

**FILED**

NOV - 8 2006

DEPARTMENT OF REAL ESTATE

BY: *Anna B. Brown*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
 )  
THE ROSE FUND INC., et al., )  
 EQUITY EXPRESS INC.; and LYMAN )  
 WARNOCK, individually and as )  
 Designated broker-officer of )  
 The Rose Fund Inc.; and Equity )  
 Express Inc., )  
 )  
 Respondents )  
 )

No. H-31713 LA

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on March 8, 2006, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

Cases were filed by the Department of Real Estate (Department) against Mr. Lyman Warnock, listed as the designated officer and broker responsible for control of activities conducted on behalf of Respondent, and also Equity Express Inc., an associated corporate broker. These cases were handled separately.

## FINDINGS OF FACT

1.

Respondent, THE ROSE FUND, INC., a corporation, has been licensed by the Department of Real Estate as a corporate real estate broker, since April 4, 2003.

2.

Beginning on April 4, 2003, Respondent was authorized to act by and through Lyman Ray Warnock (Warnock) as the designated officer and broker responsible for the supervision and control of the activities conducted on behalf of Respondent by its officers and employees. Warnock's individual real estate license had previously expired on January 2, 1999. Warnock canceled his designation as Respondent's officer on October 17, 2003. Respondent currently has no individual broker license or designated officer license.

3.

At all times material herein, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California within the meaning of Business and Professions Code (Code) Section 10131(d) for another or others in expectation of compensation. Said activity included soliciting and representing borrowers and lenders, negotiating loans secured by real property, and performing services in relation to those loans.

4.

On or about May 24, 2005, the Department of Real Estate (DRE) completed an audit for Respondent's books and records, pertaining to the real estate activities described above, covering a period from approximately April 4, 2003 through April 8, 2004. During that examination period, Respondent THE ROSE FUND acted in violation of the Code and the Regulations in that:

a) Respondent did not maintain and retain complete records of loan transactions requiring a real estate license. The sampled files did not contain final settlement statements and did not contain documentation of commissions paid. This failure to maintain records is in violation of Code Section 10148.

b) None of the sampled ROSE FUND transaction files contained requisite Lender/Purchaser disclosure statements, in violation of Code Section 10232.4.

c) In loans processed through Respondent ROSE FUND, Respondents utilized Mortgage Loan Disclosure Statements (hereinafter "MLDS") which were not approved by the Department. The MLDS form used did not include a section to disclose additional compensation from the lender not deducted from loan proceeds. Current liens and anticipated liens, except for the loan being applied for, were not disclosed on the MLDS. At least two of the sampled loan files contained MLDS forms which were not signed by the borrowers, and none of the MLDS forms in the six sample files were dated by the borrower or the loan officer. This was all in violations of Regulations 2842.5 and Code Sections 10240 and 10241.

d) Three of the sampled ROSE FUND loans were "covered" loans under the provision of Financial Code Section 4970 et. seq., These three loans had less than a five (5) years payment period, and were not fully amortized, in violation of Financial Code Section 4973(b).

e) In the sampled "covered loan" transactions set forth above in subsection (d), the loans contained financed points and fees that were more than six (6%) of the original principal loan amount exclusive of the points and fees, in violation of Financial Code Section 4979.6.

#### DETERMINATION OF ISSUES

1.

The conduct, acts and/or omissions of Respondent THE ROSE FUND, INC. as described in Finding 4 constitute cause for the suspension or revocation of all licenses and license rights of Respondent THE ROSE FUND, INC., under Section 10177(g) of the Code.

2.

The conduct, acts and/or omissions of Respondent THE ROSE FUND INC. as described in Finding 4 are in violation of the Business and Professions Code and Title 10, Chapter 6, California Code of Regulations as follows:

(a) Code Section 10148;

(b) Code Section 10232.4;

(c) Code Sections 10240 and 10241 and Regulation 2842.5;

(d) Financial Code Section 4973(b);

(e) Financial Code Section 4979.6.

Cause for disciplinary action against Respondent THE ROSE FUND INC.'s license and license rights, exists pursuant to Business and Professions Code 10177(d), and Financial Code Sections 4973(b) and 4979.6.

3.

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

ORDER

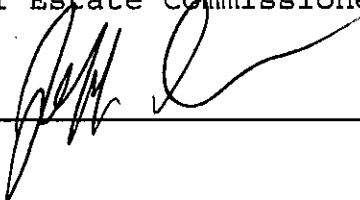
The licenses and license rights of THE ROSE FUND, INC., under the provisions of Part I of Division 4 of the Business and Professions Code, are revoked.

This Decision shall become effective at 12 o'clock noon. NOV 28 2008

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

10-29-08.

