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file*

ELLIOTT MAC LENNAN, SBN 66674  
Department of Real Estate  
320 West 4th Street, Ste. 350  
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)  
-or- (213) 576-6982 (office)

**FILED**  
MAR 26 2003  
DEPARTMENT OF REAL ESTATE

By *K. Niederhult*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of

DRE No. H-29083 LA  
OAH No. L-2001060601

PROUD SPIRIT INC., doing  
business as Century 21 On Track  
Realtors, and L&R Associates;  
and, LOUIS JOSEPH HILLENBRAND,  
individually and as designated  
officer of Proud Spirit Inc.

STIPULATION  
AND  
AGREEMENT  
AFTER HEARING

Respondents.

On July 13, 2001, the California Department of Real Estate ("Complainant") filed a First Amended Accusation (sometimes referred to as "Accusation") against PROUD SPIRIT INC., doing business as Century 21 On Track Realtors, and L&R Associates; and, LOUIS JOSEPH HILLENBRAND, individually and as designated officer of Proud Spirit Inc. (sometimes collectively referred to as "Respondents"). On November 20, 2001, and on June 24, 2002, hearings were held as to Respondents, evidence was received, the record was closed, and the matter was submitted.

///

1           On November 4, 2002, the Proposed Decision of the  
2 Administrative Law Judge was issued, and determined, among other  
3 things, that Respondents should be publicly reprovred.

4           On December 5, 2002, the Commissioner notified  
5 Respondents that the Proposed Decision of the Administrative Law  
6 Judge was not adopted as the Decision of the Real Estate  
7 Commissioner.

8           The parties wish to settle this matter without further  
9 proceedings.

10           IT IS HEREBY STIPULATED by and between Respondents,  
11 acting by and through their attorney of record, Frank Buda, Esq.,  
12 and the Complainant, acting by and through Elliott Mac Lennan,  
13 Counsel for the Department of Real Estate, as follows for the  
14 purpose of settling and disposing of the Accusation filed by  
15 Complainant.

16           A. It is understood by the parties that the Real  
17 Estate Commissioner may adopt the Stipulation and Agreement  
18 After Hearing ("Stipulation") as her decision in this matter,  
19 thereby imposing the penalty and sanctions on Respondents' real  
20 estate license and license rights as set forth in the below  
21 "Decision and Order". In the event the Commissioner in her  
22 discretion does not adopt the Stipulation, the Stipulation  
23 shall be void and of no effect; the Commissioner will review  
24 the transcript and the evidence in the case, and will issue her  
25 Decision after Rejection as her Decision in this matter.  
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1           B. By reason of the foregoing and solely for the  
2 purpose of settlement of the Accusation without further  
3 administrative proceedings, it is stipulated and agreed that  
4 the Factual Findings, which are set out in the Proposed  
5 Decision, and which were not adopted by the Commissioner on  
6 December 5, 2002, are hereby adopted and incorporated by  
7 reference herein.

8           We, PROUD SPIRIT INC., doing business as Century 21  
9 On Track Realtors, and L&R Associates; and LOUIS JOSEPH  
10 HILLENBRAND, individually and as designated officer of Proud  
11 Spirit Inc., Respondents herein, acknowledge that we have  
12 received and read the Accusation and the First Amended  
13 Accusation filed by the Department of Real Estate on June 6,  
14 2001 and July 13, 2001, and the Statement to Respondent sent to  
15 us in connection with the Accusation.

16           We further acknowledge that the Real Estate  
17 Commissioner held hearings on the First Amended Accusation on  
18 November 20, 2001, and on June 24, 2002, before the Office of  
19 Administrative Hearings, for the purpose of proving the  
20 allegations therein. We were present at the hearings in which  
21 we were represented by Frank Buda, Esq., and participated  
22 therein. Further, we have had an opportunity to read and  
23 review the Proposed Decision of the Administrative Law Judge.

24           We understand that pursuant to Government Code  
25 Section 11517(c), the Real Estate Commissioner did not adopt  
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1 the Proposed Decision of the Administrative Law Judge. We  
2 further understand that pursuant to the same Section 11517(c),  
3 the Real Estate Commissioner may decide this case upon the  
4 record, including the transcript, without taking any additional  
5 evidence, after affording us the opportunity to present written  
6 argument to the Real Estate Commissioner.

7 We further understand that by signing this  
8 Stipulation we are waiving our right to obtain a dismissal of  
9 the Accusation through proceedings under Government Code  
10 Section 11517(c) if this Stipulation is accepted by the Real  
11 Estate Commissioner. However, we also understand that we are  
12 not waiving our rights to further proceedings to obtain a  
13 dismissal of the Accusation if this Stipulation is not accepted  
14 by the Real Estate Commissioner.

15 We understand that this Stipulation is based on the  
16 factual allegations set forth in the Preamble, Paragraphs 1-8,  
17 and 9(a)(b)(d) and (e) of the First Amended Accusation filed in  
18 this proceeding. In the interest of expedience and economy, we  
19 choose not to contest these factual allegations, but to remain  
20 silent and understand that, as a result thereof, these factual  
21 statements, without being admitted or denied, will serve as a  
22 prima facie basis for the disciplinary action stipulated to  
23 herein. This Stipulation and our decision not to contest the  
24 Accusation are hereby expressly limited to this proceeding and  
25 made for the sole purpose of reaching an agreed disposition of  
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1 this proceeding. Our decision not to contest the factual  
2 allegations is made solely for the purpose of effectuating this  
3 Stipulation and is intended by us to be non-binding upon us in  
4 any actions against us by third parties. The Real Estate  
5 Commissioner shall not be required to provide further evidence to  
6 prove such allegations.

