

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED

JAN 05 2009

DEPARTMENT OF REAL ESTATE
By *L. Frost*

In the Matter of the Accusation of)	
)	NO. H-4624 SAC
NORCAL GOLD, INC., TIMOTHY)	
CRAIG YEE, SUSAN EVETTE ART,)	OAH No. N2009061440
NIDAL R. KHOURI, and)	
JARET LONNIE GHENT,)	
)	
Respondents.)	

DECISION

The Proposed Decision dated November 19, 2009, 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 with the following correction:

1. Pursuant to Section 11517(b)(3) of the Government Code, the Proposed Decision on page 2, Paragraph 4, is revised by eliminating the sentence which reads "Notice of the date, time and place of hearing was served on respondents by first class mail on June 25, 2009, at the addresses listed on the Notices of Defense."

2. Pursuant to Section 11517(b)(3) of the Government Code, the Proposed Decision on page 2, Paragraph 4, is revised by substituting the following sentences:

"Notice of the date, time and place of hearing was served on respondent Khouri by first class mail on June 25, 2009, at the address listed on his Notice of Defense. Notice of the date, time and place of hearing was served on respondent Ghent by first class mail on June 25, 2009, at the latest address of record listed on the licensing record of the Department."

This Decision shall become effective at 12 o'clock noon on
JAN 25 2010

IT IS SO ORDERED 12/22/ 2009.

JEFF DAVI
Real Estate Commissioner

Wayne S. Bell
By WAYNE S. BELL
Chief Counsel

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

NORCAL GOLD, INC.; TIMOTHY
CRAIG YEE; SUSAN EVETTE ART;
NIDAL R. KHOURI; and JARET LONNIE
GHENT,

Respondents.

Case No. H-4624 SAC

OAH No. 2009061440

PROPOSED DECISION

Administrative Law Judge Catherine B. Frink, State of California, Office of Administrative Hearings (OAH), heard this matter on October 27, 2009, in Sacramento, California.

Michael B. Rich, Counsel, represented the complainant.

There was no appearance by or on behalf of any of the respondents.

Evidence was received, the hearing was closed, and the record was held open for the submission of additional evidence. A copy of escrow file #31000965 was mailed directly to OAH from Chicago Title Co. The file was marked as Exhibit 9 and was received in evidence on November 3, 2009. Thereupon, the record was closed and matter was submitted on November 3, 2009.

FACTUAL FINDINGS

1. The complainant, Charles W. Koenig, a Deputy Real Estate Commissioner of the State of California, filed the Accusation in his official capacity on November 29, 2006. Thereafter, the matter was resolved by stipulation as to respondents Norcal Gold, Inc., doing business as Re/Max Gold (respondent Norcal), Timothy Craig Yee (respondent Yee), and Susan Evette Art (respondent Art). As a result of the stipulated settlement of this matter as to some of the named respondents, the only matters that remained in dispute as of the date of hearing were the Second Cause of Action, pertaining to respondent Nidal R. Khouri (respondent Khouri), and the Third Cause of Action, pertaining to respondent Jaret Lonnie Ghent (respondent Ghent).

2. On January 2, 2007, respondent Ghent filed a Notice of Defense to contest the Accusation. Respondent Ghent listed his address on the Notice of Defense as:

3476 Patterson Way
El Dorado Hills, CA 95762

3. On February 20, 2007, respondent Khouri filed a Notice of Defense to contest the Accusation. Respondent Khouri listed his address on the Notice of Defense as:

811 Regency Park Cir.
Sacramento, CA 95835

4. Notice of the date, time and place of hearing was served on respondents by first class mail on June 25, 2009, at the addresses listed on the Notices of Defense.

Despite proper service of the Notice of Hearing, respondents Ghent and Khouri did not appear and were not otherwise represented at hearing. Upon proof of compliance with Government Code sections 11505 and 11509, the matter proceeded as a default pursuant to Government Code section 11520 as to respondents Ghent and Khouri.

5. Respondents Norcal, Yee, Ghent, and Khouri were, at the time of filing of the Accusation, then presently licensed and/or had license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code.

6. At all times relevant, respondent Yee was licensed by the Department of Real Estate (department) as a real estate broker, and respondent Norcal was licensed as a corporate real estate broker with respondent Yee as its designated broker/officer. As the designated officer-broker of respondent Norcal, respondent Yee was responsible pursuant to Business and Professions Code section 10159.2, for the supervision of the activities of the officers, agents, real estate licensees, and employees of respondent Norcal for which a license is required.¹

7. At all times mentioned, respondent Norcal engaged in the business of, and acted in the capacity of, a real estate broker within the State of California, for or in expectation of compensation under Business and Professions Code section 10131, subdivision (a). Respondent Norcal sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, solicited or obtained listings of, and/or negotiated the purchase or sale of real property.

¹ Whenever reference is made in a Finding herein to an act or omission of respondents Norcal or Yee, such reference shall be deemed to pertain to the acts and omissions of officers, directors, employees, and agents of respondent Norcal, committed in the furtherance of the business or operations of respondent Norcal, and while acting within the course and scope of such authority and employment.

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Activities of Respondent Khouri

8. At all times pertinent, respondent Khouri was licensed by the department as a real estate salesperson. Respondent Khouri's license expired on June 8, 2009, and had not been renewed as of the date of hearing.

9. At all times pertinent, respondent Khouri, as a licensed real estate salesperson, was acting in the employ of respondent Norcal.

10. On December 11, 2004, on behalf of Mike Aoun (buyer), respondent Khouri submitted a Residential Purchase Agreement and Joint Escrow Instructions (Agreement) to Titan Realty & Mortgage, Inc., on behalf of Chan P. Chao and Kao S. Saechae (sellers) relating to real property located at 3637 Blackfoot Way, Antelope, California (Blackfoot Way property).

11. On December 16, 2004, sellers submitted a counter-offer on the Blackfoot Way property, which was accepted by the buyer on December 16, 2004.

12. The Agreement provided, in pertinent part, that "...Buyer has given a deposit in the amount of \$1,000 to the agent submitting the offer by personal check...which shall be held uncashed until Acceptance and then deposited within 3 business days after acceptance...with Escrow Holder." The Agreement also had a liquidated damages clause that provided, in part: "If Buyer fails to complete the purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid..." Sellers were induced to enter into the Agreement based upon the representations of respondent Khouri and the buyer.

13. Notwithstanding the express language of the Agreement, no personal check from the buyer was deposited with the seller's escrow holder, Titan Realty & Mortgage, Inc. In fact, respondent Khouri either had not received a deposit check from the buyer in any amount at the time the Agreement was presented and/or accepted, or he failed to deposit the check into escrow.

14. Respondent Khouri's representation to the sellers that he would place a check for \$1,000 into escrow upon three days of acceptance of the Agreement was false, and was known to be false to respondent Khouri at the time he made it.

15. There was no evidence submitted by or on behalf of respondent Khouri to explain why he failed to place a deposit check from the buyer into escrow in accordance with the terms of the Agreement.

16. The sale of the Blackfoot Way property was not completed, because the buyer was not able to obtain financing. The sellers did not receive the \$1,000 in liquidated damages to which they were entitled under the Agreement, because the funds had not been deposited in escrow as required.

