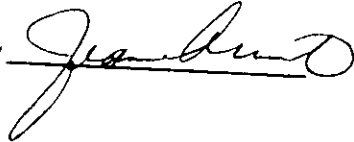


FILED

MAR 24 2006

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-6671 SF

WAYNE DAVID ROBINSON,

Respondent.

ORDER DENYING REINSTATEMENT OF LICENSE

On July 6, 1993, a Decision was rendered in 6671 SF revoking the real estate broker license of Respondent but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted broker license was issued to Respondent on July 29, 1993. Respondent's restricted broker license expired July 28, 2005, and has not been renewed.

On May 6, 2004, 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 failed

1 to demonstrate to my satisfaction that Respondent has undergone
2 sufficient rehabilitation to warrant the reinstatement of
3 Respondent's real estate broker license.

4 The burden of proving rehabilitation rests with the
5 petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541). A
6 petitioner is required to show greater proof of honesty and
7 integrity than an applicant for first time licensure. The proof
8 must be sufficient to overcome the prior adverse judgment on the
9 applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d
10 395).

11 The Department has developed criteria in Section 2911
12 of Title 10, California Code of Regulations (herein
13 "Regulations") to assist in evaluating the rehabilitation of an
14 applicant for reinstatement of a license. Among the criteria
15 relevant in this proceeding are:

16 Section 2911(j). Discharge of, or bona fide efforts
17 toward discharging, adjudicated debts or monetary obligations to
18 others. On September 13, 1994, in Contra Costa County Municipal
19 Court Case No. MSC92-01235, a civil judgment was entered in favor
20 of Security Pacific Auto and against Respondent in the sum of
21 \$8,120.34. The judgment remains unsatisfied.

22 Section 2911(k). Correction of business practices
23 resulting in injury to others or with the potential to cause such
24 injury.

25 (a) The Decision of July 6, 1993, herein disciplined
26 Respondent's license pursuant to the provisions of Sections
27 10085, 10130, 10137, 10145, 10146, 10148, 10177(d), 10177(g), and

1 10177(h) of the California Business and Professions Code (herein
2 "Code") and Section 2970 of the Regulations based, essentially,
3 on the fact Respondent allowed an unlicensed person to mismanage
4 the activities requiring a real estate license of a corporate
5 mortgage loan brokerage for which Respondent was the designated
6 officer broker. Respondent admittedly exercised no meaningful
7 supervision over the brokerage.

8 (b) On or about September, 1998, Respondent moved to
9 Flower Mound, Texas, and obtained a license as a real estate
10 broker from the Texas Department of Real Estate. Since March 19,
11 2001, Respondent has been employed as a real estate broker by
12 Henry S. Miller Commercial in Dallas, Texas. That firm has
13 confirmed Respondent's employment but declined to provide copies
14 of documents prepared by Respondent in the five most recent
15 transactions.

16 (c) In December 2005, Respondent advised he
17 permanently moved to Odessa, Florida. Sections 2910 and 2915 of
18 the Regulations require Respondent to utilize forms prescribed by
19 the Department to notify the Department, within one business day,
20 of any change in Respondent's mailing address. This requirement
21 applies to the holder of a real estate license who fails to renew
22 it prior to the period for which it was issued and who is
23 otherwise qualified for such license. Respondent has failed to
24 comply with this requirement.

25 (d) Given the violations found and the fact that
26 Respondent has not been engaged as a broker or other fiduciary
27 capacity in the operation of a real estate brokerage business in

1 California, Respondent has not established that he has complied
2 with Section 2911 (k) of the Regulations.

3 Section 2911(n). Change in attitude from that which
4 existed at the time of the conduct in question as evidenced by
5 any or all of the following: (1) Testimony of applicant. (2))
6 Evidence from family members, friends or other persons familiar
7 with applicant's previous conduct and with his subsequent
8 attitudes and behavioral patterns. (3) Evidence from probation or
9 parole officers or law enforcement officials competent to testify
10 as to applicant's social adjustments. (4) Evidence from
11 psychiatrists or other persons competent to testify with regard
12 to neuropsychiatric or emotional disturbances. (5) Absence of
13 subsequent felony or misdemeanor convictions that are reflective
14 of an inability to conform to societal rules when considered in
15 light of the conduct in question.

16 (a) In response to Question 4 in Respondent's petition
17 ("...Have you ever been a defendant in any civil court
18 litigation, including small claims court?...") Respondent
19 concealed and failed to disclose that: (a) On October 26, 1990, a
20 civil action was commenced against Respondent by Gene Jones in
21 Contra Costa County Municipal Court Case No. MSC90-04660. The
22 case was dismissed with prejudice; (b) On September 13, 1994, in
23 Contra Costa County Municipal Court Case No. MSC88-00353, a civil
24 judgment was entered in favor of Security Pacific Auto and
25 against Respondent in the sum of \$8,120.34; (c) On December 1,
26 1994, in Contra Costa County Municipal Court Case No. MSC92-
27 01235, a civil judgment was entered in favor of Heather Farms

1 Homeowners Association and against Respondent in the sum of
2 \$13,879.20. Respondent has failed to provide evidence that this
3 judgment has been satisfied.

