

1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, California 90012
4 Telephone: (213) 897-3937
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FILED
JUN 13 1997
DEPARTMENT OF REAL ESTATE

By C. By

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of)
12 NATIONAL HOME FUNDING CORPORATION,) NO. H-26600 LA
13 a corporation, dba Top Funding, Inc.) L-9609208
14 and Union Mortgage Services; and)
15 JEANNIE F. YOUNG, individually)
16 and as designated officer)
17 of National Home Funding Corporation,)
18 Respondents.)

19 In the Matter of the Accusation of)
20 SOUTHLAND CAPITAL MORTGAGE CORP.,) NO. H-26680 LA
21 a corporation; and) L-9609093
22 JEANNIE F. YOUNG, individually)
23 and as designated officer)
24 of Southland Capital Mortgage Corp.,)
25 Respondents.)

26 STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

27 It is hereby stipulated by and between Respondents,
28 NATIONAL HOME FUNDING CORPORATION, a corporation, dba Top
29 Funding, Inc. and Union Mortgage Services (hereinafter "NHFC");
30 JEANNIE F. YOUNG, individually and as designated officer of
31 National Home Funding Corporation and of Southland Capital

1 Mortgage (hereinafter "YOUNG"); and SOUTHLAND CAPITAL MORTGAGE
2 CORP., a corporation (hereinafter "SCM") (hereinafter sometimes
3 collectively referred to as "Respondents"), represented by W.
4 Anthony Willoughby, Esq., and the Complainant, acting by and
5 through Chris Leong, Counsel for the Department of Real Estate,
6 as follows for the purpose of settling and disposing of the
7 Accusations filed on May 8, 1996, and on July 19, 1996, in this
8 matter (hereinafter "the Accusations"):

9 A. All issues which were to be contested and all
10 evidence which was to be presented by Complainant and
11 Respondents at a formal hearing on the Accusations, which
12 hearing was to be held in accordance with the provisions of the
13 Administrative Procedure Act (APA), shall instead and in place
14 thereof be submitted solely on the basis of the provisions of
15 this Stipulation.

16 B. Respondents have received, read and understand the
17 Statement to Respondent, the Discovery Provisions of the APA and
18 the Accusation, filed by the Department of Real Estate in this
19 proceeding.

20 C. On May 20, 1996, and on August 26, 1996,
21 Respondents filed Notices of Defense pursuant to Section 11505
22 of the Government Code for the purpose of requesting a hearing
23 on the allegations in the Accusation. Respondents hereby freely
24 and voluntarily withdraw said Notices of Defense. Respondents
25 acknowledge that they understand that by withdrawing said
26 Notices of Defense they will thereby waive their right to
27 require the Commissioner to prove the allegations in the



1 Accusations at a contested hearing held in accordance with the
2 provisions of the APA and that Respondents will waive other
3 rights afforded to them in connection with the hearing, such as
4 the right to present evidence in defense of the allegations in
5 the Accusations and the right to cross-examine witnesses.

6 D. In the interest of expedience and economy,
7 Respondents choose not to contest the factual allegations in
8 Paragraphs 1 through 21 of Accusation, H-26600 LA, and
9 Paragraphs I through XI of Accusation, H-26680 LA, but to remain
10 silent and understand that, as a result thereof, these factual
11 statements, without being admitted or denied, will serve as a
12 prima facie basis for the disciplinary action stipulated to
13 herein. This Stipulation and Agreement in Settlement and Order
14 and the findings based on Respondents' decision not to contest
15 the Accusations are hereby expressly limited to this proceeding
16 and made for the sole purpose of reaching an agreed disposition
17 of this proceeding. Respondents' decision not to contest the
18 factual allegations is made solely for the purpose of
19 effectuating this Stipulation and is intended by Respondents to
20 be non-binding upon them in any actions against Respondents by
21 third parties. The Real Estate Commissioner shall not be
22 required to provide further evidence to prove such allegations.

23 E. It is understood by the parties that the Real
24 Estate Commissioner may adopt the Stipulation and Agreement in
25 Settlement and Order as his Order in this matter thereby
26 imposing the penalty and sanctions on Respondents' real estate
27 licenses and license rights as set forth in the "Order" below.



