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FILED
SEP 22 2005
DEPARTMENT OF REAL ESTATE

By *K. The Debbel*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-30873 LA
PAUL WILLIAM CHANDLER,)
Respondent.)

DISMISSAL

The Accusation filed against PAUL WILLIAM CHANDLER on
April 30, 2004, is dismissed.

IT IS SO ORDERED this 19 day of September, 2005.

JEFF DAVI
Real Estate Commissioner

Jeff Davi

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FILED
SEP 21 2005
DEPARTMENT OF REAL ESTATE
By *K. M. ...*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	DRE No. H-30873 LA
<u>NKL INC.</u> ; dba Century 21 Center)	
Realty and Always Reliable)	OAH No. L-2004050636
Escrow, and, PAUL WILLIAM)	
CHANDLER, individually and as)	
designated officer of NKL Inc.,)	
)	
)	
Respondents.)	

STIPULATION AND AGREEMENT

AND

DECISION AFTER REJECTION

The California Department of Real Estate ("Department") filed an Accusation against NKL INC. ("NKL") and PAUL WILLIAM CHANDLER ("CHANDLER") from time to time referred to herein as "Respondents"), on April 30, 2004. On November 9, 2004, a hearing was held and evidence was received, the record was closed, and the matter was submitted.

1 On March 7, 2005, the Proposed Decision of the
2 Administrative Law Judge was issued proposing a dismissal of the
3 Accusation without imposition of discipline against NKL INC. and
4 Paul William Chandler.

5 On April 1, 2005, the Commissioner rejected the
6 Proposed Decision of March 7, 2005.

7 The parties wish to settle this matter as to NKL Inc.,
8 without further proceedings. Respondent Paul William Chandler
9 will be handled by separate order.

10 IT IS HEREBY STIPULATED by and between Respondent NKL
11 INC. and its attorney of record, Frank M. Buda, Esq., and the
12 Department, acting by and through Elliott Mac Lennan, Counsel
13 for the Department of Real Estate, as follows for the purpose of
14 settling and disposing of the Accusation filed by the Department
15 on April 30, 2004.

16 1. It is understood by the parties that the Real
17 Estate Commissioner may adopt the Stipulation and Agreement and
18 Decision After Rejection)"Stipulation") as his decision in this
19 matter, thereby imposing the penalty and sanctions on
20 Respondent's real estate license as set forth in the below
21 "Decision and Order". In the event the Commissioner in his
22 discretion does not adopt the Stipulation, the Stipulation shall
23 be void and of no effect. The Commissioner will review the
24 transcript and the evidence in the case and will issue his
25 Decision after Rejection as his Decision in this matter.

26 2. By reason of the foregoing and solely for the
27 purpose of settlement of the Accusation without further

1 administrative proceedings, it is stipulated and agreed that the
2 following shall be adopted as the Commissioner's Decision:

3 FACTUAL FINDINGS

4 1. Janice Waddell (Complainant) made the Accusation in
5 her official capacity as a Deputy Real State Commissioner for the
6 Department.

7 2. Paul William Chandler ("Chandler") was first
8 licensed by the Department as a real estate broker on December
9 16, 1993. Chandler was licensed by the Department as the
10 designated officer of NKL on December 28, 2001. As the
11 designated officer, Chandler was required to supervise and
12 control the activities conducted on behalf of NKL by its
13 officers, managers, and employees, including the supervision of
14 salespersons licensed to the corporation.
15

16 3. NKL INC. was originally licensed as a corporate
17 real estate broker by the Department on January 25, 1985. At
18 that time, it was authorized to use the dba Century 21 Center
19 Realty. That dba was canceled in September 2001 and reinstated
20 in December 2001. In February 2002, the dba Always Reliable
21 Escrow was authorized for NKL by the Department.
22

23 4. In October 1999, NKL's license was revoked, and a
24 restricted license was issued. In September 2001, NKL's license
25 was again revoked, and a restricted license was issued. In 2003,
26 NKL's license remained restricted.
27

1 5. Between February 3 and February 6, 2003, a
2 Department auditor conducted an audit of NKL's books and records
3 to determine whether or not NKL had complied with the Order in
4 case number H-28939 LA, including determining whether NKL handled
5 and accounted for trust funds, and conducted other real estate
6 activities, in accordance with the Real Estate Law and the
7 applicable regulations.