JEFF DAVI  
Real Estate Commissioner

  
\_\_\_\_\_

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

3 (213) 576-6982

**FILED**  
MAR - 8 2006  
DEPARTMENT OF REAL ESTATE

By Jana B. Stone

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \* \*

11	In the Matter of the Accusation of )	NO. H-31713 LA
12	THE ROSE FUND INC., )	L-2005040587
13	)	<u>DEFAULT ORDER</u>
14	)	
15	Respondent. )	

16 Respondent THE ROSE FUND INC., having failed to  
17 file a Notice of Defense within the time required by Section  
18 11506 of the Government Code, is now in default. It is,  
19 therefore, ordered that a default be entered on the record  
20 in this matter.

21 IT IS SO ORDERED

March 7, 2006.

22 JEFF DAVI  
23 Real Estate Commissioner

24 By:

Dolores Weeks  
25 DOLORES WEEKS  
26 Regional Manager

*[Handwritten signature]*

**FILED**

JUL 21 2006

DEPARTMENT OF REAL ESTATE

BY: *Jana B. [Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	No. H-31713 LA
	)	
THE ROSE RUND INC.; EQUITY	)	L-2005040587
EXPRESS INC.; and LYMAN WARNOCK,	)	
individually and as designated	)	
broker-officer of The Rose Fund,	)	
Inc.; and Equity Express	)	
Inc.;	)	
	)	
Respondents.	)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On February 25, 2005, an Accusation was filed in this matter against Respondent LYMAN RAY WARNOCK and an Amended Accusation was filed on September 15, 2005.

On December 13, 2005, 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 LYMAN RAY WARNOCK's petition for voluntary surrender of his real estate

1 broker license is accepted as of the effective date of this Order  
2 as set forth below, based upon the understanding and agreement  
3 expressed in Respondent's Declaration dated December 13, 2005  
4 (attached as Exhibit "A" hereto). Respondent's license  
5 certificate(s), pocket card(s) and any branch office license  
6 certificate shall be sent to the below listed address so that  
7 they reach the Department on or before the effective date of this  
8 Order:

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

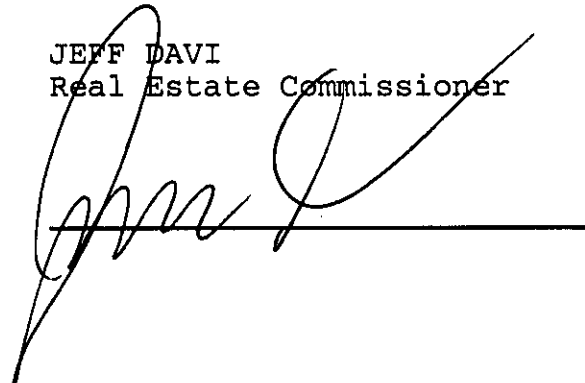
13 This Order shall become effective at 12 o'clock noon on

14 AUG 10 2006

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

16 6-22-06

17 JEFF DAVI  
18 Real Estate Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	DRE No. H-31713 LA
	)	
	)	OAH No. L-2005040587
THE ROSE FUND INC., EQUITY	)	
EXPRESS INC, AND LYMAN WARNOCK	)	
Individually and as designated	)	
Broker Officer of The Rose Fund,	)	
Inc., and Equity Express Inc.,	)	
	)	
Respondents.	)	
	)	

DECLARATION

My name is LYMAN RAY WARNOCK and I was licensed as a real estate broker and/or have license rights with respect to said license. My individual broker license with the Department of Real Estate (Department) expired on or about January 2, 1999.

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



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


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

9 The filing of this Declaration shall be deemed as its  
10 petition for voluntary surrender. It shall also be deemed to be  
11 an understanding and agreement by I, LYMAN RAY WARNOCK that, I  
12 waive all rights I have to require the Commissioner to prove the  
13 allegations contained in the Accusation filed in this matter at a  
14 hearing held in accordance with the provisions of the  
15 Administrative Procedures Act (Government Code Sections 11400 et  
16 seq.), and that I also waive other rights afforded to me in  
17 connection with the hearing such as the right to discovery, the  
18 right to present evidence in defense of the allegations in the  
19 Accusation and the right to cross examine witnesses. I further  
20 agree that upon acceptance by the Commissioner, as evidenced by  
21 an appropriate order, all affidavits and all relevant evidence  
22 obtained by the Department in this matter prior to the  
23 Commissioner's acceptance, and all allegations contained in the  
24 Accusation filed in the Department Case No. H-31713 LA, may be  
25 considered by the Department to be true and correct for the  
26 purpose of deciding whether or not to grant reinstatement of  
27


1 LYMAN RAY WARNOCK's license pursuant to Government Code Section  
2 11522.

3 I declare under penalty of perjury under the laws of  
4 the State of California that the above is true and correct and  
5 that I am acting freely and voluntarily to surrender my license  
6 and all license rights attached thereto.

