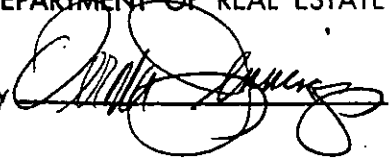


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FILED
OCT 29 1998
DEPARTMENT OF REAL ESTATE
By 

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) No. H-26742 LA
CENTURY 21 ALLSTARS INC.,) L-9612018
a corporation, et al.,)
Respondents.)

ORDER STAYING EFFECTIVE DATE

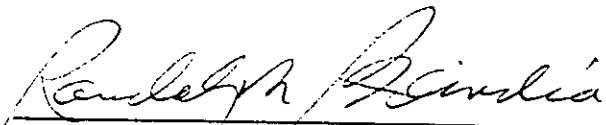
On September 23, 1998, a Decision was rendered in the above-entitled matter to become effective October 29, 1998.

IT IS HEREBY ORDERED that the effective date of the Decision of September 23, 1998, as to Respondent CENTURY 21 ALLSTARS, INC., is stayed for a period of 30 days.

The Decision of September 23, 1998, shall become effective at 12 o'clock noon on November 30, 1998.

DATED: October 29, 1998.

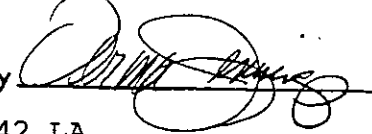
JIM ANTT, JR.
Real Estate Commissioner

By: 
RANDOLPH BRENDIA
Regional Manager

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
OCT - 9 1998
DEPARTMENT OF REAL ESTATE

* * * * *

By 

In the Matter of the Accusation of) No. H-26742 LA
)
CENTURY 21 ALLSTARS INC.,) L-9612018
a Corporation; FLORENCE)
CHRISTINE H. DARNALL, doing)
business as C-21 Allstars,)
Century 21 Allstars, Century)
21 Allstars Inc., individually)
and as designated officer for)
Century 21 Allstars Inc.; and)
JOSEPH GARCIA VILLAESCUSA,)
individually and as designated)
officer of Century 21)
Allstars Inc.,)
)
Respondents.)
_____)

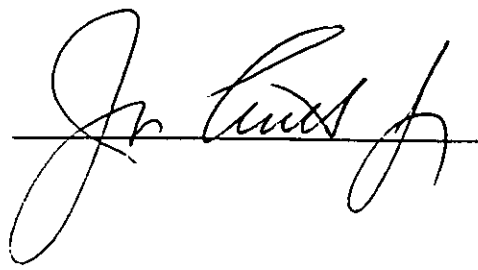
DECISION

The Proposed Decision dated August 31, 1998, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter as to Respondents CENTURY 21 ALLSTARS, INC., and JOSEPH GARCIA VILLAESCUSA.

This Decision shall become effective at 12 o'clock noon on October 29, 1998.

IT IS SO ORDERED 9/23, 1998.

JIM ANTT, JR.
Real Estate Commissioner



to avoid further violations, respondents now have a former Department of Corporations auditor audit their records, they have taken in a new partner to oversee operations, they have a new designated officer and they have hired a new escrow manager who has 11 years experience.

ADDITIONAL LEGAL CONCLUSIONS AFTER REMAND

1. The violations by respondents Century 21 Allstars, Inc., and Joseph Garcia Villaescusa described in the Decision in Case No. H-26746 constitute aggravation of the violations by said respondents described in the Proposed Decision in Case No. H-26742. The Order in said Proposed Decision will, therefore, be modified to reflect that aggravation, as well as the rehabilitative measures taken by respondents, and the fact that but for the remand, respondent Century 21 Allstars, Inc. would have completed at least six months of the proposed two years probation by now.

2. Because neither respondent will have an unrestricted license, the standard condition that "no further cause for disciplinary action against the real estate license of Respondent occurs within one year from the effective date of the Decision in this matter" would be redundant and has, therefore, not been included in the following Order After Remand.

ORDER AFTER REMAND

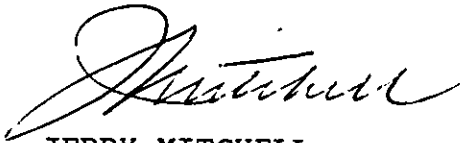
1. The following condition is added, as condition "E", to the ORDER RE CENTURY 21 ALLSTARS, INC., in the Proposed Decision dated November 19, 1997, and corrected on December 8, 1997:

E. The restricted license issued to respondent Century 21 Allstars, Inc., pursuant to this Decision, and all licensing rights of said respondent shall be suspended for 100 days, commencing on the date of issuance of said license; provided, however, that if respondent petitions, said suspension shall be stayed upon condition that respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$50.00 for each day of the suspension for a total monetary penalty of \$5,000.00. 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 delivered to Department prior to the effective date of this Decision.

2. The following Order replaces the ORDER RE JOSEPH GARCIA VILLAESCUSA in the Proposed Decision dated November 19, 1997, and corrected on December 8, 1997:

The restricted license issued to respondent Joseph Garcia Villaescusa pursuant to the Decision in Case No. H-26746, and all licensing rights of said respondent are suspended for 100 days, commencing on the effective date of this Decision, provided, however, that if respondent petitions, said suspension shall be stayed upon condition that respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$50.00 for each day of the suspension for a total monetary penalty of \$5,000.00. 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 delivered to the Department prior to the effective date of this Decision.

DATED: August 31, 1998



JERRY MITCHELL
Administrative Law Judge

SACD.
Plan

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JUN 19 1998
DEPARTMENT OF REAL ESTATE

* * * *

[Handwritten Signature]

In the Matter of the Accusation of)	Case No. H-26742 LA
)	OAH No. L-9612018
CENTURY 21 ALLSTARS INC.,)	
a corporation, et al.,)	
)	
<u>Respondents.</u>)	

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on August 25, 1998, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: June 19, 1998.

cc: Century 21 Allstars Inc.
Joseph Garcia Villaescusa
Michael A. Lanphere, Esq.
Sacto.
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DEPARTMENT OF REAL ESTATE

[Handwritten Signature]

V. AHDA SANDS, Counsel

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FILED
MAY 18 1998

DEPARTMENT OF REAL ESTATE



DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-26742 LA
CENTURY 21 ALLSTARS INC.,)	L-9612018
a Corporation; FLORENCE)	
CHRISTINE H. DARNALL, doing)	
Business as C-21 Allstars,)	
Century 21 Allstars; Century)	
21 Allstars Inc.; individually)	
and as designated)	
Officer for Century 21)	
Allstars Inc. and)	
JOSEPH GARCIA VILLAESCUSA,)	
individually and as Designated)	
Officer of Century 21 Allstars)	
Inc.,)	
Respondents.)	

