

1 Department of Real Estate  
2 P.O. Box 137007  
3 Sacramento, CA 95813-7007

4 Telephone: (916) 576-8700

**FILED**

SEP 23 2022

DEPARTMENT OF REAL ESTATE  
By B. McQuinn

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7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of

12 NIELSEN PROPERTY MANAGERS, INC.;

13 and

14 PATRICIA ANN NIELSEN, individually and  
15 as designated officer of Nielsen Property  
16 Managers, Inc.,

17 Respondents.)

No. H-7115 SAC

STIPULATION AND  
AGREEMENT

18 It is hereby stipulated by and between NIELSEN PROPERTY MANAGERS,  
19 INC. (NPMI), and PATRICIA ANN NIELSEN (NIELSEN) (collectively "Respondents"), and  
20 the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real  
21 Estate (Department), as follows for the purpose of settling and disposing of the First Amended  
22 Accusation (Accusation) filed on June 28, 2022, in this matter:

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

1                   2.       Respondents have received, read, and understand the Statement to  
2 Respondent, and the Discovery Provisions of the APA filed by the Department in this  
3 proceeding.

4                   3.       Respondents filed a Notice of Defense pursuant to Section 11505 of the  
5 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.  
6 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents  
7 acknowledge that Respondents understand that by withdrawing said Notice of Defense  
8 Respondents will thereby waive Respondents' rights to require the Real Estate Commissioner  
9 (Commissioner) to prove the allegations in the Accusation at a contested hearing held in  
10 accordance with the provisions of the APA, and that Respondents will waive other rights  
11 afforded to Respondents in connection with the hearing such as the right to present evidence in  
12 defense of the allegations in the Accusation and the right to cross-examine witnesses.

13                   4.       This Stipulation and Agreement is based on the factual allegations  
14 contained in the Accusation. In the interest of expediency and economy, Respondents choose not  
15 to contest these factual allegations, but to remain silent and understand that, as a result thereof,  
16 these factual statements will serve as a prima facie basis for the "Determination of Issues" and  
17 "Order" set forth below. The Commissioner shall not be required to provide further evidence to  
18 prove such allegations.

19                   5.       This Stipulation and Agreement and Respondents' decision not to contest  
20 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and  
21 are expressly limited to this proceeding and any other proceeding or case in which the  
22 Department, the state or federal government, an agency of this state, or an agency of another state  
23 is involved.

24                   6.       Respondents understand that by agreeing to this Stipulation and  
25 Agreement, Respondents agree to pay, pursuant to Section 10148 of the California Business and  
26 Professions Code (Code), the cost of the audit, which resulted in the determination that  
27 Respondent committed the trust fund handling violation(s) found in the Determination of Issues.

1 The amount of said costs is \$6,933.

2 7. Respondents further understand that by agreeing to this Stipulation and  
3 Agreement, the findings set forth below in the Determination of Issues become final, and that  
4 the Commissioner may charge said Respondents for the costs of any audit conducted pursuant to  
5 Section 10148 of the Code to determine if the violations have been corrected. The maximum  
6 costs of said audit shall not exceed \$8,666.25.

7 8. It is understood by the parties that the Commissioner may adopt the  
8 Stipulation and Agreement as his decision in this matter thereby imposing the penalty and  
9 sanctions on the real estate licenses and license rights of Respondents as set forth in the below  
10 "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and  
11 Agreement, it shall be void and of no effect, and Respondents shall retain the right to a hearing  
12 and proceeding on the Accusation under all the provisions of the APA and shall not be bound by  
13 any admission or waiver made herein.

14 9. The Order or any subsequent Order of the Commissioner made pursuant to  
15 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further  
16 administrative or civil proceedings by the Department with respect to any matters which were not  
17 specifically alleged to be causes for action in Accusation H-7115 SAC.

