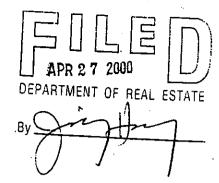
. 1





DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of) NO. H-26806 LA

CAROLE ELLEN NIELSEN)

Respondent.

ORDER GRANTING REINSTATEMENT OF LICENSE

On December 16, 1997, a Decision and Order was rendered herein revoking the real estate broker license of Respondent, CAROLE ELLEN NIELSEN (hereinafter "Respondent"), effective February 4, 1998. In said Decision Respondent was given the right to apply for and receive a restricted real estate broker license which was issued to her on February 4, 1998.

On March 10, 2000, Respondent petitioned for reinstatement of said real estate broker license and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has

demonstrated to my satisfaction that grounds do not presently exist to deny the issuance of an unrestricted real estate broker license to Respondent.

NOW, THEREFORE, IT IS ORDERED that Respondent's petition for reinstatement is granted and that an unrestricted real estate broker license be issued to Respondent, CAROLE ELLEN NIELSEN, after Respondent satisfies the following conditions within six months from the date of this Order:

- 1. Submittal of a completed application and payment of the fee for a real estate broker license.
- 2. Submittal of evidence satisfactory to the Real Estate Commissioner that Respondent has, since her license was revoked, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license.

This Order shall become effective immediately.

DATED:

PAULA REDDISH ZINNEMANN Real Estate Commissioner

CAROLE ELLEN NIELSEN 452 Moondance Street

Thousand Oaks, California 91360

1 Department of Real Estate 107 South Broadway, Room 8107 2 Los Angeles, California 90012 Telephone (213) 897-3937 1 5 1998 3 DEPARTMENT OF REAL ESTATE 5 8 BEFORE THE DEPARTMENT OF REAL ESTATE 9 STATE OF CALIFORNIA 10 11 In the Matter of the Accusation of NO. H-26806 LA 12 L-9610128 SOUTHWIND FINANCIAL SERVICES, 13 INC.; EQUITY CENTER, INC.; STIPULATION AND AGREEMENT and CAROLE ELLEN NIELSEN, 14 individually and as former designated officer of 15 Southwind Financial Services, Inc. and Equity Center, Inc. 16 Respondents. 17 18 It is hereby stipulated by and between Respondent 19 CAROLE ELLEN NIELSEN (sometimes referred to herein as 20 "Respondent") and her attorney of record, Frank M. Buda, and the Complainant, acting by and through Darlene Averetta, Counsel for 21 22 the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on September 27, 23 24 1996, in this matter: 25 111 26 111

COURT PAPER STATE OF CALIFORNIA STD. 113 (REV. 3-95)

27

- 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 Stipulation and Agreement.
- 2. Respondent has received, read and understands the Statement to Respondent, the Discovery Provisions of the APA and the Accusation, filed by the Department of Real Estate in this proceeding.
- On October 9, 1996, Respondent filed a Notice of 3. 12 Defense pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent acknowledges that she understands that by withdrawing said Notice of Defense, she will thereby waive her right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that she will waive other rights afforded to her in connection with the hearing, such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

1

2

3

5

6

7

8

9

10

11

13

14

15

16

17

18

19

20

21

22

23

111 25

/// 26



This Stipulation and Agreement is based on the factual allegations contained in the Accusation filed in this proceeding. In the interest of expedience and economy, Respondent chooses not to contest these factual allegations, but to remain silent and understands that, as a result thereof, these factual statements, without being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to This Stipulation and Agreement and Respondent's decision not to contest the Accusation are hereby expressly limited to this proceeding and made for the sole purpose of reaching an agreed disposition of this proceeding. Respondent's decision not to contest the factual allegations is made solely for the purpose of effectuating this Stipulation and Agreement and is intended by Respondent to be non-binding upon her in any actions against Respondent by third parties. The Real Estate Commissioner shall not be required to provide further evidence to prove such allegations.

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

1

2 '

3

4

5

7

8

9 7

10

11 .

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

DETERMINATION OF ISSUES

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

The conduct, acts and/or omissions of Respondent CAROLE ELLEN NIELSEN, as set forth in the Accusation, is grounds for the suspension or revocation of all of the real estate licenses and license rights of Respondent, under the provisions of Business and Professions Code ("Code") Section 10177(h) for violation of Code Section 10159.2.