7 12.13.05  
8 Date

  
9 LYMAN WARNOCK  
Respondent

10 12.13.05  
11 Date

  
12 JAMES L. STEPOVICH, ESQ.,  
13 Counsel for the Respondent  
14 Lyman Ray Warnock

15 I am not in Possession of a Real Estate license.  
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LRW

**FILED**  
MAR - 6 2008  
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

By Laura B. Swan

\* \* \* \* \*

In the Matter of the Accusation of ) No. H-31713 LA  
EQUITY EXPRESS, INC., ) L-2003090240  
Respondent(s). )

DECISION

The Proposed Decision dated January 12, 2006, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon on MAR 27 2008.

IT IS SO ORDERED 2-16-06

JEFF DAVIS  
Real Estate Commissioner

[Signature]

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

In the Matter of the First Amended Accusation  
Against:

**EQUITY EXPRESS, INC.,**

Respondent.

Case No. H-31713 LA

OAH No. L2005040587

**PROPOSED DECISION**

This matter was heard by Eric Sawyer, Administrative Law Judge, Office of Administrative Hearings, State of California, on December 14, 2005, in Los Angeles.

Kelvin K. Lee, Real Estate Counsel, represented Complainant. No appearance was made by or on behalf of Respondent, despite due notice of the hearing.

The matter proceeded as a default. Oral and documentary evidence was received. The record was closed and the matter submitted upon conclusion of the hearing.

The below Order REVOKES Respondent's corporate real estate broker license.

FACTUAL FINDINGS

1. Respondent, a corporation, has been licensed by the Department of Real Estate (DRE) as a corporate real estate broker, since April 4, 2003.

2. Beginning on April 4, 2003, Respondent was authorized to act by and through Lyman Ray Warnock (Warnock) as the designated officer and broker responsible for the supervision and control of the activities conducted on behalf of Respondent by its officers and employees. However, Warnock's individual real estate broker's license had previously expired on January 2, 1999. Warnock subsequently canceled his designation as Respondent's officer on October 19, 2005, meaning Respondent currently has no designated officer, licensed or otherwise.

3. An Accusation was filed against Respondent by Maria Suarez, a DRE Deputy Real Estate Commissioner. Respondent timely filed a Notice of Defense, thereby requesting the hearing that ensued. Complainant Phil Ihde, a DRE Deputy Real Estate Commissioner, thereafter filed the First Amended Accusation in his official capacity.

4. At all times relevant, Respondent engaged as a real estate broker in the State of California. Primarily, Respondent was in business to make conventional loans from conforming lenders for residential properties.

5. On or about May 25, 2004, the DRE completed an audit of Respondent's books and records, pertaining to the real estate activities described above, covering a period from approximately April 4, 2003, through April 8, 2004. During that period, Respondent closed only one (1) loan. In the course of that loan, Respondent acted in violation of the Real Estate Law. More specifically, the Mortgage Loan Disclosure Statement form (MLDS) for that loan was dated more than thirty days prior to the close of the loan and was not signed or dated by the borrowers, in violation of Business and Professions Code section 10240, and California Code of Regulations, title 10, section 2842.5.

#### LEGAL CONCLUSION

1. Cause for discipline of Respondent's real estate licenses and license rights was established under Business and Professions Code sections 10177, subdivision (d), and 10177, subdivision (g). In sum, the only transaction conducted by Respondent during the audit period was in violation of the Real Estate Law. Respondent no longer has a designated corporate officer, licensed or otherwise. Respondent failed to appear for the hearing, and thus no evidence of mitigation or rehabilitation was presented. Under these circumstances, revocation is warranted. (Factual Findings 1-5.)

#### ORDER

All licenses and licensing rights of Respondent EQUITY EXPRESS, INC., under the Real Estate Law, are REVOKED.

DATED: January 12, 2006



ERIC SAWYER,  
Administrative Law Judge  
Office of Administrative Hearings

1 MARTHA J. ROSETT, Counsel (SBN 142072)  
2 Department of Real Estate  
3 320 West Fourth St., #350  
4 Los Angeles, CA 90013

5 (213) 576-6982  
6 (213) 576-6907

**FILED**  
SEP 15 2005  
DEPARTMENT OF REAL ESTATE

By C. J.

7  
8  
9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 \* \* \* \*

12 In the Matter of the Accusation of ) DRE No. H-31713 LA  
13 ) OAH No. L-20050400587  
14 THE ROSE FUND, INC.; )  
15 EQUITY EXPRESS, INC.; and ) FIRST AMENDED  
16 LYMAN RAY WARNOCK, individually ) ACCUSATION  
17 and as designated Broker-Officer )  
18 of The Rose Fund, Inc.; and )  
19 Equity Express, Inc., )  
20 Respondents. )

21 The Complainant, Phil Ihde, a Deputy Real Estate  
22 Commissioner of the State of California, does hereby amend the  
23 Accusation filed on February 25, 2005 against THE ROSE FUND,  
24 INC.; EQUITY EXPRESS, INC.; and LYMAN RAY WARNOCK, individually  
25 and as designated Broker-Officer of The Rose Fund, Inc. and  
26 Equity Express, Inc. (hereafter sometimes collectively referred  
27 to as "Respondents"), and is informed and alleges in his official  
capacity as follows:

1.