4 (b) Respondent's concealment of facts and lack of
5 candor demonstrate that Respondent has not changed his attitude
6 from that which existed at the time he engaged in the conduct
7 that led, in part, to the revocation of his real estate broker
8 license.

9 Since Respondent has not established that Respondent
10 has complied with Sections 2911(j), (k) and (n) of Title 10,
11 California Code of Regulations, I am not satisfied that
12 Respondent is sufficiently rehabilitated to receive a real estate
13 broker license.

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

17 This Order shall become effective at 12 o'clock noon
18 on APR 14 2006.

19 DATED: B-14, 2006.

20 JEFF DAVI
21 Real Estate Commissioner
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FILED

DEC 03 2004

DEPARTMENT OF REAL ESTATE

By

Jean Arnold

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-6671 SF

STEPHEN ARNOLD GOODMAN,

Respondent.

ORDER GRANTING REINSTATEMENT OF LICENSE

On December 2, 1994, a Decision After Remand was rendered herein revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on December 28, 1994.

On December 30, 2002, 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 the petition of Respondent and the evidence and arguments in support thereof including Respondent's

1 record as a restricted licensee. Respondent has demonstrated to
2 my satisfaction that Respondent meets the requirements of law for
3 the issuance to Respondent of an unrestricted real estate broker
4 license and that it would not be against the public interest to
5 issue said license to Respondent.

6 NOW, THEREFORE, IT IS ORDERED that Respondent's
7 petition for reinstatement is granted and that a real estate
8 broker license be issued to Respondent if Respondent satisfies
9 the following conditions within nine months from the date of this
10 Order:

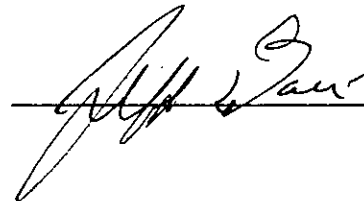
11 1. Submittal of a completed application and payment of
12 the fee for a real estate broker license.

13 2. Submittal of evidence of having, since the most
14 recent issuance of an original or renewal real estate license,
15 taken and successfully completed the continuing education
16 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
17 for renewal of a real estate license.

18 This Order shall be effective immediately.

19 DATED: November 23, 2004

20 JEFF DAVI
21 Real Estate Commissioner

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FILED
JUL 25 2001

DEPARTMENT OF REAL ESTATE

By Patricia Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
STEPHEN ARNOLD GOODMAN,) NO. H-6671 SF
Respondent.)

ORDER DENYING REINSTATEMENT OF LICENSE

On December 2, 1994, a Decision After Remand was rendered herein revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on December 28, 1994, and Respondent has maintained said restricted license since that time.

On April 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 failed

1 to demonstrate to my satisfaction that Respondent has undergone
2 sufficient rehabilitation to warrant the reinstatement of
3 Respondent's real estate broker license, in that Respondent has
4 not engaged as a broker in the operation of a real estate
5 brokerage business or otherwise acted in a fiduciary capacity.
6 Respondent has not established that he has complied with Section
7 2911(j), Title 10, California Code of Regulations. Further
8 Respondent has failed to present evidence of discharge of the
9 following adjudicated debts:

- 10 1. \$66,828.00 unpaid on the Judgment in Kessler
11 v. Goodman, et al., Contra Costa County Superior
12 Court No. MSC99-00344.
- 13 2. \$5,580.00 unpaid on the Judgment in Matsco
14 Financial v. Goodman, et al., Sacramento County
15 Superior Court No. 173551.

16 Consequently, I am not satisfied that Respondent is sufficiently
17 rehabilitated to receive an unrestricted real estate broker
18 license.

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

21 This Order shall become effective at 12 o'clock
22 noon on August 14, 2001.

23 DATED: July 15, 2001

24
25 PAULA REDDISH ZINNEMANN
26 Real Estate Commissioner
27

FILED
DEC 7 1994

DEPARTMENT OF REAL ESTATE

By *Linda Montiel*
Linda Montiel

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	
	)	No. H-6671 SF
STEPHEN ARNOLD GOODMAN,	)	
	)	<u>DECISION AFTER REMAND</u>
Respondent.	)	