DECISION AFTER REJECTION

This matter came on for hearing before Jerry Mitchell, Administrative Law Judge of the Office of Administrative Hearings, in Los Angeles, California, on October 27, 28 and 29, 1997.

V. Ahda Sands, Counsel, represented the Complainant.

1 CENTURY 21 ALLSTARS INC., FLORENCE CHRISTINE H. DARNALL
2 and JOSEPH GARCIA VILLAESCUSA were represented by Michael A.
3 Lanphere, attorney at law. JOSEPH GARCIA VILLAESCUSA was present
4 and represented CENTURY 21 ALLSTARS INC. and himself. FLORENCE
5 CHRISTINE H. DARNALL was not present.

6 The Administrative Law Judge submitted a Proposed
7 Decision dated December 8, 1997, which I declined to adopt as my
8 Decision herein. Pursuant to Section 11517(c) of the Government
9 Code of the State of California, Respondents were served with
10 notice of my determination not to adopt the decision of the
11 Administrative Law Judge along with a copy of said Proposed
12 Decision. Respondents were notified that the case would be
13 decided by me upon the record, the transcript of proceedings held
14 on October 27, 28 and 29, 1997, and upon any written argument
15 offered by Respondents. Respondents submitted written argument
16 received April 15, 1998.

17 I have given careful consideration to the record in
18 this case including the transcript of the proceedings held on
19 October 27, 28 and 29, 1997, the written argument submitted by
20 Respondents and the Department's response to the written
21 argument.

22 The following shall constitute the Decision of the Real
23 Estate Commissioner in this proceeding:

24 FINDINGS OF FACT

25 I have determined that the Findings of Facts as stated
26 in the Proposed Decision of the Administrative Law Judge dated
27 December 8, 1997, are appropriate in all respects and they are



1 adopted as the Findings of Facts of the Real Estate Commissioner
2 in this proceeding.

3 In addition, the Department notes four items of
4 aggravation not stated in the Proposed Decision.

5 The first item is that, contrary to Judge Mitchell's
6 implication on page 4 of his Proposed Decision, the public always
7 sustains harm by a trust fund shortage, whether or not the
8 beneficiaries were notified of the shortage.

9 Secondly, the transcript stated that despite hiring new
10 personnel, the adoption of new policies and procedures and the new
11 "warning" devices on Respondents' computer screens, trust fund
12 shortages continued to occur. Judge Mitchell noted that these
13 were deliberate trust fund shortages (Transcript of Proceedings,
14 page 25, lines 26 to 28, and page 26, lines 1 to 5). Deliberate
15 shortages are particularly disturbing since some of the new
16 shortages relate to broker fees taken which created a shortage in
17 the trust account.

18 Thirdly, on page 6, paragraph 14 of Judge Mitchell's
19 Proposed Decision, the Judge states that Respondent DARNALL is
20 unable to conduct and supervise a real estate brokerage in
21 accordance with laws and regulations pertaining thereto. The
22 Transcript reflects that Respondent DARNALL did not attend the
23 hearing due to her advanced age and illness. The record is void
24 of any mitigation showing that Respondent DARNALL could function
25 as a real estate salesperson or any other licensed capacity.

26 During the time when the Decision in this matter was
27 pending, a Decision in case H-26746 LA involving Respondents



1 CENTURY 21 ALLSTARS, INC. and VILLAESCUSA was also pending. The
2 Decision in H-26746 LA became EFFECTIVE on March 24, 1998, and
3 presents relevant evidence of aggravation which was not available
4 at the time of the hearing in this case and which should be
5 considered by the Administrative Law Judge with respect to his
6 recommendation for a penalty in this matter.

7 DETERMINATION OF ISSUES

8 The Determination of Issues as stated in the Proposed
9 Decision of the Administrative Law Judge dated December 8, 1997,
10 is appropriate in all respects and it is adopted as the
11 Determination of Issues of the Real Estate Commissioner in this
12 proceeding.

13 In addition, it is determined that the trust fund
14 shortages caused harm to the public and that apparently deliberate
15 trust fund shortages occurred during supervision by Respondent
16 VILLAESCUSA. Finally, the record is void of any mitigation
17 showing that Respondent DARNALL could function as a real estate
18 salesperson.

19 ORDER

20 The Order set forth in the Proposed Decision is not
21 appropriate in that the discipline imposed is not in accordance
22 with the magnitude and severity of the violations set forth in the
23 above Determination of Issues. The following order shall be the
24 Order of the Real Estate Commissioner.

25 ORDER RE: FLORENCE CHRISTINE H. DARNALL

26 All licenses and licensing rights of Respondent FLORENCE
27 CHRISTINE H. DARNALL under Real Estate Law are revoked.



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ORDER RE: CENTURY 21 ALLSTARS, INC.

This case No. H-26742 LA is remanded to the Office of Administrative Hearings for reconsideration of the penalty as to Respondent CENTURY 21 ALLSTARS, INC., in light of the Decision rendered in case H-26746 LA.

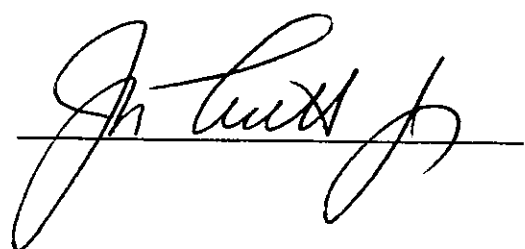
ORDER RE: JOSEPH GARCIA VILLAESCUSA

This case is remanded to the Office of Administrative Hearings for the taking and consideration of additional evidence, to wit, the Decision in case H-26746 LA.

This Decision shall become effective at 12 o'clock noon
on June 9, 1998.

IT IS SO ORDERED 5/13, 1998.