8 6. The audit period was January 1, 2002 to December
9 31, 2002. The auditor interviewed NKL's escrow officer,
10 Chandler, and his administrative assistant to obtain information
11 for the audit. NKL's representatives were cooperative.

12 7. NKL is engaged in residential resales and broker
13 controlled escrows. NKL is no longer engaged in property
14 management, which was the activity involved in the prior
15 disciplinary actions against it.

16 8. The auditor determined that NKL had two active
17 trust accounts. At the time of the audit, Trust Account 1, which
18 was the escrow account for NKL's escrow division, was overdrawn
19 by \$1,630.19. Trust Account 2, which was an inactive account,
20 had an overage of \$ 1,378.20. The auditor determined that the
21 shortage in Trust Account 1 had resulted in large part from NKL's
22 issuing replacement checks for Trust Account 2 transactions from
23 Trust Account 1 instead. NKL had not obtained the written
24 consent of the trust account beneficiaries to overdraw Trust
25 Account 1. That problem was corrected at the time of the audit.
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2 9. The auditor also found three clerical errors made
3 in recording the amounts of funds received and deposited into
4 Trust Account 1. The auditor further noted that some checks had
5 been identified by an incorrect check number, although the
6 amounts on the checks had been recorded correctly. These errors
7 were corrected at the time they were discovered.

8 10. The auditor determined that NKL's trust account
9 records were inaccurate because, in three separate escrow
10 accounts, the record of deposited funds was incorrect, which in
11 turn caused the daily balance reflected on the records to be
12 incorrect.

13 11. Trust Account 1 had five authorized signatories.
14 Two signatures were required for each disbursement/withdrawal.
15 Of the five people authorized to sign checks on Trust Account 1,
16 only two were real estate licensees. However, one of those
17 licensees was not affiliated with NKL as an employee or officer.
18 NKL had obtained a fidelity bond in the amount of \$50,000 to
19 cover the signers on the trust account. However, the average
20 daily balance for Trust Account 1 in December 2002 was in excess
21 of \$600,000. Therefore, the fidelity bond was inadequate.
22 During the audit, NKL changed the bank signature card for Trust
23 Account 1 to require that at least one signature on a check or
24 other withdrawal was that of a real estate licensee. All
25 signatories on the new signature card were affiliated with NKL.
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1 10145 and Regulations Sections 2834 and 2951.

2 The following order is consistent with the public
3 interest.

4 ORDER

5 I.

6 The restricted real estate broker license and license
7 rights of Respondent NKL INC., under the Real Estate Law are
8 suspended for a period of ninety (90) days from the effective
9 date of this Decision; provided, however, that if Respondent
10 petitions, said suspension, or a portion thereof, shall be stayed
11 upon condition that Respondent:

12 1. Pursuant to Section 10175.2 of the Business and
13 Professions Code, pays a monetary penalty of One Thousand Dollars
14 (\$1,000) total.

15 2. Said payment shall be in the form of a cashier's
16 check or certified check made payable to the Recovery Account of
17 the Real Estate Fund. Said check must be received by the
18 Department prior to the effective date of the Decision in this
19 matter.

20 3. No further cause for disciplinary action against
21 the real estate license of Respondent occurs within two (2) years
22 from the effective date of the Decision in this matter.

23 4. If Respondent fails to pay the monetary penalty in
24 accordance with the terms and conditions of the Decision, the
25 Commissioner may, without a hearing, order the immediate
26
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1 execution of all or any part of the stayed suspension in which
2 event Respondent shall not be entitled to any repayment nor
3 credit, prorated or otherwise, for money paid to the Department
4 under the terms of this Decision.

5 5. If Respondent pays the monetary penalty and if no
6 further cause for disciplinary action against the real estate
7 licenses of Respondent occur within two (2) years from the
8 effective date of the Decision, the stay hereby granted shall
9 become permanent.

10 6. Respondent shall obey all laws, rules and
11 regulations governing the rights, duties and responsibilities of
12 real estate licensees in the State of California.

