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FILED
FEB 27 2010
DEPARTMENT OF REAL ESTATE
By *L. Frost*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of
JAMES TIMOTHY VILLAESCUSA,
Respondent.

No. H-26746 LA

ORDER DENYING REINSTATEMENT OF LICENSE

On February 26, 1998, a Decision After Rejection was rendered revoking the restricted real estate salesperson license of Respondent. It had been determined that there was cause to revoke Respondent's license pursuant to Business and Professions Code Sections 10130, 10177(d) and 10177(j).

On July 18, 2008, Respondent petitioned for reinstatement of said real estate salesperson license, and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered the petition of Respondent and the evidence submitted in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate salesperson license at this time.

///

1 The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State*
2 *Bar* (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and
3 integrity than an applicant for first time licensure. The proof must be sufficient to overcome the
4 prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

5 The Department has developed criteria in Section 2911 of Title 10, California
6 Code of Regulations (Regulations) to assist in evaluating the rehabilitation of an applicant for
7 reinstatement of a license. Among the criteria relevant in this proceeding are:

8 Regulation 2911(k) – Correction of business practices

9 Respondent failed to provide sufficient evidence of correction of business
10 practices.

11 Regulation 2911(n) Change in attitude from that which existed at the time of the
12 conduct in question as evidenced by any or all of the following:

13 (1) Testimony of applicant.

14 (2) Evidence from family members, friends or other persons familiar with
15 applicant's previous conduct and with Respondent's subsequent attitudes and behavioral
16 patterns.

17 (3) Evidence from probation or parole officers or law enforcement officials
18 competent to testify as to applicant's social adjustments.

19 (4) Evidence from psychiatrists or other persons competent to testify with regard
20 to neuropsychiatric or emotional disturbances.

21 (5) Absence of subsequent felony or misdemeanor convictions that are reflective
22 of an inability to conform to societal rules when considered in light of the conduct in question.

23 Respondent has suffered two convictions for driving with a suspended license one
24 of which he failed to disclose on his Petition Application.

25 Given the violations found and the fact that Respondent has not established that
26 Respondent has complied with Regulations 2911(k) or (n), I am not satisfied that Respondent is
27 sufficiently rehabilitated to receive a real estate salesperson license.

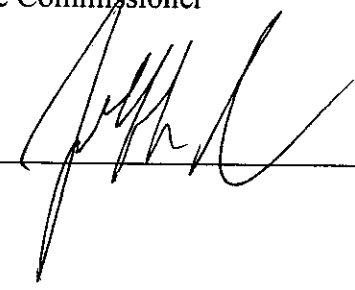
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NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
reinstatement of Respondent's real estate salesperson license is denied.

This Order shall become effective at 12 o'clock noon on **MAR 19 2010**

IT IS SO ORDERED 2/2/2010

JEFF DAVI
Real Estate Commissioner



FILED
FEB 26 1998

DEPARTMENT OF REAL ESTATE

By *Jean [Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
JAMES TIMOTHY VILLAESCUSA;)	NO. H-26746 LA
CENTURY 21 ALLSTARS, INC.,)	L-9608202
a corporation; and)	
JOSEPH GARCIA VILLAESCUSA,)	
individually and as designated)	
officer of Century 21)	
Allstars, Inc.,)	
Respondents.)	

DECISION AFTER REJECTION

The matter came on for hearing before Milford A. Maron, Administrative Law Judge of the Office of Administrative Hearings in Los Angeles, California, on September 18, 1997.

Chris Leong, Counsel, represented the Complainant.

JAMES TIMOTHY VILLAESCUSA, CENTURY 21 ALLSTARS, INC., a corporation; and JOSEPH GARCIA VILLAESCUSA, individually and as designated officer of Century 21 Allstars, Inc., were present and represented by Michael A. Lanphere, Esq. Evidence was received, the hearing was closed and the matter was submitted.

