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AUG 14 2008

DEPARTMENT OF REAL ESTATE

BY: [signature]

BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of ALBERTO I. JIMENEZ, Respondent.	NO. H-33851 LA L-2007090813

DECISION

The Proposed Decision dated July 10, 2008, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon on September 3, 2008.

IT IS SO ORDERED 8/12/08.

JEFF DAVI
Real Estate Commissioner

[signature]
By Barbara J. Bigby
Chief Deputy Commissioner

BEFORE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against: ALBERTO I. JIMENEZ, Dba World Market Realty, Respondent.	Case No. H-33851 LA OAH No. L-2007090813

PROPOSED DECISION

This matter was heard by Vincent Nafarrete, Administrative Law Judge of the Office of Administrative Hearings, on June 17, 2008, in Los Angeles. Complainant was represented by Elliott Mac Lennan, Staff Counsel. Respondent was not present or represented at the hearing.

Oral and documentary evidence having been received and the matter submitted for decision, the Administrative Law Judge finds as follows:

FACTUAL FINDINGS

1. (A) On or about June 24, 2002, the Department of Real Estate (Department) issued real estate broker's license no. 01180645 and licensing rights to Alberto I. Jimenez (hereinafter respondent). Said real estate broker's license is in full force and effect and expires on July 12, 2010, unless renewed. Respondent was originally licensed as a real estate salesperson but that license expired on May 15, 2002.

(B) On or about September 17, 2002, respondent began doing business as World Market Realty with a main office located at 10200 Sepulveda Boulevard, Suite 280, Mission Hills, California 91345. At all times relevant herein, respondent also has had a mailing address at 10507 Vassar Avenue, Chatsworth, California 91311.

(C) On July 1, 2003, respondent was licensed by the Department as the designated officer of S.T. Mortgage of North Hills. On April 21, 2007, said

officer license expired. On August 3, 2006, respondent was licensed by the Department as the designated officer of 1st Premiere Funding, Inc., doing business as Coastal Capital Realty, of Santa Clarita. Said officer license expired on April 23, 2008.

2. On March 27, 2007, the Accusation, Case No. H-33851 LA, was made and filed by complainant Janice Waddell in her official capacity as Deputy Real Estate Commissioner of the Department.

3. (A) On or about May 7, 2007, respondent filed a Notice of Defense, acknowledging receipt of the Accusation and requesting a hearing to afford him the opportunity to present a defense or evidence in mitigation or extenuation of the allegations in the Accusation.

(B) On or about October 16, 2007, the Department properly served respondent with a Notice of Hearing for a hearing scheduled for February 13, 2008.

(C) On January 8, 2008, respondent filed a request that the hearing be continued on the grounds that his auditor or a witness was unavailable due to pre-scheduled vacation. On January 23, 2008, respondent's request was denied for lack of good cause.

(D) On February 13, 2008, respondent failed to appear for the noticed hearing and he was deemed in default of the proceeding under Government Code section 11529. The matter was remanded to the Department for an agency decision.

(E) On March 4, 2008, complainant's counsel filed a letter request to set another hearing date. Counsel explained that, after the hearing on February 13, respondent called him and indicated that he did not appear for the hearing because he had hurt his shoulder, he was caring for his ill father in Mexico, a relative died recently, and his attorney stopped representing him. The matter was calendared for hearing for June 17th.

4. (A) On April 4, 2008, the Department properly served respondent with a Notice of Continued Hearing under Government Code section 11509 by mailing the hearing notice to respondent at his address of record.

(B) On April 16, 2008, an attorney filed a Notice of Appearance of Counsel on behalf of respondent. On June 2, 2008, the attorney filed a Notice of Withdrawal of Counsel.

(C) On June 13, 2008, respondent filed a request to continue the hearing scheduled for June 17th on the grounds that his 82-year-old father in Mexico had been ill for several months and respondent has had to travel to Mexico

to care for him. Respondent asked that the hearing be postponed for one month so that he could have time to prepare his defense and seek the assistance of counsel.

(D) On June 16, 2008, respondent's request for continuance was denied for lack of good cause under Government Code section 11524. The Order denying the continuance request was sent to respondent by overnight mail delivery to the address provided on his letterhead stationary.

(E) On June 17, 2008, respondent failed to appear for the noticed hearing. Respondent was declared to be in default of this proceeding under Government Code section 11520. The Department elected to proceed with the hearing in respondent's absence by presenting evidence pursuant to Government Code section 11520, subdivision (a). Jurisdiction exists in this matter.