JIM ANTT, JR.
Real Estate Commissioner



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

* * *

In the Matter of the Accusation of)	
)	NO. H-26742 LA
CENTURY 21 ALLSTARS INC.,)	
a Corporation; FLORENCE)	L-9612018
CHRISTINE H. DARNALL, doing)	
business as C-21 Allstars,)	
Century 21 Allstars, Century)	
21 Allstars Inc., individually)	
and as designated officer for)	
Century 21 Allstars Inc.; and)	
JOSEPH GARCIA VILLAESCUSA,)	
individually and as designated)	
officer of Century 21 Allstars)	
Inc.,)	
)	
)	
Respondents.)	

NOTICE

TO: Respondents CENTURY 21 ALLSTARS INC., a Corporation;
FLORENCE CHRISTINE H. DARNALL, doing business as C-21 Allstars,
Century 21 Allstars, Century 21 Allstars Inc., individually and as
designated officer for Century 21 Allstars Inc.; and JOSEPH GARCIA
VILLAESCUSA, individually and as designated officer of Century 21
Allstars Inc., and MICHAEL A. LANPHERE, their Counsel.

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)
of:)
)
)
CENTURY 21 ALLSTARS INC.,) Case No. H-26742 LA
a Corporation; FLORENCE)
CHRISTINE H. DARNALL, doing) OAH No. L-9612018
Business as C-21 Allstars,)
Century 21 Allstars; Century)
21 Allstars Inc.; individually)
and as designated)
Officer for Century 21)
Allstars Inc. and)
JOSEPH GARCIA VILLAESCUSA,)
individually and as Designated)
Officer of Century 21 Allstars)
Inc.,)
)
)
Respondents.)
_____)

PROPOSED DECISION

Jerry Mitchell, Administrative Law Judge of the Office of Administrative Hearings, State of California, heard this matter on October 27, 28, and 29, 1997, at Los Angeles, California. V. Ahda Sands, Counsel, represented the complainant. Michael A. Lanphere, Attorney at Law, represented the respondents.

THE FACTS

1. Thomas McCrady, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, made and filed the Accusation and Amended Accusation herein against Century 21 Allstars Inc. ("respondent Century"), a corporation; Florence Christine H. Darnall ("respondent Darnall"); and Joseph Garcia Villaescusa ("respondent Villaescusa").

2. As used herein, the term "Section" refers to sections of the California Business and Professions Code, and the term "Regulation" refers to sections of Chapter 6, Title 10, California Code of Regulations.

3. Since February 17, 1981, respondent Darnall has been licensed by the Department of Real Estate ("Department") as a real estate broker.

4. Since August 29, 1995, respondent Villaescusa has been licensed by the Department as a real estate broker.

5. Since January 4, 1995, respondent Century has been licensed by the Department as a corporate real estate broker, with respondent Darnall as its designated officer from that date to January 1, 1996, and with respondent Villaescusa as its designated officer from January 1, 1996, to present.

6. At all times herein mentioned, respondents Darnall and Century engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker for others in the State of California within the meaning of Section 10131(a), including the operation and conduct of a business whereby respondents sell or offer to sell, buy or offer to buy, solicit prospective sellers or purchasers of, solicit or obtains listings of, or negotiate the purchase, sale or exchange of real property or a business opportunity. In addition, while not licensed by the Department of Corporations, respondents conducted escrow activities.

7. In connection with the aforesaid real estate broker activities, respondents Darnall and Century accepted or received funds in trust (hereinafter "trust funds") from or on behalf of buyers and sellers and thereafter made disbursements of such funds. Respondents deposited certain of said funds into Account No. 682-254955, in the name of "Century 21 Allstars Inc. Escrow Trust Account", at the Metro Bank, Torrance, California.

8. In connection with the aforesaid real estate broker activities during the period of July 1, 1993 to November 30, 1994, respondent Darnall:

(a) disbursed or caused or allowed the disbursement of trust funds from said account number 682-254955, wherein the disbursement of said funds reduced the funds in said account to an amount which on November 30, 1994, was approximately \$31,778.66 less than the existing aggregate trust fund liability to all owners of said funds, without first obtaining the prior written consent of every principal who was an owner of said funds.

(b) deposited certain trust funds into an account in the name of "Century 21 Allstars Inc., Escrow Trust Account" rather than into a trust account in the broker's name as broker and trustee.

(c) failed to maintain adequate formal trust fund receipts and disbursement journals. Specifically, not all transactions were posted.

(d) failed to maintain adequate separate records for each beneficiary or transaction, accounting therein for said account trust funds received, deposited, and disbursed. Specifically, there were posting errors on the receipt activity logs, and the balances reflected on the separate records were inaccurate.

(e) Failed to perform a monthly reconciliation of the receipt and disposition of all trust funds received, and the balance of all separate beneficiary or transaction records. Specifically, monthly reconciliations of the columnar records (cash receipts and check activity logs) to the separate records were only maintained through July 1994. The months of August through November 1994 were missing.

(f) failed to first obtain a license from the Department before using the fictitious names "Century 21 Allstars, C-21 Allstars, and Century 21 Allstars Inc."

(g) Allowed persons not licensed to the broker and not covered by a fidelity bond to be signatories on said respondent's trust account.

(h) failed to notify the Department within one business day of the addresses at 13710 Studebaker, Norwalk and 11716 Rosecrans, Norwalk where said respondent conducted activities requiring a license commencing July 1993.

(i) failed to review and initial instruments prepared or signed by real estate salespersons employed by said respondent in connection with transactions for which a real estate license is required, which instruments may have a material effect upon the rights or obligations of a party to the transaction.

9. In connection with the aforesaid real estate broker activities, respondent Century accepted or received funds in trust ("trust funds") from or on behalf of buyers and sellers and thereafter made disbursements of such funds. Respondent Century deposited certain of said funds into the following accounts ("said accounts"): Account No. 0031-000-025, in the name of "Century 21 Allstars Inc. Escrow Trust Fund Account", at the Imperial Bank, Los Angeles, California; Account No. 682-254955, in the name of "Century 21 Allstars Inc. Escrow Trust Fund Account", at Metro Bank, Torrance, California; Account No. 682-2540-33, in the name of "James La Peter Inc. dba Allstar Escrow Division Trust Account," at the Metro Bank, Torrance, California; and Account No.