7 We understand that this Stipulation and any Order made  
8 pursuant to this Stipulation shall have no collateral estoppel or  
9 res judicata effect in any proceedings in which ourselves and the  
10 Department (or the Department's representative) are not parties.  
11 This Stipulation is made by us and received by the Commissioner  
12 and the Department, with the express understanding and agreement  
13 that it is for the purpose of settling these proceedings only,  
14 and that this Stipulation is not intended as, and shall not be  
15 deemed, used, or accepted as an acknowledgment or admission of  
16 fact in any other judicial, administrative, or other proceeding  
17 to which the Department of Real Estate is not party.  
18

19 It is understood by the parties that the Real Estate  
20 Commissioner may adopt this Stipulation as her decision in this  
21 matter thereby imposing the penalty and sanctions on Respondents'  
22 real estate licenses and license rights as set forth in the below  
23 "Order". In the event that the Commissioner in her discretion  
24 does not adopt the Stipulation, the Stipulation shall be void and  
25 of no effect, and Respondents shall retain their rights under the  
26 provisions of the California Administrative Procedure Act and  
27

shall not be bound by any stipulation or waiver made herein.

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

#### DETERMINATION OF ISSUES

By reason of the foregoing stipulations and waivers, it is stipulated and agreed that the following determination of issues shall be made:

The conduct of PROUD SPIRIT INC., as described in Paragraph 4, is in violation of Sections 10145 and 10176(e) of the Business and Professions Code ("Code") and Sections 2831 and 2831.2, 2832.1 and 2950(d) of Title 10, Chapter 6 of the California Code of Regulations and is cause for the suspension or revocation of Respondents' license pursuant to Code Sections 10177(d) and 10176(e)

#### 2.

The conduct of LOUIS JOSEPH HILLENBRAND, as described in Paragraph 4, constitutes a failure to exercise reasonable supervision over the activities of Proud Spirit Inc., for which a real estate license is required, in violation of Code Section 10159.2. This conduct is a basis for the suspension or

1 revocation of Respondent's broker license pursuant to Code  
2 Sections 10177(d) and 10177(h).

3 ORDER

4 WHEREFORE, THE FOLLOWING ORDER IS HEREBY MADE PURSUANT  
5 TO THE WRITTEN STIPULATION OF THE PARTIES:

6 1. Respondents PROUD SPIRIT INC. and LOUIS JOSEPH  
7 HILLENBRAND are publicly reprovred.

8 2. Additionally, however, all licenses and licensing  
9 rights of Respondents are indefinitely suspended unless or until  
10 Respondent LOUIS JOSEPH HILLENBRAND provides proof satisfactory  
11 to the Commissioner, of having taken, within one hundred twenty  
12 (120) days prior to the effective date of the Order, the trust  
13 fund accounting and handling course specified in paragraph (3) of  
14 subdivision (a) of Section 10170.5 of the Business and  
15 Professions Code.

16  
17 3. Pursuant to Section 10148 of the Business and  
18 Professions Code, Respondents PROUD SPIRIT INC. and LOUIS JOSEPH  
19 HILLENBRAND shall pay the Commissioner's reasonable cost for the  
20 audit which led to this disciplinary action. Additionally,  
21 Respondents may be required to pay the cost of a subsequent audit  
22 to determine if Respondents are now in compliance with the Real  
23 Estate Law. The cost of the audit which led to this disciplinary  
24 action was \$2,532.61. In calculating the amount of the  
25 Commissioner's reasonable cost, the Commissioner may use the  
26 estimated average hourly salary for all persons performing audits  
27

1 of real estate brokers, and shall include an allocation for  
2 travel time to and from the auditor's place of work. Said amount  
3 for the subsequent audit shall not exceed \$2,532.61.

4 Respondents shall pay such cost within 60 days of  
5 receiving an invoice from the Commissioner detailing the  
6 activities performed during the audit and the amount of time  
7 spent performing those activities.

8 The Commissioner may suspend the license of a  
9 Respondent pending a hearing held in accordance with Section  
10 11500, et seq., of the Government Code, if payment is not timely  
11 made as provided for herein, or as provided for in a subsequent  
12 agreement between the Respondents and the Commissioner. The  
13 suspension shall remain in effect until payment is made in full  
14 or until a Respondent enters into an agreement satisfactory to  
15 the Commissioner to provide for payment, or until a decision  
16 providing otherwise is adopted following a hearing held pursuant  
17 to this condition.  
18

19 DATED: February 18, 2003

20 ELLIOTT MAC LENNAN, Counsel for  
21 the Department of Real Estate

22 \* \* \*

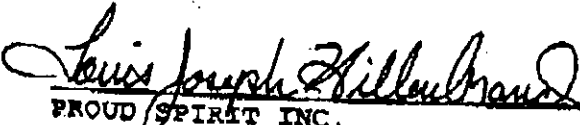
23 We have read the Stipulation, and have discussed it  
24 with our counsel. Its terms are understood by us and are  
25 agreeable and acceptable to us. We understand that we are  
26 waiving rights given to us by the California Administrative  
27 Procedure Act (including but not limited to Sections 11506,



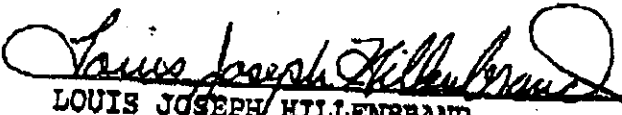
1 11508, 11509 and 11513 of the Government Code), and we willingly,  
2 intelligently and voluntarily waive those rights.

