

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789

FILED

MAY 19 2008

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 DAVID ARTHUR NILSEN)
14 Respondent.)

NO. H-9425 SF
(Corrected File Number)

15
16 ORDER SUSPENDING REAL ESTATE LICENSE

17 TO: DAVID ARTHUR NILSEN (herein "Respondent"):

18 On or about July 20, 2006, Respondent's real estate
19 broker license was suspended for 100 days by the Department of
20 Real Estate, on the terms, conditions, and restrictions set forth
21 in the Real Estate Commissioner's Decision dated June 14, 2006,
22 in Case No. H-9425 SF. That Decision stayed said real estate
23 broker license for 100 days subject to the Stipulation and
24 Agreement entered into on February 10, 2006, and to enumerated
25 terms, conditions, and restrictions.

26 One of the terms and conditions agreed to in said
27 Stipulation and Agreement was: "All licenses and licensing

1 rights of Respondent under the Real Estate Law are suspended for
2 a period of one hundred (100) days from the effective date of
3 this order; provided, however, that ... (b) No further cause for
4 disciplinary action against the Real Estate licenses of
5 Respondent occurs within two (2) years from the effective date of
6 the decision in this matter."

7 On May 16, 2008, in Case No. H-2260 FR, an Accusation
8 by a Deputy Real Estate Commissioner of the State of California
9 was filed charging Respondent with violations of Sections 10130,
10 10145, 10176(i), 10177(d), 10234, 10238(e), (f), and (k), of
11 the California Business and Professions Code, and Sections
12 2831.2, 2832, and 2832.1 of Title 10, California Code
13 of Regulations.

14 NOW, THEREFORE, IT IS ORDERED pursuant to the
15 Stipulation and Agreement, entered into on February 10, 2006, the
16 real estate broker license heretofore issued to Respondent and
17 the exercise of any privileges thereunder is hereby suspended for
18 100 days from the date of this Order.

19 IT IS FURTHER ORDERED that all license certificates
20 and identification cards issued by Department which are in the
21 possession of Respondent be immediately surrendered by personal
22 delivery or by mailing in the enclosed, self-addressed envelope
23 to:

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27 \\\

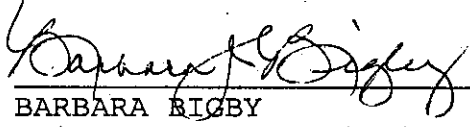
1 DEPARTMENT OF REAL ESTATE
2 ATTN: FLAG SECTION
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 This Order became effective May 16, 2008.

6 DATED: 5-19-08, 2008.

7 JEFF DAVI
8 Real Estate Commissioner

9
10 By:


11 BARBARA RIGBY
12 Chief Deputy Commissioner
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1 DEPARTMENT OF REAL ESTATE
P. O. Box 187007
2 Sacramento, CA 95818-7007
3 Telephone: (916) 227-0789
4

FILED

MAY 16 2008

DEPARTMENT OF REAL ESTATE

By B. Contreras

5
6
7
8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 DAVID ARTHUR NILSEN) NO. H-9425 FR
14 Respondent.)
15

16 ORDER SUSPENDING REAL ESTATE LICENSE

17 TO: DAVID ARTHUR NILSEN (herein "Respondent"):

18 On or about July 20, 2006, Respondent's real estate
19 broker license was suspended for 100 days by the Department of
20 Real Estate, on the terms, conditions, and restrictions set forth
21 in the Real Estate Commissioner's Decision dated June 14, 2006,
22 in Case No. H-9425 SF. That Decision stayed said real estate
23 broker license for 100 days subject to the Stipulation and
24 Agreement entered into on February 10, 2006, and to enumerated
25 terms, conditions, and restrictions.

26 One of the terms and conditions agreed to in said
27 Stipulation and Agreement was: "All licenses and licensing

1 rights of Respondent under the Real Estate Law are suspended for
2 a period of one hundred (100) days from the effective date of
3 this order; provided, however, that ... (b) No further cause for
4 disciplinary action against the Real Estate licenses of
5 Respondent occurs within two (2) years from the effective date of
6 the decision in this matter."

7 On May 16, 2008, in Case No. H-2260 FR, an Accusation
8 by a Deputy Real Estate Commissioner of the State of California
9 was filed charging Respondent with violations of Sections 10130,
10 10145, 10176(i), 10177(d), 10234, 10238(e), (f), and (k), of
11 the California Business and Professions Code, and Sections
12 2831.2, 2832, and 2832.1 of Title 10, California Code
13 of Regulations.