5. (A) At all times relevant herein, respondent has acted as a real estate broker and operated a residential resale brokerage firm under the business name of World Market Realty of Mission Hills.

(B) At all times relevant herein, respondent has acted as a real estate broker and operated a mortgage and loan brokerage business under the name of World Market Realty.

(C) At all times relevant herein, respondent has acted as a real estate broker and conducted broker-controlled escrows by and through his escrow division of World Market Realty under the exemption for real estate brokers set forth in Financial Code section 17006, subdivision (a)(4).

(D) At all times relevant herein, respondent has employed one real estate salesperson at his offices of World Market Realty.

6. (A) On July 27, 2006, the Department received a Licensee Complaint against respondent and World Market Realty from Eugene A. Reznikov, a licensed notary public from Sherman Oaks. Reznikov performed notary services for a real estate transaction for which respondent was the broker and escrow officer or holder. Respondent gave a check of $250 to Reznikov for his notary services on the trust bank account of the escrow division of World Market Realty. Reznikov deposited the check into his bank account but the check was returned for non-sufficient funds. Respondent failed to pay Reznikov for his notary services.

(B) On January 7, 2005, the Department received a Licensee Complaint against respondent and World Market Realty from Jose Manuel and Juana Baeza of Hesperia. The Baeza's complained that respondent as the escrow officer and holder on the sale of their Sylmar property had over-charged them for title and escrow fees. Respondent also acted as a real estate broker on the transaction and was paid a broker's commission.

7. From September 25, 2006, through November 22, 2006, a Department general auditor II (auditor) conducted a field audit of respondent and the escrow division of World Market Realty. The audit covered the period from October 1, 2003, to September 30, 2006. The auditor reviewed and examined the books and records of respondent's broker escrow division, including the trust fund account records. The auditor also interviewed respondent and obtained records from him. On March 9, 2007, the auditor issued an Audit Report Transmittal and Audit Report (Exh. 3), which was admitted into evidence. The auditor also testified at the hearing. The audit revealed the violations outlined in Findings 8 – 23 below.

8. In the 12 months prior to the start of the audit, respondent obtained and closed 30 loans for clients valued at approximately $7,500,000 and sold 19 properties worth approximately $9,270,000. Under his escrow division of World Market Realty, he also performed escrow services for 73 escrows. Respondent maintained one trust bank account under the name of Alberto Isaac Jimenez, doing business as World Market Realty, escrow division, at the branch of Comerica Bank in El Segundo. In the 12 months prior to the start of the audit, he handled trust funds in the amount of approximately $1,097,000. Respondent used the trust account to deposit escrow receipts and to disburse funds to handle and effectuate the closures of escrows for the sales and purchases of real property. He accepted or received funds in trust from or on behalf of buyers, sellers, borrowers, lenders, and real estate service providers. He was the sole signatory to the trust account.

9. During the audit of respondent's escrow activities, the Department's auditor prepared a bank reconciliation of respondent's trust account as of September 30, 2006. The auditor found that respondent had made disbursements from the trust account that reduced the total of aggregate funds in the trust account such that it was $22,864.06 less than the existing aggregate trust fund liability to the principals or owners of the trust funds. Respondent had made certain disbursements from the trust account for bank charges, including fees for non-sufficient funds ($2,899.14), charges without corresponding escrow numbers ($7,000), electronic fund transfers ($440), and an unexplained electronic fund transfer to a mortgage company ($805.94). Respondent had also failed to deposit a $2,000 check for a certain escrow into the trust account. These "identified" causes for the shortage in the trust account amounted to $13,145.08 and were supplemented by "unidentified" causes of $9,718.98. The audit did not show that respondent had obtained the written consent of every principal or owner of the trust funds prior to each disbursement that may have caused the shortage in the aggregate funds. Respondent did not demonstrate to the auditor or at the hearing that he has cured the shortage in his trust account.

10. (A) Based on Findings 7 – 9 above, respondent failed to obtain the written consent of every principal, who is an owner of the funds in the trust account, prior to each disbursement when or if such disbursement reduced the balance of funds in the trust account to an amount less than the existing aggregate trust fund

liability of respondent as the broker escrow to the owners of the funds in violation of California Code of Regulations, title 10 (Regulations), section 2832.1.

