

FILED
JAN 10 2008

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
SUBASHBHAI JETHABHAI PATEL,) NO. H-30879 LA
Respondent.)

ORDER SUSPENDING REAL ESTATE LICENSE

TO: SUBASHBHAI JETHABHAI PATEL:

On March 25, 2005, your real estate salesperson license was suspended on the terms, conditions, and restrictions set forth in the Real Estate Commissioner's Order, in Case No. H-30879 LA. Said suspension was stayed on certain terms and conditions. Among those terms, conditions and restrictions, you were required to take and pass the Professional Responsibility Examination within six months from the effective date of the

1 Decision. The Commissioner has determined that as of September
2 25, 2005, you have failed to satisfy this condition.

3 NOW, THEREFORE, IT IS ORDERED under authority of the
4 Order issued in this matter that the real estate salesperson
5 license heretofore issued to Respondent and the exercise of any
6 privileges thereunder is hereby suspended until such time as you
7 provide proof satisfactory to the Department of compliance with
8 the "condition" referred to above, or pending final determination
9 made after hearing (see "Hearing Rights" set forth below).

10 IT IS FURTHER ORDERED that all license certificates and
11 identification cards issued by Department which are in the
12 possession of Respondent be immediately surrendered by personal
13 delivery or by mailing in the enclosed, self-addressed envelope
14 to:

15 DEPARTMENT OF REAL ESTATE
16 ATTN: FLAG SECTION
17 P. O. Box 187000
18 Sacramento, CA 95818-7000

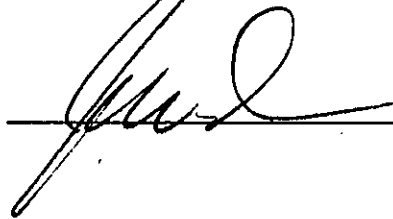
19 HEARING RIGHTS: Pursuant to the provisions of Section
20 10156.7 of the Business and Professions Code, you have the right
21 to a hearing to contest the Commissioner's determination that you
22 are in violation of the Order issued in this matter. If you
23 desire a hearing, you must submit a written request. The request
24 may be in any form, as long as it is in writing and indicates
25 that you want a hearing. Unless a written request for a hearing,
26 signed by or on behalf of you, is delivered or mailed to the
27 Department at 2201 Broadway, P. O. Box 187000, Sacramento,

1 California 95818-7000, within 20 days after the date that this
2 Order was mailed to or served on you, the Department will not be
3 obligated or required to provide you with a hearing.

4
5 This Order shall be effective immediately.

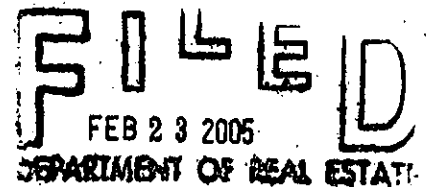
6 DATED: 1-4, 2006.

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8 JEFF DAVI
Real Estate Commissioner

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1 Department of Real Estate
320 West Fourth Street, Suite 350
2 Los Angeles, California 90013-1105

3 Telephone: (213) 576-6982
4 -or- (213) 576-6910 (Direct)



8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 HOME EQUITY BANCORP,) DRE No. H-30879 LA
13 a corporation;) OAH No. L-2004080114
14 DONALD BEYNON NICOLSON,)
15 individually and as designated) STIPULATION AND AGREEMENT
16 officer of Home Equity Bancorp;)
and SUBASHBHAI JETHABHAI PATEL,)
Respondents.)

17
18 It is hereby stipulated by and between SUBASHBHAI
19 JETHABHAI PATEL (hereinafter "Respondent"), represented by Jozef
20 G. Magyar, Esq., and the Complainant, acting by and through Chris
21 Leong, Counsel for the Department of Real Estate, as follows for
22 the purpose of settling and disposing of the Accusation filed on
23 May 4, 2004. The matter as to HOME EQUITY BANCORP, a corporation
24 and DONALD BEYNON NICOLSON will be handled separately.