1 The Complainant, Phil Ihde, a Deputy Real Estate  
2 Commissioner of the State of California, makes this Accusation in  
3 his official capacity.  
4

2.

5 Respondent THE ROSE FUND, INC. (hereinafter "ROSE  
6 FUND") is presently licensed and at all times relevant herein was  
7 licensed under the Real Estate Law, Part 1 of Division 4 of the  
8 California Business and Professions Code (hereinafter "Code") as  
9 a corporate real estate broker. Respondent ROSE FUND has been  
10 licensed by the Department of Real Estate of the State of  
11 California (hereinafter "Department") as a corporate real estate  
12 broker since April 4, 2003. From April 4, 2003 through October  
13 17, 2003, Respondent ROSE FUND was authorized to act by and  
14 through Respondent LYMAN RAY WARNOCK as the designated officer  
15 and broker responsible, pursuant to the provisions of Code  
16 Section 10159.2 for the supervision and control of the activities  
17 conducted on behalf of ROSE FUND by ROSE FUND's officers and  
18 employees. On or about October 17, 2003, Respondent WARNOCK  
19 cancelled his status as designated officer of ROSE FUND. Since  
20 that time, ROSE FUND has had no designated officer-broker of  
21 record on file with the Department.  
22  
23

3.

24 Respondent EQUITY EXPRESS, INC. (hereinafter "EQUITY  
25 EXPRESS") is presently licensed and at all times relevant herein  
26  
27

1 was licensed under the Real Estate Law, Part 1 of Division 4 of  
2 the Code as a corporate real estate broker. Respondent EQUITY  
3 EXPRESS has been licensed by the Department as a corporate real  
4 estate broker since April 4, 2003. At all times relevant herein,  
5 and continuing to the present time, Respondent EQUITY EXPRESS was  
6 and is authorized to act by and through Respondent LYMAN RAY  
7 WARNOCK as the designated officer and broker responsible,  
8 pursuant to the provisions of Code Section 10159.2 for the  
9 supervision and control of the activities conducted on behalf of  
10 EQUITY EXPRESS by EQUITY EXPRESS's officers and employees.

11 4.

12 Respondent LYMAN RAY WARNOCK (hereinafter "WARNOCK") is  
13 licensed and at all times relevant herein was licensed under the  
14 Code as a real estate broker. Respondent WARNOCK has been  
15 licensed by the Department since on or before January 2, 1991.  
16 Respondent WARNOCK's individual real estate broker license  
17 expired on or about January 2, 1999.

18 5.

19  
20 Between on or about April 4, 2003 and October 17, 2003,  
21 Respondent WARNOCK was licensed as the broker-officer of ROSE  
22 FUND designated pursuant to Code Section 10159.2 to be  
23 responsible for the supervision and control of the activities  
24 conducted on behalf of ROSE FUND by its officers and employees as  
25 necessary to secure compliance with the Real Estate Law.  
26 Beginning on or about April 4, 2003 and continuing to the present  
27



1 time, Respondent WARNOCK was and is currently licensed as the  
2 broker-officer of EQUITY EXPRESS designated pursuant to Code  
3 Section 10159.2 to be responsible for the supervision and control  
4 of the activities conducted on behalf of EQUITY EXPRESS by its  
5 officers and employees as necessary to secure full compliance  
6 with the Real Estate Law.

7 6.

8 The Rose Fund LLC is a California limited liability  
9 company whose articles of organization were filed with the  
10 Secretary of State on October 4, 2002. At all times relevant  
11 herein, its manager was Respondent ROSE FUND, INC., a California  
12 corporation whose articles of incorporation were also filed with  
13 the Secretary of State on October 4, 2002. At all times relevant  
14 herein, Respondent WARNOCK was the President of Respondent ROSE  
15 FUND, INC. Paul Nelson was the Chief Financial officer of ROSE  
16 FUND. William Wright was the registered agent of The Rose Fund  
17 LLC.

18 7.

19 At all times material herein, Respondents engaged in  
20 the business of, acted in the capacity of, advertised or assumed  
21 to act as real estate brokers in the State of California within  
22 the meaning of Code Section 10131(d) for another or others in  
23 expectation of compensation. Said activity included soliciting  
24 and representing borrowers and lenders, negotiating loans secured  
25 by real property, and performing services in relation to those  
26 loans.

8.

1  
2 All further references to "Respondents" include  
3 Respondent WARNOCK, Respondent ROSE FUND, and Respondent EQUITY  
4 EXPRESS, and also include the employees, agents and real estate  
5 licensees employed by or associated with each Respondent, who at  
6 all times material herein were engaged in the furtherance of the  
7 business or operations of said parties and who were acting within  
8 the course and scope of their authority, agency or employment.