3 Respondents can signify acceptance and approval of the  
4 terms and conditions of this Stipulation by faxing a copy of its  
5 signature page, as actually signed by Respondents, to the  
6 Department at the following telephone/fax number: (213) 576-6917.  
7 Attention: Elliott Mac Lennan. Respondents agree, acknowledge  
8 and understand that by electronically sending to the Department a  
9 fax copy of Respondents' actual signatures as they appear on the  
10 Stipulation and Agreement, that receipt of the faxed copy by the  
11 Department shall be as binding on Respondents as if the  
12 Department had received the original signed Stipulation and  
13 Agreement.  
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17 DATED: 3-6-03

  
PROUD SPIRIT INC.  
BY: LOUIS JOSEPH HILLENERAND,  
Respondent

20 DATED: 3-6-03

  
LOUIS JOSEPH HILLENERAND,  
individually and as designated  
officer of Proud Spirit Inc.  
Respondent

23 DATED: 3-5-03

  
FRANK BUDA, Attorney for  
Respondents  
(Approved as to form)

11508, 11509 and 11513 of the Government Code), and we willingly,  
intelligently and voluntarily waive those rights.

Respondents can signify acceptance and approval of the  
terms and conditions of this Stipulation by faxing a copy of its  
signature page, as actually signed by Respondents, to the  
Department at the following telephone/fax number: (213) 576-6917,  
Attention: Elliott Mac Lennan. Respondents agree, acknowledge  
and understand that by electronically sending to the Department a  
fax copy of Respondents' actual signatures as they appear on the  
Stipulation and Agreement, that receipt of the faxed copy by the  
Department shall be as binding on Respondents as if the  
Department had received the original signed Stipulation and  
Agreement.

DATED: \_\_\_\_\_

PROUD SPIRIT INC.  
BY: LOUIS JOSEPH HILLENBRAND,  
Respondent

DATED: \_\_\_\_\_

LOUIS JOSEPH HILLENBRAND,  
individually and as designated  
officer of Proud Spirit Inc.  
Respondent

DATED: \_\_\_\_\_

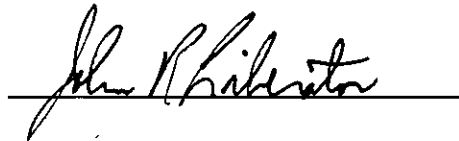
FRANK BUDA, Attorney for  
Respondents  
(Approved as to form)

\* \* \*

The foregoing Stipulation and Agreement After Hearing  
is hereby adopted as my Decision and Order and shall become  
effective at 12 o'clock noon on April 21, 2003.

IT IS SO ORDERED March 21, 2003.

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner



BY: John R. Liberator  
Chief Deputy Commissioner



By K. Niederhelt

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

11 In the Matter of the Accusation of )  
12 PROUD SPIRIT INC., dba Century 21 ) No. H-29083 LA  
13 on Track Realtors and L & R ) L-2001060611  
14 Associates, and LOUIS JOSEPH )  
15 HILLENBRAND, )  
16 Respondents. )

NOTICE

17 TO: PROUD SPIRIT INC., dba Century 21 on Track Realtors and  
18 I. & R Associates, and LOUIS JOSEPH HILLENBRAND, Respondents, and  
19 FRANK M. BUDA, their Counsel.

20 YOU ARE HEREBY NOTIFIED that the Proposed Decision  
21 herein dated November 4, 2002, of the Administrative Law Judge is  
22 not adopted as the Decision of the Real Estate Commissioner. A  
23 copy of the Proposed Decision dated November 4, 2002, is attached  
24 for your information.

25 In accordance with Section 11517(c) of the Government  
26 Code of the State of California, the disposition of this case  
27 will be determined by me after consideration of the record herein

1 including the transcript of the proceedings held on November 20,  
2 2001, and June 24, 2002, and any written argument hereafter  
3 submitted on behalf of Respondent and Complainant.

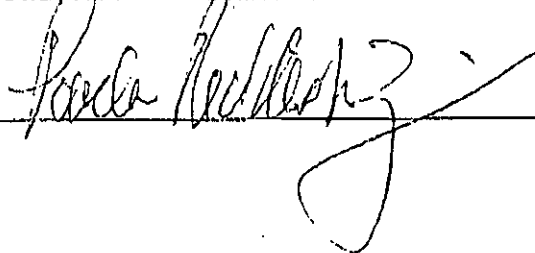
4 Written argument of Respondent to be considered by me  
5 must be submitted within 15 days after receipt of the transcript  
6 of the proceedings of November 20, 2001, and June 24, 2002, at  
7 the Los Angeles office of the Department of Real Estate unless an  
8 extension of the time is granted for good cause shown.

9 Written argument of Complainant to be considered by me  
10 must be submitted within 15 days after receipt of the argument of  
11 Respondent at the Los Angeles office of the Department of Real  
12 Estate unless an extension of the time is granted for good cause  
13 shown.

14 DATED:

December 4, 2002

15 PAULA REDDISH ZINNEMANN  
16 Real Estate Commissioner

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BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

PROUD SPIRIT INC., dba  
Century 21 on Track Realtors and  
L & R Associates, and LOUIS JOSEPH  
HILLENBRAND individually and as  
designated officer of Proud Spirit, Inc.

Respondents.

Case No. H-29083 LA

OAH No. L2001060611

**PROPOSED DECISION**

This matter came on regularly for hearing before Ralph B. Dash, Administrative Law Judge with the Office of Administrative Hearings, on November 20, 2001 and June 24, 2002, at Los Angeles, California.

Elliott MacLennan, Staff Counsel, represented Complainant.

Frank M. Buda, Attorney at Law, represented respondent.