14 NOW, THEREFORE, IT IS ORDERED pursuant to the
15 Stipulation and Agreement, entered into on February 10, 2006, the
16 real estate broker license heretofore issued to Respondent and
17 the exercise of any privileges thereunder is hereby suspended for
18 100 days from the date of this Order.

19 IT IS FURTHER ORDERED that all license certificates
20 and identification cards issued by Department which are in the
21 possession of Respondent be immediately surrendered by personal
22 delivery or by mailing in the enclosed, self-addressed envelope
23 to:

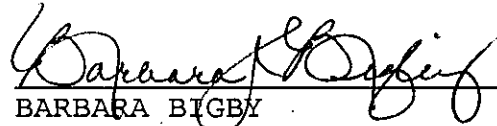
24 DEPARTMENT OF REAL ESTATE
25 ATTN: FLAG SECTION
26 P. O. Box 187000
27 Sacramento, CA 95818-7000

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This Order shall be effective immediately.

DATED: 5-16-08

JEFF DAVI
Real Estate Commissioner

By: 
BARBARA BIGBY
Chief Deputy Commissioner

FILED
JUN 20 2008

DEPARTMENT OF REAL ESTATE

By Anne Shanon

Department of Real Estate
P.O. Box 187007
Sacramento, CA 95818-7007
Telephone: (916) 227-0781

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
DAVID ARTHUR NILSEN,)
Respondent.)

No. H-9425 SF

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between DAVID ARTHUR NILSEN (hereafter Respondent), represented by Thomas Lasken, and the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing the Accusation filed on October 21, 2005 in this matter:

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

1 Stipulation and Agreement.

2 2. Respondent has received, read and understands the
3 Statement to Respondent, and the Discovery Provisions of the APA
4 filed by the Department of Real Estate in this proceeding.

5 3. On November 4, 2005, Respondent filed a Notice of
6 Defense pursuant to Section 11505 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges that he
10 understands that by withdrawing said Notice of Defense he will
11 thereby waive his rights to require the Commissioner to prove the
12 allegations in the Accusation at a contested hearing held in
13 accordance with the provisions of the APA, and that he will waive
14 other rights afforded to them in connection with the hearing such
15 as the right to present evidence in defense of the allegations in
16 the Accusation and the right to cross-examine witnesses.

17 4. This stipulation is based on the factual
18 allegations contained in the Accusation. In the interest of
19 expediency and economy, Respondent chooses not to contest these
20 factual allegations, but to remain silent and understands that,
21 as a result thereof, these factual statements will serve as a
22 prima facie basis for the "Determination of Issues" and "Order"
23 set forth below. The Real Estate Commissioner shall not be
24 required to provide further evidence to prove such allegations.

25 5. This Stipulation and Respondent's decision not to
26 contest the Accusation are made for the purpose of reaching an
27

1 agreed disposition of this proceeding and are expressly limited
2 to this proceeding and any other proceeding or case in which the
3 Department of Real Estate (herein "the Department"), the state or
4 federal government, an agency of this state, or an agency of
5 another state is involved.

6 6. Respondent understands that by agreeing to this
7 Stipulation and Agreement, Respondent agrees to pay, the cost of
8 the audit(s) which resulted in the determination that Respondent
9 committed the violation(s) found in Paragraph I, below, of the
10 Determination of Issues. The amount of said costs is
11 \$15,245.04.

12 7. Respondents further understands that by agreeing
13 to this Stipulation and Agreement in Settlement, the findings
14 set forth below in the Determination Of Issues become final, and
15 that the Commissioner may charge said Respondents for the
16 costs of any audit conducted to determine if the violations
17 have been corrected. The maximum costs of said audit shall
18 not exceed \$8,945.04.

19 8. It is understood by the parties that the Real
20 Estate Commissioner may adopt the Stipulation and Agreement as
21 his decision in this matter thereby imposing the penalty and
22 sanctions on the real estate licenses and license rights of
23 Respondent as set forth in the below "Order". In the event that
24 the Commissioner in his discretion does not adopt the
25 Stipulation and Agreement, it shall be void and of no effect,
26 and Respondent shall retain the right to a hearing and
27

1 proceeding on the Accusation under all the provisions of the APA
2 and shall not be bound by any admission or waiver made herein.

