

By Jean B. Smith

- 1 -

III

At all times herein mentioned, BCI was and is licensed by the Department of Real Estate (hereafter the Department) as a real estate broker corporation, and the license expired on April 13, 1997, subject to the right of late renewal thereof. BCI was so licensed through Respondent DEAN HENRY NYGAARD as the designated broker officer of BCI. NYGAARD's designated broker officer license was cancelled effective June 26, 1995.

IV

At no time herein was MERLE HOWARD VOYLES (hereafter VOYLES) licensed by the Department as either a real estate broker or salesperson. At all times herein mentioned, VOYLES was an owner of ten percent or more of the shares of BCI.

V

At all times herein mentioned, Respondent BCI engaged in the business of, acted in the capacity of, advertised or 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 wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed, and consummated on behalf of others, for or in expectation of compensation.

FINDINGS OF FACT ON FIRST CAUSE OF ACTION

VI

Beginning in at least February of 1994, VOYLES was employed as a real estate broker, salesperson and/or loan agent with BCI. VOYLES performed acts for BCI, for or in expectation of compensation, and solicited, negotiated and processed loans to be secured by deeds of trust to real property in various transactions, including but not limited to the following:

LENDER	AMOUNT	DATE	PROPERTY	BORROWER
1. Iusi	\$80,000	3/21/94	220 East Canyon View, Ben Lomand	Dempster
2. Iusi	\$80,000	7/27/94	1848 Cunningham Ave., San Jose	Sosa
3. Iusi	\$16,000	2/28/95	7940 Applewood Court, Pleasanton	Winter
4. Iusi	\$40,000	3/20/95	257 Mountain View Ave. Mountain View	Davis

VII

The acts and services performed by VOYLES as above described are acts and services requiring a real estate license under the provisions of Sections 10131(d) of the Code. Respondents BCI and NYGAARD permitted and/or ratified some or all of the above acts, activities and services to be performed on behalf of BCI by VOYLES, and/or so employed VOYLES, when he was not licensed by the Department either as a real estate broker or salesperson.

FINDINGS OF FACT ON THIRD CAUSE OF ACTION

VIII

In connection with the fourth loan alleged in Paragraph VI above, in the sum of \$40,000 to Robert and Susan Davis (hereafter the Borrowers), the purpose of the loan was for construction financing on their residence at 257 Mountain View Avenue, Mountain View, California. In or about March of 1995, BCI and VOYLES represented to Borrowers that the net loan proceeds would be held in trust for them in an interest bearing account by BCI, and disbursed to them as needed for construction.

IX

On or about March 30, 1995, escrow for the Davis loan closed and the sum of \$27,514 was disbursed from the title company to BCI by a check payable to "Baseline Capital, Inc. for account of Davis." BCI failed to deposit the funds into a trust account as required by law, and thereafter VOYLES converted the funds to his own uses and purposes and for purposes not authorized by the owners of the funds. VOYLES knew or should have known at the time of the above representations to Borrowers that they were false, and intended to convert the funds as alleged

X

In negotiating both the Davis loan and the Winter loan in February and March of 1995 as alleged in Paragraphs VI, and VIII above, BCI conducted activities for which an active real estate broker corporation license is required under a duly licensed designated broker officer, at a time when BCI in fact did not have a designated broker officer.

FINDINGS OF FACT ON FOURTH CAUSE OF ACTION

XI

On or about May 1, 1995, pursuant to the provisions of Section 23302 of the Revenue and Taxation Code of the State of California, the corporate powers, rights and privileges of BCI were suspended by the State.

DETERMINATION OF ISSUES

I

The acts and/or omissions of Respondent BCI as found above regarding the First Cause of Action constitute grounds for disciplinary action under the provisions of Section 10137 of the Code.

