a real estate license, in
2 violation of Code Section 10148.

3 Disciplinary Statutes

4 26.

5 The conduct of Respondents described in Paragraph 25,
6 above, violated the Code and the Regulations as set forth below:
7

8 PARAGRAPH	PROVISIONS VIOLATED
9 25(A)	Code Sections 10145, 10176(e), and Regulation 10 2832
11 25(B)	Code Section 10085 and Regulation 2970
12 25(C)	Code Section 10146
13 25(D)	Code Section 10085.6
14 25(E)	Code Section 10146 and Regulation 2972
15 25(F)	Code Section 10137
16 25(G)	Code Section 10159.5 and Regulation 2731
17 25(H)	Code Section 10148

18
19
20 27.

21 The foregoing violations constitute cause for the
22 suspension or revocation of the real estate licenses and license
23 rights of Respondents BLUESTONE and LORENZO LAZARO, as
24 aforesaid, under the provisions of Code Sections 10176(e) for
25 commingling, 10177(d) for violation of the Real Estate Law
26 and/or 10177(g) for negligence.
27

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1 28.

2 The foregoing violations constitute cause for the
3 suspension or revocation of the real estate license and license
4 rights of Respondent ANA E. LAZARO, as aforesaid, under the
5 provisions of Code Sections 10177(d) for violation of the Real
6 Estate Law and/or 10177(g) for negligence.

7 29.

8 The conduct, acts and/or omissions of Respondent
9 LORENZO LAZARO in allowing Respondents BLUESTONE and ANA E.
10 LAZARO to violate the Real Estate Law, as set forth above,
11 constitutes a failure by Respondent LORENZO LAZARO to exercise
12 the supervision and control over the activities of Respondents
13 BLUESTONE and ANA E. LAZARO as required by Code Section 10159.2
14 and Regulation 2725, and is cause to suspend or revoke the real
15 estate license and license rights of Respondent LORENZO LAZARO
16 under Code Sections 10177(d), 10177(h) and/or 10177(g).

17 30.

18 Code Section 10106 provides, in pertinent part, that
19 in any order issued in resolution of a disciplinary proceeding
20 before the Department of Real Estate, the Commissioner may
21 request the administrative law judge to direct a licensee found
22 to have committed a violation of this part to pay a sum not to
23 exceed the reasonable costs of the investigation and enforcement
24 of the case.

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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 all licenses and/or license rights of Respondents
5 BLUESTONE MORTGAGE, INC., LORENZO LAZARO, individually and as
6 former designated officer of Bluestone Mortgage, Inc., and ANA
7 E. LAZARO under the Real Estate Law (Part 1 of Division 4 of the
8 Business and Professions Code), for the cost of investigation
9 and enforcement as permitted by law, and for such other and
10 further relief as may be proper under other provisions of law.

11 Dated at Los Angeles, California

12 this 22 day of January, 2013.

13
14 
15 ROBIN TRUJILLO
16 Deputy Real Estate Commissioner
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21
22

23 cc: Bluestone Mortgage, Inc.
24 Lorenzo Lazaro
25 Ana E. Lazaro
26 Katherine T. Hause, Esq.
27 Robin Trujillo
28 Sacto
OAH