9 Audit Violations

10 9.

11 On or about May 25, 2004, the Department completed its  
12 examination of Respondent ROSE FUND and Respondent EQUITY  
13 EXPRESS's books and records, pertaining to the real estate  
14 activities described in Paragraph 7 above, covering a period from  
15 approximately April 4, 2003 through April 8, 2004. The primary  
16 purpose of the examination was to determine Respondents'  
17 compliance with the Real Estate Law. The examination, Audit No.  
18 SD 030006 and No. SD 030012, revealed violations of the Business  
19 and Professions Code (hereinafter "Code"), and of Title 10,  
20 Chapter 6, of the California Code of Regulations (hereinafter  
21 "Regulations"), and of provisions of Division 1.6 of the  
22 Financial Code, Sections 4970 through 4979.8, as further set  
23 forth below and as more specifically set forth in the Audit  
24 Reports and Exhibits attached thereto.

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26 ///

1  
2 In the course of activities described in Paragraph 7  
3 above, and during the examination period described in Paragraph  
4 9, Respondents acted in violation of the Code and the Regulations  
5 in that:

6 a) Respondents did not maintain and retain complete  
7 records of loan transactions requiring a real estate license.  
8 The sampled files did not contain final settlement statements and  
9 did not contain documentation of commissions paid. This failure  
10 to maintain records is in violation of Code Section 10148.

11  
12 b) None of the sampled ROSE FUND loan transaction  
13 files contained requisite Lender/Purchaser disclosure statements,  
14 in violation of Code Section 10232.4.

15 c) In loans processed through Respondent ROSE FUND,  
16 Respondents utilized Mortgage Loan Disclosure Statements  
17 (hereinafter "MLDS") which were not approved by the Department.  
18 The MLDS form used did not include a section to disclose  
19 additional compensation from the lender not deducted from loan  
20 proceeds. Current liens and anticipated liens, except for the  
21 loan being applied for, were not disclosed on the MLDS. At least  
22 two of the sampled loan files contained MLDS forms which were not  
23 signed by the borrowers, and none of the MLDS forms in the six  
24 sample files were dated by the borrower or the loan officer.  
25 This was all in violation of Regulation 2842.5 and Code Sections  
26 10240 and 10241.

27 d) In the one sampled EQUITY EXPRESS loan transaction

1 file, the MLDS was dated more than thirty days prior to the close  
2 of the loan, and was not signed or dated by the borrowers, in  
3 violation of Code Section 10240 and Regulation 2842.5.

4 e) Three of the sampled ROSE FUND loans were "covered  
5 loans" under the provisions of Financial Code Section 4970 et  
6 seq. These three loans had less than a five year payment period  
7 and were not fully amortized, in violation of Financial Code  
8 Section 4973(b). The payment schedules on these covered loans  
9 were as follows:

<u>Borrower</u>	<u>Loan</u> <u>Amt.</u>	<u>No. of</u> <u>Pymts.</u>	<u>Pymt.</u> <u>Amt.</u>	<u>Final Pymt.</u> <u>Due Date</u>	<u>Final Pymt.</u> <u>Amt.</u>
12 Thompson	\$87,500	23 mos.	\$1,002.24	5/1/05	\$88,013.15
13 Brown/ 14 Schuster	\$92,500	23 mos.	\$1,059.51	9/1/05	\$93,042.50
15 Jonte	\$150,000	11 mos.	\$1,687.50	7/1/04	\$151,687.50

16 f) In the sampled "covered loan" transactions set  
17 forth above in subsection (e), the loans contained financed  
18 points and fees that were more than 6% of the original principal  
19 loan amount exclusive of the points and fees, in violation of  
20 Financial Code Section 4979.6.

21 11.

22 The foregoing violations constitute cause for the  
23 suspension or revocation of Respondent ROSE FUND, INC.,  
24 Respondent EQUITY EXPRESS and Respondent WARNOCK's real estate  
25 licenses and license rights under the provisions of Code Sections  
26 10177(d), 10148, 10176(i) and/or 10177(g), and Financial Code  
27

1 Sections 4973(b) and 4979.6.

2 12.

3 The violations set forth above constitute cause for the  
4 suspension or revocation of Respondent LYMAN RAY WARNOCK's real  
5 estate license and/or license rights as the broker-officer of  
6 Respondent ROSE FUND, INC. and Respondent EQUITY EXPRESS, INC.  
7 designated pursuant to Code Section 10159.2, for failing to  
8 supervise the activities of the corporation, in violation of Code  
9 Sections 10177(h), 10177(d) and/or 10177(g).

10 Factor in Aggravation

11 (Department of Corporations Desist and Refrain Order)

12 13.

13 On or about October 4, 2002, Respondent ROSE FUND  
14 became incorporated under the laws of the State of California by  
15 filing its Articles of Incorporation with the Secretary of State  
16 of the State of California.

17 14.