II

The acts and/or omissions of Respondent BCI as found above regarding the Third Cause of Action constitute grounds for disciplinary action as follows:

The acts and/or omissions of VOYLES as alleged in Paragraphs VI through IX above violate Section 10130 of the Code, and would have violated Sections 10145, 10176(a) and 10176(i) of the Code if VOYLES had been licensed by the Department at the time, and would have warranted the denial of his application for licensure under Sections 10177(d) and 10177(f) of the Code. VOYLES' above acts and/or omissions were conducted by an officer, director or shareholder owning or controlling ten percent or more of the corporation's stock, and would also have warranted the denial of BCI's application for licensure under Section 10177(f) of the Code. The above violations of VOYLES constitute grounds for disciplinary action against BCI under Section 10177, and Section 10177(f) of the Code.

III

The acts and/or omissions of Respondent BCI as found above regarding the Third Cause of Action violate Sections 10130, 10145 and 10211 of the Code, and Section 2740 of Title 10, California Code of Regulations (hereafter the Regulations), and constitute grounds for disciplinary action under Section 10177(d) of the Code.

IV

The acts and/or omissions of Respondent BCI as found above regarding the Fourth Cause of Action would have been grounds for the denial of a real estate license under Section 2742(a) of the Regulations, and constitute grounds for disciplinary action against BCI under Section 10177(f) of the Code. Said facts violate Section 2742(c) of the Regulations and constitute grounds for disciplinary action against BCI under Section 10177(d) of the Code.

V

The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

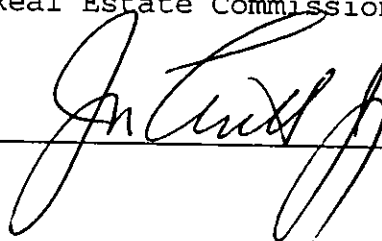
The licenses and license rights of Respondent BASELINE CAPITAL, INC. under the provisions of Part I of Division 4 of the Business and Professions Code are revoked pursuant to Determinations of Issues I through IV above, jointly and severally.

This Decision shall become effective at 12 o'clock noon on
January 26, 1998

DATED: _____

12/17/97

JAMES ANTT, JR.
Real Estate Commissioner

A handwritten signature in dark ink, appearing to read "James Antt, Jr.", is written over a horizontal line.

FILED
AUG 21 1997

DEPARTMENT OF REAL ESTATE
P. O. Box 187000
Sacramento, California 95818-7000
Telephone: (916) 227-0789

DEPARTMENT OF REAL ESTATE

By Shelly Ely

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
BASELINE CAPITAL, INC.,)
Respondents.)

NO. H-7416 SF

DEFAULT ORDER

Respondent, BASELINE CAPITAL, INC., having failed to file a Notice of Defense within the time required by Section 11506 of the Government Code, is now in default. It is, therefore, ordered that a default be entered on the record in this matter as to said corporation.

IT IS SO ORDERED August 21, 1997

JIM ANTT, JR.
Real Estate Commissioner

Steven J. Ellis

By: STEVEN J. ELLIS
Regional Manager



1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789
5
6
7

FILED
SEP 16 1997

DEPARTMENT OF REAL ESTATE

Shelly Ely

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-7416 SF
12 BASELINE CAPITAL, INC.,)
13 and DEAN HENRY NYGAARD,) STIPULATION AND AGREEMENT
14 Respondents.) AS TO
) DEAN HENRY NYGAARD ONLY

15 It is hereby stipulated by and between DEAN HENRY
16 NYGAARD only (Respondent), represented by Steven A. Micheli,
17 Attorney at Law, and the Complainant, acting by and through
18 Deidre L. Johnson, Counsel for the Department of Real Estate, as
19 follows for the purpose of settling and disposing the Accusation
20 filed on December 3, 1996 in this matter:

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

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

5 3. On May 5, 1997, Respondent filed his Notice of
6 Defense pursuant to Section 11505 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges that he
10 understands that by withdrawing said Notice of Defense he will
11 thereby waive his right to require the Commissioner to prove the
12 allegations in the Accusation at a contested hearing held in
13 accordance with the provisions of the APA, and that he will waive
14 other rights afforded to him in connection with the hearing such
15 as the right to present evidence in defense of the allegations in
16 the Accusation and the right to cross-examine witnesses.

17 4. Respondent, pursuant to the limitations set forth
18 below, hereby admits that the factual allegations in Paragraphs I
19 through VI of the Accusation filed in this proceeding as to him
20 are true and correct and the Real Estate Commissioner shall not be
21 required to provide further evidence of such allegations.