19 ///

1

2

3

4 i

5 |

6

7

8

9

10 -

11

12

13

14

15

16

17

18

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///



ORDER

WHEREFORE,	THE	FOLLOWING	ORDER is	hereby	made
------------	-----	-----------	----------	--------	------

The real estate licenses and license rights of
Respondent CAROLE ELLEN NIELSEN, under the Real Estate Law
are hereby revoked. Provided, however, a restricted real estate
broker license shall be issued to Respondent pursuant to the
provisions of Business and Professions Code Section 10156.5, 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 Business and Professions Code Section 10156.7 and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. The restricted license to be issued upon application of Respondent shall not confer any property right in the privileges to be exercised thereunder.

granted thereunder may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction (including a plea of nolo contendere) to a crime which is substantially related to Respondent's qualifications, fitness or capacity as a real estate licensee.

///

26 ///

9;



granted thereunder may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of the receipt of 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 the conditions attaching to this restricted license.

- 2. 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 the restricted license until one (1) year has elapsed from the effective date of this Decision.
- 3. Respondent shall, prior to the renewal of any restricted license issued to Respondent, present evidence satisfactory to the Real Estate Commissioner that she has, during the last four (4) years, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license.
 - 4. During the term of any restricted license issued to Respondent, Respondent may not be the designated officer of a licensed real estate corporation.

22 ///

19

20

21

1

2

3

5

7

8

9

10

11

12

23 ///

24 ///

25 ///

26 ///



Respondent shall, within nine (9) months from the 1 " 5. 2 effective date of this Order, take and pass the Professional Responsibility Examination administered by the Department, 3 4 including the payment of the appropriate examination fee. Ιf Respondent fails to satisfy this condition, the Commissioner may 5 order suspension of the restricted license until Respondent passes 6 -7 the examination. 8 DARLENE AVERETTA, Counsel for Complainant 10: 11 I have read the Stipulation and Agreement and its terms 12 are understood by me and are agreeable and acceptable to me. 13 understand that I am waiving rights given to me by the California 14 Administrative Procedure Act (including but not limited to 15 Sections 11506, 11508, 11509 and 11513 of the Government Code), 16 and I willingly, intelligently and voluntarily waive those rights, 17 including the right of requiring the Commissioner to prove the 18 allegations in the Accusation at a hearing at which I would have 19 the right to cross-examine witnesses against me and to present 20 evidence in defense and mitigation of the charges. 21 22 ROLE ELLEN/NIELSEN, Respondent 23 24 FRANK M. BUDA, Esq. 25 Counsel for Respondent Approved as to Form 26

COURT PAPER STATE OF CALIFORNIA STD. 113 (REV. 3-95) 95 28391

COURT PAPER STATE OF CALIFORNIA STD. 113 (REV. 3-95) 95 28391 The foregoing Stipulation and Agreement is hereby adopted as my Decision and Order as to Respondent CAROLE ELLEN NIELSEN, and shall become effective at 12 o'clock noon on February 4, 1998

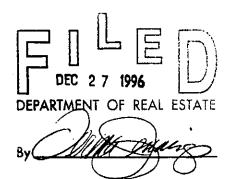
IT IS SO ORDERED

12/16/97

JIM ANTT, JR. Real Estate Commissioner

In tends of

Department of Real Estate 107 South Broadway, Room 8107 Los Angeles, California 90012 Telephone (213) 897-3937



DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

SOUTHWIND FINANCIAL SERVICES,
INC.; EQUITY CENTER, INC.;
and CAROLE ELLEN NIELSEN,
--individually and as-former ---)
designated officer of
Southwind Financial Services,
Inc. and Equity Center, Inc.

No. H-26806 LA

STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

It is hereby stipulated by and between Respondents SOUTHWIND FINANCIAL SERVICES INC. and EQUITY CENTER, INC. (sometimes referred to collectively herein as "Respondents"), and the Complainant, acting by and through Darlene Averetta, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on September 27, 1996, in this matter (hereinafter "Accusation"):

25 ///

1

2

3

5

6

7

8

9

10

11

12

13

_14

15

16

17

18

19

20

21

22

23

24

26 ///

27 ///



- 1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents 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 Stipulation.
- 2. Respondents have received, read and understand the Statement to Respondent, the Discovery Provisions of the APA and the Accusation, filed by the Department of Real Estate in this proceeding.
- 3. On October 4, 1996, Respondents filed a Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notice of Defense.—Respondents acknowledge that they understand that by withdrawing said Notice of Defense, they will thereby waive their right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that they will waive other rights afforded to them in connection with the hearing, such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