17. By reason of the facts set forth in Findings 12, 13, and 16, respondent Khouri engaged in acts of negligence and incompetence in connection with the Blackfoot Way transaction.

18. By reason of the facts set forth in Findings 12, 13, 14, and 16, respondent Khouri made material misrepresentations of fact, and engaged in fraud and dishonest dealing, in connection with the Blackfoot Way transaction.

Activities of Respondent Ghent

19. The department issued a conditional salesperson license to respondent Ghent on November 20, 2002.

20. On February 10, 2004, respondent Ghent entered into an Independent Contractor Agreement (Between Broker and Associate-Licensee) with respondent Norcal.

21. On May 21, 2004, respondent Ghent's real estate salesperson license was suspended indefinitely pursuant to Business and Professions Code section 10153.4, for failure to complete the education courses required for licensure. Respondent Ghent's real estate salesperson license was reinstated from conditionally suspended status upon proof of completion of the education requirements as of August 5, 2004.

22. Between May 21 and August 4, 2004, respondent Ghent was not licensed by the department as either a real estate salesperson or broker. During that period, respondent Ghent was associated with, and employed by respondent Norcal.

23. During the period when his license was suspended, respondent Ghent performed activities for respondent Norcal for which a real estate license is required, for or in expectation of compensation. Respondent Ghent, on behalf of another or others, for or in expectation of compensation under Business and Professions Code section 10131, subdivision (a), sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, solicited or obtained listings of, and/or negotiated the purchase or sale of real property.

24. In May of 2004, on an exact date not established by the evidence, respondent Ghent solicited for and obtained a listing from Joel and Amy Jo Varain (sellers) to sell their real property located at 705 Carlin Court, Petaluma, California (Carlin property).

25. On July 5, 2004, respondent Ghent showed the Carlin property to Katherine Gorwood, a prospective purchaser. Respondent Ghent engaged in negotiations with Ms. Gorwood and her agent, Rola Johnson. Ms. Johnson submitted an offer on behalf of Ms. Gorwood, which was not accepted by the sellers, in part because of respondent's insistence that Ms. Johnson forego her commission as a condition of sellers' acceptance of the offer.

26. In an effort to revive negotiations concerning Ms. Gorwood's offer to purchase the Carlin property, Ms. Johnson's employing broker, Mr. Suen, spoke to respondent Yee by telephone on July 14, 2004. Mr. Suen raised the issue of whether respondent Ghent was a licensed real estate salesperson, and respondent Yee stated that he would have to conduct an inquiry. Respondent Yee told Mr. Suen to contact the branch manager, Steve Davies, for further information. Mr. Suen spoke to Mr. Davies by telephone on July 19, 2004. Mr. Davies confirmed that respondent Ghent was an agent of respondent Norcal, and stated that that "[respondent Ghent] was current with his license at the time he provided representation on the Carlin Property deal."

27. On July 10, 2004, James King (buyer) entered into an agreement with sellers to purchase the Carlin property. Respondent Ghent was the listing agent in the transaction, and he prepared the counter-offer from the sellers, dated July 9, 2004, which was accepted by the buyer on July 10, 2004.

28. The evidence submitted at hearing did not establish whether, or in what amount, respondent Ghent was compensated by respondent Norcal for performing the activities set forth in Findings 24 through 27.

29. By reason of the facts set forth in Findings 21 through 27, respondent Ghent acted in the capacity of a real estate salesperson without first obtaining a license from the department.

30. Respondent Ghent's conduct as set forth in Findings 21 through 27 would have warranted denial of an application for a real estate license.

31. By holding himself out as a real estate salesperson, at a time when his license was suspended by the department, respondent Ghent engaged in dishonest dealing.

LEGAL CONCLUSIONS

Applicable Statutes and Regulations

1. Business and Professions Code section 10130 provides in part that, "[i]t is unlawful for any person to engage in the business, act in the capacity of, advertise or assume to act as a real estate broker or a real estate salesman within this state without first obtaining a real estate license from the department."

2. Business and Professions Code section 10145, subdivision (a)(1), provides in part that, "[a] real estate broker who accepts funds belonging to others in connection with a transaction subject to this part shall deposit all those funds that are not immediately placed into a neutral escrow depository or into the hands of the broker's principal, into a trust fund account maintained by the broker in a bank or recognized depository in this state...."

3. Business and Professions Code section 10176, subdivision (a) and (i), state:

The commissioner may, upon his own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate licensee within this state, and he may temporarily suspend or permanently revoke a real estate license at any time where the licensee, while a real estate licensee, in performing or attempting to perform any of the acts within the scope of this chapter has been guilty of any of the following:

- (a) Making any substantial misrepresentation.

[¶]...[¶]

- (i) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

4. Business and Professions Code section 10177, subdivisions (d), (f), (g), and (j), state:

The commissioner may suspend or revoke the license of a real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done any of the following:

[¶]...[¶]

- (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000) of Part 2.

[¶]... [¶]

- (f) Acted or conducted himself or herself in a manner that would have warranted the denial of his or her application for a real estate license ...

- (g) Demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license.

[¶]...[¶]

(j) Engaged in any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

5. California Code of Regulations, title 10, section 2832, states in pertinent part:

(a) Compliance with Section 10145 of the Code requires that the broker place funds accepted on behalf of another into the hands of the owner of the funds, into a neutral escrow depository or into a trust fund account in the name of the broker, or in a fictitious name if the broker is the holder of a license bearing such fictitious name, as trustee at a bank or other financial institution not later than three business days following receipt of the funds by the broker or by the broker's salesperson.

[¶]...[¶]

(c) A check received from the offeror may be held uncashed by the broker until acceptance of the offer if

(1) the check by its terms is not negotiable by the broker or if the offeror has given written instructions that the check shall not be deposited nor cashed until acceptance of the offer and

(2) the offeree is informed that the check is being so held before or at the time the offer is presented for acceptance.

(d) In these circumstances if the offeror's check was held by the broker in accordance with subdivision (c) until acceptance of the offer, the check shall be placed into a neutral escrow depository or the trust fund account, or into the hands of the offeree if offeror and offeree expressly so provide in writing, not later than three business days following acceptance of the offer unless the broker receives written authorization from the offeree to continue to hold the check.

[¶]...[¶]

Burden of Proof

6. The department has the burden of proving the facts alleged in the Accusation by clear and convincing evidence to a reasonable certainty. (*Realty Projects v. Smith* (1973) 32 Cal.App.3d 204.)

Cause for discipline – Respondent Khouri

7. Clear and convincing evidence to a reasonable certainty established cause for discipline of respondent Khouri's license and licensing rights pursuant to Business and Professions Code section 10145, subdivision (a)(1) and California Code of Regulations, title 10, section 2832, in conjunction with Business and Professions Code section 10177, subdivision (d), in that respondent Khouri willfully disregard and violated the Real Estate Law and applicable regulations governing the treatment of funds received in connection with real estate transactions, by reason of Findings 12 and 13.

8. Clear and convincing evidence to a reasonable certainty established cause for discipline of respondent Khouri's license and licensing rights pursuant to Business and Professions Code section 10177, subdivision (g) (negligence or incompetence), by reason of Findings 12, 13, 16, and 17.