The California Department of Real Estate (Department) filed an Accusation against STEPHEN ARNOLD GOODMAN (GOODMAN) on April 6, 1992. A hearing was held on May 10 and May 11, 1993, in which written and oral evidence was submitted. On June 9, 1993, the Administrative Law Judge issued a Proposed Decision determining that the real estate broker license of GOODMAN should be revoked with the right to a restricted salesperson license. On July 6, 1993, the Real Estate Commissioner (the Commissioner) adopted the Proposed Decision as his Decision effective July 29, 1993. GOODMAN filed a Request for Stay on July 28, 1993, which was granted on that date. GOODMAN filed a Petition for Reconsideration on August 12, 1993. On August 25, 1993, the Commissioner issued his Decision Denying Reconsideration. On

1 September 20, 1993, GOODMAN filed a Petition for Writ of
2 Administrative Mandamus. On October 24, 1994, GOODMAN and the
3 Commissioner entered into a Stipulation Re: Remand in which the
4 parties agreed that this matter be remanded to the Department for
5 a Decision consistent with the Stipulation. On October 24, 1994,
6 the Superior Court ordered the matter remanded to the Department
7 for a Decision consistent with the Stipulation of the parties.

8 The following shall become the Decision of the
9 Commissioner:

10 1. The Findings of Fact and Determination of Issues as
11 set out in the Proposed Decision dated June 9, 1993, shall remain
12 unchanged.

13 2. The Order set forth in the Proposed Decision of
14 June 9, 1993, as thereafter adopted by the Commissioner, shall be
15 superseded by and replaced with the following terms:

16 ORDER

17 A. All licenses and licensing rights of Respondent
18 STEPHEN ARNOLD GOODMAN under the Real Estate Law are revoked;
19 provided, however, a restricted real estate broker license shall
20 be issued to Respondent GOODMAN pursuant to Section 10156.5 of the
21 Business and Professions Code if Respondent makes application
22 therefor and pays to the Department of Real Estate the appropriate
23 fee for the restricted license within ninety days (90) from the
24 effective date of this Decision. The restricted license issued to
25 Respondent shall be subject to all of the provisions of Section
26 10156.7 of the Business and Professions Code and to the following

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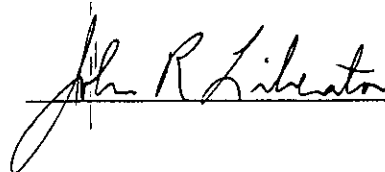
1 limitations, conditions and restrictions imposed under authority
2 of Section 10156.6 of that Code:

- 3 (1) The restricted license issued to Respondent may be
4 suspended prior to hearing by the order of the Real
5 Estate Commissioner in the event of Respondent's
6 conviction or plea of nolo contendere to a crime
7 which is substantially related to Respondent's
8 fitness or capacity as a real estate licensee.
- 9 (2) The restricted license issued to Respondent may be
10 suspended prior to hearing by order of the Real
11 Estate Commissioner on evidence satisfactory to the
12 Commissioner that Respondent has violated
13 provisions of the California Real Estate Law, the
14 Subdivided Lands Law, Regulations of the Real
15 Estate Commissioner or conditions attaching to the
16 restricted license.
- 17 (3) Respondent shall not be eligible to apply for the
18 issuance of an unrestricted real estate license nor
19 for the removal of any of the conditions,
20 limitations or restrictions of a restricted license
21 until one year has elapsed from the effective date
22 of this Decision.
- 23 (4) Respondent shall, within six (6) months from the
24 effective date of this Decision, take and pass the
25 Professional Responsibility Examination
26 administered by the Department including the
27 payment of the appropriate examination fee. If
Respondent fails to satisfy this condition, the
Commissioner may order the suspension of
Respondent's license until Respondent passes the
examination.

19 This Decision shall become effective at 12 o'clock noon
20 on December 28th, 19 94.

21 IT IS SO ORDERED December 2, 1994.

22 JOHN R. LIBERATOR
23 Interim Commissioner

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COPY

FILED
AUG 26 1993
DEPARTMENT OF REAL ESTATE

By Emily J. Kida

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-6671 SF
WAYNE ROBINSON COMPANY, INC.,)	OAH N 41032
WAYNE DAVID ROBINSON and)	
STEPHEN ARNOLD GOODMAN,)	
Respondents.)	

ORDER DENYING RECONSIDERATION

On July 6, 1993, a Decision was rendered in the above-entitled matter. The Decision, as to Respondent STEPHEN ARNOLD GOODMAN, is to become effective on August 27, 1993.

On July 28, 1993, Respondent STEPHEN ARNOLD GOODMAN petitioned for reconsideration of the Decision of July 6, 1993.

I have given due consideration to the petition of Respondent STEPHEN ARNOLD GOODMAN. I find no good cause to reconsider the Decision of July 6, 1993, and reconsideration is hereby denied.

IT IS SO ORDERED August 25, 1993.