3 9. The Order or any subsequent Order of the Real
4 Estate Commissioner made pursuant to this Stipulation and
5 Agreement shall not constitute an estoppel, merger or bar to any
6 further administrative or civil proceedings by the Department of
7 Real Estate with respect to any matters which were not
8 specifically alleged to be causes for accusation in this
9 proceeding.

10 * * *

11 DETERMINATION OF ISSUES

12 By reason of the foregoing stipulations and waivers and
13 solely for the purpose of settlement of the pending Accusation
14 without a hearing, it is stipulated and agreed that the following
15 determination of issues shall be made:

16 I

17 The acts and omissions of Respondent as described in
18 the Accusation are grounds for the suspension or revocation of
19 Respondents licenses and license rights under the following
20 sections of the Code and Regulations:

21 (a) As to Paragraph VI, under Section 2831 of the
22 Regulations in conjunction with Section 10177(d) of the
23 Code;
24

25 (b) As to Paragraphs VII and IX(b), IX(c), IX(j),
26 VIII(k), IX(n), IX(o), IX(v), IX(w), under Sections 10232(a) ✓
27

1 and 10232(c) of the Code in conjunction with Section
2 10177(d) of the Code;

3 (c) As to Paragraph VIII and IX(b), IX(c), IX(j),
4 IX(k), IX(n), IX(o), IX(v), IX(w), under Sections 10229(n)
5 and 10229(o) of the Code in conjunction with Section
6 10177(d) of the Code;

7 (d) As to Paragraph VII and IX(e), IX(g), IX(i),
8 IX(m), IX(q), IX(s), IX(y), IX(aa), IX(cc), under Section
9 10232.25 of the Code in conjunction with Section 10177(d) of
10 the Code;

11 (e) As to Paragraphs VIII and IX(a), IX(d),
12 IX(f), IX(h), IX(l), IX(p), IX(r), IX(t), IX(x), IX(z),
13 IX(bb), under Section 10229(j)(3) and/or 10238(j)(6) of the
14 Code in conjunction with Section 10177(d) of the Code;

15 (f) As to Paragraph X, under Section 10231 of the
16 Code in conjunction with Section 10177(d) of the Code; and

17 (g) As to Paragraph XI, under Sections 10234 of
18 the Code in conjunction with Section 10177(d) of the Code;

19 * * *

20 ORDER

21 I

22 All licenses and licensing rights of Respondent under the
23 Real Estate Law are suspended for a period of one hundred (100)
24 days from the effective date of this Order; provided, however,
25 that:
26
27

1) One hundred (100) days of said suspension shall be stayed,

upon the condition that Respondent petition pursuant to Section 10175.2 of the Business and Professions Code and pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at a rate of \$100 for each day of the suspension for a total monetary penalty of \$10,000.

a) 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 the Order in this matter.

b) No further cause for disciplinary action against the Real

Estate licenses of Respondent occurs within two (2) years from the effective date of the decision in this matter.

c) If Respondent fails to pay the monetary penalty as provided

above prior to the effective date of this Order, the stay of the suspension shall be vacated as to that Respondent and the order of suspension shall be immediately executed, under this Paragraph 1 of this Order, in which event the said Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for the money paid to the Department under the terms of this Order.

d) If said Respondent pays the monetary penalty and any other

moneys due under this Stipulation and Agreement and if no further cause for disciplinary action against the real estate license of said Respondent occurs within two (2)

1 years from the effective date of this Order, the entire stay
2 hereby granted under Paragraph 1 of this Order, as to said
3 Respondent only, shall become permanent.


4 2) Respondent shall pay the sum of \$15,245.04 for the
5 Commissioner's cost of the audit which led to this
6 disciplinary action. Respondent shall pay such cost within
7 forty-five (45) days of receiving an invoice therefor from the
8 Commissioner. The Commissioner may suspend the Respondent's
9 license pending a hearing held in accordance with Section
10 11500, et seq., of the Government Code, if payment is not
11 timely made as provided for herein, or as provided for in a
12 subsequent agreement between the Respondent and the
13 Commissioner. The suspension shall remain in effect until
14 payment is made in full or until Respondent enters into an
15 agreement satisfactory to the Commissioner to provide for
16 payment, or until a decision providing otherwise is adopted
17 following a hearing held pursuant to this condition.

