

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

FILED

AUG 17 2010

DEPARTMENT OF REAL ESTATE

By K. Mar

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)	DRE No. H-5281 SAC
)	
13 JANET LYNN GATEJEN and)	<u>STIPULATION AND AGREEMENT</u>
14 JEFFREY LYNN BUJACK,)	<u>IN SETTLEMENT AND ORDER</u>
)	
15 Respondents.)	(as to JANET LYNN GATEJEN only)
16)	

17 It is hereby stipulated by and between JANET LYNN GATEJEN (herein
18 "Respondent" or "GATEJEN"), her attorney, J. Anne Rawlins, and the Complainant, acting by
19 and through Richard K. Uno, Counsel for the Department of Real Estate; as follows for the
20 purpose of settling and disposing of the Accusation filed on October 23, 2009, in this matter:

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

26 ///

27 ///

1 2. Respondent has received, read and understands the Statement to Respondent,
2 the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate
3 in this proceeding.

4 3. On November 30, 2009, Respondent filed a Notice of Defense pursuant to
5 Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations
6 in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
7 Respondent acknowledges that she understands that by withdrawing said Notice of Defense she
8 will thereby waive her right to require the Commissioner to prove the allegations in the
9 Accusation at a contested hearing held in accordance with the provisions of the APA and that she
10 will waive other rights afforded to her in connection with the hearing such as the right to present
11 evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

12 4. Respondent, pursuant to the limitations set forth below, hereby admits that the
13 factual allegations or findings of fact as set forth in the Accusation filed in this proceeding are
14 true and correct and 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 adopt
17 the Stipulation and Agreement In Settlement and Order as his Decision in this matter, thereby
18 imposing the penalty and sanctions on Respondent's real estate license and license rights as set
19 forth in the below "Order". In the event that the Commissioner in his discretion does not adopt
20 the Stipulation and Agreement In Settlement and Order, it shall be void and of no effect, and
21 Respondent shall retain the right to a hearing and proceeding on the Accusation under all the
22 provisions of the APA and shall not be bound by any admission or waiver made herein.

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

1 7. Respondent understands that by agreeing to this Stipulation and Agreement In
2 Settlement and Order, Respondent agrees to pay, pursuant to Section 10148 of the Business and
3 Professions Code, the cost of the audit which led to this disciplinary action. The amount of said
4 cost is \$10,753.56.

5 8. Respondent has received, read and understands the "Notice Concerning Costs
6 of Subsequent Audits". Respondent understands that by agreeing to this Stipulation and
7 Agreement in Settlement and Order, the findings set forth below in the DETERMINATION OF
8 ISSUES become final, and that the Commissioner may charge Respondent for the cost of any
9 audit conducted pursuant to Section 10148 of the Business and Professions Code to determine if
10 the violations have been corrected. The maximum costs of said audit will not exceed
11 \$10,753.56.

12 DETERMINATION OF ISSUES

13 By reason of the foregoing stipulations, admissions and waivers, and solely for
14 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed
15 that the acts and/or omissions of Respondent, as described in the Accusation, constitute grounds
16 for the suspension or revocation of the licenses and license rights of Respondent under the
17 provisions of Sections 2725, 2731, 2831, 2831.1, 2831.2 and 2832 of Title 10, California Code
18 of Regulations, and Sections 10137, 10145, 10148, 10159.2, 10176(g) and 10177(d) of the
19 Business and Professions Code (the Code).

20 ORDER

21 1. All licenses and licensing rights of Respondent under the Real Estate Law are
22 suspended until such time as Respondent provides proof satisfactory to the Commissioner that
23 Respondent has completed the continuing education course on real estate trust fund accounting
24 and handling specified in subdivision (a) of Section 10170.5 of the Code. The course must have
25 been completed no earlier than one hundred twenty (120) days prior to the effective date of this
26 Order, and proof submitted prior to the effective date of this Order, to prevent suspension of
27 Respondent's license pursuant to this condition.