CLARK WALLACE
Real Estate Commissioner

John R. Liberator
BY: John R. Liberator
Chief Deputy Commissioner

flag

COPY

FILED
JUL 28 1993

DEPARTMENT OF REAL ESTATE

By *Lynda Montiel*
Lynda Montiel

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	NO. H-6671 SF
WAYNE ROBINSON COMPANY, INC.,)	OAH N 41032
WAYNE DAVID ROBINSON and)	
STEPHEN ARNOLD GOODMAN,)	
Respondents.)	

ORDER STAYING EFFECTIVE DATE

On July 6, 1993, a Decision was rendered in the above-entitled matter to become effective July 29, 1993.

IT IS HEREBY ORDERED that the effective date of the Decision of July 6, 1993, as to STEPHEN ARNOLD GOODMAN only, is stayed for a period of twenty-nine (29) days.

The Decision of July 6, 1993, shall become effective at 12 o'clock noon on August 27, 1993.

DATED: July 28, 1993.

CLARK WALLACE
Real Estate Commissioner

James W. Hardy
BY: JAMES W. HARDY
Deputy Real Estate Commissioner

COPY

FILED
JUL 09 1993

BEFORE THE DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By Lynda Montiel
Lynda Montiel

* * *

In the Matter of the Accusation of)
)
WAYNE ROBINSON COMPANY, INC.,)
WAYNE DAVID ROBINSON and)
STEPHEN ARNOLD GOODMAN,)
)
Respondent(s).)

No. H-6671 SF

OAH N 41032

DECISION

The Proposed Decision dated June 9, 1993,
of the Administrative Law Judge of the Office of Administrative
Hearings is hereby adopted as the decision of the Real Estate
Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon
on July 29th, 19 93.

IT IS SO ORDERED

7/6, 19 93.

CLARK WALLACE
Real Estate Commissioner

Clark Wallace

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation	)	
Against:	)	No. H-6671 SF
	)	
WAYNE ROBINSON COMPANY, INC.,	)	OAH No. N 41032
WAYNE DAVID ROBINSON and	)	
STEPHEN ARNOLD GOODMAN,	)	
	)	
Respondent.	)	

PROPOSED DECISION

On May 10 and 11, 1993, in San Francisco, California, Ruth S. Astle, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Deidre L. Johnson, Staff Attorney, represented the complainant.

Maxine Monaghan, Attorney at Law, Liccardo, Rossi, Sturges & McNeil, 1960 The Alameda, Suite 200, San Jose, California 95126-1493 represented respondent Goodman.

Respondent Robinson was present and represented himself.

Submission of the matter was deferred to June 4, 1993 for receipt of argument which was received and considered.

FINDINGS OF FACT

I

Norman G. Catalano made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California and not otherwise.

II

Respondents are presently licensed and have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (Code).

III

At all times mentioned, Wayne Robinson Company, Inc. (WR Company) was and is licensed by the Department as a real estate broker corporation by and through its designated broker officer Wayne David Robinson (Robinson). In November of 1988, WR Company filed a fictitious business name statement with the County of Contra Costa, California, to do business under the name of Contra Costa Financial Services (CCFS). On November 17, 1989, WR Company obtained a fictitious business name license from the Department to do business under the name of CCFS.

IV

At no time mentioned herein to the present was Laurence Seidenfeld (Seidenfeld) licensed by the Department as either a real estate salesperson or a real estate broker. On November 29, 1988, Seidenfeld registered a corporation with the State of California Secretary of State under the name of CCFS. At no time herein was that corporation duly licensed by the Department as a real estate broker corporation under any designated broker officer.

V

At all times mentioned Stephen Arnold Goodman (Goodman) was and is licensed by the Department as an individual real estate broker.

VI

On August 20, 1985, the Department issued an Order to Desist and Refrain against Seidenfeld to cease any and all activity for which a real estate license is required in the matter of Case No. H-5574 SF.

VII

In the fall of 1988, Robinson, WR Company, and Seidenfeld entered into an agreement whereby WR Company agreed to do business under the fictitious business name of CCFS with the implied condition that Seidenfeld would have daily control, operation and management of the business activities of CCFS. Thereafter, Robinson and WR Company failed to maintain any control or supervision over the business activities of CCFS and allowed, participated in, acquiesced to, consented to, and ratified activities of CCFS conducted by and through Seidenfeld that involved activities for which a real estate license is required at times when Seidenfeld, the fictitious business CCFS, and Seidenfeld's corporation were not duly licensed by the Department.

VIII

In 1989, Robinson, WR Company and Seidenfeld retained the services of Goodman to participate in the business activities of CCFS as a manager of the company.

IX

During at least 1989, respondents acting together as CCFS, engaged in the business of, acted in the capacity of, advertised and assumed to act as a real estate broker within the State of California, including the operation and conduct of a mortgage loan brokerage business with the public and that lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, and these loans were arranged, negotiated, processed and consummated on behalf of others for compensation or in expectation of compensation.