///

///

OURT PAPER TATE OF CALIFORNIA TD. 113 (REV. 3-95)

4. This Stipulation and Agreement in Settlement and Order ("Stipulation") is based on the factual allegations contained in the Accusation filed in this proceeding. interest of expedience and economy, Respondents choose not to contest these factual allegations, but to remain silent and understand that, as a result thereof, these factual statements, without being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to herein. Stipulation and Respondents' decision not to contest the Accusation are hereby expressly limited to this proceeding and made for the sole purpose of reaching an agreed disposition of this proceeding. Respondents' decision not to contest the factual allegations is made solely for the purpose of effectuating this Stipulation and is intended by Respondents to be non-binding upon them in any actions against Respondents by third parties. Real Estate Commissioner shall not be required to provide further evidence to prove such allegations.

It is understood by the parties that the Real Estate Commissioner may adopt the Stipulation as his decision in this matter thereby imposing the penalty and sanctions on Respondents' real estate licenses and license rights as set forth in the below "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation, the Stipulation shall be void and of no effect, and Respondents shall retain the right to a hearing on the Accusation under all the provisions of the APA and shall not be bound by any stipulation or waiver made herein. 111



1

2

3

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

DETERMINATION OF ISSUES

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

Τ

The conduct, acts and/or omissions of Respondent SOUTHWIND FINANCIAL SERVICES, INC., as set forth in the Accusation, constitute cause to suspend or revoke the real estate license and license rights of Respondent, under the provisions of Business and Professions Code ("Code") Section 10177(d) for violations of Sections 2725, 2726, 2834 and 2842.5 of Chapter 6, Title 10, California Code of Regulations ("Regulations").

II

The conduct, acts and/or omissions of EQUITY CENTER, INC., as set forth in the Accusation, constitute cause to suspend or revoke the real estate license and license rights of Respondent, under the provisions of Code Section 10177(d) for violations of Code Sections 10145 and 10159.5 and Regulations 2726, 2731, 2830, 2831, 2831.1, 2831.2, 2832 and 2834.

DURT PAPER ATE OF CALIFORNIA ID. 113 (REV. 3-95)

3

4 5

6

7

8

9 10

11

12

13

14

15

16

17

18

19

21

22

23

24

25

26

27

URT PAPER TE OF CALIFORNIA), 113 (REV. 3-95) WHEREFORE, THE FOLLOWING ORDER is hereby made:

The real estate licenses and license rights of

Respondents SOUTHWIND FINANCIAL SERVICES, INC. and EQUITY CENTER,

INC., under the provisions of Part 1 of Division 4 of the

California Business and Professions Code are hereby revoked.

I have read the Stipulation and Agreement in Settlement and Order and its terms are understood by me and are agreeable and acceptable for SOUTHWIND FINANCIAL SERVICES, INC. and EQUITY

CENTER, INC. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

DATED: 15/9/96

SOUTHWIND FINANCIAL SERVICES, INC Respondent, by Barbara Simmons, President

DATED: 2/5/56

PATED: December 19/996

EQUITY CENTER, INC., Respondent by Barbara Simmons, President

DARLENE AVERETTA, Counsel for the Department of Real Estate

The foregoing Stipulation and Agreement in Settlement is hereby adopted as my Decision and Order as to Respondents

SOUTHWIND FINANCIAL SERVICES, INC. and EQUITY CENTER, INC., and shall become effective at 12 o'clock noon on January 16, 1997

IT IS SO ORDERED

JIM ANTT, JR.
Real Estate Commissioner

27

COURT PAPER
STATE OF CALIFORNIA
STD. 113 (REV. 3-95)



BEFORE THE DEPARTMENT OF REAL ESTATE STATE OF CALIFORNIA

		L	E	M.
	DEC	- 4	1996	U
DEPART	MENT	OF	REAL	ESTATE

*	* * *		DEPAR	IMENT, OF	REAL ESTAT
In the Matter of the Accusation of)			/	
)		By (11/11/14	Buch
SOUTHWIND FINANCIAL)	Case No.	H-26806 LA	- 10 Offi	20,000
SERVICES, INC., et al.,)	OAH No.	L-9610128	•	
)			٠	· · · · · ·
Respondents.)				•

NOTICE OF 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, 314 West First Street, Los Angeles, California, on October 15 and 16, 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 subpense 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: December 4, 1996.

cc: Southwind Financial
Services, Inc.
Equity Center, Inc.
Carole Ellen Nielsen
Milton Jones
Sacto.
OAH.