1 2. All licenses and license rights of Respondent JANET LYNN GATEJEN
2 under the Real Estate Law are suspended for a period of sixty (60) days from the effective date
3 of this Order; provided, however, that thirty (30) days of said suspension shall be stayed for two
4 (2) years upon the following terms and conditions:

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

7 (b) That no final subsequent determination be made, after hearing or upon
8 stipulation, that cause for disciplinary action occurred within two (2) years from the effective
9 date of this Order. Should such a determination be made, the Commissioner may, in his
10 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
11 suspension. Should no such determination be made, the stay imposed herein shall become
12 permanent.

13 3. The remaining thirty (30) days of said 60 day suspension shall be stayed upon
14 the condition that Respondent GATEJEN petition pursuant to Section 10175.2 of the Business
15 and Professions Code and pay a monetary penalty pursuant to Section 10175.2 of the Code at
16 the rate of \$100.00 for each day of thirty (30) days of the suspension for a total monetary penalty
17 of \$3,000.00.

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

21 (b) No further cause for disciplinary action against the real estate license of
22 Respondent occurs within one year from the effective date of the Decision in this matter.

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

1 (d) If Respondent pays the monetary penalty and if no further cause for
2 disciplinary action against the real estate license of Respondent occurs within two (2) years from
3 the effective date of the Decision, the remaining thirty (30) days of said sixty (60) day suspension
4 will be stayed and the stay hereby granted shall become permanent.

5 4. Pursuant to Section 10148 of the Business and Professions Code, Respondent
6 shall pay for the cost of audits No. SC 070068 and No. SC 080004 in the amount of \$10,753.56
7 for the Commissioner's reasonable cost for: a) the audit which led to this disciplinary action
8 and, b) a subsequent audit to determine if Respondent has corrected the trust fund violations
9 found in the Determination of Issues. 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 costs,
12 including mileage, time to and from the auditor's place of work and per diem. Respondent shall
13 pay such cost within sixty (60) days of receiving an invoice from the Commissioner detailing
14 the activities performed during the audit and the amount of time spent performing those
15 activities. The Commissioner may, in his discretion, vacate and set aside the stay order, if
16 payment is not timely made as provided for herein, or as provided for in a subsequent agreement
17 between the Respondent and the Commissioner. The vacation and the set aside of the stay shall
18 remain in effect until payment is made in full, or until Respondent enters into an agreement
19 satisfactory to the Commissioner to provide for payment. Should no order vacating the stay be
20 issued, either in accordance with this condition, the stay imposed herein shall become
21 permanent.

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23
24 7/13/60
DATED

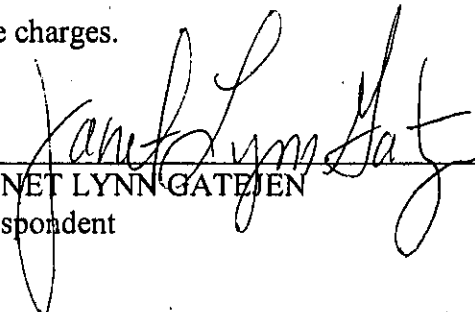
Richard K. Uno
RICHARD K. UNO, Counsel
DEPARTMENT OF REAL ESTATE

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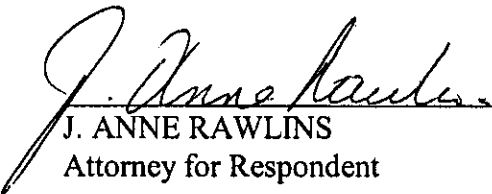
I have read the Stipulation and Agreement In Settlement and Order, have discussed it with my attorney, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited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

6.21.10
DATED


JANET LYNN GATEJEN
Respondent

I have reviewed this Stipulation and Agreement In Settlement and Order as to form and content and have advised my clients accordingly.

6.21.10
DATED

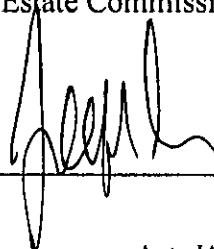

J. ANNE RAWLINS
Attorney for Respondent

The foregoing Stipulation and Agreement is hereby adopted by the Real Estate Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on
SEP - 7 2010

IT IS SO ORDERED

8-12-2010

JEFF DAVI
Real Estate Commissioner



1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789
5 -or- (916) 227-2380 (Direct)

FILED

JUL 19 2010

DEPARTMENT OF REAL ESTATE

By K. Mar

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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) DRE No. H-5281 SAC
12)
13 JANET LYNN GATEJEN and,) STIPULATION AND AGREEMENT
14 JEFFREY LYNN BUJACK,) IN SETTLEMENT AND ORDER
15 Respondents.)