Due to illness of the Administrative Law Judge after the conclusion of the hearing, submission of this matter was deferred until October 10, 2002.

Oral and documentary evidence having been received and the matter submitted, the Administrative Law Judge makes the following Findings of Fact:

1. Complainant, Maria Suarez, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California made the Accusation against Proud Spirit Inc. (Proud Spirit) and Louis Joseph Hillenbrand (Hillenbrand).

2. At all mentioned times, Hillenbrand was licensed by the Department as designated officer of Proud Spirit to qualify it and to act for it as a real estate broker and was responsible for the supervision and control of the activities conducted on it's behalf by its officers, managers and employees. Hillenbrand was originally licensed as a real estate salesperson on May 17, 1985, and as a real estate broker on February 18, 1992. Proud Spirit was originally licensed as a corporate real estate broker on June 17, 1996.

3. On November 8, 2000, the Department completed an audit examination of the books and records of Proud Spirit pertaining to residential resale and escrow activities that require a real estate license. The audit examination covered a period of time beginning on June 1, 1999 and terminating on August 31, 2000 (the "Audit Period").

4. Proud Spirit accepted or received funds in trust (trust funds) from or on behalf of buyers and sellers and thereafter made disposition of such funds. Proud Spirit maintained the following escrow trust account during the audit period into which were deposited certain of these funds at the First Western Bank, 1475 Los Angeles Avenue, Simi Valley, California 93065:

"Proud Spirit Inc.  
dba Century 21 On Track - B/A  
Account No. 001-055577"

(The Escrow Trust Account)

5. The audit found there was a shortage of \$8,625.70 as of August 31, 2000. The shortage was due to funds disbursed to Proud Spirit, net of fees due Proud Spirit, totaling \$6,313.83, three (3) over disbursed escrows totaling \$379.47, bank charges totaling \$709.68, two (2) checks issued and paid for \$1018.05 and an unidentified shortage of \$204.67.

6. Proud Spirit did not reconcile the B/A on a monthly basis. It used SMS's computer software program for the B/A records maintained. SMS's August 31, 2000 Bank Reconciliation Report contained thirteen (13) reconciling items, most of which dated back to 1997, 1998 and 1999 and/or prior to 1997. The escrow officers had cleared up some of the reconciling items from prior years, but had not performed a monthly bank reconciliation, which would have uncovered the shortage in the B/A. It appeared that escrow balances, outstanding checks and/or reconciling items were brought forward from another Escrow Trust Account which Hillenbrand had with On Safari Inc. (OSI), another corporation, where Hillenbrand was the designated officer. OSI was licensed by the Department, with a Corporate Broker License which expired on May 18, 1997. The above shortage includes \$1,864.59 in old outstanding checks from the prior corporation which had been carried forward on the SMS Reconciliation Report since the B/A was opened in April 1997. The SMS reconciliation did not clearly show the shortage.

7. In January 1997, respondent Hillenbrand closed an escrow trust account maintained at Charter Pacific Bank. This escrow trust account was in the name of Fred Sands Valley Homes Realtors, the licensed fictitious business name of OSI. On January 7, 1997, check number 5501 for \$6,632.35 was issued from the OSI Trust Account and deposited into the Century 21 On Track Realtors General Account. This was an inadvertent mistake made by respondent Hillenbrand over 3 ½ years prior to the Audit. Respondent Hillenbrand was honest and forthright with the Auditor about his mistake and took immediate corrective action by replacing the funds during the audit.

8. The reconciliation of records, reconciling the control record with the separate records was not adequate. The SMS computer software was used for their broker escrow trust accounting. SMS sent a monthly Bank Reconciliation Report, with exception items on it, but did not reconcile the exception items or the B/A on a monthly basis.

9. The control record for the B/A was not complete. The control record was missing the date the funds were received and daily balance. Proud Spirit uses the SMS computer software program for the broker escrow activities. The SMS reports consist of monthly Receipts and Disbursements Journals.

10. The B/A was not designated as a trust account on the Bank Signature Card. The name of the account on the Bank Signature Card was "Proud Spirit Inc. DBA Century 21 On Track". Trust funds, escrow funds from buyers, sellers and/or borrowers were deposited into and disbursed from the B/A. However, the B/A was in fact a trust account and the signature card was so amended on October 25, 2000.

11. During the DRE Audit Period, Proud Spirit's escrow instructions had the following disclosure printed in bold-face type on page one of each escrow instruction: **"CENTURY 21 ON TRACK REALTORS, ESCROW DIVISION A CALIFORNIA CORPORATION IS LICENSED AS AN ESCROWAGENCY BY THE DEPARTMENT OF REAL ESTATE IN THE STATE OF CALIFORNIA."** In addition, the letterhead used for the escrow instructions states "Century 21 On Track Realtors, Escrow Division". The letterhead coupled with the disclosure made in the escrow instructions, appeared to clearly identify the relationship between Century 21 Track Realtors and the escrow holder. To ensure absolute compliance, Proud Spirit has now added the following disclosure to its escrow instructions, **"CENTURY 21 ON TRACK REATORS IS ACTING AS BOTH THE REAL ESTATE BROKER AND THE ESCROW HOLDER IN THIS TRANSACTION AND WILL BE PAID AN ESCROW FEE"**. This disclosure is printed on page three of the escrow instructions, immediately preceding the buyer and seller's signatures.

12. At the hearing of this matter, paragraph 9(c) of the First Amended Accusation, alleging conversion of funds, was deleted at the request of counsel for complainant.