18 3) Respondent pay the Commissioner's reasonable cost, not to
19 exceed \$8,945.04, for an audit to determine if Respondent has
20 corrected the trust fund violation(s) found in Paragraph I of
21 the Determination of Issues. In calculating the amount of the
22 Commissioner's reasonable cost, the Commissioner may use the
23 estimated average hourly salary for all persons performing
24 audits of real estate brokers, and shall include an allocation
25 for travel time to and from the auditor's place of work.
26 Respondent shall pay such cost within forty-five (45) days of
27 receiving an invoice therefor from the Commissioner detailing

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

- 12 1) Respondent shall, prior to the effective date of this
13 Decision, submit proof all past due reports as detailed in
14 Paragraph IX of the Accusation. If Respondent fails to satisfy
15 this condition, the Commissioner may order the suspension of
16 Respondent license until Respondent submits the reports.

17
18
19 22-May-06
20 DATED


21 TRULY SUGHRUE
22 Counsel for Complainant

23 * * *

24 I have read the Stipulation and Agreement, discussed it
25 with my counsel, and its terms are understood by me and are
26 agreeable and acceptable to me. I understand that I am waiving
27 rights given to me by the California Administrative Procedure
Act, and I willingly, intelligently and voluntarily waive those

1 rights, including the right of requiring the Commissioner to
2 prove the allegations in the Accusation at a hearing at which I
3 would have the right to cross-examine witnesses against me and to
4 present evidence in defense and mitigation of the charges.

5
6 2/10/06

7 DATED

DAI 1906

8 DAVID ARTHUR NILSEN
9 Respondent

10 I have reviewed the Stipulation and Agreement as to
11 form and content and have advised my clients accordingly.

12 3/9/06

13 DATED

John C. Lasken

14 THOMAS LASKEN
15 Attorney for Respondents

16 * * *

17 The foregoing Stipulation and Agreement is hereby
18 adopted as my Decision and shall become effective at 12 o'clock
19 noon on JUL 20 2006

20 IT IS SO ORDERED June 14, 2006.

21 JEFF DAVI
22 Real Estate Commissioner

23 John R. Liberator
24 By JOHN R. LIBERATOR
25 Chief Deputy Commissioner
26
27

FILED
JAN 26 2006

DEPARTMENT OF REAL ESTATE

By Anne Pham

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0781
8

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 DAVID ARTHUR NILSEN,)
14 Respondent.)

No. H-9425 SF
FIRST AMENDED
ACCUSATION

15 The Complainant, E. J. HABERER II, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against DAVID ARTHUR NILSEN (hereinafter "Respondent"), is
18 informed and alleges as follows:

19 I

20 Respondent is presently licensed and/or have license
21 rights under the Real Estate Law, Part 1 of Division 4 of the
22 California Business and Professions Code (hereafter the Code).

23 II

24 The Complainant, E. J. HABERER II, a Deputy Real Estate
25 Commissioner of the State of California, makes this Accusation
26 against Respondent in his official capacity and not otherwise.

27 \\\

III

Respondent was and is licensed by the Department as an individual real estate broker.

IV

At all times herein mentioned, 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:

(a) Section 10131(a) of the Code, including the operation and conduct of a real estate resale brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondent sold and offered to sell, bought and offered to buy, solicited prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the purchase and resale of real property; and

(b) Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage business with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property or a business opportunity, and wherein such loans were arranged, negotiated, processed, and consummated on behalf of others for compensation or in expectation of a compensation.

V

The trust funds accepted or received by Respondent were deposited or caused to be deposited from time to time into trust accounts, as follows:

TITLE AND ACCOUNT NUMBERS

BANK

Cedar Funding Trust Account
Account No. 8302837370
(hereinafter "Trust #1")

California Bank and Trust
439 Alvarado Street
Monterey, CA 93940

VI

In connection with Respondent's activities described in Paragraph IV, Respondent accepted or received trust funds. Respondent failed to maintain a record of all trust funds received and not deposited in a trust account, as required by Section 2831 of Title 10, California Code of Regulations (the Regulations).

VII

At all times herein mentioned, Respondent was and is a threshold broker subject to the requirements of Section 10232 of the Code. From approximately March of 2001 to the present, Respondent has failed to file certain reports regarding its business activity and the above trust accounts with the Department, as set forth in Paragraph IX.