25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and Respondent
27 at a formal hearing on the Accusation, which hearing was to be

1 held in accordance with the provisions of the Administrative
2 Procedure Act, shall instead and in place thereof be submitted
3 solely on the basis of the provisions of this Stipulation and
4 Agreement ("Stipulation").

5 2. Respondent has received, read and understands the
6 Statement to Respondent, the Discovery Provisions of the
7 Administrative Procedure Act and the Accusation, filed by the
8 Department of Real Estate in this proceeding.

9 3. Respondent filed a Notice of Defense pursuant to
10 Section 11506 of the Government Code for the purpose of
11 requesting a hearing on the allegations in the Accusation.
12 Respondent hereby freely and voluntarily withdraws said Notice of
13 Defense. Respondent acknowledges that he understands that by
14 withdrawing said Notice of Defense he will thereby waive his
15 right to require the Commissioner to prove the allegations in the
16 Accusation at a contested hearing held in accordance with the
17 provisions of the Administrative Procedure Act and that
18 Respondent will waive other rights afforded to him in connection
19 with the hearing, such as the right to present evidence in
20 defense of the allegations in the Accusation and the right to
21 cross-examine witnesses.

22 4. This Stipulation is based on the factual
23 allegations contained in the Accusation filed in this proceeding.
24 In the interest of expedience and economy, Respondent chooses not
25 to contest these factual allegations, but to remain silent and
26 understands that, as a result thereof, these factual statements,
27

1 will serve as a prima facie basis for the disciplinary action
2 stipulated to herein. The Real Estate Commissioner shall not be
3 required to provide further evidence to prove such allegations.

4 5. This Stipulation and Respondent's decision not to
5 contest the Accusation are made for the purpose of reaching an
6 agreed disposition of this proceeding and are expressly limited
7 to this proceeding and any other proceeding or case in which the
8 Department of Real Estate, or another licensing agency of this
9 state, another state or if the federal government is involved,
10 and otherwise shall not be admissible in any other criminal or
11 civil proceedings.

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

23 7. The Order or any subsequent Order of the Real
24 Estate Commissioner made pursuant to this Stipulation shall not
25 constitute an estoppel, merger or bar to any further
26 administrative or civil proceedings by the Department of Real
27 Estate with respect to any conduct which was not specifically

1 alleged to be causes for accusation in this proceeding.

2 DETERMINATION OF ISSUES

3 By reason of the foregoing stipulations, admissions and
4 waivers and solely for the purpose of settlement of the pending
5 Accusation without a hearing, it is stipulated and agreed that
6 the following Determination of Issues shall be made:

7 The acts and omissions of Respondent, described in the
8 Accusation, is cause for the suspension or revocation of all real
9 estate licenses and license rights of Respondent pursuant to
10 Business and Professions Code Section 10177(g).

11 ORDER

12 WHEREFORE, THE FOLLOWING ORDER is hereby made:

13 1. All licenses and licensing rights of Respondent
14 SUBASHBHAI JETHABHAI PATEL, under the Real Estate Law shall be
15 suspended for a period of one hundred and twenty (120) days from
16 the effective date of this Decision; provided, however, that the
17 final sixty (60) days of the one hundred and twenty (120) day
18 suspension shall be stayed for two (2) years upon the following
19 terms and conditions:

20 (a) Respondent shall obey all laws, rules and
21 regulations governing the rights, duties and responsibilities
22 of a real estate licensee in the State of California; and

23 (b) That no final subsequent determination be made,
24 after hearing or upon stipulation, that cause for disciplinary
25 action occurred within two (2) years of the effective date of
26 this Decision. Should such a determination be made, the
27 Commissioner may, in his discretion, vacate and set aside the

1 stay order and reimpose all or a portion of the stayed
2 suspension. Should no such determination be made, the stay
3 imposed herein shall become permanent.