1 On October 9, 1997, the Administrative Law Judge
2 submitted a Proposed Decision which I declined to adopt as my
3 decision herein. Pursuant to Section 11517(c) of the Government
4 Code of the State of California, Respondent was served with
5 notice of my determination not to adopt the Proposed Decision of
6 the Administrative Law Judge, along with a copy of said Proposed
7 Decision. Respondent was notified that the case would be
8 decided by me upon the record, the transcript of proceedings
9 held on September 18, 1997, and upon any written argument
10 offered by Respondent.

11 Written argument was offered by Respondent on
12 December 15, 1997.

13 I have given careful consideration to the record in
14 this case, including the transcript of the proceedings of
15 September 18, 1997. The following shall constitute the Decision
16 of the Real Estate Commissioner in this proceeding:

17 FINDINGS OF FACT

18 I have determined that all the Findings of Fact,
19 except Special Findings 2, in the Proposed Decision of the
20 Administrative Law Judge, dated October 9, 1997, are appropriate
21 and they are adopted as the Findings of Fact of the Real Estate
22 Commissioner in this proceeding. Findings of Fact Special
23 Findings 2; is not adopted as it is a conclusion not actually
24 supported by the documentary evidence in this matter.

25 DETERMINATION OF ISSUES

26 I have determined that the Determination of Issues
27 Number I, in the Proposed Decision of the Administrative Law



1 Judge, dated October 9, 1997, is appropriate and it is adopted
2 as the Determination of Issues of the Real Estate Commissioner
3 in this proceeding.

4 ORDER

5 A. I have determined that the Order in the Proposed
6 Decision of the Administrative Law Judge, dated October 9, 1997,
7 (hereinafter "Order in the Proposed Decision") as to JAMES
8 TIMOTHY VILLAESCUSA is appropriate and it is adopted as the
9 Order of the Real Estate Commissioner in this proceeding.

10 B. Further, I have determined that Section II,
11 including Paragraphs (1) to (5) of the Order in the Proposed
12 Decision, as to JOSEPH GARCIA VILLAESCUSA, individually and as
13 designated officer of Century 21 Allstars, Inc., is appropriate
14 and is adopted as the Order of the Real Estate Commissioner with
15 the addition of the following:

16 (6) The license and license rights of Respondent
17 JOSEPH GARCIA VILLAESCUSA, under the provisions of Part 1 of
18 Division 4 of the Business and Professions Code, are hereby
19 suspended for a period of ninety (90) days, commencing on the
20 issuance date of any restricted license.

21 However, the ninety (90) day suspension of
22 Respondent's restricted real estate broker license shall be
23 permanently stayed upon condition that Respondent pay, to the
24 Department's Recovery Account, at a rate of Fifty Dollars
25 (\$50.00) per day or a total of Four Thousand Five Hundred
26 Dollars (\$4,500.00) prior to the effective date of this
27 Decision, pursuant to the provisions of Section 10175.2.



1 (1) Payment of the aforementioned monetary penalty
2 shall be in the form of cashier's check or certified check, made
3 payable to the Recovery Account of the Real Estate Fund.
4 Payment must be made prior to the effective date of this
5 Decision.

6 (2) The Commissioner, in exercising his discretion
7 under Code Section 10175.2, agrees by adopting this Decision
8 that it would not be against the public interest to permit such
9 petition by Respondent to pay the aforesaid monetary penalty.

10 C. Further, I have determined that the Order in the
11 Proposed Decision, as to CENTURY 21 ALLSTARS, INC., a
12 corporation, is not appropriate and it is not adopted as the
13 Order of the Real Estate Commissioner in this proceeding. The
14 following Order as to CENTURY 21 ALLSTARS, INC., a corporation,
15 is adopted:

16 (1) The license and license rights of Respondent
17 CENTURY 21 ALLSTARS, INC., a corporation, under the provisions
18 of Part 1 of Division 4 of the Business and Professions Code,
19 are hereby suspended for a period of ninety (90) days,
20 commencing on the effective date of this Decision.