DEPARTMENT OF REAL ESTATE

DARLENE AVERETTA, Counsel

RE 501 (Mac 8/92vj)

day

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

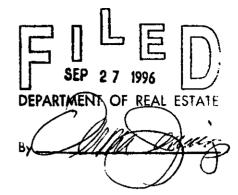
22

23

24

DARLENE AVERETTA, Counsel Department of Real Estate 107 South Broadway, Room 8107 Los Angeles, California 90012

(213) 897-3937



DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of SOUTHWIND FINANCIAL SERVICES,

INC.; EQUITY CENTER, INC.; and CAROLE ELLEN NIELSEN, individually and as former designated officer of Southwind Financial Services,

Inc. and Equity Center, Inc.

Respondents.

No. H-26806 LA

ACCUSATION

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against SOUTHWIND FINANCIAL SERVICES, INC.; EQUITY CENTER, INC.; and CAROLE ELLEN NIELSEN, individually and as former designated officer of Southwind Financial Services, Inc. and Equity Center, Inc., is informed and alleges in his official capacity as follows:

1//

25 ///

26 ///

27 ///

COURT PAPER STATE OF CALIFORNIA STD. 113 (REV. 3-95)

95 28391

-1-

FIRST CAUSE OF ACCUSATION

1.

SOUTHWIND FINANCIAL SERVICES, INC. (hereinafter "SOUTHWIND"), EQUITY CENTER, INC. (hereinafter "EQUITY"), and CAROLE ELLEN NIELSEN, individually and as former designated officer of Southwind Financial Services, Inc. and Equity Center, Inc. (hereinafter "NIELSEN"), sometimes collectively referred to herein as "Respondents", are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code").

2.

From approximately July 24, 1991 to July 24, 1995, SOUTHWIND was licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a corporate real estate broker by and through NIELSEN, as the designated officer and broker responsible, pursuant to the provisions of Section 10159.2 of the Code for supervising the activities requiring a real estate license conducted on behalf of SOUTHWIND by SOUTHWIND's officers, agents and employees.

111

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

27

///

///

111

///

26 ///

///

OURT PAPER OF CALIFORNIA

. .

From approximately February 11, 1994 to August 14, 1995, EQUITY was licensed by the Department as a corporate real estate broker by and through NIELSEN, as the designated officer and broker responsible, pursuant to the provisions of Section 10159.2 of the Code for supervising the activities requiring a real estate license conducted on behalf of EQUITY by EQUITY's officers, agents and employees.

4.

At all times material herein, NIELSEN was licensed by the Department as a real estate broker, and as designated officer of SOUTHWIND and EQUITY. As the designated broker-officer, NIELSEN was responsible for the supervision and control of the activities requiring a real estate license conducted on behalf of SOUTHWIND and EQUITY by SOUTHWIND and EQUITY's officers, agents and employees as necessary to secure full compliance with the provisions of the Real Estate Law as required pursuant to the provisions of Section 10159.2 of the Code.

5.

At all times material herein, Barbara Lynn Simmons (hereinafter "Simmons") was licensed by the Department as a real estate salesperson. Effective November 16, 1995, Simmons was licensed by the Department as a real estate broker.

///

///

///

COURT PAPER STATE OF CALIFORNIA STD. 113 (REV. 8-72)

3

4

5 6

7

8 9

10

11

12

13 14

15

16

17

18

19

20

21

22

23

24

25

26

27

95 28391

All further references to "Respondents", unless otherwise specified, include the parties identified in Paragraphs 1 through 4, above, and also include the officers, directors, managers, employees, agents and/or real estate licensees employed by or associated with said parties, who at all times material herein were engaged in the furtherance of the business or operations of said parties and who were acting within the course and scope of their authority, agency, or employment.

7.

At all times material herein, 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 Sections 10131(a) and/or 10131(d) of the Code, including:

including the operation of and conduct of a real property sales business with the public wherein Respondents EQUITY and NIELSEN, engaged in the sale or offer to sell, the solicitation of prospective sellers or purchasers of, or the negotiation of the purchase, sale or exchange of real property or a business opportunity, for another or others, for or in expectation of compensation; and,

111

111

111

111

///

1 2 h
3 a
4 n
5 a
6 a

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

(b) the operation of and conduct of a mortgage loan brokerage business with the public wherein Respondents SOUTHWIND and NIELSEN solicited prospective borrowers or lenders for, or negotiated, serviced, processed, or arranged loans secured directly or collaterally by liens on real property for another or others, for or in expectation of compensation.