1 In the event that the Commissioner in his discretion does not
2 adopt the Stipulation and Agreement in Settlement and Order, the
3 Stipulation and Agreement in Settlement and Order shall be void
4 and of no effect, and Respondents shall retain the right to a
5 hearing and proceeding on the Accusations under all the
6 provisions of the APA and shall not be bound by any admission or
7 waiver made herein.

8 DETERMINATION OF ISSUES

9 By reason of the foregoing stipulations, admissions
10 and waivers and solely for the purpose of settlement of the
11 pending Accusations without a hearing, it is stipulated and
12 agreed that the following Determination of Issues shall be made:

13 The acts and omissions of Respondents YOUNG and NHFC,
14 described in Paragraph D, above, for H-26600 LA, are in
15 violation of Sections 10145, 10159.2, 10163 and 10240 of the
16 Code and Sections 2725, 2726, 2731, 2752, 2831, 2831.2, 2832,
17 2833 and 2834 of the Regulations and are cause for the
18 suspension or revocation of the licenses and license rights of
19 Respondents pursuant to Sections 10177(d) and 10177(h) of the
20 Code.

21 The acts and omissions of Respondents YOUNG and SMC,
22 described in Paragraph D, above, for H-26680 LA, are in
23 violation of Sections 10145, 10159.2 and 10240 of the Code and
24 Sections 2830, 2831, 2831.2, 2833 and 2840 of the Regulations
25 and are cause for the suspension or revocation of the licenses
26 and license rights of Respondents pursuant to Sections 10177(d)
27 and 10177(h) of the Code.

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

A. The licenses and license rights of Respondents NHFC, SMC and YOUNG, under the provisions of Part 1 of Division 4 of the Business and Professions Code, are hereby revoked commencing on the effective date of this Order.

1. However, Respondents NHFC and SMC shall be entitled to apply for and be issued restricted corporate real estate broker licenses, and YOUNG shall be entitled to apply for and be issued a restricted real estate broker license pursuant to Section 10156.5 of the Code, if Respondents make application therefore and pay to the Department the appropriate fee for said licenses within six months from the effective date of this Order.

2. The restricted licenses issued to Respondents 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 the Code.

3. The restricted licenses may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondents' conviction or plea of nolo contendere to a crime which bears a significant relationship to Respondents' fitness or capacity as real estate licensees.

4. The restricted licenses may be suspended, after final determination after formal hearing by Order of the Real Estate Commissioner based upon evidence satisfactory to the

1 Commissioner that Respondents have, subsequent to the date
2 hereof, violated provisions of the California Real Estate Law,
3 the Subdivided Lands Law, Regulations of the Real Estate
4 Commissioner or conditions attaching to the restricted licenses.

5 5. Respondents shall not be eligible to apply for the
6 issuance of unrestricted real estate licenses nor the removal of
7 any of the conditions, limitations or restrictions of the
8 restricted licenses until at least one year has elapsed from the
9 date of this Order.

10 6. Respondents shall obey all laws of the United
11 States, the State of California and its political subdivisions,
12 and shall further obey and comply with all rules and regulations
13 of the Real Estate Commissioner.

14 7. Respondent YOUNG shall, within 12 months from the
15 effective date of this Order, present evidence satisfactory to
16 the Real Estate Commissioner that she has, since the most recent
17 issuance of an original or renewal real estate license, taken
18 and successfully completed the continuing education requirements
19 of Article 2.5 of Chapter 3 of the Real Estate Law for renewal
20 of a real estate license. If Respondent fails to satisfy this
21 condition, the Real Estate Commissioner shall afford Respondent
22 the opportunity for a hearing pursuant to the Administrative
23 Procedure Act to present such evidence.

24 8. Respondent YOUNG shall, within one year from the
25 effective date of the restricted license, take and pass the
26 Professional Responsibility Examination administered by the
27 Department, including the payment of the appropriate examination



1 fee. If Respondent fails to satisfy this condition, the
2 Commissioner may order suspension of the restricted license
3 until Respondent passes the examination.

4 9. Respondent YOUNG shall not be a designated officer
5 of a corporate real estate broker while she has a restricted
6 license.