21 However, the ninety (90) day suspension of
22 Respondent's corporate real estate broker license shall be
23 permanently stayed upon condition that Respondent pay, to the
24 Department's Recovery Account, at a rate of Fifty Dollars
25 (\$50.00) per day or a total of Four Thousand Five Hundred
26 Dollars (\$4,500.00) prior to the effective date of this
27 Decision, pursuant to the provisions of Section 10175.2.



1 (1) Payment of the aforementioned monetary penalty
2 shall be in the form of cashier's check or certified check, made
3 payable to the Recovery Account of the Real Estate Fund.
4 Payment must be made prior to the effective date of this
5 Decision.

6 (2) The Commissioner, in exercising his discretion
7 under Code Section 10175.2, agrees by adopting this Decision
8 that it would not be against the public interest to permit such
9 petition by Respondent to pay the aforesaid monetary penalty.

10 WHEREFORE, THE ABOVE ORDER is hereby made.

11 This Decision shall become effective at 12 o'clock
12 noon on March 24, 1998

13 IT IS SO ORDERED

14 2/26/98
15 JIM ANTT, JR.
16 Real Estate Commissioner

17 *J. Antt, Jr.*
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FILED
OCT 31 1997
DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	NO. H-26746 LA
JAMES TIMOTHY VILLAESCUSA,)	
CENTURY 21 ALLSTARS, INC.,)	OAH NO. L-9608202
a corporation; and)	
JOSEPH GARCIA VILLAESCUSA,)	
individually and as designated)	
officer of Century 21)	
Allstars, Inc.,)	
)	
Respondents.)	

NOTICE

TO: Respondents JAMES TIMOTHY VILLAESCUSA, CENTURY 21 ALLSTARS, INC., and JOSEPH GARCIA VILLAESCUSA and their attorney of record, Michael A. Lanphere, Esq.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated October 9, 1997, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated October 9, 1997, is attached for your information.

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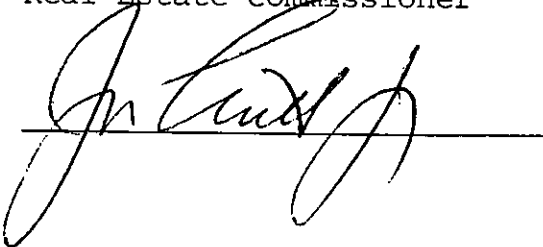
In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on September 18, 1997, and any written argument hereafter submitted on behalf of Respondent and Complainant.

Written argument of Respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of September 18, 1997, at the Los Angeles office of the Department of Real Estate unless an extension of the time is granted for good cause shown.

Written argument of Complainant to be considered by me must be submitted within 15 days after receipt of the argument of Respondent at the Los Angeles office of the Department of Real Estate unless an extension of the time is granted for good cause shown.

DATED: 10/23/97

JIM ANTT, JR.
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)
of:)
) No. H-26746 LA
)
JAMES TIMOTHY VILLAESCUSA;) L-9608202
CENTURY 21 ALLSTARS, INC.,)
a corporation; and)
JOSEPH GARCIA VILLAESCUSA,)
individually and as designated)
officer of Century 21 Allstars, Inc.,)
)
)
Respondents.)
_____)

PROPOSED DECISION

This matter came on regularly for hearing before Milford A. Maron, Administrative Law Judge of the Office of Administrative Hearings at Los Angeles, California, on September 18, 1997. Christopher Leong, Staff Counsel, appeared on behalf of the Complainant. All Respondents were represented by Michael A. Lanphere, Esq. Oral and documentary evidence having been received, the matter stood submitted and the Administrative Law Judge finds the following facts:

I

Thomas McCrady, Complainant, is a Deputy Real Estate Commissioner of the State of California, and made the Accusation and First Amended to Accusation in his official capacity.

II

A. At all times herein mentioned, Century 21 Allstars, Inc. ("Allstars") was and still is licensed by the Department as a corporate real estate broker.

B. At all times herein mentioned, Joseph Garcia Villaescusa was and still is licensed by the Department, individually as a real estate broker and as the designated officer of Allstars; and as such was responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees. Joseph Garcia Villaescusa and James Timothy Villaescusa are brothers.