X

During at least 1989, all of the respondents acting together as CCFS, engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees and trust funds within the meaning of the law.

XI

CCFS charged and received advance fees and trust funds from borrowers as follows:

BORROWER	DATE	AMOUNT	RESPONDENT
a. Leogardia Dela Cruz	4/7/89	\$4,000.00	WR Company Robinson
b. George Lennie	7/22/89	\$ 50.00	WR Company Robinson
c. Troy Channing	9/27/89	\$ 799.00 47.40	WR Company Robinson
d. Gladys Hernandez	12/6/89	\$ 275.00 50.00	WR Company Robinson Goodman

XII

Robinson and WR Company failed to deposit the advance fees and trust funds set forth in Finding XI into a trust account or into a neutral escrow depository and caused, allowed, acquiesced in and ratified the deposit of these monies into one or more of the general operating accounts of CCFS by Seidenfeld, commingled the monies with non-trust monies of CCFS and failed to provide the borrowers with written verified

accounts as required by law. Goodman failed to deliver the Hernandez trust funds to Robinson or WR Company or to deposit them into a trust account or neutral escrow depository.

XIII

CCFS claimed and received real estate commissions for activities for which a real estate license is required at times when CCFS was not licensed by the Department either as a fictitious business name of WR Company or as a real estate broker corporation as follows:

LOAN	DATE	AMOUNT	RESPONDENT
a. Dela Cruz	5/17/89	\$4,250.00	WR Company Robinson
b. Channing	9/28/89	\$5,750.00	WR Company Robinson
c. Lennie	8/15/89	\$2,175.00	WR Company Robinson

XIV

On August 17, 1989, in connection with the Lennie loan, Robinson and WR Company, doing business as CCFS, paid, caused to be paid, allowed, acquiesced in and ratified payment of a commission to Seidenfeld at a time when he was not licensed by the Department, in the sum of at least \$1,500.

XV

In 1990, the Department requested Robinson and WR Company, doing business as CCFS, to produce the books and records of the company for the purpose of an audit and investigation. Beginning in August of 1990 and continuing to the present, Robinson and WR Company have failed to retain and make available for examination and inspection by a designated representative of the Commissioner, all documents executed or obtained by CCFS in connection with transactions for which a real estate license is required, including but not limited to the transactions set forth above.

XVI

Robinson was the designated officer of WR Company doing business as CCFS and was responsible under the law for the supervision and control of the activities conducted by the corporation and its fictitious business activities, its officers and employees, to secure full compliance with the Real Estate Law, in the performance of acts for which a real estate license is required. Robinson was negligent in his performance of those responsibilities and failed to exercise reasonable

supervision and control of the activities of CCFS, in that he should have known all of the facts set forth above and could have taken steps to assure CCFS' compliance or withdrawn from his relationship with the company as he later accomplished.

XVII

Wayne David Robinson and Wayne Robinson Company Inc. have no prior history of disciplinary action. They have been licensed for almost 20 years. Respondent Robinson has cooperated with the Department as best he could under the circumstances. Robinson did not receive any compensation for his efforts although he did expect compensation in the future. He owned no stock in the Corporation nor did he sit on the Board of Directors. However, Robinson's reliance of Seidenfeld was negligent. He should not have simply relied on Seidenfeld's word concerning the activities at CCFS. Once he agreed to have his license involved, it was his responsibility to make sure Seidenfeld and the company were properly licensed. Robinson did not check with the Department of Corporations to see if Seidenfeld was properly licensed and the extent of the activities allowed by that license. Had he inquired, he would have discovered that Seidenfeld's CFL license had been revoked. It was Robinson's responsibility to check this out further. He should have ensured access to the business records so that he could make sure that the company business complied with the law. If, as Robinson contends, it was impossible for him to oversee the day-to-day management of CCFS he should not have become involved. The fact that the bank accounts were not controlled by Robinson is his responsibility. He was required to retain access and control of the bank accounts especially where there was a potential for the mishandling of trust funds.

While Robinson's reliance on Goodman (who was a broker) after November of 1989, was more understandable, it did not comply with his responsibilities under the law in that he was still responsible for the ultimate oversight of the company. Once Robinson discovered the problems, he did act in a responsible manner. He opened new trust accounts, established corporate "checks and balances" and became involved in the company's accountability. When he did not receive cooperation from Goodman and Seidenfeld he took the necessary step to disassociate himself from the company. Robinson does not have access to any of the books and records of CCFS, however, that is in part due to his early negligence. It would not be against the public interest to grant a restricted broker license to Robinson under terms and conditions.

