

1 Attorney General of the State of California has been given
2 notice of the filing of said petition.

3 I have considered Respondent's petition and the
4 evidence and arguments in support thereof. Respondent has
5 demonstrated to my satisfaction that grounds do not presently
6 exist to deny the issuance of an unrestricted real estate
7 broker license to Respondent.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for reinstatement is granted and that an
10 unrestricted real estate broker license be issued to
11 Respondent, NORMAN INGRAM HARBOLDT after Respondent satisfies
12 the following conditions within one (1) year from the date of
13 this Order:

14 1. Submittal of a completed application and
15 payment of the fee for a real estate broker license.

16 2. Submittal of evidence satisfactory to the Real
17 Estate Commissioner that Respondent has, since August 30,
18 1991, taken and successfully completed the continuing
19 education requirements of Article 2.5 of Chapter 3 of the
20 Real Estate Law for renewal of a real estate license.

21 This Order shall become effective immediately.

22 DATED: July 20, 1994.

23 JOHN R. LIBERATOR
24 Interim Commissioner

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NORMAN INGRAM HARBOLDT
438 Main Street, Suite C
Huntington Beach, California 92648

1 Attorney General of the State of California has been given
2 notice of the filing of said petition.

3 I have considered Respondent's petition and the
4 evidence and arguments in support thereof. Respondent has
5 demonstrated to my satisfaction that grounds do not presently
6 exist to deny the issuance of an unrestricted real estate
7 salesperson license to Respondent.

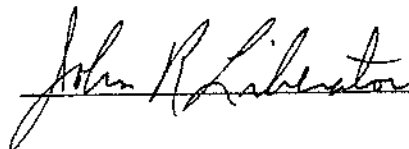
8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for reinstatement is granted and that an
10 unrestricted real estate salesperson license be issued to
11 Respondent, SHARON ANN HARBOLDT after Respondent satisfies
12 the following conditions within one (1) year from the date of
13 this Order:

- 14 1. Submittal of a completed application and
15 payment of the fee for a real estate salesperson license.
16 2. Submittal of evidence satisfactory to the Real
17 Estate Commissioner that Respondent has, since August 30,
18 1991, taken and successfully completed the continuing
19 education requirements of Article 2.5 of Chapter 3 of the
20 Real Estate Law for renewal of a real estate license.

21 This Order shall become effective immediately.

22 DATED: July 20, 1994

23
24 JOHN R. LIBERATOR
Interim Commissioner

25 

26 cc: Sharon Ann Harboldt
27 438 Main Street, Suite C
Huntington Beach, CA 92648

1 James L. Beaver, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California, 90012
5 Telephone: (213) 620-4790

1991

(Signature)

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of)
12 NORMAN INGRAM HARBOLDT, Jr; and) No. H-1061 SA
13 SHARON ANN HARBOLDT, also known)
14 as SHARON ANN SCHLEM and)
15 SHARON SCHLEM HARBOLDT,)
Respondents.)

16 STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

17 I

18 STIPULATION

19 It is hereby stipulated by and between Respondents
20 NORMAN INGRAM HARBOLDT, Jr and SHARON ANN HARBOLDT (jointly
21 "Respondents"), by and through Roger A. Saevig, Esq., said
22 Respondents' attorneys of record herein, and the Complainant,
23 acting by and through James L. Beaver, Counsel for the Department
24 of Real Estate, as follows for the purpose of settling and
25 disposing of the Accusation filed on January 22, 1991 in this
26 matter (hereinafter "the Accusation");

27 A. All issues which were to be contested and all
evidence which was to be presented by Complainant and Respondents

1 at a formal hearing on the Accusation, which hearing was to be
2 held in accordance with the provisions of the Administrative
3 Procedure Act (APA), shall instead and in place thereof be
4 submitted solely on the basis of the provisions of this
5 Stipulation.

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

10 C. On or about February 5, 1991, Respondents each
11 filed a Notice of Defense pursuant to Section 11505 of the
12 Government Code for the purpose of requesting a hearing on the
13 allegations in the Accusation. Respondents each hereby freely and
14 voluntarily withdraw said Notice of Defense. Each Respondent
15 acknowledge that it understands that by withdrawing said Notice of
16 Defense, said Respondent will thereby waive such Respondent's
17 right to require the Commissioner to prove the allegations in the
18 Accusation at a contested hearing held in accordance with the
19 provisions of the APA and that Respondents will waive other rights
20 afforded to Respondents in connection with the hearing such as the
21 right to present evidence in defense of the allegations in the
22 Accusation and the right to cross-examine witnesses.