0031-003-040, in the name of "Century 21 Allstars Inc. West Covina Escrow Trust Account," at the Imperial Bank, 201 N. Figueroa, Los Angeles, California.

10. In connection with the aforesaid real estate broker activities during the period of January 4, 1995 to October 31, 1996, respondent Century:

(a) disbursed or caused or allowed the disbursement of trust funds from said accounts, wherein the disbursement of said funds reduced the funds in said accounts to an amount which on December 31, 1995, was approximately \$278,890.64 less than the existing aggregate trust fund liability to all owners of said funds, without first obtaining the prior written consent of every principal who was an owner of said funds.

(b) disbursed or caused or allowed the disbursement of trust funds from said accounts, wherein the disbursement of said funds reduced the funds in said accounts to an amount which on June 30, 1996, was approximately \$110,494.64 less than the existing aggregate trust fund liability to all owners of said funds, without first obtaining the prior written consent of every principal who was an owner of said funds. Not more than \$6,000.00 of the \$110,494.64 deficit was shown to have occurred after respondent Villaescusa became the designated officer, and the evidence was that he put far more than \$6,000.00 of his own money into the trust accounts to cure the deficit that he inherited when he became the designated officer. The evidence also showed that no owner of trust funds sustained a loss.

(c) failed to maintain adequate separate records for each beneficiary or transaction, accounting therein for trust funds received, deposited, and disbursed. Specifically, there were posting errors on the receipt activity logs, and the balances reflected on the separate records were inaccurate;

(d) failed to perform a monthly reconciliation of the records of the receipt and disposition of all trust funds received, and the balance of all separate beneficiary or transaction records. Specifically, said respondent failed to make the proper adjustments to the cash receipts and disbursements journals.

(e) failed to notify the Department that approximately 12 salespersons employed by respondent Century during 1995 through 1996 were not properly licensed to said respondent.

(f) failed to maintain broker-salesperson agreements with the sales agents employed by said respondent.

(g) failed upon closing of an escrow transaction to render to each principal in the transaction a written statement of all receipts and disbursements together with the name of the person to whom any such disbursement is made.

THE LAW

11. Respondent Darnall has subjected her license to discipline under Section 10177(d) by reason of the following:

(a) The facts set forth in paragraph 8(a) constitute a violation by respondent Darnall of Section 10145 and Regulation 2832.1.

(b) The facts set forth in paragraph 8(b) constitute a violation by respondent Darnall of Section 10145 and Regulation 2830.

(c) The facts set forth in paragraph 8(c) constitute a violation by respondent Darnall of Regulation 2831.

(d) The facts set forth in paragraph 8(d) constitute a violation by respondent Darnall of Regulation 2831.1.

(e) The facts set forth in paragraph 8(e) constitute a violation by respondent Darnall of Regulations 2831.2 and 2951.

(f) The facts set forth in paragraph 8(f) constitute a violation by respondent Darnall of Regulation 2731.

(g) The facts set forth in paragraph 8(g) constitute a violation by respondent Darnall of Regulation 2834.

(h) The facts set forth in paragraph 8(h) constitute a violation by respondent Darnall of Regulation 2715.

(i) The facts set forth in paragraph 8(i) constitute a violation by respondent Darnall of Regulation 2725.

12. Respondent Century has subjected its license to discipline under Section 10177(d) by reason of the following:

(a) The facts set forth in paragraph 10(a) constitute a violation by respondent Century of Section 10145 and Regulation 2832.1.

(b) The facts set forth in paragraph 10(b) constitute a violation by respondent Century of Section 10145 and Regulation 2832.1.

(c) The facts set forth in paragraph 10(c) constitute a violation by respondent Century of Regulation 2831.1.

(d) The facts set forth in paragraph 10(d) constitute a violation by respondent Century of Regulations 2831.2 and 2951.

(e) The facts set forth in paragraph 10(e) constitute a violation by respondent Century of Regulation 2752.

(f) The facts set forth in paragraph 10(f) constitute a violation by respondent Century of Regulation 2726.

(g) The facts set forth in paragraph 10(g) constitute a violation by respondent Century of Regulation 2950(i).

13. The facts set forth in paragraph 5 and 10 establish that respondents Darnall and Villaescusa violated Section 10159.2 by failing, as the designated officers of respondent Century, to supervise and control the activities of respondent Century's officers and employees so as to secure full compliance with the real estate law; wherefore, their licenses are subject to discipline under Section 10177(h).

14. In determining the appropriate order to be made with respect to respondent Darnall, consideration was given to the fact that her violations indicate an inability to conduct and supervise a real estate brokerage in accordance with laws and regulations pertaining thereto, but do not necessarily indicate an inability to function satisfactorily as a real estate salesperson. Therefore, she is being given the right to receive an unrestricted salesperson license, and she is being given six months to apply for it, rather than the usual 90 days, because it was indicated at the hearing that she is in ill health.

ORDER RE FLORENCE CHRISTINE H. DARNALL

The real estate broker license of respondent Florence Christine H. Darnall, and all licensing rights attached thereto, are revoked; provided, however, an unrestricted real estate salesperson license shall be issued to said respondent if she makes application therefor and pays to the Department of Real Estate the appropriate fee within six (6) months from the effective date of this Decision.

ORDER RE CENTURY 21 ALLSTARS INC.

All licenses and licensing rights of respondent Century 21 Allstars Inc. under the Real Estate law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

- ~~Adopted~~
Adopted
- A. The restricted license issued to respondent may be suspended prior to hearing by order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
 - B. The restricted license issued to respondent may be suspended prior to hearing by order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
 - C. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.
 - D. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of respondent and periodic summaries of salient information concerning each real estate transaction in which the respondent engaged during the period covered by the report.