Robinson was the victim of a "shrewd 'Con Man' named Larry Seidenfeld" as he states in his closing argument. But that does not relieve him of responsibility in this case. That

is how con men operate. They rely on the negligence and good will of others in order to be successful.

XVIII

Goodman was a stockholder in CCFS. He actually owned just short of 50% of the business and was to earn 50% of the net profits. He is, therefore, responsible for the activities of the business. He was the broker on the premises and was responsible, by oral agreement, for the day-to-day operation of the business. Goodman held himself out as the new office manager of the company to Headland's Mortgage Co. Goodman's denial of this was not persuasive. Goodman must take responsibility for the credit report and appraisal fees not being handled correctly. Goodman was the one who opened a new business account at Bank of America further indicating his involvement in the operation of the company. He did no independent investigation of the status of any licenses required for the company to do business. Again, just as with Robinson, Goodman was to some degree taken in by Seidenfeld. While this does not absolve him of responsibility, it is considered mitigation.

Goodman is not presently working in the real estate field. He actively worked in the mortgage business with large lenders until October of 1989 when he bought into CCFS. There is no evidence of any prior problems or complaints. It would not be against the public interest to allow Goodman to retain a sales license and work under the direction and control and responsibility of a licensed broker.

DETERMINATION OF ISSUES

I

By reason of the matters set forth in Findings XI and XII, cause for disciplinary action against Robinson and WR Company exists pursuant to sections 10085, 10145, 10177(d) and 10146 of the Business and Professions Code (Code) and sections 2970 of Title 10 of the California Code of Regulations (Regs).

II

By reason of the matters set forth in Finding IX through XIII, cause for disciplinary action against Robinson and WR Company exists pursuant to sections 10130 and 10177(d) of the Code.

III

By reason of the matters set forth in Findings VII through XIV, cause for disciplinary action against Robinson and WR Company exists pursuant to section 10137 of the Code.

IV

By reason of the matters set forth in Finding XV, cause for disciplinary action exists against Robinson and WR Company pursuant to sections 10148 and 10177(d) of the Code.

V

By reason of the matters set forth in Findings VII through XVI, cause for disciplinary action against Robinson and WR Company exists pursuant to sections 10177(g) and (h) of the Code.

VI

By reason of the matters set forth in Findings XI and XII, cause for disciplinary action against Goodman exists pursuant to sections 10145 and 10177(d) of the Code.

VII

By reason of the matters set forth in Findings VIII through XII, cause for disciplinary action against Goodman exists pursuant to section 10177(g) of the Code.

ORDER

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

1. Any restricted real estate license issued to respondent pursuant to this Decision shall be suspended for 14 days from the date of issuance of said restricted license.

2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
3. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
4. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until one year has elapsed from the effective date of this Decision.
5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, 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. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.
6. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of respondent's license until respondent passes the examination.

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

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until one year has elapsed from the effective date of this Decision.
4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:
 - a. That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and
 - b. That the employing broker will exercise close supervision over the performance by the restricted licensee relating to

activities for which a real estate license is required.

5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, 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. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.
6. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of respondent's license until respondent passes the examination.

DATED: June 9, 1993

Ruth S. Astle

RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings

Flag

COPY

FILED
FEB 24 1993

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

WAYNE ROBINSON COMPANY, INC.,
WAYNE DAVID ROBINSON
AND STEPHEN ARNOLD GOODMAN,

Respondent

By

Lynda Montiel

Case No. H-6671 SF

OAH No. N 41032

FIRST AMENDED

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____

OFFICE OF ADMINISTRATIVE HEARINGS, STATE BUILDING,

455 Golden Gate Avenue, Room 2248, San Francisco, CA 94102,

on May 10 and 11, 1993 (2 days), at the hour of 9:00 am,
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: February 24, 1993

By

Deidre L. Johnson
DEIDRE L. JOHNSON, Counsel

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OCT 29 1992

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Lyda Montiel
Lyda Montiel

In the Matter of the Accusation of

WAYNE ROBINSON COMPANY, INC.,
WAYNE DAVID ROBINSON
and STEPHEN ARNOLD GOODMAN,

Case No. H-6671 SF

OAH No. N 41032

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____

OFFICE OF ADMINISTRATIVE HEARINGS, STATE BUILDING,

455 Golden Gate Avenue, Room 2248, San Francisco, CA 94102,

on December 21 & 22, 1992 (2 days), at the hour of 9:00 am,
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: October 29, 1992

By

Deidre L. Johnson
DEIDRE L. JOHNSON,

Counsel

1 DEIDRE L. JOHNSON, Counsel
 2 Department of Real Estate
 3 185 Berry Street, Room 3400
 4 San Francisco, CA 94107-1770

5 Telephone: (415) 904-5917

FILED
 APR 06 1992

DEPARTMENT OF REAL ESTATE

By Sandra Montiel

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)

No. H- 6671 SF

WAYNE ROBINSON COMPANY, INC.,)

ACCUSATION

WAYNE DAVID ROBINSON and)

STEPHEN ARNOLD GOODMAN,)

Respondents.)