4 2. If Respondent petitions, the initial sixty (60)
5 days of said suspension or a portion thereof shall be stayed
6 upon condition that:

7 (a) Pursuant to Code Section 10175.2, Respondent
8 pays a monetary penalty at the rate of Fifty Dollars (\$50.00)
9 per day for a total monetary penalty of Three Thousand Dollars
10 (\$3,000.00).

11 (b) Said payment shall be in the form of a cashier's
12 check or certified check made payable to the Recovery Account of
13 the Real Estate Fund. Said check must be received by the
14 Department prior to the effective date of the Decision in this
15 matter.

16 (c) No further cause for disciplinary action against
17 the real estate license of Respondent occurs within two (2)
18 years from the effective date of the Decision in this matter.

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

26 (e) If Respondent pays the monetary penalty and if no
27 further cause for disciplinary action against the real estate

1 license of Respondent occurs within two (2) years from the
2 effective date of this Decision, the stay hereby granted shall
3 become permanent.

4 3. Respondent shall, within six (6) months from the
5 effective date of this Decision, take and pass the Professional
6 Responsibility Examination administered by the Department
7 including the payment of the appropriate examination fee. If
8 Respondent fails to satisfy this condition, the Commissioner
9 may order suspension of Respondent's license until Respondent
10 passes the examination.

11 4. Respondent shall, before the effective date of this
12 Decision, provide proof satisfactory to the Commissioner that the
13 \$10,500 was repaid to Purnima Patel. If Respondent fails to
14 satisfy this condition, the Commissioner may order suspension of
15 Respondent's license until Respondent provides such proof.

16 5. Respondent's license shall be indefinitely
17 suspended unless or until Respondent submits proof satisfactory
18 to the Commissioner of having taken and successfully completed
19 the continuing education course on trust fund accounting and
20 handling specified in subdivision (a) of Section 10170.5 of the
21 Business and Professions Code. Proof of satisfaction of this
22 requirement includes evidence that Respondent has successfully
23 completed the trust fund account and handling continuing
24 education course within 120 days prior to the effective date of
25 the Decision in this matter.

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DATED:

11/21/05

CHRIS LEONG

CHRIS LEONG, ESQ.
Counsel for Complainant

* * *

I have read the Stipulation and Agreement have discussed it with my counsel and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by Respondent, to the Department at fax number (213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

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1
2 DATED: 1/4/053
4 SUBASHBHAI JETHABHAI PATEL
Respondent

5 DATED: 1/4/05

6
7 JOSEPH O. MURPHY, ESQ.
Counsel for Respondent
(Approved as to content)
* * *8
9 The foregoing Stipulation and Agreement is hereby
10 adopted as my Decision in this matter and shall become effective
11 at 12 o'clock noon on _____.

12 IT IS SO ORDERED _____

13 JEFF DAVE
14 Real Estate Commissioner
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DATED: _____

SUBASHBHAI JETHABHAI PATEL
Respondent

DATED: _____

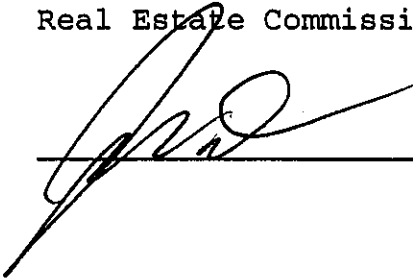
JOZEF G. MAGYAR, ESQ.
Counsel for Respondent
(Approved as to content)

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision in this matter and shall become effective
at 12 o'clock noon on March 25, 2005.

IT IS SO ORDERED 2-15-05

JEFF DAVI
Real Estate Commissioner



FILED
FEB 23 2005
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-30879 LA
)	
<u>HOME EQUITY BANCORP</u> , a corporation;)	L-2004080114
DONALD BEYNON NICOLSON, individually)	
and as designated officer of)	
Home Equity Bancorp; and)	
SUBASHBHAI JETHABHAI PATEL,)	
)	
Respondents.)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On May 4, 2004, an Accusation was filed in this matter
against Respondent HOME EQUITY BANCORP.