7 10. Respondents NHFC and SMC shall pay, pursuant to
8 Section 10148 of the Business and Professions Code, the
9 Commissioner's reasonable costs for an audit to determine if
10 Respondents have corrected the trust fund violations found in
11 the Determination of Issues. In calculating the amount of the
12 Commissioner's reasonable costs, the Commissioner may use the
13 estimated average hourly salary for all persons performing
14 audits of real estate brokers, and shall include an allocation
15 for travel costs, including mileage, time to and from the
16 auditor's place of work, and per diem. The Commissioner's
17 reasonable costs shall in no event exceed a total of \$2,500.00
18 for H-26600 LA and a total of \$1,000.00 for H-26680 LA.

19 (a) Respondents shall pay such costs within 45 days
20 of receipt of an invoice from the Commissioner detailing the
21 activities performed during the audit and the amount of time
22 spent performing those activities;

23 (b) Notwithstanding the provisions of any other
24 paragraph herein, if Respondents fail to pay, within 45 days
25 from receipt of the invoice specified above, the Commissioner's
26 reasonable costs for an audit to determine if Respondents have
27 corrected the violations found in the Determination of Issues,



1 the Commissioner may order the indefinite suspension of
2 Respondents' real estate licenses and license rights. The
3 suspension shall remain in effect until payment is made in full,
4 or until Respondents enter into an agreement satisfactory to the
5 Commissioner to provide for such payment. The Commissioner may
6 impose further reasonable disciplinary terms and conditions upon
7 Respondents' real estate licenses and license rights as part of
8 any such agreement.

9 EXECUTION OF STIPULATION

10 We have read the Stipulation and Agreement in
11 Settlement and Order and its terms are understood by us and are
12 agreeable and acceptable to us. We understand that we are
13 waiving rights given to us by the California Administrative
14 Procedure Act (including but not limited to Sections 11506,
15 11508, 11509 and 11513 of the Government Code), and we willingly,
16 intelligently and voluntarily waive those rights, including the
17 right of requiring the Commissioner to prove the allegations in
18 the Accusations at a hearing at which we would have the right to
19 cross-examine witnesses against us and to present evidence in
20 defense and mitigation of the charges.

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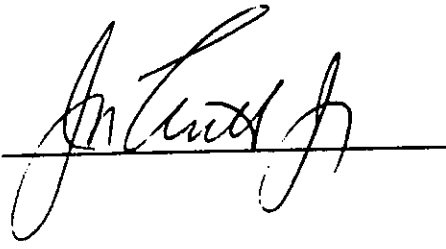
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The foregoing Stipulation and Agreement in Settlement is hereby adopted as the Order of the Real Estate Commissioner in the above-entitled matter with respect to Respondents NATIONAL HOME FUNDING CORPORATION, a corporation, dba Top Funding, Inc. and Union Mortgage Services; JEANNIE F. YOUNG, individually and as designated officer of National Home Funding Corporation and of Southland Capital Mortgage; and SOUTHLAND CAPITAL MORTGAGE CORP., a corporation.

This Order shall become effective at 12 o'clock noon on July 3, 1997.

IT IS SO ORDERED 6/10/97.

JIM ANTT, JR.
Real Estate Commissioner



Handwritten initials/signature

FILED

BEFORE THE DEPARTMENT OF REAL ESTATE - 1 1996
STATE OF CALIFORNIA DEPARTMENT OF REAL ESTATE

By *Handwritten signature*

In the Matter of the Accusation of

SOUTHLAND CAPITAL MORTGAGE CORP.,
et al.,

} **Respondent**

Case No. H-26680 LA

OAH No. L-9609093

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, 314 West First Street, Los Angeles**

on January 10, 1997, at the hour of 9:00 a.m.
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of 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: OCT - 1 1996

By *Handwritten signature: Marjorie P. Messer*
Counsel

cc: Southland Capital Mortgage Corp.
Jeannie F. Young
W. Anthony Willoughby, Esq.
Sacto OAH

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MARJORIE P. MERSEL, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
JUL 19 1996
DEPARTMENT OF REAL ESTATE

By *K. Wiedenholt*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-26680 LA
SOUTHLAND CAPITAL MORTGAGE, a)	A C C U S A T I O N
California corporation, and)	
JEANNIE F. YOUNG, individually and)	
as designated officer of Southland)	
Capital Mortgage,)	
Respondents.)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against SOUTHLAND CAPITAL MORTGAGE, (herein SOUTHLAND). a California Corporation, and JEANNIE F. YOUNG, (herein YOUNG), individually and as designated officer of SOUTHLAND, is informed and alleges as follows:

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The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in his official capacity.

