

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
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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., a Corporation,)
13 TIMOTHY CRAIG YEE, SUSAN EVETTE)
14 ART, NIDAL R. KHOURI, and)
15 JARET LONNIE GHENT,)

16 Respondents.)

No. H-4624 SAC
OAH No. 2009061440

STIPULATION AND AGREEMENT

17 In the Matter of the Accusation of)

18 NORCAL GOLD, INC., a Corporation, and)
19 TIMOTHY CRAIG YEE,)

20 Respondents.)

No. H-5161 SAC
OAH No. 2009061442

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

TIMOTHY CRAIG YEE
NORCAL GOLD, INC.

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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
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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 \$5,874.66
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 E. If Respondent TIMOTHY CRAIG YEE becomes licensed as the designated
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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.

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

TIMOTHY CRAIG YEE
NORCAL GOLD, INC.

II

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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
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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 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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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

Timothy Craig Yee
 8 TIMOTHY CRAIG YEE
 Respondent

10
 11 10/13/09
 12 DATED

12 By: *B. Kendall*
 13 Print Name: BEVERLY KENDALL
 14 Chief Executive Officer for Respondent
 EXECUTIVE VICE PRESIDENT NORCAL GOLD, INC.

14 Approved as to form and content by counsel for Respondents.

16
 17 10/13/09
 18 DATED

Frank M. Buda
 18 FRANK M. BUDA
 Attorney for Respondents

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

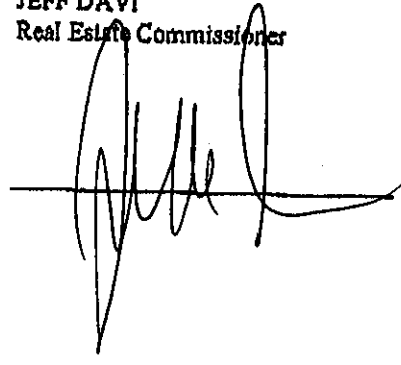
TIMOTHY CRAIG YEE
 NORCAL GOLD, INC.

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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 YEE 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 YEE
NORCAL GOLD, INC.

1 MICHAEL B. RICH, Counsel
2 State Bar No. 84257
3 Department of Real Estate
4 P. O. Box 187007
5 Sacramento, CA 95818-7007
6 Telephone: (916) 227-1126

FILED

MAR 02 2009

DEPARTMENT OF REAL ESTATE
By *L. Frost*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H-5161 SAC
13 NORCAL GOLD, INC., and) ACCUSATION
14 TIMOTHY CRAIG YEE,)
15 Respondents.)

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17 The Complainant, JOE M. CARILLO, a Deputy Real Estate Commissioner of the
18 State of California, for Accusation against Respondent NORCAL GOLD, INC., doing business
19 under the fictitious business name of RE/MAX GOLD, and Respondent TIMOTHY CRAIG
20 YEE, is informed and alleges as follows:

21 I

22 The Complainant, JOE M. CARILLO, a Deputy Real Estate Commissioner of the
23 State of California, makes this Accusation against Respondents in his official capacity.

24 II

25 Respondents NORCAL GOLD, INC. and TIMOTHY CRAIG YEE are presently
26 licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the
27 California Business and Professions Code (hereafter "the Code").

1 III

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

5 IV

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

8 V

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

15 VI

16 Whenever reference is made in an allegation in this Accusation to an act or
17 omission of Respondent NORCAL, such allegation shall be deemed to mean that the officers,
18 directors, employees, agents and real estate licensees employed by or associated with
19 Respondent NORCAL committed such act or omission while engaged in the furtherance of the
20 business or operations of Respondent NORCAL and while acting within the course and scope of
21 their corporate authority and employment.