18 On or about September 30, 2003, pursuant to the  
19 provisions of California Corporations Code Sections 25110 and  
20 25401, the Secretary of State issued a Desist and Refrain Order  
21 against Respondent ROSE FUND, INC., Respondent WARNOCK, The Rose  
22 Fund LLC, Paul Nelson and William Wright. Pursuant to Section  
23 25532 of the Corporate Securities Law of 1968, Respondents  
24 WARNOCK and ROSE FUND, INC., along with The Rose Fund LLC, and  
25 officers Paul Nelson and William Wright were ordered to desist  
26 and refrain from the further offer or sale in the State of  
27

1 California of securities issued by The Rose Fund LLC in the form  
2 of 12% Participating Units (or Shares) of Limited Liability  
3 Company Interest unless and until qualification has been made  
4 pursuant to the Corporate Securities Law of 1968. In addition,  
5 Respondents WARNOCK and ROSE FUND, INC., along with The Rose Fund  
6 LLC, and officers Paul Nelson and William Wright, were ordered to  
7 desist and refrain from offering or selling any security in the  
8 State of California, including but not limited to securities  
9 issued by The Rose Fund LLC, by means of any written or oral  
10 communication which includes an untrue statement of a material  
11 fact or omits to state a material fact necessary in order to make  
12 the statements made, in the light of the circumstances under  
13 which they were made, not misleading.

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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 all licenses and/or license rights of Respondent  
5 THE ROSE FUND, INC.; EQUITY EXPRESS, INC.; and LYMAN RAY WARNOCK,  
6 individually and as designated Broker-Officer of The Rose Fund,  
7 Inc. and Equity Express, Inc., under the Real Estate Law and for  
8 such other and further relief as may be proper under applicable  
9 provisions of law.

10 Dated at Los Angeles, California  
11 this 15<sup>TH</sup> day of SEPTEMBER, 2005.

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15 Deputy Real Estate Commissioner  
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22 cc: The Rose Fund, Inc.  
23 Equity Express, Inc.  
24 Lyman Ray Warnock  
25 James L. Stepovich, Esq.  
26 Sacto.  
27 Janice Waddell  
Maria Suarez  
Jennifer Borromeo, SDDO  
OAH

1 MARTHA J. ROSETT, Counsel (SBN 142072)  
2 Department of Real Estate  
3 320 West Fourth St., #350  
4 Los Angeles, CA 90013

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FILED  
FEB 25 2005  
DEPARTMENT OF REAL ESTATE



8  
9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 \* \* \* \*

12 In the Matter of the Accusation of ) No. H-31713 LA  
13 )  
14 THE ROSE FUND INC., EQUITY EXPRESS INC., )  
15 LYMAN RAY WARNOCK, individually and as ) A C C U S A T I O N  
16 designated Broker-Officer of The Rose Fund )  
17 Inc., and Equity Express, Inc., )  
18 )  
19 Respondents. )

20 The Complainant, Maria Suarez, a Deputy Real Estate  
21 Commissioner, for cause of Accusation against THE ROSE FUND,  
22 INC., EQUITY EXPRESS INC., and LYMAN RAY WARNOCK, individually  
23 and as designated broker-officer of THE ROSE FUND, INC. and  
24 EQUITY EXPRESS INC., is informed and alleges as follows:

25 1.

26 The Complainant, Maria Suarez, a Deputy Real Estate  
27 Commissioner of the State of California, makes this Accusation in  
her official capacity.



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2.

Respondent THE ROSE FUND INC. (hereinafter "ROSE FUND"), is presently licensed and at all times relevant herein was licensed under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code") as a corporate real estate broker. Respondent ROSE FUND has been licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a corporate real estate broker since April 4, 2003. From April 4, 2003 through October 17, 2003, Respondent ROSE FUND was authorized to act by and through Respondent LYMAN RAY WARNOCK as the designated officer and broker responsible, pursuant to the provisions of Code Section 10159.2 for the supervision and control of the activities conducted on behalf of ROSE FUND by ROSE FUND's officers and employees. On or about October 17, 2003, Respondent WARNOCK cancelled his status as designated officer of ROSE FUND. Since that time, ROSE FUND has had no designated officer-broker of record on file with the Department.

3.

Respondent EQUITY EXPRESS INC. (hereinafter "EQUITY EXPRESS"), is presently licensed and at all times relevant herein was licensed under the Real Estate Law, Part 1 of Division 4 of the Code as a corporate real estate broker. Respondent EQUITY EXPRESS has been licensed by the Department as a corporate real estate broker since April 4, 2003. At all times relevant herein, and continuing to the present time, Respondent EQUITY EXPRESS was and is authorized to act by and through Respondent LYMAN RAY

1 WARNOCK as the designated officer and broker responsible,  
2 pursuant to the provisions of Code Section 10159.2 for the  
3 supervision and control of the activities conducted on behalf of  
4 EQUITY EXPRESS by EQUITY EXPRESS's officers and employees.