On January 4, 2005, Respondent petitioned the
Commissioner to voluntarily surrender its real estate corporation
license pursuant to Section 10100.2 of the Business and
Professions Code.

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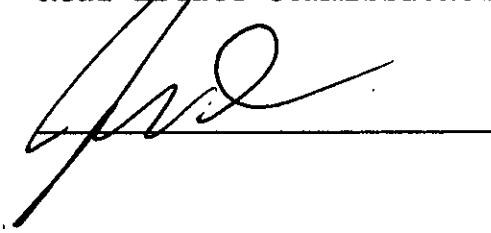
1 IT IS HEREBY ORDERED that Respondent HOME EQUITY
2 BANCORP's petition for voluntary surrender of its real
3 estate corporation license is accepted as of the effective date
4 of this Order as set forth below, based upon the understanding
5 and agreement expressed in Respondent's Declaration dated
6 January 4, 2005 (attached as Exhibit "A" hereto). Respondent's
7 license certificate(s), pocket card(s) and any branch office
8 license certificate(s) shall be sent to the below listed address
9 so that they reach the Department on or before
10 the effective date of this Order:

11 Department of Real Estate
12 Attn: Licensing Flag Section
13 P.O. Box 187000
14 Sacramento, CA 95818-7000

14 This Order shall become effective at 12 o'clock noon
15 on March 15, 2005.

16 DATED: 2/15/05

17 JEFF DAVIS
18 Real Estate Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-30879 LA
<u>HOME EQUITY BANCORP</u> , a corporation;)	L-2004080114
DONALD BEYNON NICOLSON, individually)	
and as designated officer of)	
Home Equity Bancorp; and)	
SUBASHBHAI JETHABHAI PATEL,)	
Respondents.)	

DECLARATION

My name is Subashbhai Jethabhai Patel and that I am currently an officer of HOME EQUITY BANCORP, which is licensed as a corporate real estate broker and/or has license rights with respect to said license. I am authorized and empowered to sign this declaration on behalf of HOME EQUITY BANCORP. HOME EQUITY BANCORP is represented in this matter by Jozef G. Magyar, Attorney at Law.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code) HOME EQUITY BANCORP.

1 wishes to voluntarily surrender its real estate license issued
2 by the Department of Real Estate ("Department"), pursuant to
3 Business and Professions Code Section 10100.2.

4 I understand that HOME EQUITY BANCORP, by so
5 voluntarily surrendering its license, can only have it reinstated
6 in accordance with the provisions of Section 11522 of the
7 Government Code. I also understand that by so voluntarily
8 surrendering its license, HOME EQUITY BANCORP agrees to the
9 following:

10 The filing of this Declaration shall be deemed as its
11 petition for voluntary surrender. It shall also be deemed to be
12 an understanding and agreement by HOME EQUITY BANCORP that, it
13 waives all rights it has to require the Commissioner to prove the
14 allegations contained in the Accusation filed in this matter at a
15 hearing held in accordance with the provisions of the
16 Administrative Procedure Act (Government Code Sections 11400 et
17 seq.), and that it also waives other rights afforded to it in
18 connection with the hearing such as the right to discovery, the
19 right to present evidence in defense of the allegations in the
20 Accusation and the right to cross-examine witnesses. I further
21 agree on behalf of HOME EQUITY BANCORP that upon acceptance by
22 the Commissioner, as evidenced by an appropriate order, all
23 affidavits and all relevant evidence obtained by the Department
24 in this matter prior to the Commissioner's acceptance, and all
25 allegations contained in the Accusation filed in the Department
26 Case No. H-30879 LA, may be considered by the Department to be
27 true and correct for the purpose of deciding whether or not to

1 grant reinstatement of HOME EQUITY BANCORP's license pursuant to
2 Government Code Section 11522.