C. James Timothy Villaescusa was conditionally licensed by the Department as a real estate salesperson on May 18, 1990. His conditional license was suspended from November 19, 1991 to July 8, 1993. He again was licensed from July 21, 1994 to February 19, 1996. The Real Estate Commissioner filed an accusation against his license on August 23, 1995. This was settled by a Stipulation and Order, filed on January 30, 1996. Said stipulated order revoked his license with a right to a restricted license effective February 20, 1996. Thereafter, Respondent was issued a restricted real estate salesperson's license on July 11, 1996. At all times herein Respondent's license was in effect and he was an employee of Allstars.

III

At all times herein mentioned, in Los Angeles County, California, Respondents Joseph Garcia Villaescusa and Allstars engaged in the business of and acted in the capacity of, real estate brokers in the State of California, in expectation of compensation, wherein they, on behalf of others, solicited listings of real property or solicited purchasers for real property, and solicited borrowers for loans secured by an interest in real property.

IV

RIDGLEA TRANSACTION

A. On or about July 29, 1995, Respondent James T. Villaescusa, acting for himself, made an offer to purchase real property located at 5130 Ridglea Ave., Buena Park, California. The sellers made a counteroffer which was accepted on or about August 1, 1995.

B. On or about August 17, 1995, said Respondent applied for a \$228,600.00 conventional loan at Great Western Bank in order to purchase said property. On the Uniform Residential Loan Application Respondent stated that he was employed as a Realtor for Allstars and had a gross monthly income of \$13,000.00 per month. In fact, the latter was false and Respondent knew this was false.

C. As part of the transaction, Respondent submitted to the Bank Form 1040 U.S. Individual Income Tax Returns for 1993 and 1994, in support of his qualification for the desired loan. The 1993 tax return indicated an adjusted gross income of \$135,466.00. The 1994 tax return indicated an adjusted gross income of \$133,135.00. In fact, this was not Respondent's true income, but was fictitious. Respondent's income on his filed tax returns were \$24,570.00 and \$33,868.00, respectively.

V

SOUTH BALTIC AVE. TRANSACTION

A. On or about March 30, 1996, a contract to purchase real property located at 21145 South Baltic Avenue., Carson, California, was entered into between Gabriel Cante and Regin Pastor ("buyers") and Thomas B. and Anna M. O'Grady, ("sellers").

B. While his license was revoked, James Timothy Villaescusa solicited and negotiated the South Baltic Ave. transaction on behalf of the buyers and as the agent and employee of Allstars and Joseph Garcia Villaescusa.

C. The conduct of Joseph Garcia Villaescusa in allowing James Timothy Villaescusa to perform acts requiring a license while his license was revoked, and in allowing Allstars to compensate James Timothy Villaescusa for performing acts requiring a license, while he was unlicensed, were acts of negligence.

VI

SPECIAL FINDINGS

The evidence reflected the following additional facts:

1. As to Finding IV relative to James J. Villaescusa, no mitigation or extenuation is found on this record.

2. As to Finding V, relative to James T. Villaescusa, extenuation was established to the effect that both James T. Villaescusa and his brother Joseph Garcia Villaescusa were confused as to the real estate statutes governing and were under the erroneous, though reasonable belief, that James T. Villaescusa was licensed during the times in question. Neither Joseph Garcia Villaescusa nor Allstars were shown to have received specific notification from the Department to the effect that James T.

Villaescusa was unlicensed. The filing of Real Estate form 552 was not made by any party, nor did they believe it was required. They did not receive said form from the Department. When informed of the correct facts both James T. Villaescusa and Allstars acted aggressively.

3. Allstars is the largest franchisee in the United States of Century 21, having approximately 70 or more salespersons associated with the firm.

4. Respondent James Timothy Villaescusa failed to comply with the provision of the stipulated order relative to notification to his broker of his status (See Exhibit 7).