23 D. Pursuant to the limitations set forth below,
24 Respondents hereby admit that the factual allegations in
25 Paragraphs I through XII and XV through XVII, inclusive, of the
26 Accusation are true and correct and stipulate that the Real
27

1 Estate Commissioner shall not be required to provide further
2 evidence of such allegations.

3 E. It is understood by the parties that the Real
4 Estate Commissioner may adopt the Stipulation In Settlement and
5 Order as his decision in this matter thereby imposing the penalty
6 and sanctions on Respondents' real estate licenses and license
7 rights as set forth in the "Order" below. In the event that the
8 Commissioner in his discretion does not adopt the Stipulation In
9 Settlement and Order, the Stipulation In Settlement and Order
10 shall be void and of no effect, and Respondents shall retain the
11 right to a hearing and proceeding on the Accusation under all the
12 provisions of the APA and shall not be bound by any admission or
13 waiver made herein.

14 F. The Order or any subsequent Order of the Real
15 Estate Commissioner made pursuant to this Stipulation shall not
16 constitute an estoppel, merger or bar to any further
17 administrative or civil proceedings by the Department of Real
18 Estate with respect to any matters which were not specifically
19 alleged to be causes for accusation in this proceeding.

20 II

21 DETERMINATION OF ISSUES

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

26 A. The acts and omissions by Respondent NORMAN INGRAM
27 HARBOLDT, JR. described in Paragraphs VII through XII of the

1 Accusation violated Section 10145 of the California Business and
2 Professions Code (hereinafter the Code) and Sections 2725, 2726,
3 2731, 2830, 2831, 2831.2 and 2832.1 of Chapter 6, Title 10,
4 California Code of Regulations (hereinafter the Regulations). Each
5 of the said violations separately constitutes cause for the
6 suspension or revocation of all licenses and license rights of
7 Respondent NORMAN INGRAM HARBOLDT, JR. under the provisions of
8 Section 10177(d) of the Code.

9 B. The conduct of NORMAN INGRAM HARBOLDT, JR., as set
10 forth in Paragraphs XVI and XVII of the Accusation, constitutes
11 the making of material omissions or misrepresentations and is
12 cause to suspend or revoke the license and license rights of
13 HARBOLDT under the provisions of Section 10176(a) of the Code.

14 C. The conduct of SHARON ANN HARBOLDT (also known as
15 Sharon Ann Schlem), as set forth in Paragraphs XVI and XVII, of
16 the Accusation constitutes the making of material omissions or
17 misrepresentations and is cause to suspend or revoke the license
18 and license rights of SCHLEM under the provisions of Section
19 10176(a) of the Code.

20 III

21 ORDER

22 WHEREFORE, THE FOLLOWING ORDER is hereby made:

23 A. TRUST FUND POSITION STATEMENTS

24 Each Trust Fund Position Statement referred to in this
25 Order shall include the information and documents specified herein
26 and be verified as true and accurate by the reporting Respondent
27 or the designated officer of a corporate Respondent under penalty

1 of perjury. If such Respondent has no trust fund liability as of
2 the last day of the calendar quarter, the Position Statement shall
3 so state.

4 1. The Position Statement shall consist of the
5 following information covering the calendar quarter for each trust
6 fund bank account:

- 7 (a) A statement identifying the account number and the name and
8 address of each trust fund depository.
- 9 (b) A schedule of trust fund accountability as of the last day of
10 the calendar quarter which names each trust fund beneficiary
11 or principal, states the trust fund liability to each such
12 beneficiary or principal, and states the aggregate trust fund
13 liability as of that day.
- 14 (c) A statement explaining any discrepancy as of the last day of
15 the calendar quarter between the aggregate trust fund
16 liability and the balance of the trust fund bank account
17 adjusted for any uncleared checks drawn on the account.

18 2. The position statement shall be accompanied by the
19 following supporting documentation covering the calendar quarter
20 for each trust fund bank account:

- 21 (a) A copy of the bank statement covering the last day of the
22 calendar quarter, a schedule of uncleared checks drawn on the
23 account as of that day.
- 24 (b) For each trust fund bank account, a copy of the columnar
25 record in chronological sequence maintained by Respondent in
26 compliance with the provisions of Section 2831 of the
27 Regulations, a copy of the separate beneficiary or
28 transactions records maintained in compliance with Section
29 2831.1 of the Regulations, and a copy of the records of
30 reconciliations produced in compliance with Section 2831.2 of
31 the Regulations.

32 B. NORMAN INGRAM HARBOLDT, JR.

33 1. The license and license rights of Respondent NORMAN
34 INGRAM HARBOLDT, JR. under the provisions of Part 1 of Division 4
35 of the Business and Professions Code are hereby revoked; provided
36 however, a restricted real estate broker license shall be issued

1 to said Respondent if, within 90 days after the effective date of
2 the Decision entered herein, said Respondent makes application for
3 said license and pays to the Department of Real Estate the
4 appropriate fee for said license.