22 5. Without admitting the truth of the allegations
23 contained in Paragraphs VII through XX of the Accusation as to
24 him, Respondent stipulates that he will not interpose a defense
25 thereto. Respondent stipulates that the Department may issue
26 findings and determinations of issues that the acts and/or
27 omissions of Respondent as stipulated above constitute grounds for



1 disciplinary action as set forth herein. A true copy of the
2 Accusation is attached hereto as Annex A and incorporated herein
3 by reference.

4 6. No additional documentary, testimonial, or other
5 evidence, except that which is necessary to establish
6 Complainant's jurisdiction, shall be required to be presented by
7 Complainant at any hearing in this proceeding in order to prove
8 the Accusation as above stipulated.

9 7. Respondent enters into this stipulation for purposes
10 of this Accusation only, and the execution of this stipulation
11 shall not be construed to be an admission of liability except as
12 may pertain to the grounds for the stipulation, and shall not be
13 construed to be an admission for any purpose whatsoever, pursuant
14 to the provisions of California Evidence Code Section 1152.

15 8. It is understood by the parties that the Real Estate
16 Commissioner may adopt the Stipulation and Agreement as his
17 decision in this matter thereby imposing the penalty and sanctions
18 on Respondent's real estate license and license rights as set
19 forth in the below "Order." In the event that the Commissioner in
20 his discretion does not adopt the Stipulation and Agreement, it
21 shall be void and of no effect; and Respondent shall retain the
22 right to a hearing and proceeding on the Accusation under all the
23 provisions of the APA and shall not be bound by any admission or
24 waiver made herein.

25 9. The Order or any subsequent Order of the Real Estate
26 Commissioner made pursuant to this Stipulation and Agreement shall
27 not constitute an estoppel, merger or bar to any further



1 administrative or civil proceedings by the Department of Real
2 Estate with respect to any matters which were not specifically
3 alleged to be causes for accusation in this proceeding.

4 DETERMINATION OF ISSUES

5 By reason of the foregoing stipulations, admissions and
6 waivers and for the purpose of settlement of the pending
7 Accusation as to Respondent without a hearing, it is stipulated
8 and agreed that the following determination of issues shall be
9 made:

10 I

11 The acts and/or omissions of Respondent DEAN HENRY
12 NYGAARD as stipulated above violate Section 10137 of the
13 California Business and Professions Code (the Code), and Section
14 2710(c) of Title 10, California Code of Regulations, and
15 constitute grounds for disciplinary action against the real estate
16 license(s) and license rights of Respondent under the provisions
17 of Sections 10177(d), 10177(g) and 10177(h) of the Code.

18 ORDER

19 A. All real estate licenses and license rights of
20 Respondent DEAN HENRY NYGAARD are hereby revoked.

21 B. A restricted real estate broker license shall be
22 issued to Respondent pursuant to Section 10156.6 of the Code if he
23 makes application therefor and pays to the Department the
24 appropriate fee for said license within ninety (90) days of the
25 effective date of the decision.

26 C. The restricted license issued to Respondent shall be
27 subject to all of the provisions of Section 10156.7 of the



1 Business and Professions Code and to the following limitations
2 imposed under authority of Section 10156.6 of said Code:

3 (1) The restricted license may be suspended prior to
4 hearing by order of the Real Estate Commissioner
5 in the event of Respondent's conviction or plea of
6 nolo contendere to a crime which bears a
7 substantial relationship to Respondent's fitness
8 or capacity as a real estate licensee.

9 (2) The restricted license may be suspended prior to
10 hearing by Order of the Real estate Commissioner
11 on evidence satisfactory to the Commissioner
12 that Respondent has violated provisions of
13 the California Real Estate Law, the Subdivided
14 Lands Law, Regulations of the Real Estate
15 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,
19 nor the removal of any of the conditions of the
20 restricted license, until one (1) year has elapsed
21 from the date of issuance of the restricted
22 license.