(B) Based on Findings 7 – 9 above, respondent withdrew money deposited in the trust account without the written instruction of the parties paying the money into escrow in violation of Regulations section 2950, subdivision (g).

(C) Based on Findings 7 – 9 above, respondent failed to maintain the trust fund account in accordance with accepted principles of accounting and good business practice in violation of Regulations section 2950, subdivision (d).

11. (A) Based on Findings 7 – 9 above, respondent as a broker-escrow accepted and/or deposited funds belonging to others in connection with a real estate and escrow transaction in a trust fund but disbursed the funds from the trust account for transactions or costs that were not in accordance with instructions from the persons entitled to the funds in violation of Business and Professions Code section 10145, subdivision (a)(1).

(B) Based on Findings 7 – 9 above, respondent engaged in conduct that constituted fraud or dishonest dealing in violation of Business and Professions Code section 10176, subdivision (i).

12. During the audit period, respondent withdrew sums totaling $8,245.94 from the trust account which were not authorized by or related to any pending escrows. Specifically, on one occasion, respondent withdrew $5,000 from the trust account to pay for the rent of his office space. On two occasions, he withdrew the sum of $2,000 from the trust account for purported expenses not related to any pending escrow. On 16 occasions, respondent allowed $440 to be withdrawn from the trust account by electronic fund transfers to pay for monthly charges for the internet advertising of his real estate business. On several other occasions, respondent allowed his bank to withdraw sums from the trust account to pay for bank fees and charges. As such, respondent took $8,245.94 from the trust account without authorization to pay for his personal and/or business expenses and thereby engaged in conduct constituting fraud or dishonest dealing in violation of Business and Professions Code, section 10176, subdivision (i).

13. (A) On April 27, 2004, respondent as the broker-escrow over-charged the Baezas the sum of $800 in title and escrow fees for the escrow of the sale of their Sylmar property. Respondent failed to reimburse the Baezas for these excessive escrow charges.

(B) In or about June 2006, Reznikov performed notary services for an escrow of World Market Realty, escrow division. On June 28, 2006, respondent gave a check of $250 from the escrow trust account to Reznikov for payment of his

notary services but the trust account check was returned for non-sufficient funds. Respondent failed to pay Reznikov for his notary services.

(C) Based on Findings 13(A) – (B) above, respondent demonstrated negligence or incompetence in performing acts for which he is required to hold a real estate broker's license in violation of Business and Professions Code, section 10177, subdivision (g).

(D) Based on Findings 13(A) – (B) above, respondent took secret or undisclosed amounts of compensation, commission, or profit from the Baezas under an escrow agreement authorizing respondent to do acts for which a real estate broker's license was required for compensation in violation of Business and Professions Code, section 10176, subdivision (g).

14. (A) During the audit period, respondent accepted and received funds belonging to others in connection with his activities as an escrow holder in real estate transactions and received, deposited, and disbursed those trust funds from his bank trust fund account. Respondent maintained a columnar record of all trust funds received and disbursed by him in his capacity as a broker-escrow but the audit revealed that his control record was not complete and accurate. As such, respondent failed to keep a columnar record in chronological sequence of all trust funds that he received, deposited, and disbursed from the trust fund account in violation of Regulations sections 2831.

(B) In addition, by failing to keep a columnar record of all trust funds received, deposited, and disbursed from the trust fund account, respondent failed to maintain books, records, and accounts in accordance with accepted principles of accounting and good business practice in violation of Regulations sections 2950, subdivision (d), and 2951, and Business and Professions Code section 10145.

15. The audit showed that respondent had closed escrows for which his separate records showed zero balances. However, the auditor's computations of the balances from the escrow closing statements and records revealed that there were four closed escrows for which respondent owed four clients the sum of $3,413.67. As such, respondent failed to maintain adequate separate records for each beneficiary of real estate transactions for which respondent acted as a broker escrow and did not account for all trust funds received, deposited, and disbursed from the trust fund account in violation of Regulations sections 2831.1 and 2951, and Business and Professions Code section 10145.

16. During the audit period, respondent did not perform monthly reconciliations of the balances of his separate beneficiary records with the records of all trust funds that he received and disbursed in connection with his escrow activities. The auditor found that respondent did not understand the meaning of the term "reconciliation", his records were "sloppy", and he did not maintain a record

of reconciliations. Respondent stated that his records had not been reconciled and were not ready for an audit. As such, respondent failed to reconcile the balance of all separate beneficiary or transactions records with his record of all trust funds received and disbursed on at least a once monthly basis in violation of Regulations sections 2831.2 and 2951, and Business and Professions Code section 10145.