13
14 II.

15 Pursuant to Section 10148 of the Business and
16 Professions Code, Respondent NKL INC. shall pay the
17 Commissioner's reasonable cost for (a) the audit which led to
18 this disciplinary action (b) a subsequent audit to determine if
19 Respondents are now in compliance with the Real Estate Law. The
20 cost of the audit which led to this disciplinary action is
21 \$4,424.16 (LA 020201). In calculating the amount of the
22 Commissioner's reasonable cost, the Commissioner may use the
23 estimated average hourly salary for all persons performing audits
24 of real estate brokers, and shall include an allocation for
25 travel time to and from the auditor's place of work. Said amount
26 for the prior and subsequent audits shall not exceed \$8,848.32.
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I have read the Stipulation and Agreement and discussed it with my counsel, and its terms are understood by me and are agreeable and acceptable to me. I willingly and voluntarily agree to enter into this Stipulation.

9/14/05
DAVID

Frank Buda
NILE FORI
BY: Steve Lutz / President / Owner
Negotiator

I have reviewed the stipulation and agreement as to form and content and have advised my client accordingly.

9-14-05
DAVID

Frank A. Buda
FRANK A. BUDA
Attorney for Respondents

DECISION AND ORDER

The foregoing Stipulation and Agreement is hereby adopted by the Real Estate Commissioner as his Decision and Order.

This Decision shall become effective at 12 o'clock noon on _____, 2005.

IT IS SO ORDERED _____, 2005.

JEFF DAVIS
Real Estate Commissioner

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* * *

I have read the Stipulation and Agreement and discussed it with my counsel, and its terms are understood by me and are agreeable and acceptable to me. I willingly and voluntarily agree to enter into this Stipulation.

DATED NKL INC.
BY: _____
Respondent

I have reviewed the Stipulation and Agreement as to form and content and have advised my client accordingly.

DATED FRANK M. BUDA
Attorney for Respondents

* * *

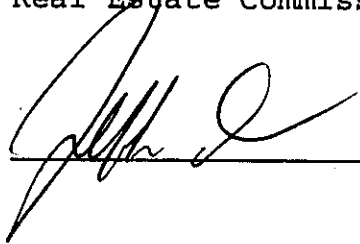
DECISION AND ORDER

The foregoing Stipulation and Agreement is hereby adopted by the Real Estate Commissioner as his Decision and Order.

This Decision shall become effective at 12 o'clock noon on OCT 12, 2005.

IT IS SO ORDERED 9-19-, 2005.

JEFF DAVI
Real Estate Commissioner



judicial

FILED
APR -1 2005
DEPARTMENT OF REAL ESTATE

By *K. Schneiderholt*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-30873 LA
NKL, INC., dba Century 21 Center)	
Realty and Always Reliable)	L-2004050636
Escrow, and PAUL WILLIAM)	
CHANDLER, individually and as)	
designated officer of NKL, INC.,)	
Respondents.)	

NOTICE

TO: NKL, INC., dba Century 21 Center Realty and Always Reliable Escrow, and PAUL WILLIAM CHANDLER, Respondents, and FRANK BUDA, their Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated March 7, 2005, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated March 7, 2005, is attached for your information.

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

1 including the transcript of the proceedings held on November 9,
2 2004, and any written argument hereafter submitted on behalf of
3 Respondent and Complainant.

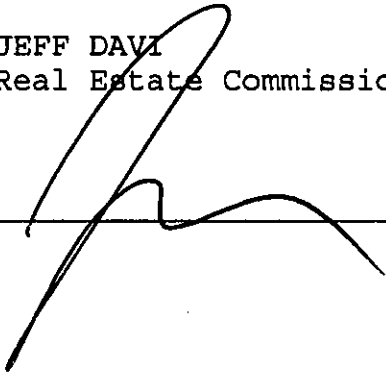
4 Written argument of Respondent to be considered by me
5 must be submitted within 15 days after receipt of the transcript
6 of the proceedings of November 9, 2004, at the Los Angeles office
7 of the Department of Real Estate unless an extension of the time
8 is granted for good cause shown.