Pursuant to Section 10148 of the Business and Professions Code, respondent shall pay the Commissioner's reasonable cost for an audit to determine if respondent has corrected the trust fund violations found in paragraphs 8 and 10 of The Facts. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost within 45 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may suspend the restricted license issued to respondent pending a hearing held in

See Decision after
Remand for Condition E

not
Adopted

accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the respondent and the Commissioner. The suspension shall remain in effect until payment is made in full or until respondent enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

ORDER RE JOSEPH GARCIA VILLAESCUSA

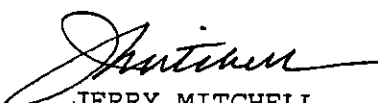
All licenses and license rights of respondent Joseph Garcia Villaescusa under the Real Estate Law are suspended for ninety (90) days; provided, however, that the suspension shall be stayed for two (2) years on the following terms and conditions:

A. During the stay, respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California.

B. If the Commissioner determines, after giving respondent notice and an opportunity to be heard, that respondent has violated condition "A" above, the commissioner may vacate the stay and impose the suspension. If no such determination is made, the stay shall become permanent.

Corrected on 8 DECEMBER 1997 JM

DATED: 19 NOVEMBER 1997



JERRY MITCHELL
Administrative Law Judge
Office of Administrative Hearings

JM:btm


SACTO.
KAP

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JUN 30 1997
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
)
FLORENCE CHRISTINE H.)
DARNALL, et al.,)
)
Respondents.)

Case No. H-26742 LA
OAH No. L-9612018

By 

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on **October 27, 28 and 29, 1997**, at the hour of **9:00 a.m.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: June 30, 1997.

cc: Florence Christine H. Darnall
Century 21 Allstars, Inc.
Joseph Garcia Villaescusa
Michael A. Lanphere, Esq.
Sacto.
OAH

DEPARTMENT OF REAL ESTATE


V. AHDA SANDS, Counsel

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V. AHDA SANDS, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012
(213) 897-3937

FILED
MAY - 1 1997
DEPARTMENT OF REAL ESTATE

By *Anna B. Paine*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	NO. H-26742 LA
CENTURY 21 ALLSTARS INC.,)	<u>AMENDED ACCUSATION</u>
a Corporation; FLORENCE)	
CHRISTINE H. DARNALL, doing)	
Business as C-21 Allstars,)	
Century 21 Allstars; Century)	
21 Allstars Inc.; individually)	
and as designated)	
Officer for Century 21)	
Allstars Inc. and)	
JOSEPH GARCIA VILLAESCUSA,)	
individually and as Designated)	
Officer of Century 21 Allstars)	
Inc.,)	
Respondents .)	

Complainant, Thomas Mc Crady, a Deputy Real Estate Commissioner of the State of California, as and for cause of Accusation against CENTURY 21 ALLSTARS INC., a Corporation; FLORENCE CHRISTINE H.DARNALL individually; doing business as: C-21 Allstars; Century 21 Allstars; Century 21 Allstars Inc. And as Designated Officer of Century 21 Allstars Inc. and JOSEPH GARCIA VILLAESCUSA, individually and as Designated Officer of

1 Century 21 Allstars Inc. (herein "Respondents") alleges as
2 follows:

3 1

4 The term "the Regulations" as used herein refers to
5 provisions of Chapter 6, Title 10, California Code of
6 Regulations.

7 2

8 The Complainant, Thomas Mc Crady, a Deputy Real Estate
9 Commissioner of the State of California, makes this Accusation
10 against Respondents in his official capacity.

11 3

12 Respondents are presently licensed and/or have license
13 rights under the Real Estate Law, Part 1 of Division 4 of the
14 Business and Professions Code (herein "the Code").

15 4

16 From February 17, 1981 to present Respondent FLORENCE
17 CHRISTINE H. DARNALL was licensed by the Department of Real
18 Estate (Department) as a real estate broker.

19 5

20 From August 29, 1995 to present Respondent JOSEPH
21 GARCIA VILLAESCUSA was licensed by the Department of Real Estate
22 (Department) as a real estate broker.

23 6

24 From January 4, 1995 to January 1, 1996, Respondent
25 CENTURY 21 ALLSTARS INC. (hereinafter CENTURY) was licensed by
26 the Department of Real Estate (Department) as a corporate real
27 estate broker by and through FLORENCE CHRISTINE H. DARNALL



1 (hereinafter DARNALL). From January 1, 1996 to present CENTURY
2 was licensed by the Department of Real Estate (Department) as a
3 corporate real estate broker by and through JOSEPH GARCIA
4 VILLAESCUSA, (hereinafter VILLAESCUSA).

5 7

6 All further references herein to "Respondents" includes
7 the parties identified in Paragraphs 4 and 5 also the officers,
8 directors, stockholders, employees, agents and real estate
9 licensees employed by or associated with said party and who at
10 all times herein mentioned were engaged in the furtherance of the
11 business or operations of said party and who were acting within
12 the course and scope of their authority and employment.

13 8

14 At all times herein mentioned, Respondents engaged in
15 the business of, acted in the capacity of, advertised or assumed
16 to act as a real estate broker for others in the State of
17 California within the meaning of Code Section 10131(a) of the
18 Code, including the operation and conduct of a business whereby
19 Respondents sells or offers to sell, buys or offers to buy,
20 solicits prospective sellers or purchasers of, solicits or
21 obtains listings of, or negotiates the purchase, sale or exchange
22 of real property or a business opportunity. In addition, while
23 not licensed by the Department of Corporations, Respondents
24 conducted escrow activities.

25 9

26 In connection with the aforesaid real estate broker
27 activities, Respondents accepted or received funds in trust



1 (hereinafter "trust funds") from or on behalf of buyers and
2 sellers and thereafter made disbursements of such funds.
3 Respondents deposited certain of said funds into the following
4 account (herein "said account") Account No. 682-254955 the
5 "Century 21 Allstars Inc. Escrow Trust Fund Account", at the
6 Metrobank located in Torrance, CA 90503.