16 It is hereby stipulated by and between JEFFREY LYNN BUJACK (BUJACK),
17 his counsel, James L. Kaufman, and the Complainant, acting by and through Richard K. Uno,
18 Counsel for the Department of Real Estate; as follows for the purpose of settling and disposing
19 of the Accusation as it pertains to BUJACK, filed on October 23, 2009, in this matter:

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

25 2. BUJACK has received, read and understands the Statement to Respondent, the
26 Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate in
27 this proceeding.

1 3. On April 8, 2010, BUJACK filed a Notice of Defense pursuant to Section
2 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the
3 Accusation. BUJACK hereby freely and voluntarily withdraws said Notice of Defense.
4 BUJACK acknowledges that he understands that by withdrawing said Notice of Defense he will
5 thereby waive his right to require the Commissioner to prove the allegations in the Accusation at
6 a contested hearing held in accordance with the provisions of the APA and that he will waive
7 other rights afforded to him in connection with the hearing such as the right to present evidence
8 in defense of the allegations in the Accusation and the right to cross-examine witnesses.

9 4. BUJACK, pursuant to the limitations set forth below, hereby admit that the
10 factual allegations or findings of fact as set forth in the Accusation filed in this proceeding are
11 true and correct and the Real Estate Commissioner shall not be required to provide further
12 evidence of such allegations.

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

20 6. The Order or any subsequent Order of the Real Estate Commissioner made
21 pursuant to this Stipulation and Agreement In Settlement and Order shall not constitute an
22 estoppel, merger or bar to any further administrative or civil proceedings by the Department of
23 Real Estate with respect to any matters which were not specifically alleged to be causes for
24 accusation in this proceeding.

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DETERMINATION OF ISSUES

By reason of the foregoing stipulations, admissions and waivers, and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the acts and/or omissions of BUJACK, as described in the Accusation, constitute grounds for the suspension or revocation of the licenses and license rights of BUJACK under the provisions of Sections 10130 and 10177(d) of the Business of Professions Code (the Code).

ORDER

The real estate salesperson license and license rights of JEFFREY LYNN BUJACK under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Order; provided, however, that if BUJACK petitions, said suspension shall be stayed upon condition that:

1. BUJACK pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$50.00 per day for thirty (30) days of the suspension for a total monetary penalty of \$1,500.00. Upon receipt of payment, thirty (30) days of the suspension will then be stayed.
2. Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be received by the Department prior to the effective date of the Decision in this matter.
3. No further cause for disciplinary action against the real estate license of BUJACK occurs within one year from the effective date of the Decision in this matter.
4. If BUJACK fails to pay the monetary penalty in accordance with the terms and conditions of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event the BUJACK shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.


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1 5. If BUJACK pays the monetary penalty, the remaining thirty (30) days of said
2 sixty (60) day suspension will be stayed, and if no further cause for disciplinary action against
3 the real estate license of BUJACK occurs within one (1) year from the effective date of the
4 Decision, the stay hereby granted shall become permanent.

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

10 6/24/10

11
12 _____
13 DATED

11 
12 _____
13 RICHARD K. UNO, Counsel
14 DEPARTMENT OF REAL ESTATE

14 * * *

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

23
24 6/17/10
25 _____
26 DATED

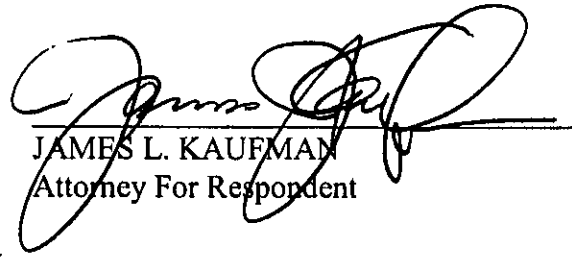
25 
26 _____
27 JEFFREY LYNN BUJACK
Respondent