23 (4) Respondent shall, within nine (9) months from the
24 effective date of this decision, present evidence
25 satisfactory to the Real Estate Commissioner that
26 he has, since the most recent issuance of an
27 original or renewal real estate license, taken and



1 successfully completed the continuing education
2 requirements of Article 2.5 of Chapter 3 of the
3 Real Estate Law for renewal of a real estate
4 license. If Respondent fails to satisfy this
5 condition, the Commissioner may order the
6 suspension of the restricted license until the
7 Respondent presents such evidence. The
8 Commissioner shall afford Respondent the
9 opportunity for hearing pursuant to the
10 Administrative Procedure Act to present such
11 evidence.

12 (5) Respondent shall, within six (6) months from the
13 effective date of this Decision, take and pass the
14 Professional Responsibility Examination
15 administered by the Department including the
16 payment of the appropriate examination fee. If
17 Respondent fails to satisfy this condition, the
18 Commissioner may order suspension of the
19 restricted license until Respondent passes the
20 examination.

21
22 DATED:

August 8, 1997

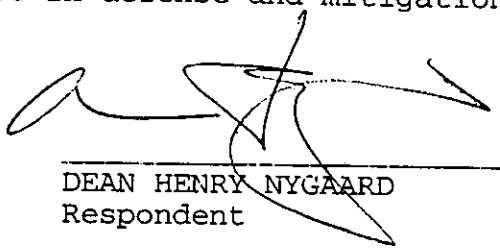

DEIDRE L. JOHNSON
Counsel for the Complainant

23
24 * * *

25 I have read the Stipulation in Settlement and Agreement,
26 have discussed it with my counsel, and its terms are understood by
27 me and are agreeable and acceptable to me. I understand that I am

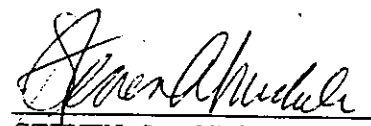
1 waiving rights given to me by the California Administrative
2 Procedure Act, and I willingly, intelligently and voluntarily
3 waive those rights, including the right of requiring the
4 Commissioner to prove the allegations in the Accusation at a
5 hearing at which I would have the right to cross-examine witnesses
6 against me and to present evidence in defense and mitigation of
7 the charges.

8 DATED: 7/31/97


DEAN HENRY NYGAARD
Respondent

10 APPROVED AS TO FORM:

11 DATED: 8/4/97


STEVEN A. MICHELI
Attorney for Respondent

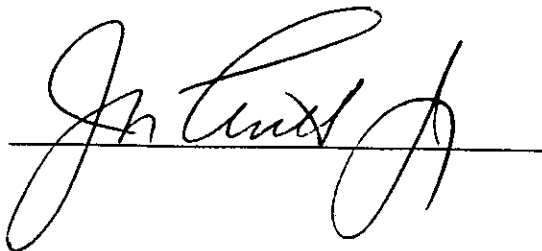
13 * * *

14 DECISION

15 The foregoing Stipulation and Agreement is hereby
16 adopted as my Decision and shall become effective at 12 o'clock
17 noon on October 6, 1997.

18 IT IS SO ORDERED 8/18, 1997.

19 JIM ANTT, JR.
20 Real Estate Commissioner

21 



FILED

JUN 5 1997

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Shelly Ely

In the Matter of the Accusation of

DEAN HENRY NYGAARD

Case No. H-7416 SF

OAH No. N1997050516

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 _____

The Office of Administrative Hearings, World Savings Tower,

1970 Broadway, Second Floor, Oakland, California 94612

on Monday -- August 4, 1997, at the hour of 10:00 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: June 3, 1997

By

Deidre L. Johnson
DEIDRE L. JOHNSON

Counsel

1 DEIDRE L. JOHNSON, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789

FILED
DEC 3 1996
DEPARTMENT OF REAL ESTATE

Shelly Ely

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

11 * * *

12 In the Matter of the Accusation of)
13 BASELINE CAPITAL, INC.,) NO. H-7416 SF
14 and DEAN HENRY NYGAARD,) ACCUSATION
15 Respondents.)

