

1 demonstrate to my satisfaction that Respondent has undergone
2 sufficient rehabilitation to warrant the reinstatement of
3 Respondent's real estate broker license, in that an audit
4 conducted from March to May 1998, indicates that Respondent has
5 been guilty of the following violations:

6 a. Respondent's account holding trust funds was not
7 designated as a trust account in the name of Respondent as trustee
8 (Section 2832, Title 10, California Code of Regulations,
9 hereinafter referred to as "Regulations").

10 b. Respondent permitted withdrawals to be made from his
11 trust fund account by persons not licensed to Respondent and
12 without the required fidelity bond coverage (Section 2834 of the
13 Regulations).

14 c. Respondent failed to provide the "Borrower
15 Disclosure" statement as required by Section 10232.4 of
16 the Code, including, but not limited to the following
17 transactions:

<u>BORROWER</u>	<u>LENDER</u>	<u>LOAN AMOUNT</u>
Bruce E. Bewarder	Pinky's Tire PSP	\$20,000
Bruce E. Bewarder	Tom & Tami Allcock	\$10,000
David Englert	Lancaster/Sardu	\$50,000
David Englert	Ingersoll/Gonzales	\$100,000

24 Additional time and evidence of correction is
25 necessary to establish that Respondent will conduct his real
26 estate brokerage business in accordance with the requirements
27 of law.

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NOW, THEREFORE, IT IS ORDERED that Respondent's petition
for reinstatement of his real estate broker license is denied.

This Order shall be effective at 12 o'clock noon on
August 17, 1998.

DATED: 7/20, 1998

JIM ANTT, JR.
Real Estate Commissioner



III

Beginning on or before January 1, 1988, Respondent, acting on behalf of another or others and in expectation of compensation, managed certain rental real properties located in or near Oakhurst, California.

IV

During the course of the property management activities described in Paragraph III, Respondent received and disbursed funds held in trust on behalf of another or others. Respondent failed to place said trust funds into a trust fund account in the name of Respondent as trustee at a bank or other financial institution.

V

In connection with the collection and disbursement of said trust funds, Respondent failed to deposit and maintain said funds in his bank account in such a manner that there were trust fund shortages in said bank account as follows:

<u>DATE</u>	<u>SHORTAGE</u>
January 31, 1988	\$3,748.77
January 31, 1989	\$2,841.52
February 28, 1989	\$2,181.84

VI

Respondent failed to obtain the prior written consent of his principals for the reduction of the aggregate balance of trust funds in said bank account to an amount less than the existing aggregate trust fund liability to the owners of said funds.

VII

In connection with the collection and disbursement of said trust funds, Respondent failed to maintain adequate columnar records of all trust funds received and disbursed as required by Section 2831 of Title 10, California Code of Regulations (hereinafter "Regulations").

VIII

In connection with the collection and disbursement of said trust funds, Respondent failed to maintain a separate record for each beneficiary or transaction, accounting therein for all trust funds received, deposited and disbursed as required by Section 2831.1 of the Regulations.

IX

In connection with the collection and disbursement of said trust funds, Respondent failed to reconcile said trust accounts on a monthly basis and to maintain a record of said reconciliations as required by Section 2831.2 of the Regulations.

X

In connection with the collection and disbursement of said trust funds, Respondent failed to deposit all trust funds accepted on behalf of another into the hands of the owner of the funds, into a neutral escrow depository or into a trust fund account within the next business day following receipt of said funds by Respondent or his salespersons.

XI

Beginning on or before May 28, 1988 and continuing thereafter, Respondent failed to review, initial and date within five (5) working days all instruments having a material effect upon a party's right or obligations prepared by Respondent's employees, associates, or real estate salespersons.

XII

On or before December 11, 1987 and continuing thereafter, Respondent operated his property management business as described in Paragraph III above, under the fictitious business name Oakhurst Property Management without Respondent obtaining a license bearing said fictitious business name in violation of Section 2731 of the Regulations.

DETERMINATION OF ISSUES

I

Cause for disciplinary action against Respondent exists pursuant to Sections 10145 of the Code and Section 10177(d) of the Code in conjunction with Sections 2830, 2832.1, 2831, 2831.1, 2831.2, 2832, 2725, and 2731 of the Regulations.

II

The standard of proof applied at the hearing was clear and convincing proof to a reasonable certainty.

ORDER

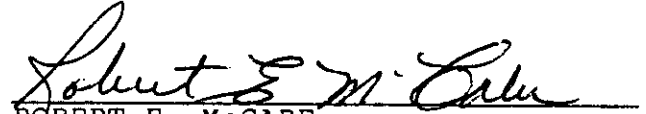
- A. The real estate broker license and all license rights of Respondent are hereby revoked.