27 * * *

1 *I have reviewed this Stipulation and Agreement In Settlement and Order as to*
2 *form and content and have advised my clients accordingly.*

3
4 6/17/2010

5 DATED

6 
7

8 JAMES L. KAUFMAN
9 Attorney For Respondent

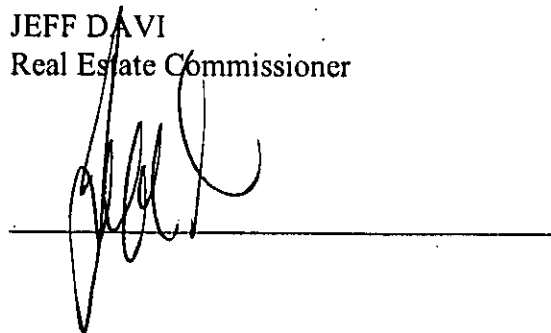
10 * * *

11 The foregoing Stipulation and Agreement In Settlement and Order is hereby
12 adopted by the Real Estate Commissioner as his Decision and Order and shall become effective
13 at 12 o'clock noon on AUG - 9 2010

14 IT IS SO ORDERED

15 7-14-2010

16 JEFF DAVI
17 Real Estate Commissioner

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1 RICHARD K. UNO, COUNSEL (SBN 98275)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-2380
6
7

FILED
OCT 23 2009
DEPARTMENT OF REAL ESTATE
By K. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 JANET LYNN GATEJEN and) No. H-5281 SAC
13 JEFFREY LYNN BUJACK,) ACCUSATION
14 Respondents.)

15
16 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner
17 of the State of California for cause of accusation against JANET LYNN GATEJEN,
18 (GATEJEN) and JEFFREY LYNN BUJACK, (BUJACK), (collectively, Respondents), is
19 informed and alleges as follows:

20 1

21 The Complainant makes this Accusation in her official capacity.

22 2

23 GATEJEN is presently licensed and/or has license rights under the Real Estate
24 Law (Part 1 of Division 4 of the California Business and Professions Code) (the Code) as a real
25 estate broker dba Urban Hound Properties.

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BUJACK is presently licensed and/or has license rights under the Code as a real estate salesperson.

4

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131 (b) of the Code, including the operation and conduct of a property management business wherein Respondent leased, rented, or offered to lease or rent, solicited listings for lease or rent, collected rents from tenants or lessees, or performed other services for real property owners and tenants or lessees, all for or in expectation of compensation.

FIRST CAUSE OF ACTION

5

Beginning on or about August 11, 2008 and intermittently through September 26, 2008, the Department conducted an audit of GATEJEN's property management business for the period of January 1, 2007 to June 30, 2008 as set forth in Audit Nos. SC070068 and SC080004, dated October 30, 2008. During the course of the property management activities described in Paragraph 4, Respondent received and disbursed funds held in trust on behalf of others.

6

The following facts were ascertained by the audit for the period referred to above:

- a. Respondent maintained four trust accounts at Wells Fargo Bank, P. O. Box 6995, Portland, Oregon. Bank Account #1 was designated as the "Jeffrey L. Bujack Integrated Management & Investment Y Street Apts.", Account No. 601-8459245. Bank Account #2 was designated as the "Jeffrey L. Bujack dba Integrated Management & Investment", Account No. 601-8458809. Bank Account #3 was designated as the "Jeffrey L. Bujack dba Integrated

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1 Management & Investment”, Account No. 601-845891. Bank Account #4 was designated as
2 the “Jeffrey L. Bujack dba Integrated Management & Investment”, Account No. 301-2206946.

3 b. Bank Account #1, Bank Account #2, Bank Account #3 and Bank Account #4
4 were used for property management activities. Deposits consisted of rental payments and
5 security deposits. Disbursements consisted of management fees, mortgage payments,
6 maintenance costs and proceeds to owners.

7 c. As of May 31, 2008, Bank Account #1, Bank Account #2, Bank Account #3
8 and Bank Account #4 were not designated as trust accounts, in violation of Section 2832 of the
9 Regulations.

10 d. As of May 31, 2008, GATEJEN was not a signer of Bank Account #1, Bank
11 Account #2 nor Bank Account #3, in violation of Section 10145 of the Code.