13. In addition to the change in Proud Spirits' business practices as noted above, it has also retained a well trained, highly respected consultant to ensure Proud Spirit complies with the Real Estate Law in every aspect. He has developed a new form to be used for its monthly trust account reconciliation. This new form complies with the Regulations. In addition, he has developed tighter internal controls to ensure that the monthly trust and bank account reconciliation's are performed within 15 days after receiving the month end bank statement and all adjustments and any reconciling items are done as soon as they are identified. Proud Spirit is now maintaining a daily Control Record with the spreadsheet program Excel. This Control Log summarizes the cash receipts and disbursement registers on a daily basis and has a column listing the running daily balance.



During the DRE Audit Period, Proud Spirit used the software program SMS to maintain its escrow accounting records and perform its monthly reconciliation. SMS is the most widely used accounting program utilized by escrow companies. In the past the Department has accepted the SMS computer generated bank reconciliation and trial balance report as being in compliance with Regulations.

Proud Spirit, which has a very high volume of business (\$47 million in 1999) is intent on following the Real Estate Law to the letter, and has thus instituted the above noted reforms. There is no prior disciplinary record for either respondent.

### CONCLUSIONS OF LAW

1. Respondents violated the provisions of Business and Professions Code §10145, 10176(e) and the Regulations promulgated thereunder regarding trust funds, by reason Findings 5, 6 and 7..

2. Respondent violated the provisions of Business and Professions Code §10145 and the regulations promulgated thereunder regarding monthly reconciliation in chronological order, by reason of Finding 8.

3. Respondent violated the provisions of Business and Professions Code §10145 and the regulations promulgated thereunder regarding control records, by reason of Finding 8 and 9.

4. Except as expressly found herein to be true, the remaining charging allegations of this First Amended Accusation are found to be unproven by clear and convincing evidence.

5. In light of strong evidence of mitigation and rehabilitation set forth in paragraphs 11 and 13, and the apparently unintentional violations of the Real Estate Law set forth above, the public interest would not be adversely affected by the issuance to respondents of a public reprimand, as set forth below.

### ORDER

Wherefore, the following order is hereby made:

*NOT REOPENED*

Under the provisions of Business and Professions Code §495, respondents Proud Spirit Inc. and Louis Joseph Hillenbrand are hereby reproved. Insertion of this order in respondents' public file maintained by the Department is deemed publication of this Order.

DATED: November 4, 2002



RALPH B DASH  
Administrative Law Judge  
Office of Administrative Hearings

RBD:lp

Sacto JN

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED  
FEB 20 2002  
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

By K. Mederholt

PROUD SPIRIT INC., ET AL.,

Case No. H-29083 LA

OAH No. L-2001060611

Respondent

CONTINUED  
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, 320 West Fourth Street, Ste. 630, Los Angeles, California on June 24 & 25, 2002, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: February 15, 2002

By

Elliott Mac Lennan  
ELLIOTT MAC LENNAN, Counsel

cc: Proud Spirit Inc.  
Louis Joseph Hillenbrand  
Frank M. Buda, Esq. Sacto OAH JN

*Accepted*

**BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

**FILED**  
NOV 27 2001  
DEPARTMENT OF REAL ESTATE

*In the Matter of the Accusation of*

PROUD SPIRIT INC., ET AL.,

By *H. Mederholt*

Case No. H-29083 LA

OAH No. L-200106011

\_\_\_\_\_  
*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, 320 West Fourth Street, Ste. 630, Los Angeles, California** on **April 10 & 11, 2002**, at the hour of **9:00 a.m.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: November 27, 2001

By *E. Lennan*  
**ELLIOTT MAC LENNAN, Counsel**

cc: Proud Spirit Inc.                      Sacto.  
Louis Joseph Hillenbrand              OAH  
Frank M. Buda, Esq                      JN.

*Sacto  
2/05*

**BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

**FILED**  
SEP 27 2001  
DEPARTMENT OF REAL ESTATE

*In the Matter of the Accusation of*

By *R. Kuderholt*

PROUD SPIRIT INC., ET AL.,

Case No. H-29083 LA

OAH No. L-2001060611

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, 320 W. Fourth St., Ste. 630, Los Angeles, CA on November 20, 2001, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: September 27, 2001

By *E. J. L.*

Counsel

cc: Proud Spirit Inc.  
Louis Joseph Hillenbrand  
Robert J. Sunderland, Esq.  
Sacto  
OAH  
JN

kw

RE 501 (Rev. 8/97)

*back  
gray*

ELLIOTT MAC LENNAN, SBN 66674  
Department of Real Estate  
320 West 4th Street, Ste. 350  
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)  
-or- (213) 576-6982 (office)

FILED  
JUL 13 2001  
DEPARTMENT OF REAL ESTATE

*K. K. K. K. K.*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of  
  
PROUD SPIRIT INC., doing  
business as Century 21 On Track  
Realtors and L&R Associates,  
and LOUIS JOSEPH  
HILLENBRAND individually  
and as designated officer of  
Proud Spirit Inc.  
  
Respondents.

No. H-29083 LA  
  
FIRST AMENDED  
  
ACCUSATION

The Accusation filed on June 6, 2001, is amended in its  
entirety as follows:

The Complainant, Maria Suarez, a Deputy Real Estate  
Commissioner of the State of California, for cause of Accusation  
against PROUD SPIRIT INC. dba Century 21 on Track Realtors and  
L&R Associates, and LOUIS JOSEPH HILLENBRAND, individually and as  
designated officer of Proud Spirit Inc., alleges as follows:

1

2           The Complainant, Maria Suarez, acting in his official  
3 capacity as a Deputy Real Estate Commissioner of the State of  
4 California makes this Accusation against PROUD SPIRIT INC. (PROUD  
5 SPIRIT) and PHILIP HAROLD HILLENBRAND (HILLENBRAND).