9. Clear and convincing evidence to a reasonable certainty established cause for discipline of respondent Khouri's license and licensing rights pursuant to Business and Professions Code sections 10176, subdivision (a) (substantial misrepresentation); 10176, subdivision (i) (fraud or dishonest dealing); and 10177, subdivision (j) (fraud or dishonest dealing), by reason of Findings 12, 13, 14, 16, and 17.

10. No evidence of mitigation or extenuation was submitted by or on behalf of respondent Khouri. Revocation of licensure is necessary to protect the public.

Cause for discipline – Respondent Ghent

11. Clear and convincing evidence to a reasonable certainty established cause for discipline of respondent Ghent's license and licensing rights pursuant to Business and Professions Code section 10130 in conjunction with Business and Professions Code section 10177, subdivision (d), in that he willfully disregard and violated the Real Estate Law by acting as a real estate salesperson without a valid license, by reason of Findings 21 through 27, and 29.

12. Clear and convincing evidence to a reasonable certainty established cause for discipline of respondent Ghent's license and licensing rights pursuant to Business and Professions Code section 10177, subdivision (f), (acting in a manner that would have warranted denial of a license), by reason of Findings 21 through 27, and 30.

13. Clear and convincing evidence to a reasonable certainty established cause for discipline of respondent Ghent's license and licensing rights pursuant to Business and Professions Code section 10177, subdivision (j), (dishonest dealing), by reason of Findings 21 through 27, and 31.

14. No evidence of mitigation or extenuation was submitted by or on behalf of respondent Ghent. Revocation of licensure is necessary to protect the public.

ORDER

1. All licenses and licensing rights of respondent Nidal R. Khouri under the Real Estate Law are revoked, by reason of Legal Conclusions 7, 8, 9, and 10.

2. All licenses and licensing rights of respondent Jaret Lonnie Ghent under the Real Estate Law are revoked, by reason of Legal Conclusions 11, 12, 13, and 14.

Dated: 11/19/09

Catherine B. Frink

CATHERINE B. FRINK
Administrative Law Judge
Office of Administrative Hearings

FILED

NOV 17 2009

DEPARTMENT OF REAL ESTATE

By *[Signature]*

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 ***

11 In the Matter of the Accusation of)
12 NORCAL GOLD, INC., a Corporation,) No. H-4624 SAC
13 TIMOTHY CRAIG YEE, SUSAN EVETTE) OAH No. 2009061440
14 ART, NIDAL R. KHOURI, and) STIPULATION AND AGREEMENT
15 JARET LONNIE GHENT,)
16 Respondents.)

17 In the Matter of the Accusation of)
18 NORCAL GOLD, INC., a Corporation, and) No. H-5161 SAC
19 TIMOTHY CRAIG YEE,) OAH No. 2009061442
20 Respondents.) STIPULATION AND AGREEMENT

21 It is hereby stipulated by and between Respondent TIMOTHY CRAIG YEE
22 (hereinafter referred to as "Respondent YEE"), and Respondent NORCAL GOLD, INC.,
23 (hereinafter referred to as "Respondent NORCAL GOLD") by and through Frank M. Buda,
24 Counsel for Respondents, and the Complainant, acting by and through Michael B. Rich,
25 Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing
26 of the Accusation under Case No. 4624 SAC filed on December 18, 2006, in this matter
27 (hereinafter "the Accusation H-4624 SAC") and of the Accusation under Case No. H-5161

DRE Nos. H-4624 SAC & H-5161 SAC

TIMOTHY CRAIG YEE
NORCAL GOLD, INC.

1 SAC filed on March 2, 2009, in this matter (hereinafter "the Accusation H-51614 SAC");

2 1. All issues which were to be contested and all evidence which was to be
3 presented by Complainant and Respondents at a formal hearing on the Accusations, which
4 hearings were to be held in accordance with the provisions of the Administrative Procedure Act
5 (hereinafter "APA"), shall instead and in place thereof be submitted solely on the basis of the
6 provisions of this Stipulation and Agreement.

7 2. Respondents have received, read and understand the Statement to
8 Respondent, the Discovery Provisions of the APA and the Accusations filed by the Department
9 of Real Estate in this proceeding.

10 3. Respectively, on January 8, 2007, in Case No. H-4624 SAC and on April
11 1, 2009, in Case No. H-5161 SAC, Respondents, respectively, filed Notices of Defense
12 pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on
13 the allegations in the Accusations. Respondent YEE and Respondent NORCAL GOLD hereby
14 freely and voluntarily withdraw said Notices of Defense. Respondents acknowledge that
15 Respondents understand that by withdrawing said Notices of Defense they will thereby waive
16 their respective right to require the Commissioner to prove the allegations in the Accusations at
17 a contested hearing held in accordance with the provisions of the APA and that Respondents
18 will waive other rights afforded to Respondents in connection with the hearing such as the right
19 to present evidence in defense of the allegations in the Accusations and the right to cross-
20 examine witnesses.

21 4. Respondents, pursuant to the limitations set forth below, hereby admit that
22 the factual allegations in, respectively, Accusation H-4624 SAC and Accusation H-5161 SAC
23 pertaining to each Respondent are true and correct and stipulate and agree that the Real Estate
24 Commissioner shall not be required to provide further evidence of such allegations.

25 5. It is understood by the parties that the Real Estate Commissioner may
26 adopt the Stipulation and Agreement as his decision in this matter, thereby imposing the
27

DRE Nos. H-4624 SAC & H-5161 SAC

TIMOTHY CRAIG YEE
NORCAL GOLD, INC.

1 penalty and sanctions on Respondents' respective real estate licenses and license rights as set
2 forth in the "Order" below. In the event that the Commissioner in his discretion does not adopt
3 the Stipulation and Agreement, it shall be void and of no effect, and Respondents shall retain
4 the right to a hearing and proceeding on the Accusations under all the provisions of the APA
5 and shall not be bound by any admission or waiver made herein.

6 6. This Stipulation and Agreement shall not constitute an estoppel, merger or
7 bar to any further administrative or civil proceedings by the Department of Real Estate with
8 respect to any matters which were not specifically alleged to be causes for accusation in this
9 proceeding.

10 7. Respondents understand that by agreeing to this Stipulation and Agreement
11 in settlement, Respondents agree to pay, pursuant to Section 10148 of the Business and
12 Professions Code (hereinafter "the Code"), the cost of the audits that led to this disciplinary
13 action. The amount of said costs is \$2,844.00 under Case No. H-4624 SAC and \$6,874.66 under
14 Case No. H-5161 SAC.

15 8. Respondents have received, read, and understand the "Notice Concerning
16 Costs of Audits". Respondents further understand that by agreeing to this Stipulation and
17 Agreement in Settlement, the findings set forth below in the DETERMINATION OF ISSUES
18 become final, and that the Commissioner may, as set forth below, charge Respondents for the
19 costs of any subsequent audit conducted pursuant to Section 10148 of the Code to determine if
20 the violations have been corrected. The maximum costs of said audits will not exceed
21 \$2,844.00 under Case No. H-4624 SAC and will not exceed \$6,874.66 under Case No. H-5161
22 SAC.

23 DETERMINATION OF ISSUES

24 By reason of the foregoing stipulations, admissions and waivers and solely for
25 the purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed
26 that the following Determination of Issues shall be made:
27

DRE Nos. H-4624 SAC & H-5161 SAC

TIMOTHY CRAIG YEE
NORCAL GOLD, INC.