7 FIRST CAUSE OF ACCUSATION

8 AUDIT VIOLATIONS - DARNALL

9 10

10 On February 27, 1995, the Department concluded its
11 examination of Respondent's books and records pertaining to the
12 real estate broker activities described in Paragraph 7, above,
13 for the five month period ending November 30, 1994, which
14 examination revealed violations of the Code and of the
15 Regulations as set forth in the following paragraphs:

16 11

17 In connection with the trust funds referred to in
18 Paragraph 8, and the activities described in Paragraph 7, above,
19 Respondent DARNALL acted in violation of the Code and the
20 Regulations in that Respondent DARNALL:

21 (a) disbursed or caused or allowed the
22 disbursement of trust funds from the said account, wherein the
23 disbursement of said funds reduced the funds in said account to
24 an amount which on November 30, 1994, was approximately
25 \$31,778.66 less than the existing aggregate trust fund liability
26 to all owners of said funds, without first obtaining the prior
27 written consent of every principal who was an owner of said funds



1 in violation of Regulation Section 2832.1 and Code Section
2 10145;

3 (b) deposited certain trust funds in trust into
4 an account maintained as the "Century 21 Allstars Inc., Escrow
5 Division Trust Account" rather than into a trust account in the
6 broker's name as broker and as trustee in violation of Code
7 Section 10145 and Regulation Section 2830;

8 (c) failed to maintain adequate formal trust
9 fund receipts and disbursement journals in violation of Section
10 2831 of the Regulations. Specifically, not all transactions were
11 posted;

12 (d) failed to maintain adequate separate records
13 for each beneficiary or transaction, accounting therein for said
14 account trust funds received, deposited, and disbursed,
15 conforming to the requirements of Section 2831.1 of the
16 Regulations. Specifically, there were posting errors on the
17 receipt activity logs, and the balances reflected on the separate
18 records were inaccurate;

19 (e) violated Section 2831.2 and 2951 of the
20 Regulations by failing to perform a monthly reconciliation of the
21 records of the receipt and disposition of all trust funds
22 received, and the balance of all separate beneficiary or
23 transaction records. Specifically, monthly reconciliations of the
24 columnar records (cash receipts and check activity logs) to the
25 separate records were only maintained through July 1994 the
26 months of August through November 1994 were missing;

27



1 (f) failed to first obtain a license from the
2 Department before using the fictitious names "Century 21
3 Allstars, C-21 Allstars, and Century 21 Allstars Inc." in
4 violation of Regulation Section 2731;

5 (g) Allowed unlicensed persons to be signatories
6 on Respondent's trust account. In addition, Respondents failed
7 to obtain fidelity bond coverage for either person, in violation
8 of Section 2834 of the Code;

9 (h) failed to notify the Department within one
10 business day of the address on 13710 Studebaker, Norwalk and
11 11716 Rosecrans, Norwalk where she conducted activities requiring
12 a license commencing July 1993, in violation of Regulation
13 Section 2715;

14 (i) employed and compensated persons not
15 licensed by the Department to perform acts requiring a real
16 estate license in violation of Code Section 10137;

17 (j) failed to review and initial instruments
18 prepared or signed by real estate salespersons employed by
19 Respondents in connection with transactions for which a real
20 estate license is required, which instruments may have a material
21 effect upon the rights or obligations of a party to the
22 transaction, in violation Section 2725 of the Regulations;

23 (k) failed to obtain Department approval before
24 using advance fee forms, in violation of Regulation Section 2970;

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SECOND CAUSE OF ACCUSATION

VIOLATION OF DEPARTMENT RULES AND REGULATIONS

DARNALL

12

The acts and omissions of Respondent DARNALL described in Paragraph 10, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>	
11(a)	Sec. 2832.1	of the Regulations;
	Sec. 10145	of the Code;
11(b)	Sec. 10145	of the Code;
	Sec. 2830	of the Regulations;
11(c)	Sec. 2831	of the Regulations;
11(d)	Sec. 2831.1	of the Regulations;
11(e)	Sec. 2831.2, 2951	of the Regulations;
11(f)	Sec. 2731	of the Regulations;
11(g)	Sec. 2834	of the Regulations;
11(h)	Sec. 2715	of the Regulations;
11(i)	Sec. 10137	of the Code;
11(j)	Sec. 2725	of the Regulations;
11(k)	Sec. 2970	of the Regulations.

Each of the foregoing violations separately constitutes cause for the suspension or revocation of all licenses and license rights of Respondent DARNALL, pursuant to the provisions of Section 10177(d) of the Code.

THIRD CAUSE OF ACCUSATION

AUDIT VIOLATIONS - CENTURY

13

In connection with the aforesaid real estate broker activities, Respondent CENTURY by and through DARNALL accepted or received funds in trust (hereinafter "trust funds") from or on behalf of buyers and sellers and thereafter made disbursements of such funds. Respondents deposited certain of said funds into the following account (herein "said accounts") as follows:



1 (1) Account No. 0031-000-025 the "Century 21 Allstars Inc. Escrow
2 Trust Fund Account", at the Imperial Bank located in Los
3 Angeles, CA 90012; (2) Account No. 682-254955 the "Century 21
4 Allstars Inc. Escrow Trust Fund Account", at the Imperial Bank
5 located in Los Angeles, CA 90012; (3) Account No. 682-2540-33 the
6 "Century 21 Allstars Inc. Escrow Trust Fund Account", at the
7 Metro Bank located in Torrance, CA 90503; (4) Account No. 0031-
8 003-040 the "Century 21 Allstars Inc. West Covina Escrow Trust
9 Fund Account", at the Imperial Bank located at 201 N. Figueroa
10 Los Angeles, CA 90012.

11 14

12 On December 27, 1996, the Department concluded its
13 examination of Respondent's books and records pertaining to the
14 real estate broker activities described in Paragraph 7, above,
15 for the period January 4, 1995 to October 31, 1996, which
16 examination revealed violations of the Code and of the
17 Regulations as set forth in the following paragraphs:

18 15

19 In connection with the trust funds referred to in
20 Paragraph 13, and the activities described in Paragraph 7, above,
21 Respondent CENTURY by and through DARNALL or VILLAESCUSA acted in
22 violation of the Code and the Regulations as follows:

23 (a) CENTURY and DARNALL disbursed or caused or
24 allowed the disbursement of trust funds from the said account,
25 wherein the disbursement of said funds reduced the funds in said
26 accounts to an amount which on December 31, 1995, was
27 approximately \$278,890.84, less than the existing aggregate trust



1 fund liability to all owners of said funds, without first
2 obtaining the prior written consent of every principal who was an
3 owner of said funds in violation of Regulation Section 2832.1
4 and Code Section 10145;