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

James T. Villaescusa

Cause for disciplinary action exists against Respondent pursuant to Sections 10130, 10177(d), and 10177(j) of the Business and Professions Code.

Joseph Garcia Villaescusa

Cause for disciplinary action exists against Respondent pursuant to Sections 10130, 10137, 10177(g), and 10177(h) of the Business and Professions Code.

Century 21 Allstars, Inc.

Cause for disciplinary action exists against Respondent pursuant to Section 10137 of the Business and Professions Code.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I

James T. Villaescusa

The restricted real estate salesperson's license previously issued to James T. Villaescusa, is hereby revoked.

Not adopted

Joseph Garcia Villaescusa

The real estate broker's license and licensing rights of Joseph Garcia Villaescusa under the Real Estate Law (Part 10 of Division 4 of the Business and Professions Code) are hereby revoked; provided, however, Respondent shall be entitled to apply for and be issued a restricted real estate broker's license if he makes application therefore and pays to the Department of Real Estate the appropriate fees within ninety (90) days of the effective date of the Order herein.

The restricted real estate broker's license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of the Code:

(1) The restricted license may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction (including conviction of a plea of nolo contendere) to a crime which bears a significant relationship to Respondent's fitness or capacity as a real estate licensee.

(2) The restricted license may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has, after the effective date of the Order herein, violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to said restricted license.

(3) Respondent shall obey all laws of the United States, the State of California and its political subdivisions, and shall further obey and comply with all rules and regulations of the Real Estate Commissioner.

(4) Respondent shall not be eligible for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions of the restricted license until at least one year has elapsed from the effective date of the Order.

(5) Respondent shall within nine months from the effective date of this Decision, present evidence satisfactory to the Commissioner that Respondent has, since the most recent issuance of an original or renewal of a real estate license, taken and successfully completed the continuing education requirements (including the new course requirements effective January 1, 1996) of Article 5 of Chapter 3 of the Real Estate law for renewal of a real estate license. If Respondent

not adopted } fails to satisfy this condition, the Commissioner may order suspension of the restricted license until Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

III

Century 21, Allstars, Inc.

No public purpose would be furthered by imposing discipline on this licensee, and the Accusation is terminated without imposing any discipline.

DATED: Oct 9, 1997

Milford A. Maron
MILFORD A. MARON
Administrative Law Judge
Office of Administrative Hearings

MAM:btm

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

In the Matter of the Accusation of)
)
JAMES TIMOTHY VILLAESCUSA,)
CENTURY 21 ALLSTARS, INC.,)
a corporation; and)
JOSEPH GARCIA VILLAESCUSA,)
individually and as designated)
officer of Century 21 Allstars, Inc.,)
_____)
Respondent(s)

Case No. H-26746 LA

OAH No. L-9608202

FILED
AUG 21 1997
DEPARTMENT OF REAL ESTATE

NOTICE OF CONTINUED 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 the Office of Administrative Hearings, 107 South Broadway, Second Floor, Los Angeles, CA 90012 on SEPTEMBER 18, 1997 at 1:00 P.M. and on SEPTEMBER 19, 1997 at 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.

DEPARTMENT OF REAL ESTATE

Dated: August 21, 1997

By Chris Leong
CHRIS LEONG, Counsel

cc: James Timothy Villaescusa
Joseph Garcia Villaescusa
Century 21 Allstars, Inc.
Michael A. Lanphere, Esq.
Sacto.
OAH

CEB

RE 501 (La Mac 11/92)

500

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
JAMES TIMOTHY VILLAESCUSA,)
CENTURY 21 ALLSTARS, INC.,)
a corporation; and)
JOSEPH GARCIA VILLAESCUSA,)
individually and as designated)
officer of Century 21 Allstars, Inc.,)

Respondent(s)

Case No. H-26746 LA

OAH No. L-9608202

FILED
MAY 19 1997
DEPARTMENT OF REAL ESTATE

By C. Leong
NOTICE OF CONTINUED 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 the Office of Administrative Hearings, 107 South Broadway, Second Floor, Los Angeles, CA 90012 on AUGUST 21 and 22, 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.