I

The acts and omissions of Respondent TIMOTHY CRAIG YEE described in Accusation H-4624 SAC and Accusation H-5161 SAC are grounds for the suspension or revocation of the licenses and license rights of Respondent under the provisions of Section 10177(h) of the Code and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

II

The acts and omissions of Respondent NORCAL GOLD, INC., described in Accusation H-4624 SAC are grounds for the suspension or revocation of the licenses and license rights of Respondent NORCAL GOLD, INC., under: Sections 10130 and 10137 of the Code in conjunction with 10177(d) of the Code; Section 2831 of Chapter 6, Title 10, California Code of Regulations (hereinafter "the Regulations") and Section 10145 of the Code in conjunction with Section 10177(d) of the Code.

III

The acts and omissions of Respondent NORCAL GOLD, INC., described in Accusation H-5161 SAC are grounds for the suspension or revocation of the licenses and license rights of Respondent NORCAL GOLD, INC., under: Section 10145 of the Code in conjunction with Section 10177(d) of the Code; Sections 2831, 2831.2, 2832, and 2834 of the Regulations in conjunction with Section 10177(d) of the Code; and, Section 2731 of the Regulations and Section 10159.5 of the Code in conjunction with Section 10177(d) of the Code.

ORDER

I

A. Respondent TIMOTHY CRAIG YEE shall provide proof satisfactory to the Commissioner that Respondent has, within one hundred twenty (120) days prior to the effective date of the Decision herein, taken and successfully completed the trust fund accounting and handling course specified in paragraph (3), subdivision (a) of Section 10170.5 of the Business

DRE Nos. H-4624 SAC & H-5161 SAC

TIMOTHY CRAIG YEE
NORCAL GOLD, INC. _

1 and Professions Code. If Respondent fails to satisfy this condition on or prior to the effective
2 date of the Decision, the Commissioner may order indefinite suspension of Respondent's license
3 until Respondent provides proof that he has completed said course, at which time the indefinite
4 suspension provided in this paragraph shall be stayed.

5 B. Respondent TIMOTHY CRAIG YEE shall, within six (6) months from
6 the effective date of this Decision, take and pass the Professional Responsibility Examination
7 administered by the Department including the payment of the appropriate examination fee. If
8 Respondent fails to satisfy this condition, the Commissioner may order indefinite suspension of
9 Respondent's license until Respondent passes the examination at which time the indefinite
10 suspension provided in this paragraph shall be stayed.

11 C. All licenses and licensing rights of Respondent TIMOTHY CRAIG YEE
12 under the Real Estate Law are suspended for a period of sixty (60) days from the effective date
13 of the Decision herein; provided, however:

14 1. If Respondent TIMOTHY CRAIG YEE petitions, sixty (60) days of the
15 sixty (60) day suspension (or a portion thereof) shall be stayed upon the condition that:

16 (a) Respondent pays a monetary penalty pursuant to Section 10175.2 of the
17 Code at the rate of \$100.00 for each day of the suspension for a total monetary penalty of
18 \$6,000.00.

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

22 (c) If Respondent fails to pay the monetary penalty in accordance with the
23 terms and conditions of the Decision, the Commissioner may, without a hearing, vacate and set
24 aside the stay order, and order the immediate execution of all or any part of the stayed
25 suspension.

26 (d) That no final subsequent determination be made, after hearing or upon
27

DRE Nos. H-4624 SAC & H-5161 SAC

TIMOTHY CRAIG YEE
NORCAL GOLD, INC.

1 stipulation, that cause for disciplinary action occurred within two (2) years of the effective date
2 of this Decision. Should such a determination be made, the Commissioner may, in his
3 discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed
4 suspension. Should no such determination be made within said two-year period, the stay
5 imposed herein shall become permanent.

6 (e) If Respondent pays the monetary penalty and if no final subsequent
7 determination be made, after hearing or upon stipulation, for cause for disciplinary action
8 against the real estate license of Respondent occurs within two (2) years from the effective date
9 of the Decision herein, then the stay hereby granted shall become permanent.

10 D. Respondent shall, jointly and severally with Respondent NORCAL GOLD,
11 INC., within sixty (60) days of receiving an invoice therefor from the Commissioner, pay the
12 Commissioner's costs in the amount of \$2,844.00 under Case No. H-4624 SAC and \$6,874.66
13 under Case No. H-5161 SAC for the audits conducted pursuant to Section 10148 of the Business
14 and Professions Code that resulted in the determination that Respondent NORCAL GOLD,
15 INC., committed the violations described in the Fourth Cause of Action in Accusation H-4624
16 SAC and the violations described in the First Cause of Action in Accusation H-5161 SAC while
17 Respondent TIMOTHY CRAIG YEE was the designated broker/officer of NORCAL GOLD,
18 INC., and was responsible for said corporation's compliance with the Real Estate Law (Business
19 and Professions Code § 1000 et seq.) and with the Regulations of the Real Estate Commissioner
20 (Chapter 6, Title 10, California Code of Regulations). If Respondent YEE fails to pay such cost
21 within the sixty (60) days, the Commissioner may in his discretion indefinitely suspend all
22 license and licensing rights of Respondent under the Real Estate Law until payment is made in
23 full or until Respondent enters into an agreement satisfactory to the Commissioner to provide
24 for payment. Upon payment in full, any indefinite suspension provided in this paragraph shall
25 be stayed.

26 B. If Respondent TIMOTHY CRAIG YEE becomes licensed as the designated
27

DRE Nos. H-4624 SAC & H-5161 SAC

TIMOTHY CRAIG YEE
NORCAL GOLD, INC.

1 broker/officer of Respondent NORCAL GOLD, INC., Respondent shall, jointly and severally
 2 with Respondent NORCAL GOLD, INC., pay the Commissioner's costs, not to exceed
 3 \$2,844.00 under Case No. H-4624 SAC and not to exceed \$6,874.66 under Case No. H-5161
 4 SAC for any audit conducted pursuant to Section 10148 of the Business and Professions Code to
 5 determine if Respondents have corrected the violations described in the Fourth Cause of Action
 6 in Accusation H-4624 SAC and the violations described in the First Cause of Action in
 7 Accusation H-5161 SAC. In calculating the amount of the Commissioner's reasonable cost, the
 8 Commissioner may use the estimated average hourly salary for all persons performing audits of
 9 real estate brokers, and shall include an allocation for travel time to and from the auditor's place
 10 of work. Respondent shall pay such cost within sixty (60) days of receiving an invoice therefor
 11 from the Commissioner detailing the activities performed during the audit and the amount of
 12 time spent performing those activities. If Respondent fails to pay such cost within the sixty (60)
 13 days, the Commissioner may in his or her discretion indefinitely suspend all license and
 14 licensing rights of Respondent under the Real Estate Law until payment is made in full or until
 15 Respondent enters into an agreement satisfactory to the Commissioner to provide for payment.
 16 Upon payment in full, the indefinite suspension provided in this paragraph shall be stayed.