5 (b) CENTURY and VILLAESCUSA disbursed or caused
6 or allowed the disbursement of trust funds from the said account,
7 wherein the disbursement of said funds reduced the funds in said
8 accounts to an amount which on June 30, 1996, was approximately
9 \$110,494.64 less than the existing aggregate trust fund liability
10 to all owners of said funds, without first obtaining the prior
11 written consent of every principal who was an owner of said funds
12 in violation of Regulation Section 2832.1 and Code Section
13 10145;

14 (c) CENTURY, VILLAESCUSA and DARNALL failed to
15 maintain adequate separate records for each beneficiary or
16 transaction, accounting therein for said account trust funds
17 received, deposited, and disbursed, conforming to the
18 requirements of Section 2831.1 of the Regulations. Specifically,
19 there were posting errors on the receipt activity logs, and the
20 balances reflected on the separate records were inaccurate;

21 (d) CENTURY, VILLAESCUSA and DARNALL violated
22 Section 2831.2 and 2951 of the Regulations by failing to perform
23 a monthly reconciliation of the records of the receipt and
24 disposition of all trust funds received, and the balance of all
25 separate beneficiary or transaction records. Specifically,
26 Respondents failed to make the property adjustments to the cash
27 receipts and disbursements journals.



1 (e) CENTURY, VILLAESCUSA and DARNALL failed to
2 notify the Department that approximately forty-one (41)
3 salespersons employed by Allstars during 1995 through 1996 were
4 not properly licensed to the corporate license, in violation of
5 Regulation Section 2752;

6 (f) CENTURY and VILLAESCUSA failed to maintain
7 broker-salesperson agreements with the sales agents employed at
8 Allstars' West Covina Branch office, in violation of Regulation
9 Section 2726;

10 (g) VILLAESCUSA and CENTURY failed to properly
11 reflect the disbursements listed on the closing statement in at
12 least three escrow transactions, in violation of Regulation
13 Section 2950(i);

14 FOURTH CAUSE OF ACCUSATION

15 VIOLATION OF DEPARTMENT RULES AND REGULATIONS

16 16

17 The acts and omissions of Respondents described in
18 Paragraph 15, above, violated the Code and the Regulations as set
19 forth below:

20	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>	
21	15(a)	Sec. 2832.1	of the Regulations;
		Sec. 10145	of the Code;
22	15(b)	Sec. 2832.1	of the Regulations;
		Sec. 10145	of the Code;
23	15(c)	Sec. 2831.1	of the Regulations;
	15(d)	Sec. 2831.2, 2951	of the Regulations;
24	15(e)	Sec. 2752	of the Regulations;
	15(f)	Sec. 2726	of the Regulations;
25	15(g)	Sec. 2950	of the Regulations.

26 Each of the foregoing violations separately constitutes
27 cause for the suspension or revocation of all licenses and



1 license rights of Respondent, pursuant to the provisions of
2 Section 10177(d) of the Code.

3 FIFTH CAUSE OF ACCUSATION

4 LACK OF SUPERVISION

5 17
6 The conduct, acts and omissions of Respondent CENTURY,
7 as described in Paragraph 15, above, independently and
8 collectively constitutes failure on the part of DARNALL and
9 VILLAESCUSA as officers designated by a corporate broker licensee
10 to exercise the reasonable supervision and control over the
11 licensed activities of CENTURY required by Section 10159.2 of the
12 Code and is cause for the suspension or revocation of all real
13 estate licenses and license rights of DARNALL and VILLAESCUSA
14 pursuant to the provisions of Section 10177(h).

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26 WHEREFORE, Complainant prays that a hearing be
27 conducted on the allegations of this Accusation and that upon

1 proof thereof a decision be rendered imposing disciplinary action
2 against all licenses and license rights of Respondents CENTURY 21
3 ALLSTARS INC. and FLORENCE CHRISTINE H. DARNALL and JOSEPH GARCIA
4 VILLAESCUSA under the Real Estate Law (Part 1 of Division 4 of
5 the Business and Professions Code) and for such other and further
6 relief as may be proper under other applicable provisions of law.
7 Dated at Los Angeles, California
8 this 1st day of May, 1997.

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THOMAS McCRADY

Deputy Real Estate Commissioner

cc: Century Twenty One Allstars
Florence C. Darnall
Joseph Garcia Villaescusa
Sacto.
LK
VAS

*Sacto
2/20/97*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
DEC 12 1996
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of) Case No. H-26742 LA
FLORENCE CHRISTINE H. DARNALL,) OAH No. L-9612018
Respondent.)

By *Laura B. Crane*

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 314 West First Street, Los Angeles, California, on FEBRUARY 25, 1997, at the hour of 9:00 a.m. or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: *12/11/96*

DEPARTMENT OF REAL ESTATE

By: *V. Ahda Sands*
V. AHDA SANDS, Counsel

cc: Florence Christine H. Darnall
Sacto.
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Sands

FILED
SEP 11 1996
DEPARTMENT OF REAL ESTATE

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V. AHDA SANDS, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012
(213) 897-3937

By Laura B. Orner

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	NO. H-26742 LA
)	
FLORENCE CHRISTINE H. DARNALL)	<u>ACCUSATION</u>
)	
Respondent.)	
<hr/>		

Complainant, Thomas Mc Crady, a Deputy Real Estate Commissioner of the State of California, as and for cause of Accusation against FLORENCE CHRISTINE H.DARNALL, individually and doing business as C-21 Allstars; Century 21 Allstars; Century 21 Allstars Inc. (herein "Respondent") alleges as follows:

1

The term "the Regulations" as used herein refers to provisions of Chapter 6, Title 10, California Code of Regulations.

/
/
2

1 The Complainant, Thomas Mc Crady, a Deputy Real Estate
2 Commissioner of the State of California, makes this Accusation
3 against Respondent in his official capacity.

4 3

5 Respondent is presently licensed and/or has license
6 rights under the Real Estate Law, Part 1 of Division 4 of the
7 Business and Professions Code (herein "the Code").

8 4

9 From February 17, 1981 to present Respondent Florence
10 Christine H. Darnall was licensed by the Department of Real
11 Estate (Department) as a real estate broker.

12 5

13 All further references herein to "Respondent" includes
14 the party identified in Paragraph 4 also the employees, agents
15 and real estate licensees employed by or associated with said
16 party and who at all times herein mentioned were engaged in the
17 furtherance of the business or operations of said party and who
18 were acting within the course and scope of their authority and
19 employment.