6           2

7           All references to the "Code" are to the California  
8 Business and Professions Code and all references to "Regulations"  
9 are to Title 10, Chapter 6, California Code of Regulations.

10           3

11           PROUD SPIRIT and HILLENBRAND, (hereinafter referred to  
12 as Respondents) are presently licensed and/or have license rights  
13 under the Real Estate Law (Part 1 of Division 4 of the Business  
14 and Professions Code).

15           4

16           At all mentioned times, HILLENBRAND was licensed by the  
17 Department as designated officer of PROUD SPIRIT to qualify it  
18 and to act for it as a real estate broker and, as provided by  
19 Section 10159.2 of the Code, was responsible for the supervision  
20 and control of the activities conducted on it's behalf by its  
21 officers, managers and employees as necessary to secure full  
22 compliance with the provisions of the Real Estate Law including  
23 the supervision of the salespersons licensed to the corporation  
24 in the performance of acts for which a real estate license is  
25 required. HILLENBRAND was originally licensed as a real estate  
26 salesperson on May 17, 1985, and as a real estate broker on  
27

1 February 18, 1992. PROUD SPIRIT was originally licensed as a  
2 corporate real estate broker on June 17, 1996.

3 5

4 Whenever reference is made in an allegation in the  
5 Accusation to an act or omission of PROUD SPIRIT such allegation  
6 shall be deemed to mean that the officers, directors, managers,  
7 employees, agents and real estate licensees employed by or  
8 associated with PROUD SPIRIT including HILLENBRAND committed such  
9 act or omission while engaged in the furtherance of its business  
10 or operation and while acting within the course and scope of its  
11 corporate authority, agency and employment.  
12

13 6

14 At all times mentioned, in the City of Simi Valley, Los  
15 Angeles County, PROUD SPIRIT acted as a real estate broker,  
16 within the meaning of:

17 A. Section 10131(a) of the Code in that it operated a  
18 residential resale brokerage dba Century 21 On Track Realtors and  
19 L&R Associates; and,

20 B. Conducted broker-controlled escrows through its  
21 escrow division under the exemption set forth in Section  
22 17006(a)(4) of the California Financial Code for real estate  
23 brokers performing escrows incidental to a real estate  
24 transaction where the broker is a party and where the broker is  
25 performing acts for which a real estate license is required.  
26



1                   On November 8, 2000, the Department completed an audit  
2 examination (Audit Report LA 000107 and exhibits/workpapers  
3 attached to said audit reports) of the books and records of PROUD  
4 SPIRIT pertaining to residential resale and escrow activities  
5 that require a real estate license. The audit examination  
6 covered a period of time beginning on June 1, 1999 and  
7 terminating on August 31, 2000. The audit examination revealed  
8 violations of the Code and the Regulations as set forth in the  
9 following paragraphs.  
10

11                   At all times mentioned, in connection with the  
12 activities described in Paragraph 6, above, relating to  
13 Department of Real Estate Audit Report LA 000107 dated November  
14 8, 2000, and corresponding exhibits, PROUD SPIRIT accepted or  
15 received funds in trust (trust funds) from or on behalf of buyers  
16 and sellers and thereafter made disposition of such funds. PROUD  
17 SPIRIT maintained the following escrow trust account during the  
18 audit period into which were deposited certain of these funds at  
19 the First Western Bank, 1475 Los Angeles Avenue, Simi Valley, CA  
20 93065:  
21

22                   "Proud Spirit Inc.  
23                   dba Century 21 On Tract - B/A  
24                   Account No. 001-055577"

25                   (The Escrow Trust Account)  
26  
27

1 With respect to the trust funds referred to in  
2 Paragraph 8, it is alleged that PROUD SPIRIT:  
3

4 (a) Permitted, allowed or caused the disbursement of  
5 trust funds from the escrow trust account where the disbursement  
6 of funds reduced the total of aggregate funds in the trust  
7 account, to an amount which, on August 31, 2000, was \$8,625.70  
8 less than the existing aggregate trust fund liability of PROUD  
9 SPIRIT to every principal who was an owner of said funds, without  
10 first obtaining the prior written consent of the owners of said  
11 funds, as required by Code Section 10145 and Regulations 2832.1,  
12 2950(g) and 2951;

13 (b) Commingled trust funds from On Safari Inc., a real  
14 estate corporation owned by HILLENBRAND and operated with  
15 HILLENBRAND as its designated officer. \$6,632.35 in On Safari  
16 Inc.'s escrow trust funds were deposited into Century 21 On Track  
17 Realtors General Account, in violation of Code Section 10176(e);  
18

19 (c) Converted trust funds from On Safari Inc.'s escrow  
20 trust funds. \$6,632.35 in On Safari Inc.'s trust funds were  
21 credited to Century 21 On Track Realtors Escrow Trust Account yet  
22 no monies were ever deposited into said trust account to support  
23 that credit, in violation of Code Section 10176(i);

24 (d) Failed to maintain an adequate control record in  
25 the form of a columnar record in chronological order of all trust  
26  
27

1 funds received in the escrow trust account, as required by Code  
2 Section 10145 and Regulations 2831, 2950(d) and 2951;

3 (e) Failed to perform a monthly reconciliation of the  
4 balance of all separate beneficiary or transaction records  
5 maintained pursuant to Regulation 2831.1 with the record of all  
6 trust funds received and disbursed by the escrow trust account,  
7 as required by Code Section 10145 and Regulations 2831.2, 2950(d)  
8 and 2951;

9 (f) Failed to place trust funds, including earnest  
10 money deposits, accepted on behalf of another into the hands of  
11 the owner of the funds, a neutral escrow depository or into a  
12 trust fund account in the name of the trustee at a bank or other  
13 financial institution not later than three business days  
14 following receipt of the funds by the broker or by the broker's  
15 salesperson, in violation of Code Section 10145 and Regulation  
16 2832; and

17  
18 (g) Failed to advise all parties to the escrow  
19 operation of PROUD SPIRIT of its ownership of said escrow  
20 company, as required by Code Section 10145 and Regulation  
21 2950(h).