12 e. As of May 31, 2008, for Bank Account #1 there was a negative balance of
13 \$981.68; for Bank Account #2, there was a negative balance of \$669.33; and for Bank Account
14 #4, there was a negative balance of \$164.00, in violation of Section 10145 of the Code.

15 f. GATEJEN failed to reconcile the balance of all separate beneficiary records
16 with the balance of all trust funds received and disbursed for Bank Accounts #1, #2, #3 and #4
17 as required by Section 2831.2 of the Regulations.

18 g. GATEJEN failed to maintain accurate Records of Trust Funds Received and
19 Paid Out for Bank Accounts #1, #2, #3 and #4 as required by Section 2831 of the Regulations.

20 h. GATEJEN failed to keep trust funds separate, distinct, and apart from funds
21 belonging to any other person for whom the broker held funds in trust for Bank Accounts #1, #2,
22 #3 and #4, as required by Section 2831.1 of the Regulations.

23 i. GATEJEN failed to maintain copies of cancelled checks for all accounts as
24 required by Section 10148 of the Code.

25 j. GATEJEN charged 25% for extraordinary maintenance fees despite the fact
26 that the management agreements stated that management fees would be 5%. Other costs were

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1 charged, but not disclosed in the management agreements. These acts and omissions by
2 Respondents violate Section 10176(g) of the Code.

3 k. GATEJEN failed to notify the Department that she was conducting business
4 under the fictitious business name Integrated Management and Investments, as required by
5 Section 2731 of the Regulations.

6 l. BUJACK was not employed by a real estate broker on the Department's
7 records from June 29, 2007 until August 15, 2007. During that time, BUJACK engaged in
8 activities which required a real estate license, including the following acts: operate the property
9 management business, such as collecting rents, receiving management fees, and signing checks
10 in violation of Section 10130 of the Code.

11 m. On August 15, 2008 and September 8, 2008, GATEJEN allowed an
12 unlicensed employee, Richard Stoffel, to sign lease agreements on her behalf, in violation of
13 Section 10137 of the Code.

14 7

15 The acts and omissions of Respondent GATEJEN described in Paragraph 6,
16 above, constitute violations of Sections 2731, 2831, 2831.1, 2831.2 and 2832 of the Regulations
17 and Sections 10137, 10145, 10148 and 10176(g) of the Code. The acts and omissions of
18 Respondent BUJACK described in Paragraph 6, above, constitute a violation of Section 10130
19 of the Code.

20 8

21 The facts alleged in Paragraphs 1 through 6, above, are grounds for the
22 suspension or revocation of the licenses of Respondent GATEJEN under Section 10176(g) and
23 10177(d) of the Code and are grounds for the suspension or revocation of the license of
24 Respondent BUJACK under Section 10177(d) of the Code.

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1 SECOND CAUSE OF ACTION

2 9

3 Complainant refers to Paragraphs 1 through 6, above, and incorporates them
4 herein by reference.

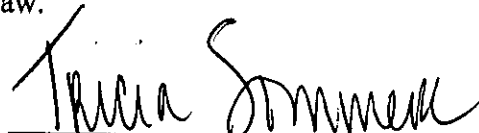
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6 At all times herein above mentioned, GATEJEN, was responsible as the
7 supervising broker for BUJACK, for the supervision and control of the activities conducted on
8 behalf of GATEJEN'S business by its employees. GATEJEN failed to exercise reasonable
9 supervision and control over the property management activities of BUJACK. In particular,
10 GATEJEN permitted, ratified and/ or caused the conduct described above, to occur, and failed
11 to take reasonable steps, including but no limited to handling of trust funds, supervision of
12 employees, and the implementation of policies, rules, and systems to ensure the compliance of
13 the business with the Real Estate Law and the Regulations.

14 11

15 The above acts and/or omission of GATEJEN violate Section 10159.2 of the
16 Code and Section 2725 of the Regulations and constitutes grounds for disciplinary action under
17 the provisions of Sections 10177(d) and 10177(h) of the Code.

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

23 

24 TRICIA SOMMERS
25 Deputy Real Estate Commissioner

26 Dated at Sacramento, California,
27 this 22nd day of October, 2009.