5 2. The restricted license issued to Respondent NORMAN
6 INGRAM HARBOLDT, JR. shall be suspended for the thirty (30) day
7 period commencing upon issuance of said restricted license.

8 However, the thirty (30) day suspension period shall be
9 permanently stayed if, prior to the effective date of the Decision
10 herein, said Respondent petitions pursuant to Section 10175.2 of
11 the Code and pays to the Real Estate Recovery Account \$250.00 for
12 each day stayed for a maximum of \$7,500.00. The adoption of this
13 provision in the Decision of the Real Estate Commissioner shall
14 constitute a determination that it would not be against the public
15 interest to permit said Respondent to pay a monetary penalty.

16 Payment of the monetary penalty shall be by certified or cashier's
17 check made payable to the Department of Real Estate.

18 3. The restricted license issued to Respondent NORMAN
19 INGRAM HARBOLDT, JR. shall be subject to all of the provisions of
20 Section 10156.7 of the Business and Professions Code and to the
21 following limitations, conditions and restrictions imposed under
22 authority of Section 10156.6 of the Code:

23 (a) For so long as said restricted license shall remain in
24 effect, Respondent shall submit to the Department of Real
25 Estate a Quarterly Trust Funds Position Statement as of the
26 last day of each March, June, September and December. The
27 Position Statement shall cover all trust funds subject to the
provisions of Section 10145 of the Code held by Respondent as
agent or as trustee. The Position Statement shall be
submitted to the District Manager of the Department's Los
Angeles office not later than 60 days following the last day
of each such calendar quarter.

- 1 (b) Respondent shall, within nine (9) months from the effective
2 date of the restricted license, take and pass the
3 Professional Responsibility Examination administered by the
4 Department including the payment of the appropriate
5 examination fee. If Respondent fails to satisfy this
6 condition, the Commissioner may order suspension of the
7 restricted license until Respondent passes the examination.
- 8 (c) Respondent shall, within nine (9) months of the effective
9 date of the Decision herein, present evidence satisfactory to
10 the Real Estate Commissioner that he has, since the most
11 recent issuance of an original or renewal real estate
12 license, taken and successfully completed the continuing
13 education requirements of Article 2.5 of Chapter 3 of the
14 Real Estate Law for renewal of a real estate license. If
15 Respondent fails to satisfy this condition, the Commissioner
16 may order the suspension of the restricted license until the
17 Respondent presents such evidence. The Commissioner shall
18 afford Respondent the opportunity for a hearing pursuant to
19 the Administrative Procedure Act to present such evidence.
- 20 (d) The restricted license may be suspended, prior to a hearing
21 by Order of the Real Estate commissioner, in the event of
22 Respondent's conviction or plea of nolo contendere to a crime
23 which bears a substantial relation to Respondent's fitness or
24 capacity as a real estate licensee, or upon receipt of
25 evidence satisfactory to the Real Estate Commissioner that
26 Respondent has violated provisions of the Real Estate Law of
27 the State of California, the Subdivided Lands Act, the Real
Estate Regulations of the State of California, or any of the
conditions attached to the restricted license.
- (e) Respondent shall not be eligible to apply for the issuance of
an unrestricted real estate license nor the removal of any of
the restrictions, conditions or limitations set forth herein
until one (1) year has elapsed from the date of issuance of
the restricted license to Respondent.

20 C. SHARON ANN HARBOLDT

21 1. The license and license rights of Respondent SHARON
22 ANN HARBOLDT under the provisions of Part 1 of Division 4 of the
23 Business and Professions Code are hereby revoked; provided
24 however, a restricted real estate salesperson license shall be
25 issued to said Respondent if, within 90 days after the effective
26 date of the Decision entered herein, said Respondent makes
27

1 application for said license and pays to the Department of Real
2 Estate the appropriate fee for said license.

3 2. The restricted license issued to Respondent SHARON
4 ANN HARBOLDT shall be suspended for the twenty (20) day period
5 commencing upon issuance of said restricted license. However, the
6 twenty (20) day suspension period shall be permanently stayed if,
7 prior to the effective date of the Decision herein, said
8 Respondent petitions pursuant to Section 10175.2 of the Code and
9 pays to the Real Estate Recovery Account \$250.00 for each day
10 stayed for a maximum of \$5,000.00. The adoption of this provision
11 in the Decision of the Real Estate Commissioner shall constitute a
12 determination that it would not be against the public interest to
13 permit said Respondent to pay a monetary penalty. Payment of the
14 monetary penalty shall be by certified or cashier's check made
15 payable to the Department of Real Estate.