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: 3-23-05, 2005

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16 JEFF DAVIS
17 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:)	Agency Case No. H-30873 LA
)	
NKL INC., dba Century 21 Center Realty)	OAH No. L 2004050636
and Always Reliable Escrow, and)	
PAUL WILLIAM CHANDLER,)	
individually and as designated officer)	
of NKL, Inc.,)	
)	
Respondents.)	
<hr/>		

PROPOSED DECISION

This matter was heard by Carolyn D. Magnuson, Administrative Law Judge of the Office of Administrative Hearings, in Los Angeles, California on November 9, 2004.

Elliott Mac Lennon, Staff Attorney, represented the Complainant.

Frank Buda, Attorney at Law, represented the respondents. Paul Chandler was present at the hearing.

During the hearing, the Accusation was amended as indicated by the interlineations made on Exhibit 1. Oral and documentary evidence was received, the record was closed, and the matter was submitted for decision at the close of the hearing.

FACTUAL FINDINGS

1. Janice Waddell (Complainant) made the Accusation solely in her official capacity as a Deputy Real State Commissioner of the Department of Real Estate (Department) of the State of California.

2. Paul William Chandler (Chandler) was first licensed by the Department as a real estate broker on December 16, 1993. Chandler was licensed by the Department as the designated officer of NKL on December 28, 2001. As the designated officer, Chandler was required to supervise and control the activities conducted on behalf of NKL by its officers, managers, and employees, including the supervision of salespersons licensed to the corporation.

3. NKL, Inc. (NKL) was originally licensed as a corporate real estate broker by the Department on January 25, 1985 and was, at that time, authorized to use the dba Century 21 Center Realty. That dba was canceled in September 2001 and reinstated in December 2001. In February 2002, the dba Always Reliable Escrow was authorized for NKL by the Department.

4. In October 1999, NKL's license was revoked, and a restricted license was issued. In September 2001, NKL's license was again revoked, and a restricted license was issued. In 2003, NKL's license was still on probation.

5. Between February 3 and February 6, 2003, a Department auditor conducted an audit of NKL's books and records to determine whether or not NKL had complied with the Order in case number H-28939 LA, including determining whether NKL handled and accounted for trust funds, and conducted other real estate activities, in accordance with the Real Estate Law and the Commissioner's regulations.

6. The audit period was January 1, 2002 to December 31, 2002. The auditor spoke with NKL's escrow officer, Chandler, and Chandler's administrative assistant to obtain information for the audit. NKL's representatives were cooperative.

7. NKL's business activities were in residential resales and broker controlled escrows. NKL no longer engaged in property management, which was the activity involved in the prior disciplinary actions against it.

8. The auditor determined that NKL had two active trust accounts. At the time of the audit, Trust Account 1, which was the escrow account for NKL's escrow arm, was overdrawn by \$1,630.19. Trust Account 2, which was an inactive account, had an overage of \$1,378.20. The auditor determined that the shortage in Trust Account 1 had resulted in large part from NKL's issuing replacement checks for Trust Account 2 transactions from Trust Account 1 instead. NKL had not obtained the written consent of the trust account beneficiaries to overdraw Trust Account 1. That problem was corrected at the time of the audit.

9. The auditor also found three clerical errors made in recording the amounts of funds received and deposited into Trust Account 1. The auditor further noted that some checks had been identified by an incorrect check number, although the amounts on the checks had been recorded correctly. These errors were corrected at the time they were discovered.

10. The auditor determined that NKL's trust account records were inaccurate because, in three separate escrow accounts, the record of deposited funds was incorrect, which in turn caused the daily balance reflected on the records to be incorrect.

11. Trust Account 1 had five authorized signatories. Two signatures were required for each disbursement/withdrawal. Of the five people authorized to sign checks on Trust Account 1, only two were real estate licensees. However, one of those licensees was not affiliated with NKL as an employee or officer. NKL had obtained a fidelity bond in the amount of \$50,000 to cover the signers on the trust account. However, the average daily balance for Trust Account 1 in December 2002 was in excess of \$600,000. Therefore, the fidelity bond was inadequate. During the audit, NKL changed the bank signature card for Trust Account 1 to require that at least one signature on a check or other withdrawal was that of a real estate licensee. All signatories on the new bank signature card were affiliated with NKL.