17 F. If Respondent TIMOTHY CRAIG YEE becomes licensed as the
 18 designated broker/officer of Respondent NORCAL GOLD, INC., all licenses and licensing
 19 rights of Respondent TIMOTHY CRAIG YEE under the Real Estate Law are indefinitely
 20 suspended until such time as Respondent shall provide evidence satisfactory to the
 21 Commissioner that the trust fund shortages alleged in Accusation H-5161 SAC have been
 22 cured.

23 ///.
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 27

DRE Nos. H-4624 SAC & H-5161 SAC

TIMOTHY CRAIG YEE
NORCAL GOLD, INC.

II

1
2 A. All licenses and licensing rights of Respondent NORCAL GOLD, INC.,
3 under the Real Estate Law are indefinitely suspended until such time as Respondent shall, prior
4 to the effective date of the Decision, provide evidence satisfactory to the Commissioner that
5 Respondent has cured the trust fund shortages alleged in Accusation H-5161 SAC.

6 B. All licenses and licensing rights of Respondent NORCAL GOLD, INC.,
7 under the Real Estate Law are suspended for a period of sixty (60) days from the effective date
8 of this Decision; provided, however, that sixty (60) days of said suspension shall be stayed for
9 two (2) years upon the following terms and conditions:

10 1. Respondent shall obey all laws, rules and regulations governing the rights,
11 duties and responsibilities of a real estate licensee in the State of California; and

12 2. That no final subsequent determination be made, after hearing or upon
13 stipulation, that cause for disciplinary action occurred within two (2) years of the effective date
14 of this Decision. Should such a determination be made, the Commissioner may, in his
15 discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed
16 suspension. Should no such determination be made within said two-year period, the stay
17 imposed herein shall become permanent.

18 C. Respondent shall, jointly and severally with Respondent TIMOTHY
19 CRAIG YEE, within sixty (60) days of receiving an invoice therefor from the Commissioner,
20 pay the Commissioner's costs in the amount of \$2,844.00 under Case No. H-4624 SAC and
21 \$6,874.66 under Case No. H-5161 SAC for the audits conducted pursuant to Section 10148 of
22 the Business and Professions Code that resulted in the determination that Respondent NORCAL
23 GOLD, INC., committed the violations described in the Fourth Cause of Action in Accusation
24 H-4624 SAC and the violations described in the First Cause of Action in Accusation H-5161
25 SAC. If Respondent NORCAL GOLD, INC., fails to pay such cost within the sixty (60) days,
26 the Commissioner may in his discretion indefinitely suspend all license and licensing rights of
27


DRE Nos. H-4624 SAC & H-5161 SAC

TIMOTHY CRAIG YEE
NORCAL GOLD, INC.

1 Respondent under the Real Estate Law until payment is made in full or until Respondent enters
2 into an agreement satisfactory to the Commissioner to provide for payment. Upon payment in
3 full, any indefinite suspension provided in this paragraph shall be stayed.

4 D. Respondent shall pay the Commissioner's costs, not to exceed \$2,844.00
5 under Case No. H-4624 SAC and not to exceed \$6,874.66 under Case No. H-5161 SAC, of any
6 audit conducted pursuant to Section 10148 of the Business and Professions Code to determine if
7 Respondent has corrected the violations described in the
8 Fourth Cause of Action in Accusation H-4624 SAC and the violations described in the First
9 Cause of Action in Accusation H-5161 SAC. In calculating the amount of the Commissioner's
10 reasonable cost, the Commissioner may use the estimated average hourly salary for all persons
11 performing audits of real estate brokers, and shall include an allocation for travel time to and
12 from the auditor's place of work. Respondent shall pay such cost within sixty (60) days of
13 receiving an invoice therefor from the Commissioner detailing the activities performed during
14 the audit and the amount of time spent performing those activities. If Respondent fails to pay
15 such cost within the sixty (60) days, the Commissioner may in his or her discretion indefinitely
16 suspend all license and licensing rights of Respondent under the Real Estate Law until payment
17 is made in full or until Respondent enters into an agreement satisfactory to the Commissioner to
18 provide for payment. Upon payment in full, the indefinite suspension provided in this paragraph
19 shall be stayed.

20
21 10/15/09
DATED


MICHAEL B. RICH, Counsel
Department of Real Estate

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24 ***

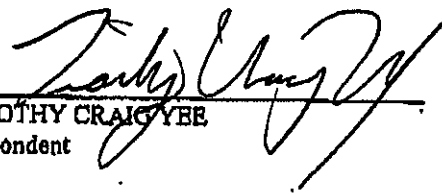
25 I have read the Stipulation and Agreement and its terms are understood by
26 me and are agreeable and acceptable to me. I understand that I am waiving rights given to me
27

DRE Nos. H-4624 SAC & H-5161 SAC

TIMOTHY CRAIG YEE
NORCAL GOLD, INC.

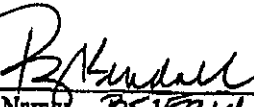
1 by the California Administrative Procedure Act (including but not limited to Sections 11506,
 2 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and
 3 voluntarily waive those rights, including the right of requiring the Commissioner to prove the
 4 allegations in the Accusation at a hearing at which I would have the right to cross-examine
 5 witnesses against me and to present evidence in defense and mitigation of the charges.

6
 7 10/13/09
 8 DATED


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TIMOTHY CRAIG YEE
 Respondent

10
 11 10/13/09
 12 DATED

By: 
 Print Name: BEVERLY KENDALL
 Chief Executive Officer for Respondent
 NORCAL GOLD, INC.
 EXECUTIVE
 VICE PRESIDENT

Approved as to form and content by counsel for Respondents.

16
 17 10/13/09
 18 DATED


 FRANK M. BUDA
 Attorney for Respondents

DRB Nos. H-4524 SAC & H-5161 SAC

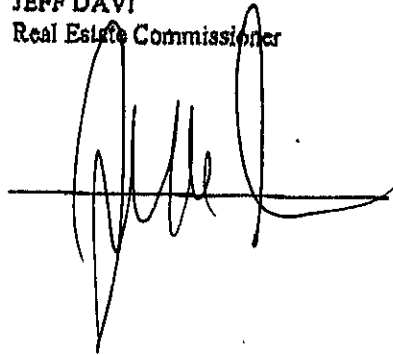
TIMOTHY CRAIG YEE
 NORCAL GOLD, INC.

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The foregoing Stipulation and Agreement is hereby adopted by me as my
Decision in this matter as to Respondent TIMOTHY CRAIG YEB and Respondent NORCAL
GOLD, INC., and shall become effective at 12 o'clock noon on DEC 07 2009

IT IS SO ORDERED 11-17, 2009.

JEFF DAVI
Real Estate Commissioner



DRE Nos. H-4624 SAC & H-5161 SAC

TIMOTHY CRAIG YEB
NORCAL GOLD, INC.

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789

FILED

OCT 21 2009

DEPARTMENT OF REAL ESTATE
By *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11
12 In the Matter of the Accusation of)
13 NORCAL GOLD, INC., TIMOTHY) NO. H-4624 SAC
14 CRAIG YEE, SUSAN EVETTE ART,) STIPULATION AND AGREEMENT
15 NIDAL R. KHOURI, and)
16 JARET LONNIE GHENT,)
17 Respondents.)