DEPARTMENT OF REAL ESTATE

Dated: May 19, 1997

By Chris Leong
CHRIS LEONG, Counsel

cc: James Timothy Villaescusa
Joseph Garcia Villaescusa
Century 21 Allstars, Inc.
Michael A. Lanphere, Esq.
Sacto.
OAH

CEB

RE 501 (La Mac 11/92)

SAC

1 CHRIS LEONG, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, CA 90012

(213) 897-3937

FILED
APR - 9 1997
DEPARTMENT OF REAL ESTATE

By C. B.

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

11	In the Matter of the Accusation of)	No. H-26746 LA
12	JAMES TIMOTHY VILLAESCUSA;)	L-9608202
13	CENTURY 21 ALLSTARS, INC.,)	<u>FIRST AMENDMENT</u>
14	a corporation; and)	<u>TO ACCUSATION</u>
15	JOSEPH GARCIA VILLAESCUSA,)	
16	individually and as designated)	
	officer of Century 21 Allstars, Inc.,)	
	Respondents.)	

17 The Accusation heretofore filed on August 6, 1996, in
18 the above-mentioned matter is hereby amended as follows:

19 10.

20 Complainant incorporates by reference Paragraphs 1
21 through 9, of his Accusation filed on August 6, 1996.

22 11.

23 The Complainant, Thomas McCrady, a Deputy Real Estate
24 Commissioner of the State of California, for cause of Accusation
25 against JAMES TIMOTHY VILLAESCUSA (hereinafter "J. T.
26 VILLAESCUSA"); CENTURY 21 ALLSTARS, INC., a corporation
27 (hereinafter "ALLSTARS"); and JOSEPH GARCIA VILLAESCUSA,

1 individually and as designated officer of Century 21 Allstars,
2 Inc. (hereinafter "J. G. VILLAESCUSA"), is informed and alleges
3 as follows:

4 12.

5 At all times herein mentioned, ALLSTARS was and still
6 is licensed by the Department as a corporate real estate broker.
7 J. G. VILLAESCUSA is the designated officer of ALLSTARS.

8 13.

9 At all times herein mentioned, J. G. VILLAESCUSA was
10 and still is licensed by the Department, individually as a real
11 estate broker and as the designated officer of ALLSTARS. J. G.
12 VILLAESCUSA and J. T. VILLAESCUSA are brothers.

13 14.

14 J. T. VILLAESCUSA was conditionally licensed by the
15 Department as a real estate salesperson on May 18, 1990. His
16 conditional license was suspended from November 19, 1991 to
17 July 8, 1993. He was licensed from July 21, 1994 to
18 February 19, 1996. An Amendment to Accusation, case number
19 H-26009 LA, was filed against his license on August 23, 1995.
20 This case was settled by a Stipulation and Agreement in
21 Settlement and Order, filed on January 30, 1996. This
22 Stipulation revoked his license with a right to a restricted
23 license effective February 20, 1996. He was unlicensed from
24 February 20, 1996 to July 10, 1996. He was issued a restricted
25 real estate salesperson license on July 11, 1996. At all times,
26 he was employed by ALLSTARS.

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15.

At all times material herein, J. G. VILLAESCUSA was and still is licensed by the Department as the designated officer of ALLSTARS, and was and is responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the Real Estate Law as set forth in Section 10159.2 of the Code.

16.

All further references to ALLSTARS, shall be deemed to refer to, in addition to ALLSTARS, the officers, directors, employees, agents and real estate licensees employed by or associated with ALLSTARS, who at all times herein mentioned were engaged in the furtherance of the business or operations of said parties and who were acting within the course and scope of their corporate authority and employment.

17.

At all times mentioned herein, in Los Angeles County, California, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California, within the meaning of Section 10131(a) and (d) of the Business and Professions Code (hereinafter "Code"), wherein they, on behalf of others, solicited listings of real property or solicited purchasers for real property, and solicited borrowers for loans secured by an interest in real property, for compensation or in expectation of compensation.