3 Respondent can signify acceptance and approval of the
4 terms and conditions of this Declaration by faxing a copy of its
5 signature page, as actually signed by Respondent, to the
6 Department at fax number (213) 576-6917. Respondent agrees,
7 acknowledges and understands that by electronically sending to
8 the Department a fax copy of its actual signature as it appears
9 on the Declaration, that receipt of the faxed copy by the
10 Department shall be as binding on Respondent as if the Department
11 had received the original signed Declaration.

12 I declare under penalty of perjury under the laws of
13 the State of California that the above is true and correct and
14 that I am acting freely and voluntarily on behalf of HOME EQUITY
15 BANCORP to surrender its license and all license rights attached
16 thereto.

ON BEHALF OF HOME EQUITY BANCORP,
SUBASHBHAI JATHABHAI PATEL

17 1/4/05
18 Date and Place

S. Patel
HOME EQUITY BANCORP
By Subashbhai Jathabhai Patel

1 grant reinstatement of HOME EQUITY BANCORP's license pursuant to
2 Government Code Section 11522.

3 Respondent can signify acceptance and approval of the
4 terms and conditions of this Declaration by faxing a copy of its
5 signature page, as actually signed by Respondent, to the
6 Department at fax number (213) 576-6917. Respondent agrees,
7 acknowledges and understands that by electronically sending to
8 the Department a fax copy of its actual signature as it appears
9 on the Declaration, that receipt of the faxed copy by the
10 Department shall be as binding on Respondent as if the Department
11 had received the original signed Declaration.

12 I declare under penalty of perjury under the laws of
13 the State of California that the above is true and correct and
14 that I am acting freely and voluntarily on behalf of HOME EQUITY
15 BANCORP to surrender its license and all license rights attached
16 thereto.

17
18 _____
19 Date and Place

HOME EQUITY BANCORP
By Subashbhai Jethabhai Patel



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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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In the Matter of the Accusation of)	No. H-30879 LA
HOME EQUITY BANCORP, a corporation;)	L-2004080114
<u>DONALD BEYNON NICOLSON,</u>)	
individually and as designated)	
officer of Home Equity Bancorp;)	
and SUBASHBHAI JETHABHAI PATEL,)	
Respondents.)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On May 4, 2004, an Accusation was filed in this matter against Respondent DONALD BEYNON NICOLSON.

On October 12, 2004, Respondent petitioned the Commissioner to voluntarily surrender his real estate broker license pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent DONALD BEYNON
NICOLSON's petition for voluntary surrender of his real estate
broker license is accepted as of the effective date of this Order
as set forth below, based upon the understanding and agreement

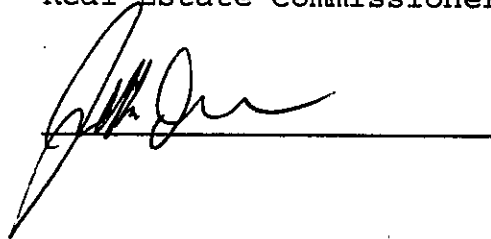
1 expressed in Respondent's Declaration dated October 12, 2004
2 (attached as Exhibit "A" hereto). Respondent's license
3 certificate(s), pocket card(s) and any branch office license
4 certificate(s) shall be sent to the below listed address so that
5 they reach the Department on or before the effective date of this
6 Order:

7 Department of Real Estate
8 Atten: Licensing Flag Section
9 P.O. Box 187000
Sacramento, CA 95818-7000

10 This Order shall become effective at 12 o'clock noon
11 on November 30, 2004.

12 DATED: November 3, 2004.

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14 JEFF DAVI
Real Estate Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-30879 LA
HOME EQUITY BANCORP, a corporation;)	L-2004070573
<u>DONALD BEYNON NICOLSON</u> ,)	
individually and as designated)	
officer of Home Equity Bancorp;)	
and SUBASHBHAI JETHABHAI PATEL,)	
Respondents.)	