16
17 The Complainant, Les R. Bettencourt, a Deputy Real
18 Estate Commissioner of the State of California, for causes of
19 Accusation against BASELINE CAPITAL, INC., and DEAN HENRY NYGAARD,
20 is informed and alleges as follows:

21 PRELIMINARY ALLEGATIONS

22 I

23 The Complainant, Les R. Bettencourt, a Deputy Real
24 Estate Commissioner of the State of California, makes this
25 Accusation against Respondents in his official capacity and not
26 otherwise.

27 ///

1

II

2 Respondents BASELINE CAPITAL, INC., and DEAN HENRY
3 NYGAARD are presently licensed and/or have license rights under
4 the Real Estate Law, Part 1 of Division 4 of the California
5 Business and Professions Code (hereafter the Code).

6

III

7 At all times herein mentioned, Respondent BASELINE
8 CAPITAL, INC. (hereafter BCI) was and is licensed by the
9 Department of Real Estate (hereafter the Department) as a real
10 estate broker corporation, and the license will expire on
11 April 13, 1997. Effective June 26, 1995, the corporate license
12 was cancelled..

13

IV

14 At all times herein mentioned, Respondent DEAN HENRY
15 NYGAARD was and is licensed by the Department as a real estate
16 broker, and, from April 14, 1993 to June 26, 1995, as the
17 designated broker officer of BCI. His individual broker license
18 will expire on November 19, 1997, and the designated broker
19 officer license was cancelled effective June 26, 1995.

20

V

21 At no time herein was MERLE HOWARD VOYLES (hereafter
22 VOYLES) licensed by the Department as either a real estate broker
23 or salesperson. At all times herein mentioned, VOYLES was an
24 owner of ten percent or more of the shares of BCI.

25

VI

26 At all times herein mentioned, Respondent BCI engaged in
27 the business of, acted in the capacity of, advertised or assumed



1 to act as a real estate broker within the State of California,
2 including the operation and conduct of a mortgage loan brokerage
3 business with the public wherein lenders and borrowers were
4 solicited for loans secured directly or collaterally by liens on
5 real property, wherein such loans were arranged, negotiated,
6 processed, and consummated on behalf of others, for or in
7 expectation of compensation.

8
9 FIRST CAUSE OF ACTION

10 VII

11 Beginning in at least February of 1994, VOYLES was
12 employed as a real estate broker, salesperson and/or loan agent
13 with BCI. VOYLES performed acts for BCI, for or in expectation of
14 compensation, and solicited, negotiated and processed loans to be
15 secured by deeds of trust to real property in various
16 transactions, including but not limited to the following:

17

18 LENDER	AMOUNT	DATE	PROPERTY	BORROWER
19 1. Isui	\$80,000	3/21/94	220 East Canyon View, 20 Ben Lomand	Dempster
21 2. Isui	\$80,000	7/27/94	1848 Cunningham Ave., 22 San Jose	Sosa
23 3. Isui	\$16,000	2/28/95	7940 Applewood Court, 24 Pleasanton	Winter
25 4. Isui	\$40,000	3/20/95	257 Mountain View 26 Ave., Mountain View	Davis

27

VIII

The acts and services performed by VOYLES as above described are acts and services requiring a real estate license under the provisions of Sections 10131(d) of the Code. Respondents BCI and NYGAARD permitted and/or ratified some or all of the above acts, activities and services to be performed on behalf of BCI by VOYLES, and/or so employed VOYLES, when he was not licensed by the Department either as a real estate broker or salesperson. Said acts and/or omissions of BCI and NYGAARD constitute grounds for disciplinary action under Section 10137 of the Code.

SECOND CAUSE OF ACTION

IX

Effective on or about December 31, 1994, NYGAARD resigned his position as the designated broker officer of BCI and terminated his relationship with the company.

X

NYGAARD thereafter failed to file a notice of the above change in his license information or status with the Department not later than five days after the effective date of the change. NYGAARD's designated broker license with BCI was not cancelled with the Department until on or about June 26, 1995.

XI

By reason of the above acts and/or omissions, NYGAARD violated Section 2710(c) of Title 10, California Code of Regulations (hereafter the Regulations) and Section 10177(d) of the Code.