22 /

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The conduct of Respondent PROUD SPIRIT, described in Paragraph 9, above, violated the Code and the Regulations as set forth below:

PARAGRAPHPROVISIONS VIOLATED

10(a)

Code Section 10145 and  
Regulations 2832.1, 2950(g) and  
2951

10(b)

Code Section 10176(e)

10(c)

Code Section 10176(i)

10(d)

Code Section 10145 and  
Regulations 2831, 2950(d) and 2951

10(e)

Code Section 10145 and  
Regulations 2831.2, 2950(d) and  
2951

10(f)

Code Section 10145 and  
Regulations 2832, 2950(d) and 2951

10(g)

Code Section 10145 and  
Regulation 2950(h)

1 The foregoing violation constitutes cause for the suspension or  
2 revocation of the real estate license and license rights of PROUD  
3 SPIRIT under the provisions of Code Sections 10177(d) and  
4 10177(g).

5 11

6 The overall conduct of Respondent HILLENBRAND,  
7 constitutes a failure on his part, as officer designated by a  
8 corporate broker licensee, responsible for the supervision and  
9 control over the activities conducted on behalf of PROUD SPIRIT  
10 by its officers, managers and employees as necessary to secure  
11 full compliance with the provisions of the Real Estate Law  
12 including the supervision of the salespersons licensed to the  
13 corporation in the performance of acts for which a real estate  
14 license is required. This conduct is cause for the suspension or  
15 revocation of the real estate license and license rights of  
16 HILLENBRAND pursuant to the provisions of Code Sections 10159.2,  
17 10177(h) and 10177(d).  
18

19 /

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

9  
10 Dated at Los Angeles, California  
11 this 13th day of July, 2001.

12  
13  
14 MARIE SUAREZ

15 Deputy Real Estate Commissioner  
16  
17  
18  
19  
20  
21  
22

23 cc: Proud Spirit Inc.  
24 Louis Joseph Hillenbrand  
25 Sacto  
26 JN  
27 MS  
Audits  
Robert J. Sunderland, Esq.

*Sacto  
JUL 12 2001*

**BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

**FILED**  
JUL 12 2001  
DEPARTMENT OF REAL ESTATE

*In the Matter of the Accusation of*

PROUD SPIRIT INC., et al.,

By *K. M. Deubold*

Case No. H-29083 LA

OAH No. L-2001060611

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, 320 W. Fourth St., Ste. 630, Los Angeles, CA on September 19, 2001, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: July 10, 2001

By *C. J. C.*

*Counsel*

cc: Proud Spirit Inc.  
Louis Joseph Hillenbrand  
Robert J. Sunderland, Esq.  
Sacto  
OAH  
JN

kw

*Page 1*

**FILED**  
JUN - 6 2001  
DEPARTMENT OF REAL ESTATE

ELLIOTT MAC LENNAN, SBN 66674  
Department of Real Estate  
320 West 4th Street, Ste. 350  
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)  
-or- (213) 576-6982 (office)

By K. Ruedenholz

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	No. H-29083 LA
	)	
PROUD SPIRIT INC., doing	)	<u>ACCUSATION</u>
business as Century 21 on Track	)	
Realtors and L&R Associates,	)	
and LOUIS JOSEPH	)	
HILLENBRAND individually	)	
and as designated officer of	)	
Proud Spirit Inc.	)	
	)	
Respondents.	)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against PROUD SPIRIT INC. dba Century 21 on Track Realtors and L&R Associates, and LOUIS JOSEPH HILLENBRAND, individually and as designated officer of Proud Spirit Inc., alleges as follows:



1 1  
2 The Complainant, Maria Suarez, acting in her official  
3 capacity as a Deputy Real Estate Commissioner of the State of  
4 California makes this Accusation against PROUD SPIRIT INC. (PROUD  
5 SPIRIT) and PHILIP HAROLD HILLENBRAND (HILLENBRAND).

6 2  
7 All references to the "Code" are to the California  
8 Business and Professions Code and all references to "Regulations"  
9 are to Title 10, Chapter 6, California Code of Regulations.

10 3  
11 PROUD SPIRIT and HILLENBRAND, (hereinafter referred to  
12 as Respondents) are presently licensed and/or have license rights  
13 under the Real Estate Law (Part 1 of Division 4 of the Business  
14 and Professions Code).

15 4  
16 At all mentioned times, HILLENBRAND was licensed by the  
17 Department as designated officer of PROUD SPIRIT to qualify it  
18 and to act for it as a real estate broker and, as provided by  
19 Section 10159.2 of the Code, was responsible for the supervision  
20 and control of the activities conducted on it's behalf by its  
21 officers, managers and employees as necessary to secure full  
22 compliance with the provisions of the Real Estate Law including  
23 the supervision of the salespersons licensed to the corporation  
24 in the performance of acts for which a real estate license is  
25 required. HILLENBRAND was originally licensed as a real estate  
26 salesperson on May 17, 1985, and as a real estate broker on  
27

1 February 18, 1992. PROUD SPIRIT was originally licensed as a  
2 corporate real estate broker on June 17, 1996.

3 5

4 Whenever reference is made in an allegation in the  
5 Accusation to an act or omission of PROUD SPIRIT such allegation  
6 shall be deemed to mean that the officers, directors, managers,  
7 employees, agents and real estate licensees employed by or  
8 associated with PROUD SPIRIT including HILLENBRAND committed such  
9 act or omission while engaged in the furtherance of its business  
10 or operation and while acting within the course and scope of its  
11 corporate authority, agency and employment.