8.

In connection with the above-described real estate business, Respondents, engaged in the business of, acted in the capacity of, advertised, or assumed to act as escrow holder, servicer and/or agent, and thereby acted or assumed to act under the exemption from the provisions of the Escrow Law as provided by Section 17006(d) of the California Financial Code.

9.

On or about July 20, 1995, the Department completed an audit examination of Respondent's books and records pertaining to their activities as real estate brokers covering a period from September, 1994 through May, 1995, which revealed violations of the Code and Title 10, Chapter 6, California Code of Regulations (hereinafter "Regulations") as set forth in the following paragraphs.

111

23 ///

24 ///

25 ///

26 ///

27 ///

COURT PAPER STATE OF CALIFORNIA STD. 113 (REV. 3-95)

At all times material herein, in connection with the

1

activities described in Paragraphs 7 and 8, above, Respondents SOUTHWIND and NIELSEN accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual and prospective borrowers, lenders, investors and/or parties to mortgage loan transactions handled by Respondents and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned, said trust funds were deposited and/or maintained by Respondents in bank accounts, including but not necessarily limited to, Account Number 08305-14444 (hereinafter "T/A 1"), "Southwind Financial Services, Inc. Escrow Division Trust Account" at Bank of America, 1440 N. Moorpark Road, Thousand Oaks, California 91360 (hereinafter "Bank of America"); Account Number 0014-052-577 (hereinafter "T/A 2"), "Southwind Financial Services, Inc. Escrow Division Trust Account" at Imperial Bank, 9757 Wilshire Blvd., Beverly Hills, California 90212 (hereinafter "Imperial Bank"); and Account Number 08304-14374 (hereinafter "T/A 3"), "Southwind Financial Services, Inc. Trust Account" at Bank of America.

11.

In the course of activities described in Paragraphs 7, 8 and 10, above, and during the examination period described in Paragraph 9, Respondents SOUTHWIND and NIELSEN, acted in violation of the Code and the Regulations in that:

26

20

21

22

23

24

25

27

111



(a) Respondents SOUTHWIND and NIELSEN caused, permitted and/or allowed individuals, who were not licensed to Respondents; or, neither licensed by the Department nor covered by a fidelity bond; or, for whom there was no written authorization, to sign on T/A 1 and T/A 3, in violation of Regulation 2834;

(b) Respondent NIELSEN failed to review, initial and date every instrument prepared or signed by salespersons in her employ, in connection with transactions for which a real estate license is required, which may have had a material effect upon the rights or obligations of a party to the transaction or, if Respondent delegated said acts to a broker or a salesperson, she failed to make certain that said review was properly completed, in violation of Regulation 2725;

(c) All Mortgage Loan Disclosure Statements were not signed by the prospective borrower, Respondent NIELSEN, or her designated representative, in violation of Regulation 2842.5;

 (d) Not all broker-salesperson relationship agreements .
were signed by Respondent NIELSEN, in violation of Regulation 2726.

12.

The conduct, acts and/or omissions of Respondents SOUTHWIND and NIELSEN as described in Paragraph 11, above, violated the Code and the Regulations as set forth below:

///



///

- 1	-	
1	PARAGRAPH PROVISIONS VIOLATED	
2	11(a) Regulation 2834	
3	11(b) Regulation 2725	
4	11(c) Regulation 2842.5	
5	11(d) Regulation 2726	
6	Each of the foregoing violations constitutes cause for the	
7	suspension or revocation of all real estate licenses and license	е
8	rights of Respondents SOUTHWIND and NIELSEN, under the provision	ns

13.

At all times material herein, in connection with the activities described in Paragraphs 7 and 8, above, Respondents EQUITY and NIELSEN accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual and prospective parties to real property transactions handled by Respondents and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned, said trust funds were deposited and/or maintained by Respondents in bank accounts, including but not necessarily limited to, Account Number 08308-14384 (hereinafter "T/A 1A"), "Equity Center, Inc. Escrow Division Trust Account" at Bank of America; Account Number 0014-052-534 (hereinafter "T/A 2A"), "Realty World Equity Center, Inc. Escrow Division Trust Account" at Imperial Bank; and Account Number 08304-14256 (hereinafter "T/A 3A"), "Realty World Equity Center, Inc. Trust Account" at Bank of America. /// 111



9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

of Code Section 10177(d).