17. The audit of escrow instructions revealed that respondent acted as the broker-escrow holder for seven escrows, four of which he was also the broker for the underlying real estate transactions, and failed to notify the parties in writing that he had an interest in the agency holding the escrow. As such, respondent failed to advise all parties in these seven escrows in writing that he had an interest as owner of the escrow agency holding the parties' escrows in violation of Regulations section 2950, subdivision (h), and Business and Professions Code section 2951.

18. The audit revealed that, on four occasions during the audit period, respondent accepted funds as a broker-escrow and did not deposit the funds into this trust fund account by the next business day. In connection with one escrow transaction, respondent received a check for $2,000 in July 2006 and never deposited the check into the trust fund account for the borrower. Respondent explained to the auditor that he forgot to deposit the check. As such, respondent accepted funds as an escrow agent and on behalf of other persons as part of escrow transactions and failed to deposit all such funds in a bank trust account that was in his name by the next business day following his receipt of the funds in violation of Regulations sections 2832, subdivision (c), and 2950, subdivision (f), in conjunction with Regulations section 2951 and Business and Professions Code section 10145.

19. In connection with four escrows during the audit period, respondent stated on escrow instructions that "World Market Realty—Escrow Division" was licensed by the Department of Corporations to act as an escrow holder or agent. In fact, respondent, doing business as World Market Realty, was neither licensed by the Department of Corporations nor acting under the Escrow Law (Fin. Code, §§ 1700 et seq.). Rather, respondent acted in the capacity of an escrow holder or agent under his real estate broker's license and pursuant to an exemption from the Escrow Law under Financial Code section 17006, subdivision (a)(4). As such, respondent made substantial misrepresentations on those four escrow instructions in violation of Business and Professions Code section 10176, subdivision (a).

20. The audit revealed that respondent's record-keeping of his escrow trust account was not accurate. In September 2006, respondent filed a report with his bank, Comerica Bank, that $101;213.53 was missing from the trust account and he thought his signature might have been forged on the underlying check. The auditor found, however, that the $101,213.53 had been deposited into the trust account and was not missing but that respondent did not know what happened to the check because of his poor record-keeping. As such, respondent failed to maintain books, records, and trust account in accordance with accepted principles of

accounting and good business practice in violation of Regulations section 2950, subdivision (d), and 2951, and Business and Professions Code section 10145.

21. (A) The audit revealed that, in connection with four closed escrows, respondent charged buyers or sellers with excessive fees or costs and failed to explain or reimburse the overcharges. In two escrows, two sellers were not paid he sum of $2,880. As discussed above, respondent charged $250 for notary services in even though his check to the notary was not honored. In the fourth escrow, the buyer was underpaid by the sum of $33.67. As such, respondent claimed, took, or received undisclosed amounts of compensation, commission, or profit under agreements authorizing respondent to do acts for which a real estate broker's license was required in violation of Business and Professions Code section 10176, subdivision (g).

(B) It was not established that respondent made any substantial misrepresentations under Business and Professions Code section 10176, subdivision (a), in connection with his receipt of overcharges for these four escrows. The evidence was not clear as to what representations or misrepresentations were purportedly made by respondent.

22. During the audit, respondent did not have the license certificate of the sole real estate salesperson that he employed at his offices at World Market Realty. He later provided a copy of the license to the auditor at the exit interview on November 22, 2006. As such, respondent failed to possess or retain the license certificate of the real estate salesperson at his main office in violation of Business and Professions Code section 10160 and Regulations section 2753.

23. It was not established that respondent failed to exercise reasonable supervision over the activities of his sole salesperson in the employ of his brokerage office. No evidence was presented on this allegation.