16 The Complainant, Norman G. Catalano, a Deputy Real
 17 Estate Commissioner of the State of California, for cause of
 18 Accusation against WAYNE ROBINSON COMPANY, INC., WAYNE DAVID
 19 ROBINSON and STEPHEN ARNOLD GOODMAN (hereafter Respondents), is
 20 informed and alleges as follows:

I

22 Respondents are presently licensed and/or have license
 23 rights under the Real Estate Law, Part 1 of Division 4 of the
 24 Business and Professions Code (hereafter the Code).

II

26 The Complainant, Norman G. Catalano, a Deputy Real
 27 Estate Commissioner of the State of California, makes this

1 Accusation against Respondent in his official capacity and not
2 otherwise.

3 III

4 At all times herein mentioned, WAYNE ROBINSON COMPANY,
5 INC. (hereafter WR COMPANY) was and is licensed by the State of
6 California Department of Real Estate (hereafter the Department) as
7 a real estate broker corporation by and through its designated
8 broker officer WAYNE DAVID ROBINSON (hereafter ROBINSON). In or
9 about November of 1988, WR COMPANY filed a fictitious business
10 name statement with the County of Contra Costa, California, to do
11 business under the name of CONTRA COSTA FINANCIAL SERVICES
12 (hereafter CCFS). On or about November 17, 1989, WR COMPANY
13 obtained a fictitious business name license from the Department to
14 do business under the name of CCFS.

15 IV

16 At no time herein mentioned to the present was Laurence
17 Seidenfeld (hereafter Seidenfeld) licensed by the Department as
18 either a real estate salesperson or a real estate broker. On or
19 about November 29, 1988, Seidenfeld registered a corporation with
20 the State of California Secretary of State under the name of
21 CONTRA COSTA FINANCIAL SERVICES, INC. (hereafter CCFS). At no
22 time herein was that corporation duly licensed by the Department
23 as a real estate broker corporation under any designated broker
24 officer.

25 / / / / /

26 / / / / /

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V

At all times herein mentioned STEPHEN ARNOLD GOODMAN (hereafter GOODMAN) was and is licensed by the Department as an individual real estate broker.

VI

On or about August 20, 1985, the Department issued an Order to Desist and Refrain against Seidenfeld to cease any and all activity for which a real estate license is required in the matter of Case No. H-5574 SF.

VII

In or about the fall of 1988, ROBINSON, WR COMPANY, and Seidenfeld entered into an agreement whereby WR COMPANY agreed to do business under the fictitious business name of CCFS with the express or implied condition that Seidenfeld would have daily control, operation and management of the business activities of CCFS. Thereafter, ROBINSON and WR COMPANY failed to maintain any control or supervision over the business activities of CCFS and allowed, participated in, acquiesced in, consented to, and/or ratified activities of CCFS conducted by and through Seidenfeld that involved activities for which a real estate license is required at times when Seidenfeld, the fictitious business CCFS, and Seidenfeld's corporation CCFS were not duly licensed by the Department.

VIII

In or about 1989, ROBINSON, WR COMPANY and/or Seidenfeld appointed or retained the services of GOODMAN to participate in

/ / / / /

1 the business activities of CCFS as an officer and/or manager of
2 the company.

3
4 IX

5 During at least 1989, Respondents and each of them,
6 acting in concert as CCFS, engaged in the business of, acted in
7 the capacity of, advertised and assumed to act as a real estate
8 broker within the State of California, including the operation and
9 conduct of a mortgage loan brokerage business with the public
10 wherein lenders and borrowers were solicited for loans secured
11 directly or collaterally by liens on real property, and such loans
12 were arranged, negotiated, processed and consummated on behalf of
13 others for compensation or in expectation of compensation.

14 X

15 During at least 1989, Respondents and each of them,
16 acting in concert as CCFS, engaged in the business of claiming,
17 demanding, charging, receiving, collecting or contracting for the
18 collection of advance fees and/or trust funds within the meaning
19 of Sections 10026 and 10131.2 of the Code.