20 6

21 At all times herein mentioned, Respondent engaged in
22 the business of, acted in the capacity of, advertised or assumed
23 to act as a real estate broker for others in the State of
24 California within the meaning of Code Section 10131(a) of the
25 Code, including the operation and conduct of a business whereby
26 Respondent sells or offers to sell, buys or offers to buy,
27 solicits prospective sellers or purchasers of, solicits or

1 obtains listings of, or negotiates the purchase, sale or exchange
2 of real property or a business opportunity. In addition, while
3 not licensed by the Department of Corporations, Respondent
4 conducts escrow activities.

5
6 7

6 In connection with the aforesaid real estate broker
7 activities, Respondent accepted or received funds in trust
8 (hereinafter "trust funds") from or on behalf of buyers and
9 sellers and thereafter made disbursements of such funds.
10 Respondent deposited certain of said funds into the following
11 account (herein "said account") Account No. 682-254955 the
12 "Century 21 Allstars Inc. Escrow Trust Fund Account", at the
13 Metrobank located in Torrance, CA 90503.

14 FIRST CAUSE OF ACCUSATION

15 AUDIT VIOLATIONS

16 8

17 On February 27, 1995, the Department concluded its
18 examination of Respondent's books and records pertaining to the
19 real estate broker activities described in Paragraph 7, above,
20 for the five month period ending November 30, 1994, which
21 examination revealed violations of the Code and of the
22 Regulations as set forth in the following paragraphs:

23 9

24 In connection with the trust funds referred to in
25 Paragraph 7, and the activities described in Paragraph 6, above,
26 Respondent acted in violation of the Code and the Regulations in
27 that Respondent:

1 (a) disbursed or caused or allowed the
2 disbursement of trust funds from the said account, wherein the
3 disbursement of said funds reduced the funds in said account to
4 an amount which on November 30, 1994, was approximately
5 \$31,778.66 less than the existing aggregate trust fund liability
6 to all owners of said funds, without first obtaining the prior
7 written consent of every principal who was an owner of said funds
8 in violation of Regulation Section 2832.1 and Code Section
9 10145;

10 (b) deposited certain trust funds in trust into
11 an account maintained as the "Century 21 Allstars Inc., Escrow
12 Division Trust Account" rather than into a trust account in the
13 broker's name as broker and as trustee in violation of Code
14 Section 10145 and Regulation Section 2830;

15 (c) failed to maintain adequate formal trust
16 fund receipts and disbursement journals in violation of Section
17 2831 of the Regulations. Specifically, not all transactions were
18 posted;

19 (d) failed to maintain adequate separate records
20 for each beneficiary or transaction, accounting therein for said
21 account trust funds received, deposited, and disbursed,
22 conforming to the requirements of Section 2831.1 of the
23 Regulations. Specifically, there were posting errors on the
24 receipt activity logs, and the balances reflected on the separate
25 records were inaccurate;

26 (e) violated Section 2831.2 and 2951 of the
27 Regulations by failing to perform a monthly reconciliation of the

1 records of the receipt and disposition of all trust funds
2 received, and the balance of all separate beneficiary or
3 transaction records. Specifically, monthly reconciliations of the
4 columnar records (cash receipts and check activity logs) to the
5 separate records were only maintained through July 1994 the
6 months of August through November 1994 were missing;

7 (f) failed to first obtain a license from the
8 Department before using the fictitious names "Century 21
9 Allstars, C-21 Allstars, and Century 21 Allstars Inc." in
10 violation of Regulation Section 2731;

11 (g) Allowed unlicensed persons to be signatories
12 on Respondent's trust account. In addition, Respondent failed
13 to obtain fidelity bond coverage for either person, in violation
14 of Section 2834 of the Code;

15 (h) failed to notify the Department within one
16 business day of the address on 13710 Studebaker, Norwalk and
17 11716 Rosecrans, Norwalk where she conducted activities requiring
18 a license commencing July 1993, in violation of Regulation
19 Section 2715;

20 (i) employed and compensated persons not
21 licensed by the Department to perform acts requiring a real
22 estate license in violation of Code Section 10137;

23 (j) failed to review and initial instruments
24 prepared or signed by real estate salespersons employed by
25 Respondent in connection with transactions for which a real
26 estate license is required, which instruments may have a material
27

1 effect upon the rights or obligations of a party to the
2 transaction, in violation Section 2725 of the Regulations;

3 (k) failed to obtain Department approval before
4 using advance fee forms, in violation of Regulation Section 2970;

5 SECOND CAUSE OF ACCUSATION

6 VIOLATION OF DEPARTMENT RULES AND REGULATIONS

7 10

8 The acts and omissions of Respondent described in
9 Paragraph 10, above, violated the Code and the Regulations as set
10 forth below:

11	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>	
12	9(a)	Sec. 2832.1	of the Regulations;
		Sec. 10145	of the Code;
13	9(b)	Sec. 10145	of the Code;
		Sec. 2830	of the Regulations;
14	9(c)	Sec. 2831	of the Regulations;
	9(d)	Sec. 2831.1	of the Regulations;
15	9(e)	Sec. 2831.2, 2951	of the Regulations;
	9(f)	Sec. 2731	of the Regulations;
16	9(g)	Sec. 2834	of the Regulations;
	9(h)	Sec. 2715	of the Regulations;
17	9(i)	Sec. 10137	of the Code;
	9(j)	Sec. 2725	of the Regulations;
18	9(k)	Sec. 2970	of the Regulations.

19 Each of the foregoing violations separately constitutes
20 cause for the suspension or revocation of all licenses and
21 license rights of Respondent, pursuant to the provisions of
22 Section 10177(d) of the Code.

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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 action
4 against all licenses and license rights of Respondent FLORENCE
5 CHRISTINE H. DARNALL under the Real Estate Law (Part 1 of
6 Division 4 of the Business and Professions Code) and for such
7 other and further relief as may be proper under other applicable
8 provisions of law.

9 Dated at Los Angeles, California
10 this 11th day of September, 1996.

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13 THOMAS McCRADY

14 _____
15 Deputy Real Estate Commissioner

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23 cc: Florence C. Darnall
24 Sacto.
25 LK
26 VAS
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