VIII

At all times herein mentioned, Respondent was and is a multi-lender broker subject to the requirements of Section 10229 and/or 10238 of the Code. From approximately October of 2001 to the present, Respondent has failed to file certain reports regarding its business activity and the above trust accounts with the Department, as also set forth in Paragraph IX.

IX

The reports referred to in Paragraphs VII and VIII above include, but are not limited to the following:

REPORT	STATUTE	PERIOD	DUE
(a) Quarterly Multi-lender Trust Acct Report RE 852	10229(j)(3)	Quarter end 9/30/01	10/31/01
(b) Annual Trust Deed Report RE 881	10232(c) 10229(o)	Year end 12/31/01	3/31/02
(c) Annual Trust Account Review	10232(a) 10229(n)	Year end 12/31/01	5/31/02
(d) Quarterly Multi-lender Trust Acct Report RE 852	10229(j)(3)	Quarter end 3/31/02	4/30/02
(e) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 3/31/02	4/30/02
(f) Quarterly Multi-lender Trust Acct Report RE 852	10229(j)(3)	Quarter end 6/30/02	7/31/02
(g) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 6/30/02	7/31/02
(h) Quarterly Multi-lender Trust Acct Report RE 852	10229(j)(3)	Quarter end 9/30/02	10/31/02
(i) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 9/30/02	10/31/02
(j) Annual Trust Deed Report RE 881	10232(c) 10229(o)	Year end 12/31/02	3/31/03
(k) Annual Trust Account Review	10232(a) 10229(n)	Year end 12/31/02	5/31/03
(l) Quarterly Multi-lender Trust Acct Report RE 852	10229(j)(3)	Quarter end 9/30/03	10/31/03
(m) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 9/30/03	10/31/03
(n) Annual Trust Deed Report RE 881	10232(c) 10229(o)	Year end 12/31/03	3/31/04
(o) Annual Trust Account Review	10232(a) 10229(n)	Year end 12/31/03	5/31/04
(p) Quarterly Multi-lender Trust Acct Report RE 852	10238(j)(6)	Quarter end 3/31/04	4/30/04
(q) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 3/31/04	4/30/04
(r) Quarterly Multi-lender Trust Acct Report RE 852	10238(j)(6)	Quarter end 6/30/04	7/31/04

REPORT	STATUTE	PERIOD	DUE
(s) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 6/30/04	7/31/04
(t) Quarterly Multi-lender Trust Acct Report RE 852	10238(j)(6)	Quarter end 9/30/04	10/31/04
(u) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 9/30/04	10/31/04
(v) Annual Trust Deed Report RE 881	10232(c) 10229(o)	Year end 12/31/04	3/31/05
(w) Annual Trust Account Review	10232(a) 10229(n)	Year end 12/31/04	5/31/05
(x) Quarterly Multi-lender Trust Acct Report RE 852	10238(j)(6)	Quarter end 3/31/05	4/30/05
(y) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 3/31/05	4/30/05
(z) Quarterly Multi-lender Trust Acct Report RE 852	10238(j)(6)	Quarter end 6/30/05	7/31/05
(aa) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 6/30/05	7/31/05
(bb) Quarterly Multi-lender Trust Acct Report RE 852	10238(j)(6)	Quarter end 9/30/05	10/31/05
(cc) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 9/30/05	10/31/05

X

In connection with the collection and disbursement of trust funds allocated to Trust #1, Respondent accepted loan funds from private investors without respect to any specific loan, real property sales contract, or promissory note to be secured directly or indirectly by a specific lien on real property in violation of Section 10231 of the Code. Respondent pooled the loan funds, and used the funds to originate various loans when there were no enough investors to fund a new loan.

\\

XI

In course of the mortgage loan brokerage business described in Paragraph IV(b), above, Respondent negotiated loans secured by a trust deed on real property to be made by another but failed to cause the trust deed to be recorded in the name of the lender as beneficiary, in violation of Section 10229(f) and/or 10234 of the Code.