18 It is hereby stipulated by and between Respondent SUSAN EVETTE ART,
19 acting in pro per, and the Complainant, acting by and through Michael B. Rich, Counsel for the
20 Department of Real Estate, as follows for the purpose of settling and disposing of the
21 Accusation filed on December 18, 2006, in this matter ("the Accusation"):

22 1. All issues which were to be contested and all evidence which was to be
23 presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing
24 was to be held in accordance with the provisions of the Administrative Procedure Act (APA),
25 shall instead and in place thereof be submitted solely on the basis of the provisions of this
26 Stipulation and Agreement.

27 2. Respondent has received, read and understands the Statement to
No. H-4624 SAC SUSAN EVETTE ART

1 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department
2 of Real Estate in this proceeding.

3 3. On February 1, 2007, Respondent filed a Notice of Defense pursuant to
4 Section 11505 of the Government Code for the purpose of requesting a hearing on the
5 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice
6 of Defense. Respondent acknowledges that Respondent understands that by withdrawing said
7 Notice of Defense Respondent will thereby waive Respondent's right to require the
8 Commissioner to prove the allegations in the Accusation at a contested hearing held in
9 accordance with the provisions of the APA and that Respondent will waive other rights afforded
10 to Respondent in connection with the hearing such as the right to present evidence in defense of
11 the allegations in the Accusation and the right to cross-examine witnesses.

12 4. Respondent, pursuant to the limitations set forth below, hereby admits
13 that the factual allegations in the Accusation pertaining to Respondent are true and correct and
14 stipulates and agrees that the Real Estate Commissioner shall not be required to provide further
15 evidence of such allegations.

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

23 6. This Stipulation and Agreement shall not constitute an estoppel, merger
24 or bar to any further administrative or civil proceedings by the Department of Real Estate with
25 respect to any matters which were not specifically alleged to be causes for accusation in this
26 proceeding.

27 ///

1 DETERMINATION OF ISSUES

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

5 I

6 The acts and omissions of Respondent SUSAN EVETTE ART described in the
7 Accusation are grounds for the suspension or revocation of the licenses and license rights of
8 Respondent under the provisions of Sections 10176(a) and (i) and 10177(g) and (j) of the
9 California Business and Professions Code.

10 ORDER

11 I

12 All licenses and licensing rights of Respondent SUSAN EVETTE ART under the
13 Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall
14 be issued to said Respondent pursuant to Section 10156.5 of the Business and Professions Code
15 if, within 90 days from the effective date of the Decision entered pursuant to this Order,
16 Respondent makes application for the restricted license and pays to the Department of Real
17 Estate the appropriate fee therefor.

18 The restricted license issued to Respondent shall be subject to all of the
19 provisions of Section 10156.7 of the Business and Professions Code and to the following
20 limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

- 21 1. The restricted license issued to Respondent may be suspended prior to
22 hearing by Order of the Real Estate Commissioner in the event of
23 Respondent's conviction or plea of nolo contendere to a crime which is
24 substantially related to Respondent's fitness or capacity as a real estate
25 licensee.
- 26 2. The restricted license issued to Respondent may be suspended prior to
27 hearing by Order of the Real Estate Commissioner on evidence

1 satisfactory to the Commissioner that Respondent has violated provisions
2 of the California Real Estate Law, the Subdivided Lands Law,
3 Regulations of the Real Estate Commissioner or conditions attaching to
4 the restricted license.

5 3. Respondent shall not be eligible to apply for the issuance of an
6 unrestricted real estate license nor for the removal of any of the
7 conditions, limitations or restrictions of a restricted license until two (2)
8 years have elapsed from the effective date of this Decision.

9 4. Respondent shall submit with any application for license under an
10 employing broker, or any application for transfer to a new employing
11 broker, a statement signed by the prospective employing real estate broker
12 on a form approved by the Department of Real Estate which shall certify:

13 (a) That the employing broker has read the Decision of the
14 Commissioner which granted the right to a restricted license; and,

15 (b) That the employing broker will exercise close supervision over the
16 performance by the restricted licensee relating to activities for
17 which a real estate license is required.

18 5. Respondent shall, within nine months from the effective date of the
19 Decision, present evidence satisfactory to the Real Estate Commissioner
20 that Respondent has, since the most recent issuance of an original or
21 renewal real estate license, taken and successfully completed the
22 continuing education requirements of Article 2.5 of Chapter 3 of the Real
23 Estate Law for renewal of a real estate license. If Respondent fails to
24 satisfy this condition, the Commissioner may order the suspension of the
25 restricted license until the Respondent presents such evidence. The
26 Commissioner shall afford Respondent the opportunity for a hearing
27 pursuant to the Administrative Procedure Act to present such evidence.

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

7
8
9 9/28/09
10 DATED

Michael B. Rich
MICHAEL B. RICH, Counsel
Department of Real Estate

11 * * *

12 I have read the Stipulation and Agreement and its terms are understood by me
13 and are agreeable and acceptable to me. I understand that I am waiving rights given to me by
14 the California Administrative Procedure Act (including but not limited to Sections 11506,
15 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and
16 voluntarily waive those rights, including the right of requiring the Commissioner to prove the
17 allegations in the Accusation at a hearing at which I would have the right to cross-examine
18 witnesses against me and to present evidence in defense and mitigation of the charges.

19
20
21 8-31-09
22 DATED

Susan Evette Art
SUSAN EVETTE ART
Respondent

23 ///

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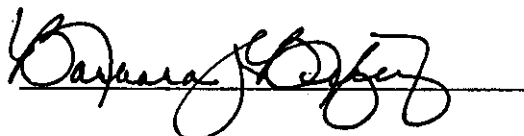
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The foregoing Stipulation and Agreement is hereby adopted by as my Decision in
this matter as to Respondent SUSAN EVETTE ART and shall become effective at 12 o'clock
noon on NOV 10 2009

IT IS SO ORDERED 10/20, 2009.

JEFF DAVI
Real Estate Commissioner



BY: Barbara J. Bigby
Chief Deputy Commissioner

FILED
DEC 18 2006

DEPARTMENT OF REAL ESTATE

By S. Ce

1 MICHAEL B. RICH, Counsel
2 SBN 84257
3 Department of Real Estate
4 P. O. Box 187007
5 Sacramento, CA 95818-7007

6 Telephone: (916) 227-0789

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 NORCAL GOLD, INC., TIMOTHY)
13 CRAIG YEE, SUSAN EVETTE ART,)
14 NIDAL R. KHOURI, and)
15 JARET LONNIE GHENT,)
16 Respondents.)

NO. H-4624 SAC

ACCUSATION

17 The Complainant, CHARLES W. KOENIG, a Deputy Real
18 Estate Commissioner of the State of California, for cause of
19 Accusation against NORCAL GOLD, INC., TIMOTHY CRAIG YEE, SUSAN
20 EVETTE ART, NIDAL R. KHOURI, and JARET LONNIE GHENT, is informed
21 and alleges as follows:

22 FIRST CAUSE OF ACTION

23 I

24 The Complainant, CHARLES W. KOENIG, a Deputy Real
25 Estate Commissioner of the State of California, makes this
26 Accusation against Respondent in his official capacity and not
27 otherwise.

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II

Respondents NORCAL GOLD, INC., TIMOTHY CRAIG YEE, SUSAN EVETTE ART, JARET LONNIE GHENT, and NIDAL R. KHOURI, are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereafter "the Code").

