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BUREAU OF REAL ESTATE

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BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of:)	
)	NO. H- 3029 FR
BRANDON LEE YAGER,)	
)	<u>ACCUSATION</u>
Respondent.)	

The Complainant, TRICIA D. PARKHURST, acting in her official capacity as a Supervising Special Investigator of the State of California, for cause of Accusation against Respondent BRANDON LEE YAGER (herein "Respondent"), is informed and alleges as follows:

1.

At all times herein mentioned, Respondent was licensed and/or had license rights under the Real Estate Law, Part 1 of Division 4 of the Code (herein "the Real Estate Law") a real estate broker.

2.

At all times herein mentioned, Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the State of California on behalf of others, for compensation or in expectation of compensation within the meaning of:

1 (a) section 10131(a) of the Code, including the operation and conduct of a real estate
2 brokerage that included the sale or offer of sale, purchase or offer of purchase, solicitation of
3 prospective sellers and purchasers of, solicitation or obtaining listings of, or negotiations of the
4 purchase, sale or exchange of real property or a business opportunity; and

5 (b) Section 10131.2 of the Code, including the claiming, demanding, charging,
6 receiving, collecting or contracting for the collection of an advance fee in connection with any
7 employment undertaken to promote the sale or lease of real property or of a business opportunity
8 by advance fee listing, advertisement or other offering to sell, lease, exchange or rent property or
9 a business opportunity, or to obtain a loan or loans thereon.

10 3.

11 Beginning on or about March 18, 2016 and continuing intermittently through June
12 27, 2016, an audit was conducted of Respondent's records. The audit herein examined the
13 records for the period of March 1, 2014, through February 29, 2016.

14 4.

15 While conducting business as a real estate licensee Respondent received funds in
16 trust (herein "trust funds") from or on behalf of seller, buyers or others in connection with the
17 sale of business opportunities described above in Paragraph 2, and thereafter from time to time
18 made disbursements of said trust funds.

19 5.

20 The trust funds accepted or received by Respondent as, described above in
21 Paragraph 4, were deposited or caused to be deposited by Respondent into a trust account
22 maintained by Respondent for the handling of trust funds, and thereafter from time-to-time
23 Respondent made disbursements of said trust funds, identified as followed:

BANK ACCOUNT # 1	
Bank Name:	BBVA Compass
Account No.:	XXXXXX6449
Entitled:	Yager Realty of California
Signatories:	Unknown
No. of Signatures Required:	Unknown

1 From time to time, Respondent made collections to and disbursement from said trust account.

2 6.

3 In the course of the activities described above in Paragraph 2, in connection with
4 the collection and disbursement of trust funds, Respondent:

5 (a) Collected advance fees, prior to submission to the Bureau of any or all
6 materials used in advanced fee agreements for the following sellers, in violation of sections
7 10085 (advance fee materials) and 10085.6 (collecting advance fees) of the Code and section
8 2970 (advance fee materials) of chapter 6, title 10, California Code of Regulations (the
9 Regulations”):

10	<u>Seller</u>	<u>Amount</u>	<u>Date Collected</u>	<u>Date Deposited</u>
11	Kim D.	\$525.00	June 5, 2015	June 5, 2015

12 (b) Failed to place entrusted funds into the hands of a principal on whose behalf
13 the funds were received, into a neutral escrow depository, or into a trust fund account in the
14 name of Respondent, as trustee at a bank or other financial institution, in conformance with the
15 requirements of sections 10145 (trust account) and 10146 (advance fee trust account) of the
16 Code, and sections 2832 (trust account) and 2972 (advance fee trust account) of the Regulations,
17 in that Respondent placed such funds in Bank Account #1, not a designated trust account;

18 (c) Failed to keep a separate record for each beneficiary or transaction for Bank
19 Account #1 containing all the information required by section 10145(g) (separate records) of the
20 Code and section 2831.1 (separate records) of the Regulations;

21 (d) failed to keep a columnar record in chronological sequence of all trust funds
22 received and disbursed from Bank Account #1, in violation section 10145 of the Code and
23 section 2831 (columnar records) of the Regulations; and

24 (e) Failed to reconcile, at least once a month, the balance of all separate
25 beneficiary or transaction records with Bank Account #1, as required by section 10145(g) of the
26 Code and section 2831.2 (monthly reconciliation) of the Regulations.

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7.

The facts alleged above in Paragraph 6 are grounds for the suspension or revocation of the licenses and license rights of Respondent under the following provisions of the Code and/or the Regulations:

(a) As to Paragraph 6(a), under sections 10185 and 10186 of the Code, in conjunction with and section 2970 of the Regulations;

(b) As to Paragraph 6(b), under section 10177(d) and/or 10177(g) of the Code, in conjunction with sections 10145 and 10146 of the Code and sections 2832 and 2972 of the Regulations;

(c) As to Paragraph 6(c), under section 10177(d) and/or 10177(g) of the Code, in conjunction with section 10145(g) of the Code and section 2831.1 of the Regulations;

(d) As to Paragraph 6(d), under section 10177(d) and/or 10177(g) of the Code, in conjunction with section 10145 of the Code and section 2831 of the Regulations; and

(e) As to Paragraph 6(e), under section 10177(d) and/or 10177(g) of the Code, in conjunction with section 10145(g) of the Code and section 2831.2 of the Regulations.

PRIOR DISCIPLINE

8.

Effective November 24, 2010, in Case No. H-2415 FR, the Real Estate Commissioner suspended for sixty (60) days the real estate salesperson license of Respondent for violating sections 10146, 10177(d), and 10177(g) of the Code and sections 2970 of the Regulations.

COST RECOVERY

Audit Costs

9.


The acts and/or omissions of Respondent, as alleged above in Paragraph 6, entitle the Bureau to reimbursement of the costs of its audit pursuant to section 10148 of the Code.

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2 Enforcement Costs

3 .10.

4 Section 10106 of the Code provides, in pertinent part, that in any order issued in
5 resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the
6 Administrative Law Judge to direct a licensee found to have committed a violation of this part to
7 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

8 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
9 of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary
10 action against all licenses and license rights of all Respondents named herein under the Real
11 Estate Law, for costs of the investigation, audit and enforcement as permitted by law, and for
12 such other and further relief as may be proper under other provisions of law.

13 
14 TRICIA D. PARKHURST
15 Supervising Special Investigator

16 Dated at Sacramento, California,
17 this 23rd day of February, 2017.
18

19 DISCOVERY DEMAND

20 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the
21 Bureau hereby makes demand for discovery pursuant to the guidelines set forth in the
22 *Administrative Procedure Act*. Failure to provide Discovery to the Bureau may result in the
23 exclusion of witnesses and documents at the hearing or other sanctions that the Office of
24 Administrative Hearings deems appropriate.
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