DECLARATION

My name is DONALD BEYNON NICOLSON and I am currently licensed as a real estate broker and/or have license rights with respect to said license. I am representing myself in this matter.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code) I wish to voluntarily surrender my real estate license issued by the Department of

1 Real Estate ("Department"), pursuant to Business and Professions
2 Code Section 10100.2.

3 I understand that by so voluntarily surrendering my
4 license, that it can only be reinstated in accordance with the
5 provisions of Section 11522 of the Government Code. I also
6 understand that by so voluntarily surrendering my license,
7 I agree to the following:

8 The filing of this Declaration shall be deemed as my
9 petition for voluntary surrender. It shall also be deemed to be
10 an understanding and agreement by me that, I waive all rights I
11 have to require the Commissioner to prove the allegations
12 contained in the Accusation filed in this matter at a hearing
13 held in accordance with the provisions of the Administrative
14 Procedure Act (Government Code Sections 11400 et seq.), and that
15 I also waive other rights afforded to me in connection with the
16 hearing such as the right to discovery, the right to present
17 evidence in defense of the allegations in the Accusation and the
18 right to cross-examine witnesses. I further agree that upon
19 acceptance by the Commissioner, as evidenced by an appropriate
20 order, all affidavits and all relevant evidence obtained by the
21 Department in this matter prior to the Commissioner's acceptance,
22 and all allegations contained in the Accusation filed in the
23 Department Case No. H-30879 LA, may be considered by the
24 Department to be true and correct for the purpose of deciding
25 whether or not to grant reinstatement of my license pursuant to
26 Government Code Section 11522.

27 ///

1 Respondent can signify acceptance and approval of the
2 terms and conditions of this Declaration by faxing a copy of its
3 signature page, as actually signed by Respondent, to the
4 Department at fax number (213) 576-6917. Respondent agrees,
5 acknowledges and understands that by electronically sending to
6 the Department a fax copy of his actual signature as it appears
7 on the Declaration, that receipt of the faxed copy by the
8 Department shall be as binding on Respondent as if the Department
9 had received the original signed Declaration.

10 I declare under penalty of perjury under the laws of
11 the State of California that the above is true and correct and
12 that I freely and voluntarily surrender my license and all
13 license rights attached thereto.

14 10/12/04 Fullerton, Ca

15 Date and Place



DONALD BEYNON NICOLSON

5AC

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

In the Matter of the Accusation of) Case No. H-30879 LA
)
HOME EQUITY BANCORP, a corporation;) OAH No. L-2004080114
DONALD BEYNON NICOLSON, individually)
and as designated officer of)
Home Equity Bancorp; and)
SUBASHBHAI JETHABHAI PATEL,)
Respondent(s)

FILED
SEP - 9 2004
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

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, Suite 630, Los Angeles, CA 90013-1105 on JANUARY 5, 6 and 7, 2005, 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 9, 2004

By

CHRIS LEONG
CHRIS LEONG, Counsel

cc: Home Equity Bancorp
Subashbhai Jethabhai Patel
Jozef G. Magyar, Esq.
Eric N. Goff, L.A. Audits
Sacto.
OAH

Telephone: (213) 576-6982
-or- (213) 576-6910 (Direct)

FILED
MAY - 4 2004
DEPARTMENT OF REAL ESTATE

By C. J. [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
)
HOME EQUITY BANCORP,)
a corporation;)
DONALD BEYNON NICOLSON,)
individually and as designated)
officer of Home Equity Bancorp;)
and SUBASHBHAI JETHABHAI PATEL,)
)
Respondents.)
)

No. H- 30879 LA

A C C U S A T I O N

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against HOME EQUITY BANCORP, a corporation (hereafter "HOME EQUITY"); DONALD BEYNON NICOLSON, individually and as designated officer of HOME EQUITY (hereafter "NICOLSON"); and SUBASHBHAI JETHABHAI PATEL (hereafter "PATEL") (hereafter sometimes collectively referred to as "Respondents"), is informed and alleges in her official capacity as follows:

1.