12. Chandler owns NKL. In addition to acting as the broker for NKL, Chandler also has an active law practice. On average he is in the real estate office three times a week. Following the audit, Chandler has become more involved in NKL's operations. He personally reviews the trust records twice a week.

LEGAL CONCLUSIONS

13. Cause exists under the provisions up Business and Professions Code section 10177, subdivisions (d) and (g), to discipline NKL's license, based all on the following violations committed by NKL:

- a. By creating the overdraft in Trust Account 1, NKL violated Business and Professions Code section 10145 and California Code of Regulations, title 10, sections 2832.1; 2950, subdivisions (d) and (g); and 2951.
- b. By allowing or causing an overage in Trust Account 2, NKL violated Business and Professions Code section 10145.
- c. By misposting three deposits, NKL failed to maintain accurate records for Trust Account 1, which violated Business and Professions Code section 10145 and California Code of Regulations, title 10, sections 2831; 2950, subdivision (d); and 2951.
- d. By misposting three deposits, NKL failed to maintain accurate records for each beneficiary of Trust Account 1, which violated Business and Professions Code section 10145 and California Code of Regulations, title 10, sections 2831.1; 2950, subdivision (d); and 2951.
- e. By permitting signatories on Trust Account 1 who were not real estate licensees without first obtaining an adequate fidelity bond, by allowing a signatory on the account who was not affiliated with NKL, and by failing to require that one of the two signatures required for all withdrawals needed to be that of a real estate licensee, NKL violated Business and Professions Code

section 10145 and California Code of Regulations, title 10, sections 2834 and 2951.

14. According to Complainant, the existence of the violations listed in paragraph 13, *infra*, established violation of Business and Professions Code section 10159.2 and California Code of Regulations, title 10, section 2725 by Chandler. The question is what constitutes "reasonable" supervision and control? According to Complainant, if Chandler had exercise reasonable supervision and control, the violations would have been prevented.

15. However, that standard is actually perfect supervision. The reasonable standard is less stringent. While the regulations provide a very broad brush description of methods a reasonable supervisor might employ to carry out his/her supervisory responsibilities, they do not "defined" the term "reasonable supervision." Logically, the reasonable supervision standard should be similar to the reasonable man standard which, if expressed in real estate terms, would be that level of supervision a prudent real estate broker would exercise under similar circumstances.

16. With regard to the posting errors and the consequent inaccuracies in the trust account and beneficiary records, supervision would have had to be hyper-vigilant to have prevented these errors. Similarly, the problems with the signatories on the trust account were not obvious and would have required unusually rigorous supervision to identify.

17. However, the problems with the trust account balances should have been identified by a broker providing reasonable supervision. Protecting trust funds should be a very high priority for broker and ensuring the accuracy of the records of trust account transactions is essential. Therefore, Chandler's failure to discover the trust account balance discrepancies established that he failed in that regard to exercise reasonable supervision, thereby establishing grounds, under the provisions up Business and Professions Code 10159.2 and California Code of Regulations, title 10, section 2725, to discipline his license.

18. NKL's claim that, by declining to offset the overage in Trust Account 2 against the overdraft in Trust Account 1, the auditor failed to follow the normal auditing procedures of the Department. Complainant claims that, because this was a follow-up audit to earlier discipline against NKL that was based on trust account discrepancies, the auditor properly applied a higher standard to NKL.

19. In this particular argument, it doesn't matter who wins. Even if the auditor had offset the two balances, there would have been an overdraft in Trust Account 1, although in either case, the monetary value at issue is relatively modest. The bottom line is that the trust account overdraft existed, and Chandler failed to discover it.

20. NKL has been disciplined by the Department on two prior occasions. Both of these disciplinary actions occurred prior to Chandler's becoming the designated officer for NKL. However, when Chandler assumed that position, he also assumed responsibility for NKL's disciplinary history.

21. Complainant is concerned that NKL continues to have trust account problems and views any trust account anomaly involving NKL as being an imminent threat to the public.