- B. A restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for said license within ninety (90) days from the effective date of the Decision herein.
- C. The restricted license issued to Respondent shall be subject to all the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of said Code:
- (1) The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:
 - (a) The conviction of Respondent (including a plea of nolo contendere) to a crime which bears a significant relation to Respondent's fitness or capacity as a real estate licensee; or
 - (b) The receipt of evidence that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to this restricted license.
 - (2) Respondent shall not be eligible to apply for the issuance of unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until one (1) year has elapsed from the effective date of the Decision in this matter.
 - (3) Respondent shall, within six (6) months from the effective date of the restricted license, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of the restricted license of Respondent until Respondent passes the examination.
 - (4) The restricted license of Respondent may be suspended by order of the Real Estate Commissioner pending a final determination after a hearing if Respondent fails to present evidence satisfactory to the Real Estate Commissioner that he has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license within nine (9) months from the effective date of the Decision of the Real Estate Commissioner.

- (5) Respondent shall prior to the effective date of this Decision provide evidence satisfactory to the Real Estate Commissioner that the trust fund shortage of \$2,181.84 as alleged in the Accusation has been cured.
- (6) Respondent shall prior to the effective date of the Decision in this matter provide assurances to the Real Estate Commissioner in the form of a declaration signed by Respondent stating that he has reviewed Sections 2831, 2831.1, 2831.2, 2725 and 2731 of Title 10, California Code of Regulations and that Respondent is in compliance with said Regulations.

DATED:

August 20, 1990


ROBERT E. MCCABE
Regional Manager
Department of Real Estate

1 DAVID A. PETERS, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000
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6 (916) 739-3607
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FILED
MAY 29 1990
DEPARTMENT OF REAL ESTATE

Laurie A. Zia

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 JOHN O'NEAL JAMISON,) NO. H-1007 FRESNO
13 Respondent.) ACCUSATION
14)

15 The Complainant, Jerry E. Fiscus, a Deputy Real Estate
16 Commissioner of the State of California for cause of Accusation
17 against JOHN O'NEAL JAMISON (hereinafter "Respondent") is informed
18 and alleges as follows:

19 I

20 The Complainant, Jerry E. Fiscus, a Deputy Real Estate
21 Commissioner of the State of California, makes this Accusation in
22 his official capacity.

23 II

24 Respondent is presently licensed and/or has license
25 rights under the Real Estate Law (Part 1 of Division 4 of the
26 California Business and Professions Code) (hereinafter "Code"), as
27 a real estate broker.

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IV

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V

In connection with the collection and disbursement of said trust funds, Respondent failed to deposit and maintain said funds in his bank account in such a manner that there were trust fund shortages in said bank account as follows:

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XI

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2 Beginning on or before May 28, 1988 and continuing
3 thereafter, Respondent failed to review, initial and date within
4 five (5) working days all instruments having a material effect
5 upon a party's right or obligations prepared by Respondent's
6 employees, associates, or real estate salespersons.

7 XII

8 On or before December 11, 1987 and continuing
9 thereafter, Respondent operated his property management business
10 as described in Paragraph III above, under the fictitious business
11 name Oakhurst Property Management without Respondent obtaining a
12 license bearing said fictitious business name in violation of
13 Section 2731 of the Regulations.

14 XIII

15 The facts alleged above are grounds for the suspension
16 or revocation of Respondent's licenses under the following
17 sections of the Business and Professions Code of the State of
18 California:

19 (1) As to Paragraphs IV, V and VI under Sections 2830
20 and 2832.1 of the Regulations and Section 10145 of the Code in
21 conjunction with Section 10177(d) of the Code;

22 (2) As to Paragraph VII, under Section 2831 of the
23 Regulations in conjunction with Section 10177(d) of the Code;

24 (3) As to Paragraph VIII, under Section 2831.1 of the
25 Regulations in conjunction with Section 10177(d) of the Code;

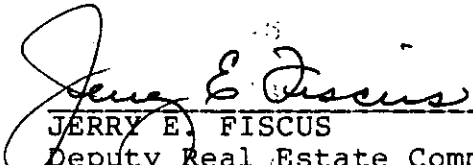
26 (4) As to Paragraph IX under Section 2831.2 of the
27 Regulations in conjunction with Section 10177(d) of the Code;

1 (5) As to Paragraph X, under Sections 2830 and 2832 of
2 the Regulations in conjunction with Section 10177(d) of the Code;

3 (6) As to Paragraph XI under Section 2725 of the
4 Regulations in conjunction with Section 10177(d) of the Code; and

5 (7) As to Paragraph XII under Section 2731 of the
6 Regulations in conjunction with Section 10177(d) of the Code.

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

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16 
17 JERRY E. FISCUS
Deputy Real Estate Commissioner

18 Dated at Fresno, California
19 this 5TH day of May, 1990.

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