24. No evidence in mitigation or rehabilitation was presented in this matter.

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Based on the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

LEGAL CONCLUSIONS

1. Grounds exist to revoke or suspend respondent's real estate broker's license under Business and Professions Code section 10177, subdivision (d), in conjunction with sections 10175 and 10145, in that respondent willfully disregarded or violated the Real Estate Law and the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law as follows:

a. Business and Professions Code section 10145, subdivision (a)(1), in that respondent as a broker-escrow accepted and/or deposited funds belonging to others in connection with a real estate and escrow transaction in a trust fund but disbursed the funds from the trust account for transactions or costs that were not in accordance with instructions from the persons entitled to the funds, as set forth in Finding 11(A);

b. California Code of Regulations, title 10, section 2832.1, in that respondent failed to obtain the written consent of every principal, who is an owner of the funds in the trust account, prior to each disbursement when or if such disbursement reduced the balance of funds in the trust account to an amount less than the existing aggregate trust fund liability of respondent as the broker escrow to the owners of the funds, as set forth in Finding 10(A) above;

c. California Code of Regulations, title 10, sections 2950, subdivision (g), and 2951, in that respondent withdrew monies deposited in his trust account or escrow account without the written instructions of parties who paid the money into escrow, as set forth in Findings 10(B) above;

d. California Code of Regulations, title 10, sections 2950, subdivision (d), and 2951, in that respondent failed to maintain books, records, and accounts in accordance with accepted principles of accounting and good business practice, as set forth in Findings 10(C), 14(B), and 20 above;

e. California Code of Regulations, title 10, section 2831, in that respondent failed to keep a columnar record of all trust funds, as set forth in Finding 14(A) above;

f. California Code of Regulations, title 10, section 2831.1, in that respondent failed to maintain adequate separate records for each beneficiary of every real estate transaction for which he acted as a broker-escrow, as set forth in Finding 15 above;

g. California Code of Regulations, title 10, section 2831.2, in that respondent failed to reconcile the balance of all separate beneficiary or transaction records with his record of all trust funds received and disbursed on at least a once monthly basis, as set forth in Finding 16 above;

h. California Code of Regulations, title 10, section 2950, subdivision (h), in that respondent failed to advise all parties in writing that he had financial interest in the agency holding the escrows, World Market Realty, escrow division, as the owner, as set forth in Finding 17 above; and

i. California Code of Regulations, title 10, sections 2832, subdivision (e), and 2950, subdivision (f), in that respondent failed to deposit all monies received as an escrow agent and as part of escrow transactions in his bank trust account on or before the close of the next full working day after receipt, as set forth in Finding 18 above.

2. Grounds exist to revoke or suspend respondent's real estate broker's license under Business and Professions Code section 10176, subdivision (i), in that respondent engaged in conduct constituting fraud or dishonest dealing, as set forth in Findings 11(B) and 12 above.

3. Grounds exist to revoke or suspend respondent's real estate broker's license under Business and Professions Code section 10176, subdivision (g), in that respondent claimed or took secret or undisclosed amounts of compensation, commission, or profit under agreements authorizing respondent to perform licensed acts for compensation or commission, as set forth in Findings 13(D) and 21(A) above.

4 Grounds exist to revoke or suspend respondent's real estate broker's license under Business and Professions Code section 10176, subdivisions (a), in that respondent made substantial misrepresentations on his escrow documents, as set forth in Finding 19 above.

5. Grounds exist to revoke or suspend respondent's real estate broker's license under Business and Professions Code section 10177, subdivision (g), in that respondent demonstrated negligence or incompetence in performing acts for which he is required to hold a broker's license, as set forth in Findings 13(C) above and Conclusions of Law 1 – 4 above.

6. Grounds do not exist to revoke or suspend respondent's real estate broker's license under Business and Professions Code section 10177, subdivision (h), in that it was not established that respondent, as a broker licensee, failed to exercise reasonable supervision over the activities of his sole salesperson, based on Finding 23 above.

7. Discussion—Based on Findings 1 – 24 above, it was established by clear and convincing evidence to a reasonable certainty that respondent committed fraud or dishonest dealings, made substantial misrepresentations on escrow documents, and received undisclosed compensation by disbursements from the escrow trust account in connection with his ownership and operation of the escrow division of his real estate firm World Market Realty. The evidence demonstrated that respondent violated the Real Estate Law and was negligent or incompetent in his handling and accounting of his escrow trust account. Respondent's real estate broker's license should be revoked for protection of the public interest and welfare.

* * * * * * *

Wherefore, the following Order is hereby made:

ORDER

All real estate licenses and licensing rights previously issued to respondent Alberto I. Jimenez, doing business as World Market Realty, are revoked, based on Conclusions of Laws 1 – 5 and 7 above, jointly and for all. Accusation, Case No. H-33851 LA, is sustained.