22. It is unreasonable to expect absolute perfection from anyone. People make mistakes. Therefore, the mere existence of errors is insufficient to raise a reasonable concern about the public's interest and welfare. It is the facts and circumstances underlying the mistakes that need to be assessed in order to determine whether there is an actual risk to the public.

23. In this case, there was no suggestion that the errors were the result of any misfeasance or malfeasance on the part of NKL or Chandler. NKL's representatives were very responsive and cooperative during the audit. The monetary impact of the errors was minimal. Given the number of transactions done by the business, the error rate was quite low. The real problem was not that the errors were made but that they were not promptly identified. However, Chandler has implemented new procedures to address that problem, and it seems unlikely to recur.

24. Authorizing license discipline based on the violation of a regulation or statute governing real estate transactions is analogous to creating a presumption that the public is at risk when the law or regulation has been violated. However, that presumption is rebuttable, and a licensee may establish that the violation does not put the public's welfare at risk.

25. While it is true that the evidence in this case established grounds on which NKL and Chandler could be disciplined, it did not establish that those de minimus violations raised a realistic concern that the public's interests needed the protection that imposing discipline would provide.

26. If the public would not benefit from imposing discipline on NKL and Chandler, none should be imposed. "Administrative proceedings to revoke, suspend or impose discipline on a professional license are noncriminal and nonpenal; they are not intended to punish the licensee, but rather to protect the public." (*Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 785-786.) The authority of an administrative agency to engage in administrative adjudication is derived from the police powers granted to the executive branch of government to act to protect the public's interests. Thus, before an agency has the authority to impose discipline on a licensee, there must be an articulable, imminent risk to the public that would be

ameliorated if the proposed discipline were imposed. Because no such risk has been established in this case, the Accusation should be dismissed.

ORDER

The Accusation against NKL, Inc. and Paul William Chandler is dismissed.

Dated: *March 7, 2005*

Carolyn D. Magnuson
CAROLYN D. MAGNUSON
Administrative Law Judge
Office of Administrative Hearings

*not
Adopted*

*Sacto
globe*

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

FILED
JUL - 9 2004
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

By *R. Medel*

NKL INC., ET AL.,

Case No. H-30873 LA

OAH No. L-2004050636

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 320 W. Fourth Street, Ste. 630, Los Angeles, CA on November 9-10, 2004, 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: JUL - 9 2004

By *EL*
ELLIOTT MAC LENNAN, Counsel

cc: NKL Inc.
Paul William Chandler.
Frank M. Buda, Esq. Sacto/OAH/

Handwritten initials/signature

1 ELLIOTT MAC LENNAN, Counsel
State Bar No. 66674
2 Department of Real Estate
320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105
4 (213) 576-6911

FILED
APR 30 2004
DEPARTMENT OF REAL ESTATE

By *K. Maderholt*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of) NO. H-30873 LA
12)
12 NKL INC.; dba Century 21 Center)
12 Realty and Always Reliable Escrow,)
13 and, PAUL WILLIAM CHANDLER,) A C C U S A T I O N
13 individually and as designated)
14 officer of NKL Inc.)
14)
15)
15 Respondents.)
16)

17 The Complainant, Janice Waddell, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against NKL INC. Century 21 Center Realty and Always Reliable
20 Escrow, and PAUL WILLIAM CHANDLER, individually and as
21 designated officer of NKL Inc., alleges as follows:

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23 ///
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27 ///

1.

1 The Complainant, Janice Waddell, acting in her
2 official capacity as a Deputy Real Estate Commissioner of the
3 State of California, makes this Accusation against NKL INC.
4 ("NKL") and PAUL WILLIAM CHANDLER, individually and as
5 designated officer of NKL INC. ("CHANDLER").
6

2.

7 All references to the "Code" are to the California
8 Business and Professions Code and all references to
9 "Regulations" are to Title 10, Chapter 6, California Code of
10 Regulations.
11

3.

12 NKL and CHANDLER (sometimes hereinafter referred to as
13 Respondents) are presently licensed or have license rights under
14 the Real Estate Law (Part 1 of Division 4 of the Business and
15 Professions Code, hereinafter "Code").
16
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4.