20 XI

21 On the following dates, CCFS charged and received the
22 following advance fees and/or trust funds from borrowers:

	<u>BORROWER</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>RESPONDENT</u>
23	a) Leogardia Dela Cruz	4/7/89	\$4,000.00	WR Company,
24				Robinson
25	b) George Lennie	7/22/89	\$ 50.00	WR Company,
26				Robinson
27	c) Troy Channing	9/27/89	\$ 799.29	WR Company,
			\$ & 47.40	Robinson

1 d) Gladys Hernandez 12/6/89 \$ 275.00 WR Company,
2 \$ & 50.00 Robinson,
3 Goodman

3 XII

4 ROBINSON and WR COMPANY failed to deposit the above
5 advance fees and/or trust funds into a trust account or into a
6 neutral escrow depository and caused and/or expressly or impliedly
7 allowed, acquiesced in, and/or ratified the deposit of the above
8 monies into one or more general operating accounts of CCFS by
9 Seidenfeld, commingled said monies with non-trust monies of CCFS
10 and failed to provide the borrowers with written verified accounts
11 as required by law. GOODMAN failed to deliver the Hernandez trust
12 funds to ROBINSON or WR COMPANY or to deposit them into a trust
13 account or neutral escrow depository.

14 XIII

15 On the following dates CCFS claimed and received real
16 estate commissions for activities for which a real estate license
17 is required at times when CCFS was not licensed by the Department
18 either as a fictitious business name of WR COMPANY or as a real
19 estate broker corporation:

20	<u>LOAN</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>RESPONDENT</u>
21	a) Dela Cruz	5/17/89	\$4,250.00	WR Company, Robinson
22				
23	b) Channing	9/28/89	\$5,750.00	WR Company, Robinson
24	c) Lennie	8/15/89	\$2,175.00	WR Company, Robinson
25				

26 / / / / /

27 / / / / /

XIV

On or about August 17, 1989, in connection with the Lennie loan, ROBINSON and WR COMPANY, doing business as CCFS, paid, caused to be paid and/or expressly or impliedly allowed, acquiesced in or ratified payment of a commission to Seidenfeld at a time when he was not licensed by the Department, in the sum of at least \$1,500.

XV

In 1990, the Department requested ROBINSON and WR COMPANY, doing business as CCFS, to produce the books and records of the company for the purpose of an audit and investigation. Beginning in or about August of 1990 and continuing to the present, ROBINSON and WR COMPANY have failed to retain and make available for examination and inspection by a designated representative of the Commissioner, all documents executed or obtained by CCFS in connection with transactions for which a real estate license is required, including but not limited to the transactions alleged above.

XVI

ROBINSON was the designated officer of WR COMPANY doing business as CCFS and was responsible under Section 10159.2 of the Code for the supervision and control of the activities conducted by the corporation and its fictitious business activities, its officers and employees, to secure full compliance with the Real Estate Law, in the performance of acts for which a real estate license is required. ROBINSON was negligent or incompetent in the

/ / / / /

1 performance of the above responsibilities and failed to exercise
2 reasonable supervision and control of the activities of CCFS, in
3 that he knew or should have known all of the facts alleged above
4 and could have and should have taken steps to assure CCFS'
5 compliance.

6 XVII

7 The acts and/or omissions of Respondents ROBINSON and
8 WR COMPANY as set forth in Paragraphs XI and XII above violate
9 Section 10085, 10145, and/or 10146 of the Code and Section 2970 of
10 Title 10 of the California Code of Regulations (hereafter the
11 Regulations) and constitute grounds for disciplinary action under
12 the provisions of Section 10177(d) of the Code.

13 XVIII

14 The acts and/or omissions of ROBINSON and WR COMPANY as
15 alleged in Paragraphs IX through XIII above violate Section 10130
16 of the Code and constitute grounds for disciplinary action under
17 the provisions of Section 10177(d) of the Code.

18 XIX

19 The acts and/or omissions of ROBINSON and WR COMPANY as
20 alleged in Paragraphs VII through XIV constitute grounds for
21 disciplinary action under the provisions of Section 10137 of the
22 Code.

23 XX

24 The acts and/or omissions of Respondents ROBINSON and
25 WR COMPANY as alleged in Paragraph XV above violate Section 10148
26 of the Code and constitute grounds for disciplinary action under
27 the provisions of Section 10177(d) of the Code.

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XXI

The acts and/or omissions of Respondents ROBINSON and
WR COMPANY as alleged in Paragraphs VII through XVI above
constitute grounds for disciplinary action under the provisions of
Sections 10177(g) and/or 10177(h) of the Code.

XXII

The acts and/or omissions of Respondent GOODMAN as
alleged in Paragraphs XI and XII above violate Section 10145 and
constitute grounds for disciplinary action under the provisions of
Section 10177(d) of the Code.

XXIII

The acts and/or omissions of Respondent GOODMAN as
alleged in Paragraphs VIII through XII above constitute grounds
for disciplinary action under the provisions of Section 10177(g)
of the Code.

WHEREFORE, Complainant prays that a hearing be conducted
on the allegations of the Accusation and that upon proof thereof,
a decision be rendered imposing disciplinary action against all
licenses and license rights of Respondent 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.


NORMAN G. CATALANO
Deputy Real Estate Commissioner

Dated at San Francisco, California

this 6th day of April, 1992.