1 THIRD CAUSE OF ACTION

2 XII

3 In connection with the fourth loan alleged in Paragraph
4 VII above, in the sum of \$40,000 to Robert and Susan Davis
5 (hereafter the Borrowers), the purpose of the loan was for
6 construction financing on their residence at 257 Mountain View
7 Avenue, Mountain View, California. In or about March of 1995, BCI
8 and VOYLES represented to Borrowers that the net loan proceeds
9 would be held in trust for them in an interest bearing account by
10 BCI, and disbursed to them as needed for construction.

11 XIII

12 On or about March 30, 1995, escrow for the Davis loan
13 closed and the sum of \$27,514 was disbursed from the title company
14 to BCI by a check payable to "Baseline Capital, Inc. for account
15 of Davis." BCI failed to deposit the funds into a trust account
16 as required by law, and thereafter VOYLES converted the funds to
17 his own uses and purposes and for purposes not authorized by the
18 owners of the funds. VOYLES knew or should have known at the time
19 of the above representations to Borrowers that they were false,
20 and intended to convert the funds as alleged.

21 XIV

22 In negotiating both the Davis loan and the Winter loan
23 in February and March of 1995 as alleged in Paragraphs VII, XII
24 and XIII above, BCI conducted activities for which an active real
25 estate broker corporation license is required under a duly
26 licensed designated broker officer, at a time when BCI in fact did
27 not have a designated broker officer.

XV

The acts and/or omissions of BCI as alleged in Paragraphs XII, XIII, and XIV above violate Sections 10130, 10145 and 10211 of the Code, and Section 2740 of the Regulations, and constitute grounds for disciplinary action under Section 10177(d) of the Code.

XVI

The above acts and/or omissions of VOYLES as alleged in Paragraphs XII and XIII above violate Section 10130 of the Code, and would have violated Sections 10145, 10176(a) and 10176(i) of the Code if VOYLES had been licensed by the Department at the time, and would have warranted the denial of his application for licensure under Sections 10177(d), 10177(f) and/or 10177(j) of the Code. VOYLES' above acts and/or omissions were conducted by an officer, director or shareholder owning or controlling ten percent or more of the corporation's stock, and would also have warranted the denial of BCI's application for licensure under Section 10177(f) of the Code. The above violations of VOYLES constitute grounds for disciplinary action against BCI under Section 10177(d), 10177(f) and/or 10177(j) of the Code.

FOURTH CAUSE OF ACTION

XVII

On or about May 1, 1995, pursuant to the provisions of Section 23302 of the Revenue and Taxation Code of the State of California, the corporate powers, rights and privileges of BCI were suspended by the State.



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
26
27

XVIII

The facts set forth above would have been grounds for the denial of a real estate license under Section 2742(a) of the Regulations, and constitute grounds for disciplinary action against BCI under Section 10177(f) of the Code. Said facts violate Section 2742(c) of the Regulations and constitute grounds for disciplinary action against BCI under Section 10177(d) of the Code.

FIFTH CAUSE OF ACTION

XIX

At all times above mentioned at least through December 31, 1994, NYGAARD was responsible, as the officer designated by BCI, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees, and failed to so exercise reasonable supervision and control. NYGAARD was negligent and/or incompetent in performing acts for which a real estate license is required, in that he knew or should have known all the facts set forth in the above allegations at least through December 31, 1994, and in that he could have and should have taken steps to assure BCI's full compliance with the Real Estate Law and failed to do so.

XX

The acts and/or omissions of NYGAARD as alleged above constitute grounds for disciplinary action under the provisions of Sections 10177(g) and 10177(h) of the Code.

///

1 WHEREFORE, Complainant prays that a hearing be conducted
2 on the allegations of this Accusation and that upon proof thereof
3 a decision be rendered imposing disciplinary action against all
4 licenses and license rights of Respondents, under the Real Estate
5 Law (Part 1 of Division 4 of the Business and Professions Code)
6 and for such other and further relief as may be proper under other
7 provisions of law.

8

9

10

11

12

13

14

15

16 Dated at San Francisco, California,

17 this 25th day of November, 1996.

18

19

20

21

22

23

24

25

26

27


LES R. BETTENCOURT
Deputy Real Estate Commissioner