22 VII

23 Within the three year period prior to the filing of this Accusation and at all times
24 herein mentioned, Respondent NORCAL engaged in the business of, acted in the capacity of,
25 advertised, or assumed to act as a real estate broker within the State of California within the
26 meaning of Section 10131(b) of the Code, including the operation and conduct of a property
27 management business with the public wherein, on behalf of others, for compensation or in

1 expectation of compensation, Respondent NORCAL leased or rented and offered to lease or
2 rent, and placed for rent, and solicited listings of places for rent, and solicited for prospective
3 tenants of real property or improvements thereon, and/or collected rents from real property or
4 improvements thereon.

5 VIII

6 In purporting to act as a real estate broker as described in Paragraph VII, above,
7 Respondent NORCAL accepted or received funds in trust (hereinafter "trust funds") from or on
8 behalf of owners, tenants and/or others in connection with the property management activities.

9 IX

10 Within the three year period prior to the filing of this Accusation, in connection
11 with the collection and disbursement of trust funds, the aforesaid trust funds accepted or
12 received by Respondent NORCAL were deposited or caused to be deposited by Respondents
13 into a bank account maintained by Respondent NORCAL at Bank of America, 1911 Douglas
14 Blvd., in Roseville, California, Account No. 0835942902, entitled "Charlene S. Yarrigle CSY
15 Property Mgmt" (hereinafter "Account #1).

16 X

17 In connection with the collection and disbursement of trust funds, Respondents
18 failed to deposit and maintain the trust funds in a trust account or neutral escrow depository, or to
19 deliver them into the hands of the owners of the funds, as required by Section 10145 of the Code,
20 in such a manner that as of June 9, 2008, there was a trust fund shortage in Account #1 in the
21 approximate sum of \$31,549.58.

22 XI

23 Within the three year period prior to the filing of this Accusation, in connection
24 with the collection and disbursement of trust funds, as alleged above, Respondent NORCAL:

- 25 (a) Failed to reconcile the balance of separate beneficiary or transaction
26 records with the control records of trust funds received and disbursed at
27 least once a month, and/or failed to maintain a record of such

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reconciliations as required by Section 2831.2 of Chapter 6, Title 10, California Code of Regulations (hereinafter "Regulations") for Account #1;

- (b) Failed to designate Account #1 as a trust account in the name of Respondent NORCAL as broker and as trustee and deposited client trust funds into those accounts in violation of Section 2832 of the Regulations;
- (c) Failed to maintain an accurate daily balance for the trust funds deposited to Account #1 and/or failed to maintain records of an accurate daily balance for the trust funds deposited to Account #1 in violation of Section 2831 of the Regulations;
- (d) Failed to have the designated broker/officer of Respondent NORCAL as an authorized signatory for Account #1 in violation of Section 2834 of the Regulations;
- (e) Failed to have a written authorization signed by the designated broker/officer of Respondent NORCAL granting authorization for Charlene S. Yarrigle, a licensed real estate salesperson in the employ of Respondent NORCAL, to withdraw trust funds from Account #1 in violation of Section 2834 of the Regulations;
- (f) Permitted Stephanie Yarrigle, a person who held a California real estate license, but who was no longer employed by Respondent NORCAL, to be a signatory on Account #1 in violation of Section 2834 of the Regulations;
- (g) Failed to have a written authorization signed by the designated broker/officer of Respondent NORCAL granting authorization for Stephanie Yarrigle, a licensed real estate salesperson, while in the employ of Respondent NORCAL, to withdraw trust funds from Account #1 in violation of Section 2834 of the Regulations; and,

1 (h) Disbursed and/or claimed trust funds from Account #1 as management
2 fees in excess of the management fees earned by Respondent NORCAL
3 in violation of Section 10176(e), (g) and/or (i) of the Code.