Respondents are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the

1 California Business and Professions Code (hereafter "Code").

2 2.

3 At all times material herein, Respondent HOME EQUITY
4 was and still is licensed by the Department of Real Estate of
5 the State of California (hereafter "Department") as a corporate
6 real estate broker.

7 3.

8 At all times material herein, NICOLSON was and still
9 is licensed by the Department as a real estate broker,
10 individually and as designated officer of HOME EQUITY.

11 4.

12 At all times material herein, PATEL was and still is
13 licensed by the Department as a real estate salesperson. At all
14 times mentioned herein, PATEL was employed by HOME EQUITY.

15 5.

16 At all times material herein, Respondents engaged in
17 the business of, acted in the capacity of, advertised or assumed
18 to act as real estate brokers for others in the State of
19 California, within the meaning of Code Section 10131(a) and (d),
20 including the operation and conduct of a real estate sales, loan
21 and loan servicing business with the public wherein Respondents
22 sold and purchased real property on behalf of owners of real
23 property and/or solicited borrowers for loans secured by
24 interest in real property and/or serviced loans secured by
25 interest in real property in expectation of compensation.

26 6.

27 All further references to "Respondents", unless

1 otherwise specified, include the parties identified in Paragraphs
2 2 through 4, above, and also include the employees, agents and
3 real estate licensees employed by or associated with said
4 parties, who at all times herein mentioned were engaged in the
5 furtherance of the business or operations of said parties and who
6 were acting within the course and scope of their authority and
7 employment.

8 FIRST CAUSE OF ACCUSATION

9 (Audit Findings)

10 7.

11 On January 24, 2003, the Department concluded its
12 examination of Respondents HOME EQUITY and NICOLSON's books and
13 records pertaining to Respondents' activities as real estate
14 brokers in Audit No. LA 020125, including escrow activities
15 covering a period from approximately January 1, 2000 to
16 December 31, 2002. The examination revealed violations of the
17 Code and of Title 10, Chapter 6, California Code of Regulations
18 (hereafter "Regulations"), as set forth below, and as more
19 specifically set forth in Audit No. LA 020125 and the Exhibits
20 attached to said Audit.

21 8.

22 At all times herein, in connection with the broker
23 escrow, real estate sales, loan and loan servicing activity
24 described in Paragraph 5, above, Respondents HOME EQUITY and
25 NICOLSON accepted or received funds, including funds in trust
26 (hereafter "trust funds") from or on behalf of actual and
27 prospective parties to transactions handled by Respondents HOME

1 EQUITY and NICOLSON. These funds were maintained at California
2 Federal Bank, 18214 Gail Ave., City of Industry, CA 91748, in
3 the name of Home Equity Bancorp, Account No. 154-4033960
4 (hereafter "B/A").

5 9.

6 Respondents acted in violation of the Code and the
7 Regulations in that Respondents HOME EQUITY and NICOLSON:

8 (a) commingled funds received and held from borrowers
9 and buyers, in violation of Code Section 10176(e).

10 (b) failed to designate B/A as a trust account and
11 failed to deposit trust funds within three business days, in
12 violation of Code Section 10145 and Regulation 2832.

13 (c) PATEL failed to deliver \$4,800.00 in trust funds
14 to his broker, in violation of Code Section 10145(c).

15 (d) failed to designate the designated officer as a
16 signatory on B/A and PATEL was a signatory on B/A without
17 fidelity bond coverage, in violation of Code Section 10145 and
18 Regulation 2834.

19 (e) failed to maintain records of all receipts and
20 disbursements for B/A and record of earnest money deposits
21 received and forwarded, in violation of Code Section 10145 and
22 Regulation 2831.

23 (f) failed to maintain separate records for each
24 beneficiary or transaction for B/A, in violation of Code Section
25 10145 and Regulation 2831.1.