XII

The acts and/or omissions alleged above are grounds for the suspension or revocation of the licenses and licenses rights of Respondent under the following provisions;

(a) As to Paragraph VI, under Section 2831 of the Regulations in conjunction with Section 10177(d) of the Code;

(b) As to Paragraphs VII and IX(b), IX(c), IX(j), VIII(k), IX(n), IX(o), IX(v), IX(w), under Sections 10232(a) and 10232(c) of the Code in conjunction with Section 10177(d) of the Code;

(c) As to Paragraph VIII and IX(b), IX(c), IX(j), IX(k), IX(n), IX(o), IX(v), IX(w), under Sections 10229(n) and 10229(o) of the Code in conjunction with Section 10177(d) of the Code;


(d) As to Paragraph VII and IX(e), IX(g), IX(i), IX(m), IX(q), IX(s), IX(y), IX(aa), IX(cc), under Section 10232.25 of the Code in conjunction with Section 10177(d) of the Code;

1 (e) As to Paragraphs VIII and IX(a), IX(d),
2 IX(f), IX(h), IX(l), IX(p), IX(r), IX(t), IX(x), IX(z),
3 IX(bb), under Section 10229(j)(3) and/or 10238(j)(6) of the
4 Code in conjunction with Section 10177(d) of the Code;

5 (f) As to Paragraph X, under Section 10231 of the
6 Code in conjunction with Section 10177(d) of the Code; and

7 (g) As to Paragraph XI, under Sections 10229(f)
8 and/or 10234 of the Code in conjunction with Section
9 10177(d) of the Code;

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

17
18
19 
20 E. J. HABERER II
Deputy Real Estate Commissioner

21 Dated at Oakland, California,
22 this 25th day of January, 2006
23
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25
26
27

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0781
8

FILED
OCT 21 2005

DEPARTMENT OF REAL ESTATE

By Juan Arredondo

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of)
12 DAVID ARTHUR NILSEN,)
13 Respondent.)

No. H- 9425 SF

ACCUSATION

14
15 The Complainant, E. J. HABERER II, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against DAVID ARTHUR NILSEN (hereinafter "Respondent"), is
18 informed and alleges as follows:

19 I

20 Respondent is presently licensed and/or have license
21 rights under the Real Estate Law, Part 1 of Division 4 of the
22 California Business and Professions Code (hereafter the Code).

23 II

24 The Complainant, E. J. HABERER II, a Deputy Real Estate
25 Commissioner of the State of California, makes this Accusation
26 against Respondent in his official capacity and not otherwise.

27 III

1 Respondent was and is licensed by the Department as an
2 individual real estate broker.

3 IV

4 Within the three years last past, Respondent engaged in
5 the business of, acted in the capacity of, advertised or assumed
6 to act as a real estate broker within the State of California,
7 including the operation and conduct of a mortgage loan brokerage
8 business with the public wherein lenders and/or borrowers were
9 solicited for loans secured directly or collaterally by liens on
10 real property, and wherein such loans were arranged, negotiated,
11 processed, consummated on behalf of others, and serviced, for or
12 in expectation of compensation.

13 V

14 The trust funds accepted or received by Respondent were
15 deposited or caused to be deposited from time to time into trust
16 accounts, as follows:

17 <u>TITLE AND ACCOUNT NUMBERS</u>	<u>BANK</u>
18 Cedar Funding Trust Account	California Bank and Trust
19 Account No. 8302837370	439 Alvarado Street
(hereinafter "Trust #1")	Monterey, CA 93940

20 VI

21 At all times herein mentioned, Respondent was and is a
22 threshold broker subject to the requirements of Section 10232 of
23 the Code. From approximately March of 2001 to the present,
24 Respondent has failed to file certain reports regarding its
25 business activity and the above trust accounts with the
26 Department, as set forth in Paragraph VIII.

VII

At all times herein mentioned, Respondent was and is a multi-lender broker subject to the requirements of Section 10229 and/or 10238 of the Code. From approximately October of 2001 to the present, Respondent has failed to file certain reports regarding its business activity and the above trust accounts with the Department, as also set forth in Paragraph VIII.

VIII

The reports referred to in Paragraphs VI and VII above include, but are not limited to the following:

REPORT	STATUTE	PERIOD	DUE
(a) Quarterly Multi-lender Trust Acct Report RE 852	10229(j)(3)	Quarter end 9/30/01	10/31/01
(b) Annual Trust Deed Report RE 881	10232(c) 10229(o)	Year end 12/31/01	3/31/02
(c) Annual Trust Account Review	10232(a) 10229(n)	Year end 12/31/01	5/31/02
(d) Quarterly Multi-lender Trust Acct Report RE 852	10229(j)(3)	Quarter end 3/31/02	4/30/02
(e) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 3/31/02	4/30/02
(f) Quarterly Multi-lender Trust Acct Report RE 852	10229(j)(3)	Quarter end 6/30/02	7/31/02
(g) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 6/30/02	7/31/02
(h) Quarterly Multi-lender Trust Acct Report RE 852	10229(j)(3)	Quarter end 9/30/02	10/31/02
(i) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 9/30/02	10/31/02
(j) Annual Trust Deed Report RE 881	10232(c) 10229(o)	Year end 12/31/02	3/31/03
(k) Annual Trust Account Review	10232(a)	Year end	5/31/03