12 6

13 At all times mentioned, in the City of Simi Valley, Los  
14 Angeles County, PROUD SPIRIT acted as a real estate broker,  
15 within the meaning of:

16 A. Section 10131(a) of the Code in that it operated a  
17 residential resale brokerage dba Century 21 On Track Realtors and  
18 L&R Associates; and,

19 B. Conducted broker-controlled escrows through its  
20 escrow division under the exemption set forth in Section  
21 17006(a)(4) of the California Financial Code for real estate  
22 brokers performing escrows incidental to a real estate  
23 transaction where the broker is a party and where the broker is  
24 performing acts for which a real estate license is required.

25 /

26 /

On November 8, 2000, the Department completed an audit examination of the books and records of PROUD SPIRIT pertaining to residential resale and escrow activities that require a real estate license. The audit examination covered a period of time beginning on June 1, 1999 and terminating on August 31, 2000. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs.

## 8

At all times mentioned, in connection with the activities described in Paragraph 6, above, PROUD SPIRIT accepted or received funds in trust (trust funds) from or on behalf of buyers and sellers and thereafter made disposition of such funds. PROUD SPIRIT maintained the following escrow trust account during the audit period into which were deposited certain of these funds at the First Western Bank, 1475 Los Angeles Avenue, Simi Valley, CA 93065:

"Proud Spirit Inc.  
dba Century 21 On Tract - B/A  
Account No. 001-055577"

(The Escrow Trust Account)

/

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/

With respect to the trust funds referred to in Paragraph 8, it is alleged that PROUD SPIRIT:

(a) Permitted, allowed or caused the disbursement of trust funds from the escrow trust account where the disbursement of funds reduced the total of aggregate funds in the trust account, to an amount which, on August 31, 2000, was \$8,625.70 less than the existing aggregate trust fund liability of PROUD SPIRIT to every principal who was an owner of said funds, without first obtaining the prior written consent of the owners of said funds, as required by Code Section 10145 and Regulations 2832.1, 2950(g) and 2951;

(b) Commingled trust funds from On Safari Inc., a real estate corporation owned by HILLENBRAND and operated with HILLENBRAND as its designated officer. \$6,632.35 in On Safari Inc.'s trust funds were deposited into Century 21 on Track Realtors General Account, in violation of as required by Code Section 10176(e);

(c) Failed to maintain an adequate control record in the form of a columnar record in chronological order of all trust funds received in the escrow trust account, as required by Code Section 10145 and Regulations 2831, 2950(d) and 2951;

(d) Failed to perform a monthly reconciliation of the balance of all separate beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all trust funds received and disbursed by the escrow trust account,

as required by Code Section 10145 and Regulations 2831.2, 2950(d) and 2951;

(e) Failed to place trust funds, including earnest money deposits, accepted on behalf of another into the hands of the owner of the funds, a neutral escrow depository or into a trust fund account in the name of the trustee at a bank or other financial institution not later than three business days following receipt of the funds by the broker or by the broker's salesperson, in violation of Code Section 10145 and Regulation 2832; and

(f) Failed to advise all parties to the escrow operation of PROUD SPIRIT of its ownership of said escrow company, as required by Code Section 10145 and Regulation 2950(h).

10

The conduct of Respondent PROUD SPIRIT, described in Paragraph 9, above, violated the Code and the Regulations as set forth below:

PARAGRAPH

PROVISIONS VIOLATED

9(a)

Code Section 10145 and  
Regulation 2832.1, 2950(g) and 2951

9(b)

Code Section 10176(e)

9(c)

Code Section 10145 and  
Regulation 2831, 2950(d) and 2951

1 9(d)

Code Section 10145 and  
2 Regulation 2831.2, 2950(d) and 2951

4 9(e)

Code Section 10145 and  
5 Regulation 2832, 2950(d) and 2951

7 9(f)

Code Section 10145 and  
8 Regulation 2950(h)

9 The foregoing violation constitutes cause for the suspension or  
10 revocation of the real estate license and license rights of PROUD  
11 SPIRIT under the provisions of Code Section 10177(d) or 10176(e).

12 11

13 The overall conduct of Respondent HILLENBRAND  
14 constitutes a failure on his part, as officer designated by a  
15 corporate broker licensee, responsible for the supervisor and  
16 control over the activities conducted on behalf of PROUD SPIRIT  
17 by its officers, managers and employees as necessary to secure  
18 full compliance with the provisions of the Real Estate Law  
19 including the supervision of the salespersons licensed to the  
20 corporation in the performance of acts for which a real estate  
21 license is required. This conduct is cause for the suspension or  
22 revocation of the real estate license and license rights of  
23 HILLENBRAND pursuant to the provisions of Code Sections 10159.2,  
24 10177(h) and 10177(d).

25 /

26 /

The overall conduct of Respondent HILLENBRAND constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of said Respondent's real estate license and license rights under Code Section 10177(g).

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the license and licenser rights of Respondents PROUD SPRIT INC. and LOUIS JOSEPH HILLENBRAND 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 6<sup>th</sup> day of June, 2001.

MARIA SUAREZ

Deputy Real Estate Commissioner

cc: Proud Spirit Inc.  
Louis Joseph Hillenbrand  
Sacto  
JN  
MS  
Audits