4 XII

5 The acts and/or omissions of Respondents as alleged above constitute cause for
6 the suspension or revocation of the licenses and license rights of Respondents under the
7 following provisions:

- 8 (a) As alleged in Paragraph X, under Section 10145 of the Code in
9 conjunction with Section 10177(d) of the Code;
- 10 (b) As alleged in Paragraph XI(a), Section 2831.2 of the Regulations in
11 conjunction with Section 10177(d) of the Code;
- 12 (c) As alleged in Paragraph XI(b), under Section 2832 of the Regulations in
13 conjunction with Section 10177(d) of the Code;
- 14 (d) As alleged in Paragraph XI(c), under Section 2831 of the Regulations in
15 conjunction with Section 10177(d) of the Code;
- 16 (e) As alleged in Paragraph XI(d), under Section 2834 of the Regulations in
17 conjunction with Section 10177(d) of the Code;
- 18 (f) As alleged in Paragraph XI(e), under Section 2834 of the Regulations in
19 conjunction with Section 10177(d) of the Code;
- 20 (g) As alleged in Paragraph XI(f), under Section 2834 of the Regulations in
21 conjunction with Section 10177(d) of the Code;
- 22 (h) As alleged in Paragraph XI(g), under Section 2834 of the Regulations in
23 conjunction with Section 10177(d) of the Code; and,
- 24 (i) As alleged in Paragraph XI(h), under Section 10176(e), (g) and/or (i) of
25 the Code.

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1 SECOND CAUSE OF ACTION

2 XIII

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

6 XIV

7 Within the three year period next preceding the filing of this Accusation and at
8 all times herein mentioned, Respondent NORCAL utilized and conducted its real estate
9 brokerage activities, as set forth in Paragraph VII, above, under the fictitious business name of
10 CSY Property Management.

11 XV

12 At no time did the Department issue a real estate license to Respondent
13 NORCAL bearing the fictitious business name recited in Paragraph XIV, above.

14 XVI

15 The facts, as alleged in Paragraphs XIV and XV, above, constitute a violation of
16 Section 2731 of the Regulations and Section 10159.5 of the Code and are grounds for the
17 suspension or revocation of Respondent NORCAL's real estate broker license under the
18 provisions of Section 10177(d) of the Code.

19 THIRD CAUSE OF ACTION

20 XVII

21 There is hereby incorporated in this Third, separate and distinct Cause of Action,
22 all of the allegations contained in Paragraphs I through XVI, inclusive, of the First and Second
23 Causes of Action with the same force and effect as if herein fully set forth.

24 XVIII

25 At all times herein above mentioned, Respondent YEE was responsible, as the
26 designated broker officer of Respondent NORCAL, for the supervision and control of the
27 activities conducted on behalf of the corporation by its officers and employees. Respondent

1 YEE failed to exercise reasonable supervision and control over the property management
2 brokering activities of Respondent NORCAL. In particular, Respondent YEE permitted, ratified
3 and/or caused the conduct described in the First and Second Causes of Action, above, to occur,
4 and failed to take reasonable steps, including but not limited to the handling of trust funds,
5 supervision of employees, and the implementation of policies, rules, procedures, and systems to
6 ensure the compliance of the corporation with the Real Estate Law.

7 XIX

8 The above acts and/or omissions of Respondent YEE constitute grounds for
9 disciplinary action under the provisions of Section 10177(h) of the Code and/or Section 10159.2
10 of the Code and Section 2725 of the Regulations in conjunction with Section 10177(d) of the
11 Code.

12 MATTERS IN AGGRAVATION

13 PRIOR ACTION

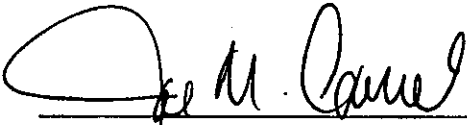
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15 Effective July 29, 2003, in investigative file number 403-0408-002, after an audit
16 performed by the Department from June 20, 2003 to June 25, 2003, Respondent NORCAL and
17 Respondent YEE were placed on notice pursuant to a Corrective Action Letter that Respondent
18 NORCAL had committed, and Respondent NORCAL and Respondent YEE were directed to
19 correct, the following violations:

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



JOE M. CARILLO
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 27 day of February, 2009.