18 \* \* \*

19 DETERMINATION OF ISSUES

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

23 I

24 The acts and omissions of Respondents as described in the Accusation are  
25 grounds for the suspension or revocation of Respondents' licenses and license rights under the  
26 following sections of the Code and Title 10, Chapter 6, of the California Code of Regulations  
27 (Regulations):

1 As to Paragraphs 10 and 11, under Section 10177(d) of the Code in conjunction  
2 with Section 10145 of the Code and Section 2832.1 of the Regulations; and

3 As to Paragraph 12, under Section 10177(d) of the Code in conjunction with  
4 Section 2831.2 of the Regulations.

5 II

6 The acts and/or omissions of NIELSEN as described in the Accusation is cause  
7 for the suspension or revocation of NIELSEN's license and/or license rights under Section  
8 10177(h) of the Code.

9 \* \* \*

10 ORDER

11 I

12 All licenses and licensing rights of NPMI under the Real Estate Law are  
13 suspended for a period of thirty (30) days from the effective date of this Order; provided,  
14 however, that:

15 1) Fifteen (15) days of said suspension shall be stayed, upon the condition that NPMI  
16 petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to Section  
17 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total monetary penalty  
18 of \$750.

19 a) Said payment shall be in the form of a cashier's check made payable to the  
20 Department of Real Estate. Said check must be delivered to the Department of Real Estate, Flag  
21 Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this  
22 Order.

23 b) No further cause for disciplinary action against the Real Estate licenses of NPMI  
24 occurs within two (2) years from the effective date of the decision in this matter.

25 c) If NPMI fails to pay the monetary penalty as provided above prior to the effective  
26 date of this Order, the stay of the suspension shall be vacated as to NPMI and the order of  
27 suspension shall be immediately executed, under this Order, in which event NPMI shall not be

1 entitled to any repayment nor credit, prorated or otherwise, for the money paid to the Department  
2 under the terms of this Order.

3 d) If NPMI pays the monetary penalty and any other moneys due under this  
4 Stipulation and Agreement and if no further cause for disciplinary action against the real estate  
5 license of NPMI occurs within two (2) years from the effective date of this Order, the entire stay  
6 hereby granted this Order, as to NPMI only, shall become permanent.

7 2) Fifteen (15) days of said suspension shall be stayed for two (2) years upon the  
8 following terms and conditions:

9 a) NPMI shall obey all laws, rules and regulations governing the rights, duties and  
10 responsibilities of a real estate licensee in the State of California; and,

11 b) That no final subsequent determination be made, after hearing or upon stipulation,  
12 that cause for disciplinary action occurred within two (2) years from the effective date of this  
13 Order. Should such a determination be made, the Commissioner may, in his discretion, vacate  
14 and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no  
15 such determination be made, the stay imposed herein shall become permanent.

## 16 II

17 All licenses and licensing rights of NIELSEN under the Real Estate Law are  
18 suspended for a period of thirty (30) days from the effective date of this Order; provided,  
19 however, that:

20 1) Fifteen (15) days of said suspension shall be stayed, upon the condition that  
21 NIELSEN petition pursuant to Section 10175.2 of the Code and pays a monetary penalty  
22 pursuant to Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total  
23 monetary penalty of \$750.

24 a) Said payment shall be in the form of a cashier's check made payable to the  
25 Department of Real Estate. Said check must be delivered to the Department of Real Estate, Flag  
26 Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this  
27 Order.

1           b)     No further cause for disciplinary action against the Real Estate licenses of  
2 NIELSEN occurs within two (2) years from the effective date of the decision in this matter.

3           c)     If NIELSEN fails to pay the monetary penalty as provided above prior to the  
4 effective date of this Order, the stay of the suspension shall be vacated as to NIELSEN and the  
5 order of suspension shall be immediately executed, under this Order, in which event NIELSEN  
6 shall not be entitled to any repayment nor credit, prorated or otherwise, for the money paid to the  
7 Department under the terms of this Order.

8           d)     If NIELSEN pays the monetary penalty and any other moneys due under this  
9 Stipulation and Agreement and if no further cause for disciplinary action against the real estate  
10 license of NIELSEN occurs within two (2) years from the effective date of this Order, the entire  
11 stay hereby granted this Order, as to NIELSEN only, shall become permanent.