III

At all times herein mentioned, Respondent NORCAL GOLD, INC. (hereafter "Respondent NORCAL") was and is licensed by the Department of Real Estate (hereinafter "the Department") as a corporate real estate broker.

IV

At all times herein mentioned, Respondent TIMOTHY CRAIG YEE (hereinafter "Respondent YEE") was and is licensed by the Department as an individual real estate broker.

V

At all times herein mentioned, Respondent YEE was and is licensed by the Department as the designated broker/officer of Respondent NORCAL. As said designated Broker/officer, Respondent YEE was at all times mentioned herein responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees and employees of Respondent NORCAL for which a real estate license is required.

VI

Whenever reference is made in an allegation in this Accusation to an act or omission of Respondent NORCAL, such

1 allegation shall be deemed to mean that the officers, directors,
2 employees, agents and real estate licensees employed by or
3 associated with Respondent NORCAL committed such act or omission
4 while engaged in the furtherance of the business or operations
5 of Respondent NORCAL and while acting within the course and
6 scope of their corporate authority and employment.

7 VII

8 At all times herein mentioned, Respondent NORCAL
9 engaged in the business and acted in the capacity of a real
10 estate broker in California, on behalf of another or others, for
11 or in expectation of compensation under Section 10131(a) of the
12 Code, Respondent sold or offered to sell, bought or offered to
13 buy, solicited prospective sellers or purchases of, solicited or
14 obtained listings of, and/or negotiated the purchase or sale of
15 real property.

16 VIII

17 At all times herein mentioned, Respondent SUSAN EVETTE
18 ART (hereafter "ART") was and is licensed by the Department as a
19 real estate salesperson.

20 IX

21 At all times herein mentioned, Respondent ART, as a
22 licensed real estate salesperson, was acting in the employ of
23 Respondent NORCAL.

24 X

25 On or about October 24, 2004, on behalf of Paul
26 Williams and Kerstin Finet (hereinafter "Buyers"), Respondent
27 submitted a RESIDENTIAL PURCHASE AGREEMENT AND JOINT ESCROW

1 INSTRUCTIONS (hereinafter "Agreement") to Robert M. Banks, a
2 licensed real estate broker (hereinafter "Sellers' Agent") on
3 behalf of Yvette Banks Trust of August 17, 2004, Travis Driven,
4 and Linda M. Driven (hereinafter "Sellers) relating to real
5 property located at 3225 Boulder Creek Way in Antelope,
6 California (hereinafter "the Property").

7 XI

8 On or about October 26, 2004, pursuant to acceptance
9 after exchange of counteroffers, the Sellers signed the
10 Agreement accepting the offer on the Property.

11 XII

12 The Agreement provided, in pertinent part, that ". . .
13 Buyer has given a deposit in the amount of \$3,500 to the agent
14 submitting the offer by personal check made payable to Title
15 Co., which shall be held uncashed until Acceptance and then,
16 deposited within 3 business days after Acceptance." However,
17 Respondent had not received a deposit from the Buyer in any
18 amount at the time the Agreement was presented or accepted.

19 XIII

20 Respondent ART's representation to the Sellers that
21 she was in receipt of the \$3,500 deposit was false, and was
22 known by Respondent to be false at the time she made it.

23 XIV

24 The acts and/or omissions of Respondent ART described
25 in Paragraphs X, XI, XII and XIII, above, are grounds for the
26 revocation or suspension of all of Respondent ART's licenses

27 ///

1 under Sections 10176(a) and (i) and/or 10177(g) and (j) of the
2 Code.

3 SECOND CAUSE OF ACTION

4 XV

5 There is hereby incorporated in this Second, separate
6 and distinct, Cause of Action, all of the allegations contained
7 in Paragraphs I, II, III IV, V, VI and VII of the First Cause of
8 Action with the same force and effect as if herein fully set
9 forth.

10 XVI

11 At all times herein mentioned, Respondent NIDAL R.
12 KHOURI (hereafter "KHOURI") was and is licensed by the
13 Department as a real estate salesperson.

14 XVII

15 At all times herein mentioned, Respondent KHOURI, as a
16 licensed real estate salesperson, was acting in the employ of
17 Respondent NORCAL.

18 XVIII

19 On or about December 11, 2004, on behalf of Mike Aoun
20 (hereinafter "Buyer"), Respondent submitted a RESIDENTIAL
21 PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (hereinafter
22 "Agreement") to Titan Realty & Mortgage, Inc., (hereinafter
23 "Sellers' Agent") on behalf of Chan P. Chao and Kao S. Saechae
24 (hereinafter "Sellers") relating to real property located at
25 3637 Blackfoot Way in Antelope, California (hereinafter "the
26 Property").

27 ///

XIX

1
2 On or about December 16, 2004, pursuant to acceptance
3 of counteroffers, the Sellers signed the Agreement accepting the
4 offer on the Property.

5 XX

6 The Agreement provided, in pertinent part, that ". . .
7 Buyer has given a deposit in the amount of \$1,000 to the agent
8 submitting the offer by personal check . . . which shall be held
9 uncashed until Acceptance and then deposited within 3 business
10 days after Acceptance." However, Respondent had not received a
11 deposit from the Buyer in any amount at the time the Agreement
12 was presented and/or accepted, and/or Respondent failed to
13 deposit said check into escrow.

14 XXI

15 Respondent's representation to the Sellers that he was
16 in receipt of the \$1,000 deposit was false, and was known by
17 Respondent to be false at the time he made it, and/or Respondent
18 had returned the check to Buyer prior to acceptance of the
19 Agreement without informing the sellers at any time that it had
20 been returned, and/or that he had no intention of depositing
21 said check into escrow and did not do so.

22 XXII

23 The acts and/or omissions of Respondent described
24 above are grounds for the revocation or suspension of all of
25 Respondent's licenses under Section 2832 of Chapter 6, Title 10,
26 California Code of Regulations (hereinafter "Regulations") and
27 Section 10145 of the Code in conjunction with Section 10177(d)

1 of the Code and/or Sections 10176(a) and (i) and/or 10177(g) and
2 (j) of the Code.

3 THIRD CAUSE OF ACTION

4 XXIII

5 There is hereby incorporated in this Third, separate
6 and distinct, Cause of Action, all of the allegations contained
7 in Paragraphs I, II, III IV, V, VI and VII of the First Cause of
8 Action with the same force and effect as if herein fully set
9 forth.

10 XXIV

11 On or about May 21, 2004, the real estate salesperson
12 license of JARET LONNIE GHENT (hereinafter "Respondent GHENT")
13 was suspended pursuant to Section 10153.4. At no time herein
14 between about May 21, 2004, and August 4 2004, inclusive, was
15 Respondent GHENT licensed by the Department as either a real
16 estate broker or salesperson. At all times herein mentioned,
17 Respondent GHENT was associated with or in the employ of
18 Respondent NORCAL.

19 XXV

20 Within the three year period next preceding to the
21 filing of this Accusation and at all times herein mentioned,
22 during the period from at least May 21, 2004, to about August 4,
23 2004, when Respondent GHENT's license was suspended, Respondent
24 GHENT was employed by or associated with Respondent NORCAL, and
25 performed activities for Respondent NORCAL for which a real
26 estate license is required, for or in expectation of
27 compensation. Respondent GHENT, on behalf of another or others,

1 for or in expectation of compensation under Section 10131(a) of
2 the Code, sold or offered to sell, bought or offered to buy,
3 solicited prospective sellers or purchases of, solicited or
4 obtained listings of, and/or negotiated the purchase or sale of
5 real property.