18 (a) From December 28, 2001 to date, CHANDLER was
19 licensed by the Department as the designated officer of NKL to
20 qualify NKL and to act for NKL as a real estate broker and, as
21 provided by Code Section 10159.2, was responsible for the
22 supervision and control of the activities conducted on behalf of
23 NKL by its officers, managers and employees as necessary to
24 secure full compliance with the provisions of the Real Estate
25 Law including the supervision of the salespersons licensed to
26
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1 the corporation in the performance of acts for which a real
2 estate license is required.

3 (b) NKL'S real estate broker license was originally
4 issued on January 25, 1985. CHANDLER became the designated
5 officer of NKL on December 28, 2001.

6 (c) CHANDLER was originally licensed as a real estate
7 broker on December 16, 1993.

8 (d) On October 12, 1999, in Case Number H-28129 LA,
9 based on an Accusation filed on May 14, 1999, NKL's real estate
10 broker license was revoked with right to restricted license
11 which was issued on said date, as more fully set forth in
12 Paragraph 11, below.

13 (e) On September 4, 2001, in Case Number H-28939 LA,
14 based on an Accusation filed on April 6, 2001, NKL's restricted
15 real estate broker license was extended on terms and conditions,
16 as more fully set forth in Paragraph 12, below.

17
18 5.

19 Whenever reference is made in an allegation in the
20 Accusation to an act or omission of NKL, such allegation shall
21 be deemed to mean that the officers, directors, managers,
22 employees, agents and real estate licensees employed by or
23 associated with NKL and PAUL WILLIAM CHANDLER, committed such
24 act or omission while engaged in the furtherance of NKL's
25 business or operation and while acting within the course and
26 scope of NKL's corporate authority, agency and employment.
27

6.

1
2 At all times herein mentioned in the City of Cerritos,
3 California, NKL engaged in the business as a real estate broker
4 as follows:

5 A. Code Section 10131(a) of the Code in that NKL
6 operated a residential property resale brokerage using the
7 fictitious business name of Century 21 Center Realty; and,

8 B. Conducted broker-controlled escrows through its
9 escrow division, Always Reliable Escrow, under the exemption set
10 forth in California Financial Code Section 17006(a)(4) for real
11 estate brokers performing escrows incidental to a real estate
12 transaction where the broker is a party and where the broker is
13 performing acts for which a real estate license is required.

14 (Audit of NKL INC.)

15
16 7.

17 On March 10, 2003, the Department completed an audit
18 examination of the books and records of NKL pertaining to its
19 broker-escrow activities requiring a real estate license as
20 described in Paragraph 6. The audit examination covered a
21 period of time beginning January 1, 2002 to December 30, 2002.
22 The audit examination revealed violations of the Code and the
23 Regulations as set forth below, and more fully discussed in
24 Audit Report LA 020201 and the exhibits and workpapers attached
25 to said audit report.

26 ///

1 8.

2 At all times mentioned, in connection with the
3 activities described in Paragraph 6, above, NKL accepted or
4 received funds in trust (trust funds) from or on behalf of
5 buyers and sellers, and thereafter made disposition of such
6 funds. NKL maintained the following trust accounts for its
7 broker escrow activity during the audit period into which were
8 deposited certain of these funds at:
9

10 "NKL Inc. dba Always Reliable Escrow Trust Account ("T/A #1")
11 Account No. 013315515"
12 City National Bank - City of Commerce Office
13 City of Commerce, CA

14 "Always Reliable Escrow Trust Account ("T/A #2")
15 Account No. 0845015883"
16 City National Bank
17 Buena Park, CA

18 9.

19 With respect to the activities referred to in
20 Paragraphs 6 and 8, it is alleged that NKL:

21 (a) Permitted, allowed or caused the disbursement of
22 trust funds from T/A #1 where the disbursement of funds reduced
23 the total of aggregate funds in T/A #1, to an amount which, on
24 December 31, 2003, was \$1,630.19, less than the existing
25 aggregate trust fund liability of NKL to every principal who was
26 an owner of said funds, without first obtaining the prior
27 written consent of the owners of said funds, as required by Code
Section 10145 and Regulations 2832.1, 2950(d), 2950(g) and 2951.