5 4.

6 Respondent LYMAN RAY WARNOCK (hereinafter "WARNOCK") is  
7 licensed and at all times relevant herein was licensed under the  
8 Code as a real estate broker. Respondent WARNOCK has been  
9 licensed by the Department since on or before January 2, 1991.  
10 Respondent WARNOCK's individual real estate broker license  
11 expired on or about January 2, 1999.

12 5.

13 Between on or about April 4, 2003 and October 17, 2003,  
14 Respondent WARNOCK was licensed as the broker-officer of ROSE  
15 FUND designated pursuant to Code Section 10159.2 to be  
16 responsible for the supervision and control of the activities  
17 conducted on behalf of ROSE FUND by its officers and employees as  
18 necessary to secure compliance with the Real Estate Law.  
19 Beginning on or about April 4, 2003 and continuing to the present  
20 time, Respondent WARNOCK was and is currently licensed as the  
21 broker-officer of EQUITY EXPRESS designated pursuant to Code  
22 Section 10159.2 to be responsible for the supervision and control  
23 of the activities conducted on behalf of EQUITY EXPRESS by its  
24 officers and employees as necessary to secure full compliance  
25 with the Real Estate Law.

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1 6.

2 The Rose Fund LLC is a California limited liability  
3 company whose articles of organization were filed with the  
4 Secretary of State on October 4, 2002. At all times relevant  
5 herein, its manager was Respondent ROSE FUND, INC., a California  
6 corporation whose articles of incorporation were also filed with  
7 the Secretary of State on October 4, 2002. At all times relevant  
8 herein, Respondent WARNOCK was the President of Respondent ROSE  
9 FUND, INC. Paul Nelson was the Chief Financial officer of ROSE  
10 FUND. William Wright was the registered agent of The Rose Fund  
11 LLC.

12 7.

13 At all times material herein, Respondents engaged in  
14 the business of, acted in the capacity of, advertised or assumed  
15 to act as a real estate broker in the State of California within  
16 the meaning of Code Section 10131(d) for another or others in  
17 expectation of compensation. Said activity included soliciting  
18 and representing borrowers and lenders, negotiating loans secured  
19 by real property, and performing services in relation to those  
20 loans.

21 8.

22 All further references to "Respondents" include  
23 Respondent WARNOCK, Respondent ROSE FUND, and Respondent EQUITY  
24 EXPRESS, and also include the employees, agents and real estate  
25 licensees employed by or associated with each Respondent, who at  
26 all times material herein were engaged in the furtherance of the  
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1 business or operations of said parties and who were acting within  
2 the course and scope of their authority, agency or employment.

3 Audit Violations

4 9.

5 On or about May 25, 2004, the Department completed its  
6 examination of Respondent ROSE FUND and Respondent EQUITY  
7 EXPRESS's books and records, pertaining to the real estate  
8 activities described in Paragraph 7 above, covering a period from  
9 approximately April 4, 2003 through April 8, 2004. The primary  
10 purpose of the examination was to determine Respondent's  
11 compliance with the Real Estate Law. The examination, Audit No.  
12 SD 030006 and No. SD 030012, revealed violations of the Business  
13 and Professions Code, of Title 10, Chapter 6, California Code of  
14 Regulations ("Regulations"), and of provisions of Division 1.6 of  
15 the Financial Code, Sections 4970 through 4979.8, as further set  
16 forth below and as more specifically set forth in the Audit  
17 Reports and Exhibits attached thereto.

18  
19 10.

20 In the course of activities described in Paragraph 7  
21 above, and during the examination period described in Paragraph  
22 9, Respondents acted in violation of the Business and Professions  
23 Code and the Regulations in that:

24 a) Respondents did not maintain and retain complete  
25 records of loan transactions requiring a real estate license.  
26 The sampled files did not contain final settlement statements and  
27

1 did not contain documentation of commissions paid. This failure  
2 to maintain records is in violation of Code Section 10148.

3 b) None of the sampled ROSE FUND loan transaction  
4 files contained requisite Lender/Purchaser disclosure statements,  
5 in violation of Code Section 10232.4.

6 c) In loans processed through Respondent ROSE FUND,  
7 Respondents utilized Mortgage Loan Disclosure Statements ("MLDS")  
8 which were not approved by the Department. The MLDS form used  
9 did not include a section to disclose additional compensation  
10 from the lender not deducted from loan proceeds. Current liens  
11 and anticipated liens, except for the loan being applied for,  
12 were not disclosed on the MLDS. At least two of the sampled loan  
13 files contained MLDS forms which were not signed by the  
14 borrowers, and none of the MLDS forms in the six samples files  
15 were dated by the borrower or the loan officer. This was all in  
16 violation of Regulation 2842.5 and Code Sections 10240 and 10241.