26 (g) failed to reconcile B/A with separate records and
27 record of trust funds received, in violation of Code Section

10145 and Regulation 2831.2.

(h) charged borrowers credit report fees in excess of the amount billed by the credit reporting agency and failed to return the difference to the borrower, in violation of Code Section 10176(g).

(i) failed to notify the Department of HOME EQUITY's main place of business, in violation of Code Section 10162.

(j) Respondent NICOLSON failed to exercise adequate supervision over handling of trust funds and of PATEL, in violation of Code Section 10159.2 and Regulation 2725.

10.

The conduct, acts and omissions of Respondents HOME EQUITY and NICOLSON, as described in Paragraph 9, violated the Code and the Regulations as set forth above and constitutes cause for the suspension or revocation of all real estate licenses and license rights of Respondents under the provisions of Code Sections 10165, 10176(e), 10177(d) and/or 10177(g) and/or 10177(h).

SECOND CAUSE OF ACCUSATION

(Stallion Circle Transaction)

11.

On December 20, 2001, PATEL prepared a Residential Purchase Agreement on behalf of Purnima Patel (hereafter "Purnima") regarding the property at 19642 Stallion Circle, Walnut, California. Purnima gave PATEL a personal check in the amount of \$3,300.00, representing her earnest money deposit. Two or three days later, Purnima talked to PATEL about her offer and

1 PATEL advised that the seller was asking the deposit be increased
2 to \$10,500.00. On December 26, 2001, Purnima gave PATEL two
3 cashier's checks, one for \$5,500.00 and one for \$5,000.00, both
4 payable to Home Equity Trust Account, and PATEL returned
5 Purnima's original check in the amount of \$3,300.00 to her.
6 Purnima kept calling PATEL about the status of her offer. After
7 approximately fifteen (15) days, PATEL told her that the listing
8 agent still had not replied to the offer. Purnima advised PATEL
9 that she wanted to withdraw her offer and requested her deposit
10 back.

11 12.

12 On January 10, 2002, PATEL gave Purnima a check for
13 \$10,500.00, which was inadvertently dated 01/10/01, from the
14 Trust Account of HOME EQUITY. The check contained the notation
15 "deposit back on purchase of house". The same day, Purnima took
16 the check to the bank it was drawn on, California Federal, who
17 advised there were not sufficient funds in the account to pay the
18 check. Purnima called PATEL numerous times to request the return
19 of her money, and he paid some of the money back. However, to
20 date, PATEL still owes Purnima approximately \$3,000.00 to
21 \$3,500.00.

22 13.

23 The conduct, acts and omissions of Respondent PATEL,
24 as described in Paragraphs 11 and 12, constitutes fraud or
25 dishonest dealing, negligence or incompetence and is cause for
26 the suspension or revocation of all real estate licenses and
27 license rights of Respondent under the provisions of Code

1 Sections 10176(i), 10177(g) and/or 10177(j).

2 WHEREFORE, Complainant prays that a hearing be
3 conducted on the allegations of this Accusation and that upon
4 proof thereof, a decision be rendered imposing disciplinary
5 action against all licenses and/or license rights of Respondents
6 HOME EQUITY BANCORP, a corporation; DONALD BEYNON NICOLSON,
7 individually and as designated officer of HOME EQUITY; and
8 SUBASHBHAI JETHABHAI PATEL under the Real Estate Law (Part 1 of
9 Division 4 of the Business and Professions Code), and for such
10 other and further relief as may be proper under other applicable
11 provisions of law.

12 Dated at Los Angeles, California

13 this 3rd day of May, 2004.

14
15 
16 Deputy Real Estate Commissioner
17
18
19
20
21
22

23 cc: Home Equity Bancorp
24 Donald Beynon Nicolson
25 Subashbhai Jethabhai Patel
26 Sacto.
27 LA Audit/Goff
RJ