COURT PAPER STATE OF CALIFORNIA STD. 113 (REV. 3-95) In the course of activities described in Paragraphs 7, 8 and 13, above, and during the examination period described in Paragraph 9, Respondents EQUITY and NIELSEN, acted in violation of the Code and the Regulations in that:

- (a) Respondents EQUITY and NIELSEN failed to place all trust funds received by Respondents into a neutral escrow depository, or into the hands of the principal on whose behalf the funds were received, or into a trust account in the name of the broker as trustee in a bank or other financial institution, in that Respondents deposited, allowed, permitted or caused the deposit of trust funds into T/A 3A, which account was not in the name of the broker as trustee, in violation of Code Section 10145 and Regulation 2830;
- (b) The control record for T/A 1A was not complete or accurate, in violation of Regulation 2831;
- (c) The separate records for T/A 1A were not complete or accurate, in violation of Regulation 2831.1;
- (d) The monthly reconciliation for T/A 1A was not accurate, and there was no monthly reconciliation of records for T/A 3A, in violation of Regulation 2831.2;
- (e) Respondents EQUITY and NIELSEN caused, permitted and/or allowed individuals, who were not licensed to Respondents; or, who were neither licensed by the Department nor covered by an adequate fidelity bond; or, for whom there was no written authorization, to sign on T/A 1A and T/A 3A in violation of Regulation 2834;

5

COURT PAPER STATE OF CALIFORNIA STD. 113 (REV. 3-95) (f) Not all broker-salesperson relationship agreements were between the corporation and the salesperson, in violation of Regulation 2726;

- (g) Respondents EQUITY and NIELSEN failed to deposit all funds received in trust into the hands of the owner of the funds, into a neutral escrow depository or into a trust fund account maintained pursuant to Regulation 2830 not later than the next business day following receipt of the trust funds, in violation of Code Section 10145 and Regulation 2832;
- (h) Respondent EQUITY used the fictitious business name, "Realty World Equity Center, Inc.", in the conduct of activities for which a real estate license is required, without first obtaining a license bearing said fictitious business name, in violation of Code Section 10159.5 and Regulation 2731.

15.

The conduct, acts and/or omissions of Respondents

EQUITY and NIELSEN as described in Paragraph 14, above, violated
the Code and the Regulations as set forth below:

19	TIMMOTATI	PROVISIONS VIOLATED
20	14(a)	Code Section 10145 and Regulation 2830;
22	14 (b)	Regulation 2831
23	14(c)	Regulation 2831.1
24	14 (d)	Regulation 2831.2
2 5	14(e)	Regulation 2834
26	14(f)	Regulation 2726
27	14 (g)	Code Section 10145 and Regulation 2832

14(h)

1

2

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

Code Section 10159.5 and Regulation 2731

Each of the foregoing violations constitutes cause for the suspension or revocation of all real estate licenses and license rights of Respondents EQUITY and NIELSEN, under the provisions of Code Section 10177(d).

SECOND CAUSE OF ACCUSATION

16.

Complainant incorporates herein the Preamble and the allegations of Paragraphs 1 through 15, inclusive, herein above.

17.

The conduct, acts and/or omissions of NIELSEN, in causing, allowing, or permitting SOUTHWIND and EQUITY to violate the Real Estate Law, as described, herein above, constitute failure on the part of Respondent NIELSEN, as the officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of SOUTHWIND and EQUITY, as required by Section 10159.2 of the Code. Said conduct is cause to suspend or revoke the real estate licenses and license rights of NIELSEN pursuant to the provisions of Code Section 10177(h).

///

111

24 ///

_ ///

25 /// 26

27

///

///

COURT PAPER STATE OF CALIFORNIA STD. 113 (REV. 3-95)

WHEREFORE, Complainant prays that a hearing be conducted on the allegations made by the Accusation and, that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents SOUTHWIND FINANCIAL SERVICES, INC.; EQUITY CENTER, INC.; and CAROLE ELLEN NIELSEN, individually and as former designated officer of Southwind Financial Services, Inc. and Equity Center, Inc., under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other applicable provisions of law. Dated at Los Angeles, California this 27th day of September, 1996.

Southwind Financial Services, INC. cc: Equity Center, Inc Carole Ellen Nielsen LA Audit Section

Sacto. MA

27

18

19

20

21

22

23

24

25