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South Baltic Ave. Transaction

18.

On or about March 30, 1996, a contract to purchase real property located at 21145 South Baltic Ave., Carson California, was entered into between Gabriel Cante and Regin Pastor (hereinafter "Buyers") and Thomas B. and Anna M. O'Grady (hereinafter "Sellers").

19.

While his license was revoked, J. T. VILLAESCUSA solicited and negotiated the South Baltic Ave. transaction on behalf of the Buyers and as the agent and employee of ALLSTARS and J. G. VILLAESCUSA.

SECOND CAUSE OF ACCUSATION

(Violation by J. T. VILLAESCUSA of Section 10130 of the Code)

20.

As a Second Cause of Accusation, Complainant incorporates by this reference the Preamble and each of the allegations in Paragraphs 1 through 19, herein above.

21.

The conduct of J. T. VILLAESCUSA in performing acts requiring a license while his real estate salesperson license was revoked is a violation of Section 10130 of the Code, and is cause to suspend or revoke the real estate license and license rights of J. T. VILLAESCUSA under Section 10177(d) of the Code.

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THIRD CAUSE OF ACCUSATION

(Violation by J. G. VILLAESCUSA and ALLSTAR of Section 10137
of the Code)

22.

As a Third Cause of Accusation, Complainant
incorporates by this reference the Preamble and each of the
allegations in Paragraphs 1 through 19, herein above.

23.

The conduct of J. G. VILLAESCUSA and ALLSTAR in
compensating J. T. VILLAESCUSA for performing acts requiring a
license while his license was revoked is a violation of Section
10137 of the Code, and is cause to suspend or revoke the real
estate license and license rights of J. G. VILLAESCUSA and
ALLSTARS.

FOURTH CAUSE OF ACCUSATION

(Violation by J. G. VILLAESCUSA of Section 10177(g) of the
Code)

24.

As a Fourth Cause of Accusation, Complainant
incorporates by this reference the Preamble and each of the
allegations in Paragraphs 1 through 19, herein above.

25.

The conduct of J. G. VILLAESCUSA in allowing J. T.
VILLAESCUSA to perform acts requiring a license while his
license was revoked in violation of Section 10130 of the Code,
and in allowing ALLSTAR to compensate J. T. VILLAESCUSA for
performing acts requiring a license while his license was



1 revoked in violation of Section 10137 of the Code is negligence
2 and is cause to suspend or revoke the real estate license and
3 license rights of J. G. VILLAESCUSA, under Section 10177(g) of
4 the Code.

5
6 WHEREFORE, Complainant prays that a hearing be
7 conducted on the allegations of this Accusation and that upon
8 proof thereof, a decision be rendered imposing disciplinary
9 action against all licenses and license rights of Respondents
10 JAMES TIMOTHY VILLAESCUSA; CENTURY 21 ALLSTARS, INC., a
11 corporation; and JOSEPH GARCIA VILLAESCUSA, individually and as
12 designated officer of Century 21 Allstars, Inc., under the Real
13 Estate Law (Part 1 of Division 4 of the Business and Professions
14 Code), and for such other and further relief as may be proper
15 under other applicable provisions of law.

16 Dated at Los Angeles, California
17 this 9th day of April, 1997.

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20 THOMAS MCCRADY
21 Deputy Real Estate Commissioner
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24

25 cc: James Timothy Villaescusa
26 Joseph Garcia Villaescusa
27 Century 21 Allstars, Inc.
Sacto
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SAC

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
 JAMES TIMOTHY VILLAESCUSA,)
)
 _____)
 Respondent (s)

Case No. H-26746 LA

OAH No. L-9608202

FILED
SEP - 3 1996
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

By Chris Leong

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 314 W. First Street, Los Angeles, CA 90012 on WEDNESDAY, MARCH 12, 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.