Dated: July 10, 2008

Vincent Nafarrete
Administrative Law Judge
Office of Administrative Hearings

Sacto Flag

ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)
-or- (213) 576-6982 (office)

FILED
MAR 28 2007
DEPARTMENT OF REAL ESTATE
By K Niederholt

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of ALBERTO I. JIMENEZ, dba World Market Realty, Respondent.	No. H-33851 LA A C C U S A T I O N

The Complainant, Janice Waddell, a Deputy Real Estate Commissioner of the State of California, acting in her official capacity, for cause of Accusation against ALBERTO I. JIMENEZ aka Alberto Issac Jimenez dba World Market Realty, is informed and alleges as follows:

1.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

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LICENSE HISTORY

2.

At all times mentioned, ALBERTO I. JIMENEZ ("JIMENEZ"), was licensed or had license rights issued by the Department of Real Estate ("Department") as a real estate broker. On May 2, 1998, JIMENEZ was originally licensed as a real estate salesperson. On June 24, 2002, JIMENEZ was originally licensed as a real estate broker.

BROKERAGE

3.

At all times mentioned, in the City of Mission Hills, County of Orange, JIMENEZ acted as real estate broker and conducted licensed activities within the meaning of:

A. Code Section 10131(a). JIMENEZ operated a residential resale brokerage dba World Market Realty.

B. Code Section 10131(d). JIMENEZ operated a mortgage and loan brokerage; and

C. Conducted broker-controlled escrows through his escrow division for World Market Realty, under the exemption set forth in California Financial Code Section 17006(a)(4) for real estate brokers performing escrows incidental to a real estate transaction where the broker is a party and where the broker is performing acts for which a real estate license is required.

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AUDIT

4.

On March 9, 2007, the Department completed an audit examination of the books and records of JIMENEZ, pertaining only to the broker-controlled escrow activities described in Paragraph 3.C., that require a real estate license. The audit examination covered a period of time beginning on October 01, 2003 through September 30, 2006. The audit examination revealed violations of the Code and the Regulations as set forth below, and more fully discussed in Audit Report LA 060059 and the exhibits and workpapers attached to said audit report.

5.

At all times mentioned, in connection with the activities described in Paragraph 4, JIMENEZ accepted or received funds in trust (trust funds) from or on behalf of buyers, sellers borrowers and escrow holders. Thereafter JIMENEZ made disposition of such funds. JIMENEZ maintained the following trust account into which he deposited certain of these funds:

"Alberto Issac Jimenez dba World Market Realty Trust Account
Account No. 1891970582"
Comercia Bank
2321 Rosecrans Avenue, Suite 5000
El Segundo. California ("escrow trust account")

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With respect to the licensed activities referred to in Paragraphs 3 and 5, and the audit examination including the exhibits and workpapers referred to in Paragraph 4, it is alleged that JIMENEZ:

(a) Permitted, allowed or caused the disbursement of trust funds from the escrow trust account where the disbursement of funds reduced the total of aggregate funds in escrow trust account, to an amount which, on September 30, 2006, was $22,864.06, less than the existing aggregate trust fund liability to every principal who was an owner of said funds, without first obtaining the prior written consent of the owners of said funds, as required by Code Sections 10145 and 10176(i) and Regulations 2832.1, 2950(d), 2950(g) and 2951. This shortage has not been cured.

(b) Converted $8,245.94 in trust funds by making unauthorized withdrawals the escrow trust account for pending escrows to pay his business and/or personal expenses, in violation of Code Section 10176(i).

(c)(1) Failed to reimburse Seller Jose Baeza (Escrow 10141) $3,994, in overcharged title and escrow fees, in violation of Code Sections 10176(g) and 10177(g); and

(c)(2) Failed to replace a Non Sufficient Funds check (check number 3905) to Notary Public Eugene A. Reznikov in the

amount of $250, for notarial services rendered for Escrow 1105, in violation of Code Section 10177(g).

(d) Failed to maintain an adequate control record in the form of a columnar record in chronological order of trust funds received, deposited and disbursed by the escrow trust account, as required by Code Section 10145 and Regulation 2831, 2950(d) and 2951.

(e) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all trust funds received, deposited and disbursed by the escrow trust account, as required by Code Section 10145 and Regulations 2831.1, 2950(d) and 2951. Separate records were not maintained for the trust fund beneficiaries for Escrow Numbers 1035 (Garcia-Hern), 1084 (Vaca), 1040 (Juarez) and 1041 (Baeza).