1 (b) Permitted, allowed or caused the disbursement of
2 trust funds from the escrow trust account where the disbursement
3 of funds reduced the total of aggregate funds in T/A #2, to an
4 amount which, on December 31, 2003, was \$1,378.21, less than the
5 existing aggregate trust fund liability of NKL to every
6 principal who was an owner of said funds, without first
7 obtaining the prior written consent of the owners of said funds,
8 as required by Code Section 10145 and Regulations 2832.1,
9 2950(d), 2950(g) and 2951.

10 (c) Failed to maintain an adequate control record in
11 the form of a columnar record in chronological order of all
12 trust funds received, deposited into, and disbursed from T/A #1,
13 as required by Code Section 10145 and Regulations 2831, 2950(d)
14 and 2951.

15 (d) Failed to maintain an adequate separate record for
16 each beneficiary or transaction, thereby failing to account for
17 all trust funds received, deposited into, and disbursed from T/A
18 #1, as required by Code Section 10145 and Regulations 2831.1,
19 2950(d) and 2951.

20 (e) Permitted Cheryl Hesford, Jessica Rogers and
21 Audine Benson, unlicensed persons who were insufficiently
22 bonded, to be authorized signatories on T/A #1 and T/A #2, and
23 permitted Roland Weedon, a real estate broker unaffiliated with
24 NKL to be an authorized signatory on T/A #1 and T/A #2, in
25 violation of Code Section 10145 and Regulations 2834 and 2951.
26
27

10.

The conduct of Respondent NKL, described in Paragraph 10, violated the Code and the Regulations as set forth below:

PARAGRAPH

PROVISIONS VIOLATED

9(a)

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

9(b)

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

9(c)

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

9(d)

Code Section 10145 and Regulations 2831.1/2950(d) and 2951

9(e)

Code Section 10145 and Regulations 2834/2951

Each of the foregoing violations separately constitutes cause for the suspension or revocation of the real estate license and license rights of NKL, under the provisions of Code Sections 10177(d) and/or 10177(g).

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Prior Discipline

11.

On May 14, 1999, in Case No. H-28129 LA, an Accusation was filed against Respondent NKL that resulted in discipline by means of a restricted real estate broker license under terms and conditions for said Respondent for violations of Sections 10145, 10148, 10177(d) of the California Business and Professions Code and Sections 2752, 2831.2, 2832, 2832.1 and 2834 of Title 10, Chapter 6, California Code of Regulations.

Prior Discipline

12.

On April 6, 2001, in Case No. H-28939 LA, an Accusation was filed against Respondent NKL that resulted in discipline by means of a restricted real estate broker license under terms and conditions for said Respondent for violations of Sections 10145, 10161.8, 10165, 10177(d), 10177(g) and 10177(k) of the California Business and Professions Code and Sections 2752, 2832, 2831.2 and 2835 of Title 10, Chapter 6, California Code of Regulations.

13.

The overall conduct of Respondent CHANDLER constitutes a failure on his part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of NKL as required by Code Section 10159.2 and Regulation 2725 and to keep NKL in

1 compliance with the Real Estate Law, and is cause for the
2 suspension or revocation of the real estate license and license
3 rights of CHANDLER pursuant to the provisions of Code Sections
4 10177(d), 10177(g) and/or 10177(h).

5 WHEREFORE, complainant prays that a hearing be
6 conducted on the allegations of this Accusation and, that upon
7 proof thereof, a decision be rendered imposing disciplinary
8 action against all licenses and licensing rights of Respondents
9 NKL INC. and PAUL WILLIAM CHANDLER, individually and as
10 designated officer of NKL Inc. under the Real Estate Law (Part 1
11 of Division 4 of the Business and Professions Code) and for such
12 other and further relief as may be proper under other applicable
13 provisions of law.

14
15 Dated at Los Angeles, California
16 this *15 April 2004*

17
18 
19 Deputy Real Estate Commissioner

20
21 cc: NKL Inc.
22 c/o Paul William Chandler
23 Janice Waddell
24 Auditor
25 AS
26
27