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II

Respondents are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "the Code") as individual or corporate real estate brokers.

III

At all times mentioned herein, Respondent YOUNG was licensed by the Department of Real Estate of the State of California (herein "the Department") as a real estate broker. As the designated officer broker of SOUTHLAND, she was responsible for its acts and conduct as required by Section 10159.2 of the Code.

IV

At all times mentioned herein, Respondent SOUTHLAND was and now is licensed by the Department as a corporate real estate broker, by and through YOUNG as its designated officer broker.

V

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

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VI

At all times herein mentioned, Respondents were engaged in the mortgage loan brokerage business as defined by Code Section 10131(d) in that Respondents, for or in expectation of compensation, solicited and negotiated with borrowers for loans from third-party lenders secured by real property (secured loans).

VII

On December 13, 1994, the Department personnel completed an examination of the books and records of SOUTHLAND, pertaining to the trust fund handling and record keeping activities requiring a real estate broker license, for a period commencing on January, 1993, and terminating on November 4, 1994. Said audit revealed violations of the Code and Chapter 6, Title 10, California Code of Regulations (herein "the Regulations") as set forth in the following paragraphs.

VIII

In the course of the activities described in Paragraph VI, Respondents acted in violation of the Code and Regulations in that Respondents:

- (a) Failed to provide a statement in writing containing all the information required by Section 10241 of the Code to various borrowers before these borrowers became obligated to perform under the terms of their respective loans. There were no Mortgage Loan Disclosure Statements in the loan file examined in violation of Section 10240 of the Code and Section 2840 of the Regulations.

1 (b) Permitted, allowed or caused an unexplained
2 overage to accumulate in the trust account by means of an
3 unidentified accountability which on November 4, 1994 was in
4 the amount of \$2,080,30 in violation of Section 10145 of the
5 Code.

6 (c) Failed to notify the Department of Real Estate
7 that SOUTHLAND is no longer a threshold broker in violation
8 of Section 10232 of the Code.

9 (d) Failed to have the trust account designated as
10 a trust account on the bank signature card in violation of
11 Regulation 2830.

12 (e) Failed to maintain a control record for the
13 daily balance of the receipt and disbursement of all trust
14 funds received by SOUTHLAND as required by Regulation 2831.

15 (f) Failed to perform a monthly reconciliation of
16 the columnar record for the receipt and disbursement of all
17 trust funds received with the balance of all separate
18 beneficiaries or transaction records as required by
19 Regulation 2831.2.

20 (g) Permitted, allowed or caused an unexplained
21 overage to accumulate in the trust account by means of an
22 unidentified accountability which on November 4, 1994, was in
23 the amount of \$2080.30 in violation of Regulation 2833.

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IX

The conduct of Respondents described in Paragraph VIII, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
VIII (a)	Sec. 10240 of the Code and Section 2840 the Regulations
VIII (b)	Sec. 10145 of the Code
VIII (c)	Sec. 10232 of the Code
VIII (d)	Sec. 2830 of the Regulations.
VIII (e)	Sec. 2831 of the Regulations
VIII (f)	Sec. 2831.2 of the Regulations
VIII (g)	Sec. 2833 of the Regulations

X

Each of the foregoing violations separately constitutes cause for the suspension or revocation of all of the respective real estate licenses and license rights of Respondents under the provisions of Sections 10177(d).

XI

The acts and omissions of YOUNG, in failing to maintain SOUTHLAND's compliance with real estate rules and regulations demonstrates a lack of supervision and is cause for discipline under the provisions of Section 10177 (h) of the Code.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations made by the Accusation and, that upon proof thereof, a decision be rendered imposing disciplinary action against the license and license rights of respondents SOUTHLAND CAPITAL MORTGAGE and JEANNIE F. YOUNG individually and as designated officer of Southland Capital Mortgage, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California
this 19th day of July, 1996.

THOMAS MC CRADY

Deputy Real Estate Commissioner

cc: Southland Capital Mortgage
Jeannie F. Young
Sacto.
SB