12           2)           Fifteen (15) days of said suspension shall be stayed for two (2) years upon the  
13 following terms and conditions:

14           a)     NIELSEN shall obey all laws, rules and regulations governing the rights, duties  
15 and responsibilities of a real estate licensee in the State of California; and,

16           b)     That no final subsequent determination be made, after hearing or upon stipulation,  
17 that cause for disciplinary action occurred within two (2) years from the effective date of this  
18 Order. Should such a determination be made, the Commissioner may, in his discretion, vacate  
19 and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no  
20 such determination be made, the stay imposed herein shall become permanent.

21           3)           All licenses and licensing rights of NIELSEN are indefinitely suspended unless or  
22 until NIELSEN provides proof satisfactory to the Commissioner, of having taken and  
23 successfully completed the continuing education course on trust fund accounting and handling  
24 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of  
25 satisfaction of these requirements includes evidence that NIELSEN has successfully completed  
26 the trust fund account and handling continuing education courses, no earlier than 120 days prior  
27 to the effective date of the Decision and Order in this matter. Proof of completion of the trust

1 fund accounting and handling course must be delivered to the Department of Real Estate, Flag  
2 Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the  
3 effective date of this Decision and Order.

4 III

5 1) Pursuant to Section 10148 of the Code, Respondents shall pay the sum of \$6,933  
6 for the Commissioner's cost of the audit which led to this disciplinary action. Respondents shall  
7 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.  
8 Payment of audit costs should not be made until Respondents receive the invoice. If  
9 Respondents fail to satisfy this condition in a timely manner as provided for herein, Respondents'  
10 real estate license shall automatically be suspended until payment is made in full, or until a  
11 decision providing otherwise is adopted following a hearing held pursuant to this condition.

12 2) Pursuant to Section 10148 of the Code, Respondents shall pay the Commissioner's  
13 reasonable cost, not to exceed \$8,666.25, for an audit to determine if Respondents have corrected  
14 the violation(s) found in the Determination of Issues. In calculating the amount of the  
15 Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary  
16 for all persons performing audits of real estate brokers, and shall include an allocation for travel  
17 time to and from the auditor's place of work. Respondents shall pay such costs within sixty (60)  
18 days of receiving an invoice therefore from the Commissioner. Payment of the audit costs should  
19 not be made until Respondents receive the invoice. If Respondents fail to satisfy this condition  
20 in a timely manner as provided for herein, Respondents' real estate license shall automatically be  
21 suspended until payment is made in full, or until a decision providing otherwise is adopted  
22 following a hearing held pursuant to this condition.

23  
24 8-Aug-22

25 DATED

26 

27 TRULY SUGHRUE  
Counsel for Complainant

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1 I have read the Stipulation and Agreement, and its terms are understood by me  
2 and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the  
3 California Administrative Procedure Act, and I willingly, intelligently and voluntarily waive  
4 those rights, including the right of requiring the Commissioner to prove the allegations in the  
5 Accusation at a hearing at which I would have the right to cross-examine witnesses against me  
6 and to present evidence in defense and mitigation of the charges.

7 Respondents further agree to send the original signed Stipulation and Agreement  
8 by mail to the following address no later than one (1) week from the date the Stipulation and  
9 Agreement is signed by Respondents and Respondents' attorney: *Department of Real Estate,*  
10 *Legal Section, P.O. Box 137007, Sacramento, California 95813-7007.* Respondents and  
11 Respondents' attorney understand and agree that if they fail to return the original signed  
12 Stipulation and Agreement by the due date, Complainant retains the right to set this matter for  
13 hearing.

14  
15 8-5-22  
16 DATED

  
17 Patricia Ann Nielsen, Designated Officer  
18 NIELSEN PROPERTY MANAGERS, INC.,  
19 Respondent

20 8-5-22  
21 DATED

  
22 PATRICIA ANN NIELSEN  
23 Respondent

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The foregoing Stipulation and Agreement is hereby adopted as my Decision and  
Order and shall become effective at 12 o'clock noon on OCT 14 2022.

IT IS SO ORDERED 9.17.22.

DOUGLAS R. McCAULEY  
REAL ESTATE COMMISSIONER