17 d) In the one sampled EQUITY EXPRESS loan transaction  
18 file, the MLDS was dated more than thirty days prior to the close  
19 of the loan, and was not signed or dated by the borrowers, in  
20 violation of Code Section 10240 and Regulation 2842.5.

21 e) Three of the sampled ROSE FUND loans were "covered  
22 loans" under the provisions of Financial Code Section 4970 et  
23 seq. These three loans had less than a five year payment period  
24 and were not fully amortized, in violation of Financial Code  
25 Section 4973(b). The payment schedules on these covered loans  
26 were as follows:

27

	<u>Borrower</u>	<u>Loan Amt.</u>	<u>No. of Pymts.</u>	<u>Pymt. Amt.</u>	<u>Final Pymt. Due Date</u>	<u>Final Pymt. Amt.</u>
1						
2	Thompson	\$87,500	23 mos.	\$1,002.24	5/1/05	\$88,013.15
3	Brown/					
4	Schuster	\$92,500	23 mos.	\$1,059.51	9/1/05	\$93,042.50
5	Jonte	\$150,000	11 mos.	\$1,687.50	7/1/04	\$151,687.50

6 f) In the sampled "covered loan" transactions set  
7 forth above in subsection (e), the loans contained financed  
8 points and fees that were more than 6% of the original principal  
9 loan amount exclusive of the points and fees, in violation of  
10 Financial Code Section 4979.6.

11 11.

12 The foregoing violations constitute cause for the  
13 suspension or revocation of Respondent ROSE FUND, INC.,  
14 Respondent EQUITY EXPRESS and Respondent WARNOCK's real estate  
15 licenses and license rights under the provisions of Code Sections  
16 10177(d), 10148, 10176(i) and/or 10177(g), and Financial Code  
17 Sections 4973(b) and 4979.6.

18 12.

19 The violations set forth above constitute cause for the  
20 suspension or revocation of Respondent LYMAN RAY WARNOCK's real  
21 estate license and/or license rights as the broker-officer of  
22 Respondent ROSE FUND, INC. and Respondent EQUITY EXPRESS INC.  
23 designated pursuant to Code Section 10159.2, for failing to  
24 supervise the activities of the corporation, in violation of Code  
25 Sections 10177(h), 10177(d) and/or 10177(g).

Factor in Aggravation

(Suspension of Corporate Status)

13.

On or about October 4, 2002, Respondent ROSE FUND became incorporated under the laws of the State of California by filing its Articles of Incorporation with the Secretary of State of the State of California.

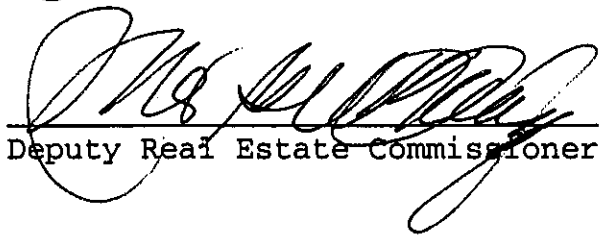
14.

On or about September 30, 2002, pursuant to the provisions of California Corporations Code Sections 25110 and 25401, the Secretary of State issued a Desist and Refrain Order against Respondent ROSE FUND, Inc., Respondent WARNOCK, The Rose Fund LLC, Paul Nelson and William Wright. Pursuant to Section 25532 of the Corporate Securities Law of 1968, Respondents WARNOCK and ROSE FUND, INC., along with The Rose Fund LLC, and officers Paul Nelson and William Wright were ordered to desist and refrain from the further offer or sale in the State of California of securities issued by The Rose Fund LLC in the form of 12% Participating Units (or Shares) of Limited Liability Company Interest unless and until qualification has been made pursuant to the Corporate Securities Law of 1968. In addition, Respondents WARNOCK and ROSE FUND, INC., along with The Rose Fund LLC, and officers Paul Nelson and William Wright, were ordered to desist and refrain from offering or selling any security in the State of California, including but not limited to securities issued by The Rose Fund LLC, by means of any written or oral communication which includes an untrue statement of a material

1 fact or omits to state a material fact necessary in order to make  
2 the statements made, in the light of the circumstances under  
3 which they were made, not misleading.

4 WHEREFORE, Complainant prays that a hearing be  
5 conducted on the allegations of this Accusation and that upon  
6 proof thereof, a decision be rendered imposing disciplinary  
7 action against all licenses and/or license rights of Respondent  
8 THE ROSE FUND, INC., Respondent EQUITY EXPRESS INC., and  
9 Respondent LYMAN RAY WARNOCK under the Real Estate Law and for  
10 such other and further relief as may be proper under applicable  
11 provisions of law.

12 Dated at Los Angeles, California  
13 this 21<sup>st</sup> day of December, 2005.

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17 Deputy Real Estate Commissioner  
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23 cc: The Rose Fund, Inc.  
24 Equity Express, Inc.  
25 Lyman Ray Warnock  
26 Sacto.  
27 Janice Waddell  
Maria Suarez  
Audits