DEPARTMENT OF REAL ESTATE

Chris Leong

Dated: September 3, 1996

By

CHRIS LEONG, Counsel

cc: James Timothy Villaescusa
Michael A. Lanphere, Esq.
Century 21 Allstars, Inc.
Sacto.
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CHRIS LEONG, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, CA 90012

(213) 897-3937

FILED
AUG - 6 1996
DEPARTMENT OF REAL ESTATE

By C. Bay

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) No. H-26746 LA
JAMES TIMOTHY VILLAESCUSA,) ACCUSATION
Respondent.)

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against JAMES TIMOTHY VILLAESCUSA (hereinafter "Respondent"), is informed and alleges as follows:

1.

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondent in his official capacity.

2.

At all times herein mentioned, Respondent was and still is licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a restricted real estate salesperson.

3.

At all times mentioned herein, in Los Angeles County, California, Respondent engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(a) and (d) of the Business and Professions Code (hereinafter "Code"), wherein he, on behalf of others, solicited listings of real property or solicited purchasers for real property, and solicited borrowers for loans secured by an interest in real property, for compensation or in expectation of compensation. In the transaction set forth below, Respondent acted for himself.

4.

On or about July 29, 1995, Respondent made an offer to purchase real property located at 5130 Ridglea Ave., Buena Park, California (hereinafter "the Ridglea Ave. property"). The sellers made a counter offer which was accepted by Respondent on or about August 1, 1995.

5.

On or about August 17, 1995, Respondent applied for a \$228,600.00 conventional loan at Great Western Bank (hereinafter "GWB") to purchase the Ridglea Ave. property. On the Uniform Residential Loan Application, Respondent stated that he was employed as a Realtor for Century 21 Allstars and had a gross monthly income of \$13,000.00 per month. In fact, this was false and Respondent knew this was false.

6.

As part of the transaction, Respondent submitted to
GWB Form 1040 U.S. Individual Income Tax Returns (hereinafter
"tax returns") for 1993 and 1994, in support of his
qualification for the desired loan. The 1993 tax return
indicated an adjusted gross income of \$135,466.00. The 1994 tax
returns indicated an adjusted gross income of \$133,135.00. In
fact, these were not Respondent's true income tax returns or
income, and Respondent's income, on his filed tax returns, was
\$24,5700 for 1993 and \$33,868.00 for 1994.

7.

On or about August 23, 1995, the Department filed an
Accusation against Respondent in case number H-26009 LA. This
case was settled by a Stipulation and Agreement in Settlement
and Order dated January 30, 1996. Pursuant to Section 10177(d)
of the Code, Respondent's license was revoked with a right to
restricted real estate salesperson license subject to terms and
conditions. On or about July 11, 1996, Respondent was issued
said present restricted license.

FIRST CAUSE OF ACCUSATION

(Violation by Respondent of Section 10177(j) of the Code)

8.

As a First Cause of Accusation, Complainant
incorporates by this reference the Preamble and each of the
allegations in Paragraphs 1 through 7, herein above.

9.

The conduct of Respondent in: 1) misrepresenting to

1 GWB his income on the loan application, and 2) misrepresenting
2 to GWB that the bogus tax returns were those actually filed by
3 him, as described in Paragraphs 5 through 7, herein above,
4 constitutes fraud and dishonest dealings and is a violation of
5 Section 10177(j) of the Code, and is cause to suspend or revoke
6 the real estate license and license rights of Respondent.

7
8 WHEREFORE, Complainant prays that a hearing be
9 conducted on the allegations of this Accusation and that upon
10 proof thereof, a decision be rendered imposing disciplinary
11 action against all licenses and license rights of Respondent
12 JAMES TIMOTHY VILLAESCUSA, under the Real Estate Law (Part 1 of
13 Division 4 of the Business and Professions Code), and for such
14 other and further relief as may be proper under other applicable
15 provisions of law.

16 Dated at Los Angeles, California
17 this 6th day of August, 1996.

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19
20 THOMAS MCCRADY

21 _____
22 Deputy Real Estate Commissioner

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26 cc: James Timothy Villaescusa
27 Century 21 Allstars, Inc.
 Sacto
 LK