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REPORT	STATUTE	PERIOD	DUE
	10229(n)	12/31/02	
(l) Quarterly Multi-lender Trust Acct Report RE 852	10229(j)(3)	Quarter end 3/31/03	4/30/03
(m) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 3/31/03	4/30/03
(n) Quarterly Multi-lender Trust Acct Report RE 852	10229(j)(3)	Quarter end 6/30/03	7/31/03
(o) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 6/30/03	7/31/03
(p) Quarterly Multi-lender Trust Acct Report RE 852	10229(j)(3)	Quarter end 9/30/03	10/31/03
(q) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 9/30/03	10/31/03
(r) Annual Trust Deed Report RE 881	10232(c) 10229(o)	Year end 12/31/03	3/31/04
(s) Annual Trust Account Review	10232(a) 10229(n)	Year end 12/31/03	5/31/04
(t) Quarterly Multi-lender Trust Acct Report RE 852	10238(j)(6)	Quarter end 3/31/04	4/30/04
(u) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 3/31/04	4/30/04
(v) Quarterly Multi-lender Trust Acct Report RE 852	10238(j)(6)	Quarter end 6/30/04	7/31/04
(w) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 6/30/04	7/31/04
(x) Quarterly Multi-lender Trust Acct Report RE 852	10238(j)(6)	Quarter end 9/30/04	10/31/04
(y) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 9/30/04	10/31/04
(z) Annual Trust Deed Report RE 881	10232(c) 10229(o)	Year end 12/31/04	3/31/05
(aa) Annual Trust Account Review	10232(a) 10229(n)	Year end 12/31/04	5/31/05
(bb) Quarterly Multi-lender Trust Acct Report RE 852	10238(j)(6)	Quarter end 3/31/05	4/30/05
(cc) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 3/31/05	4/30/05
(dd) Quarterly Multi-lender Trust Acct Report RE 852	10238(j)(6)	Quarter end 6/30/05	7/31/05

REPORT	STATUTE	PERIOD	DUE
(ee) Quarterly Trust Fund Status Report RE 855	10232.25	Quarter end 6/30/05	7/31/05

IX

The acts and/or omissions alleged above are grounds for the suspension or revocation of the licenses and licenses rights of Respondent under the following provisions;

(a) As to Paragraphs VI and VIII(b), VIII(c), VIII(j), VIII(k), VIII(r), VIII(s), VIII(z), VIII(aa), under Sections 10232(a) and 10232(c) of the Code in conjunction with Section 10177(d) of the Code;

(b) As to Paragraph VII and VIII(b), VIII(c), VIII(j), VIII(k), VIII(r), VIII(s), VIII(z), VIII(aa), under Sections 10229(n) and 10229(o) of the Code in conjunction with Section 10177(d) of the Code;

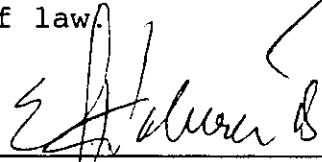
(c) As to Paragraph VI and VIII(e), VIII(g), VIII(i), VIII(m), VIII(o), VIII(q), VIII(u), VIII(w), VIII(y), VIII(cc), VIII(ee), under Section 10232.25 of the Code in conjunction with Section 10177(d) of the Code; and

(d) As to Paragraphs VII and VIII(a), VIII(d), VIII(f), VIII(h), VIII(l), VIII(n), VIII(p), VIII(t), VIII(v), VIII(x), VIII(bb), VIII(dd), under Section 10229(j)(3) and/or 10238(j)(6) of the Code in conjunction with 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
4 action against all licenses and license rights of Respondent
5 under the Real Estate Law (Part 1 of Division 4 of the Business
6 and Professions Code), and for such other and further relief as
7 may be proper under the provisions of law.

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9 
10 E. J. HABERER II
Deputy Real Estate Commissioner

11 Dated at Oakland, California,
12 this 17 day of October, 2005
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