(f) Failed to perform a monthly reconciliation of the balance of all separate beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all trust funds received and disbursed by the escrow trust account, as required by Code Section 10145 and Regulations 2831.2, 2950(d) and 2951.

(g) Failed to disclose in writing to all parties of his financial interest and ownership of the escrow company for World Market Realty, as required by Code Section 10145 and Regulation 2950(h). JIMENEZ failed to disclose to escrow-holders Baeza (1041), Neuhausen (1100), Juarez (1040), Flores (1033), Deza

(1027), Sandoval (1045) and Zepeda (1039), his interest n the agency holding the escrow.

(h) While acting in the capacity of an escrow holder, failed to place trust funds, including but not limited to earnest money deposits, accepted on behalf of another into the hands of the owner of the funds, a neutral escrow depository or into a trust fund account in the name of the broker at a bank or other financial institution not later than the next business day following receipt of the funds by the broker or by the broker's salesperson, as required by Code Section 10145 and Regulations 2832(e), 2950(f) and 2951. Escrow trust funds totaling $13,000 were not timely deposited into the escrow trust account:

Escrow No.	Amount	Buyer	Date Received	Date Deposited
1064	$4,000	Coty	11-29-04	06-27-05
1034	$3,000	Garcia	01-14-04	02-06-04
1059	$4,000	Enriquez	10-10-04	12-02-04-05
1105	$2,000	Guzman	07-20-06	not deposited

(i) Misrepresented in escrow instructions that JIMENEZ was licensed by the Department of Corporations when in truth and in fact he was not, in violation of Code Section 10176(a).

(j) Failed to keep the escrow trust fund accounting in accordance with generally accepted accounting principles, in violation of Code Section 10145 and Regulations 2950(d) and 2951. Two HUD-1 statements (Escrow No. 1040) revealed a discrepancy in the amount of $100,027.73 owed to borrower Rafael Hernandez, including numerous other irregularities.

(k) Overcharged escrow holders in Escrow Numbers 1041 ($780), 1100 ($250), 1040 ($33.67) and 1084 ($2,100), without disclosing to said escrow holders the reasons for the overcharge, in violation of Code Sections 10176(a) and 10176(g); and

(l) Failed to retain the salesperson license certificate for Ferdinand Ruiz Dalope, as required by Code Section 10160 and Regulation 2753.

7.

The conduct of Respondent JIMENEZ, described in Paragraph 6, violated the Code and the Regulations as set forth:

PARAGRAPH	PROVISIONS VIOLATED
6(a)	Code Sections 10145 and 10176(i) and Regulations 2832.1, 2950(d), 2950(g) and 2951
6(b)	Code Section 10176(i)
6(c)	Code Sections 10176(g) and 10177(g)

6(d)	Code Section 10145 and Regulations 2831, 2950(d) and 2951
6(e)	Code Section 10145 and Regulations 2831.1, 2950(d) and 2951
6(f)	Code Section 10145 and Regulations 2831.2, 2950(d) and 2951
6(g)	Code Section 10145 and Regulation 2950(h)
6(h)	Code Section 10145 and Regulations 2832(e) 2950(d), 2950(f) and 2951
6(i)	Code Section 10176(a)
6(j)	Code Section 10145 and Regulations 2950(d) and 2951
6(k)	Code Section 10176(a) and 10176(g)
6(l)	Code Section 10160 and Regulation 2753

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Each of the foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of JIMENEZ under the provisions of Code Sections 10176(a), 10176(g), 10176(i), 10177(d) and/or 10177(g).

NEGLIGENCE

8.

The overall conduct of JIMENEZ constitutes negligence and/or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of JIMENEZ pursuant to Code Section 10177(g).

LACK OF SUPERVISION

9.

The overall conduct of JIMENEZ constitutes a failure to exercise supervision and control over the licensed activities of his brokerage. Nor did JIMENEZ maintain a system in place for regularly monitoring his compliance with the Real Estate Law especially in regard to establishing policies to review trust fund handling and record keeping for his client's trust funds. This conduct is cause for the suspension or revocation of the real estate license and license rights of JIMENEZ pursuant to Code Section 10177(h), 10177(d) and/or 10177(g).

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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 the license and license rights of Respondent ALBERTO I. JIMENEZ, 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 applicable provisions of law.

Dated at Los Angeles, California

this 27 March, 2007

Deputy Real Estate Commissioner

cc: Alberto I. Jimenez
Janice Waddell
Sacto
Audits - Surender Bhatia
Christina Parks