6 XXVI

7 Within the three year period next preceding to the
8 filing of this Accusation, on or about May 24, 2004, Respondent
9 GHENT, while unlicensed, solicited for and obtained a listing
10 from Joel Varain and Amy Jo Varain to sell their real property
11 known as 705 Carlin Court (hereinafter "the Property"), in
12 Petaluma, California, solicited prospective purchasers, including
13 Katherine L. Gorwood, and negotiated the sale of the Property to
14 James King on or about July 12, 2004.

15 XXVII

16 Within the three year period next preceding to the
17 filing of this Accusation, on or about August 12, 2004,
18 Respondent NORCAL compensated Respondent GHENT for performing the
19 acts, while unlicensed, as described in Paragraph XXVI, above, in
20 the sum of \$12,519.74.

21 XXVIII

22 The acts and/or omissions of Respondent GHENT as
23 alleged in Paragraphs XXV and XXVI, above, violate Section 10130
24 of the Code, and constitute grounds for disciplinary action
25 against Respondent GHENT pursuant to Section 10130 in
26 conjunction with 10177(d) and/or pursuant to Section 10177(f)
27 and/or(j) of the Code.

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XXIX

The above acts and/or omissions of Respondent NORCAL, in employing and/or compensating Respondent GHENT as alleged in Paragraphs XXV, XXVI and XXVII, above, when Respondent GHENT was not duly licensed by the Department and/or for performing acts when Respondent GHENT was not duly licensed by the Department, constitute grounds for disciplinary action against Respondent NORCAL pursuant to Sections 10130 and 10137 in conjunction with 10177(d) of the Code.

FOURTH CAUSE OF ACTION

XXX

There is hereby incorporated in this Fourth, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs I, II, III IV, V, VI and VII of the First Cause of Action with the same force and effect as if herein fully set forth.

XXXI

In so acting as a real estate broker as described in Paragraph VII, above, Respondent NORCAL accepted or received funds in trust (hereinafter "trust funds") from or on behalf of sellers, buyers, and others in connection with the soliciting prospective sellers or purchasers of, soliciting or obtaining listings of, or negotiating the purchase, sale or exchange of real property or business opportunities as alleged herein.

XXXII

Within the three year period next preceding to the filing of this Accusation, in connection with the collection and

1 disbursement of trust funds, Respondent NORCAL failed to
2 maintain a written record of all trust funds received but not
3 placed into a trust account as required by Section 10145 of the
4 Code and Section 2831 of the Regulations, including, but not
5 limited to the following transactions:

6 1.) Real Property: 3225 Boulder Creek Way, Antelope,
7 California

8 Deposit Amount: \$,3500.00

9 Date Received: November 1, 2004

10 Received from Buyers: Travis Driven, and Linda M.
11 Driven

12 Sellers: Paul Williams and Kerstin Finet

13 2.) Real Property: 3637 Blackfoot Way, Antelope,
14 California

15 Deposit Amount: \$1,000.00

16 Date Received: December 11, 2004

17 Received from Buyer: Mike Aoun

18 Sellers: Chan P. Chao and Kao S. Saechae

19 XXXIII

20 Within the three year period next preceding to the
21 filing of this Accusation, in connection with the collection and
22 disbursement of trust funds, Respondent NORCAL failed to deposit
23 client funds not immediately placed in the hands of the broker's
24 principal or a neutral escrow depository, into a designated
25 trust account in the name of the broker within three business
26 days of receipt in violation of Section 2832 of the Regulations,
27 including, but not limited to the following transactions:

1 1.) Real Property: 3225 Boulder Creek Way, Antelope,
2 California

3 Deposit Amount: \$,3500.00

4 Date Received: November 1, 2004

5 Received from Buyers: Travis Driven, and Linda M.
6 Driven

7 Sellers: Paul Williams and Kerstin Finet

8 2.) Real Property: 3637 Blackfoot Way, Antelope,
9 California

10 Deposit Amount: \$1,000.00

11 Date Received: December 11, 2004

12 Received from Buyer: Mike Aoun

13 Sellers: Chan P. Chao and Kao S. Saechae

14 XXXIV

15 The acts and/or omissions of Respondent NORCAL as
16 alleged above constitute grounds for disciplinary action under
17 the following provisions:

18 (a) As alleged in Paragraph XXXII, under Section 2831
19 of the Regulations and Section 10145 of the Code
20 in conjunction with Section 10177(d) of the Code;
21 and,

22 (b) As alleged in Paragraph XXXIII, under Section
23 2832 of the Regulations in conjunction with
24 Section 10177(d) of the Code.

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1 FIFTH CAUSE OF ACTION

2 XXXV

3 There is hereby incorporated in this Fifth, separate
4 and distinct Cause of Action, all of the allegations contained
5 in Paragraphs I through XXXIV, inclusive, of the First, Second,
6 Third and Fourth Causes of Action with the same force and effect
7 as if herein fully set forth.

8 XXXVI

9 At all times above mentioned, Respondent YEE was
10 responsible, as the designated broker officer of Respondent
11 NORCAL, for the supervision and control of the activities
12 conducted on behalf of the corporation by its officers and
13 employees. Respondent YEE failed to exercise reasonable
14 supervision and control over the real property sales activities
15 of Respondent NORCAL. In particular, Respondent YEE permitted,
16 ratified and/or caused the conduct described in the First Cause
17 of Action, the Second Cause of Action, the Third Cause of
18 Action, and the Fourth Cause of Action, above, to occur, and
19 failed to take reasonable steps, including but not limited to
20 the handling of trust funds, supervision of employees, and the
21 implementation of policies, rules, procedures, and systems to
22 ensure the compliance of the corporation with the Real Estate
23 Law.

24 XXXVII

25 The above acts and/or omissions of Respondent YEE
26 constitute grounds for disciplinary action under the provisions

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1 of Section 10177(h) of the Code and/or Section 10159.2 of the
2 Code in conjunction with Section 10177(d) of the Code.

3 MATTERS IN AGGRAVATION

4 PRIOR ACTION

5 XXXVIII

6 Effective July 29, 2003, in investigative file number
7 403-0408-002, after an audit performed by the Department between
8 June 20, 2003 to June 25, 2003, Respondent NORCAL and Respondent
9 YEE were placed on notice pursuant to a Corrective Action Letter
10 that Respondent NORCAL had committed, and Respondent NORCAL and
11 Respondent YEE were directed to correct, the following
12 violations:

- 13 a.) Failure to obtain the Earnest Money Deposit from
14 buyer at time offer presented as stated in
15 purchase agreement in violation of Section
16 10176(a) of the Code;
- 17 b.) Failure to forward the Earnest Money Deposit
18 within three business days after the offer was
19 accepted in violation of Section 2832 of the
20 Regulations and Section 10145 of the Code; and,
- 21 c.) Failure to log all Earnest Money Deposits on the
22 control record in violation of Section 2831 of
23 the Regulations.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary action against all license(s) and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other provisions of law.


CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 29th day of November, 2006.