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

- 21 (a) Respondent shall, within nine (9) months from the effective
22 date of the restricted license, take and pass the
23 Professional Responsibility Examination administered by the
24 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 until Respondent passes the examination.
- 25 (b) Respondent shall, within nine (9) months of the effective
26 date of the Decision herein, present evidence satisfactory to
27 the Real Estate Commissioner that she 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

1 Real Estate Law for renewal of a real estate license. If
2 Respondent fails to satisfy this condition, the Commissioner
3 may order the suspension of the restricted license until the
4 Respondent presents such evidence. The Commissioner shall
5 afford Respondent the opportunity for a hearing pursuant to
6 the Administrative Procedure Act to present such evidence.

7 (c) The restricted license may be suspended, prior to a hearing
8 by Order of the Real Estate commissioner, in the event of
9 Respondent's conviction or plea of nolo contendere to a crime
10 which bears a substantial relation to Respondent's fitness or
11 capacity as a real estate licensee, or upon receipt of
12 evidence satisfactory to the Real Estate Commissioner that
13 Respondent has violated provisions of the Real Estate Law of
14 the State of California, the Subdivided Lands Act, the Real
15 Estate Regulations of the State of California, or any of the
16 conditions attached to the restricted license.

17 (d) Respondent shall not be eligible to apply for the issuance of
18 an unrestricted real estate license nor the removal of any of
19 the restrictions, conditions or limitations set forth herein
20 until one (1) year has elapsed from the date of issuance of
21 the restricted license to Respondent.

22 IV

23 EXECUTION OF STIPULATION

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

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1 allegations in the Accusation at a hearing at which I would have
2 the right to cross-examine witnesses against me and to present
3 evidence in defense and mitigation of the charges.
4

5 DATED: 8-6-91

Norman D. Harboldt, Jr.
NORMAN INGRAM HARBOLDT, JR.
Respondent

7 DATED: 8/6/91

Sharon Ann Harboldt
SHARON ANN HARBOLDT
Respondent

10 DATED: 8/6/91

Roger A. Saevig
ROGER A. SAEVIG
Attorney for Respondents

13 DATED: 8/12/91

James L. Beaver
JAMES L. BEAVER, Counsel

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DECISION

The foregoing Stipulation and Agreement In
Settlement and Order is hereby adopted by the Real Estate
Commissioner as the Decision and Order in the above entitled
matter. This Decision shall become effective at 12 o'clock noon on
August 30, 1991.

CLARK WALLACE
Real Estate Commissioner

IT IS SO ORDERED

Clark Wallace
August 14, 1991.

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

MAR 20 1991

DEPARTMENT OF REAL ESTATE

BY *Sybil Williams*

In the Matter of the Accusation of

NORMAN INGRAM HARBOLDT, JR.; and
SHARON ANN HARBOLDT, etc.,

}

Case No. H-1061 SA

OAH No. L-52737

Respondent(s)

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____
OFFICE OF ADMINISTRATIVE HEARINGS, 314 West First Street, Los Angeles, California,
on July 22, 23, 24, & 25, 1991, at the hour of 9:00 a.m., or as soon thereafter
as the matter can be heard, upon the charges made in the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the hearing officer conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the hearing officer directs otherwise.

Dated: March 20, 1991

DEPARTMENT OF REAL ESTATE

By *Jim L. Beane*
Counsel

cc: Norman Ingram Harboldt
Sharon Ann Harboldt
Roger A. Saevig, Esq.
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JAMES L. BEAVER, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, CA 90012
(213) 620-4790

JUN 22 1991

DEPARTMENT OF REAL ESTATE
J. C. Berry

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-1061 SA
NORMAN INGRAM HARBOLDT, JR.)	<u>A C C U S A T I O N</u>
and SHARON ANN HARBOLDT,)	
aka Sharon Ann Schlem and)	
Sharon Schlem Harboldt,)	
Respondents.)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against NORMAN INGRAM HARBOLDT, JR. (hereinafter "HARBOLDT"), and SHARON ANN HARBOLDT, aka Sharon Ann Schlem and Sharon Schlem Harboldt (hereinafter "SCHLEM") is informed and alleges as follows:

FIRST CAUSE OF ACCUSATION

I

Respondents are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "the Code").

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II

The Complainant, THOMAS C. McCRADY, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in his official capacity.

III

At all times mentioned herein Respondent HARBOLDT has been and now is licensed by the Department of Real Estate of the State of California (hereinafter the Department) as a real estate broker.

IV

At all times mentioned herein Respondent SCHLEM has been and now is licensed by the Department as a real estate salesperson in the employ of Respondent HARBOLDT.

V

At all times mentioned herein, Respondent SCHLEM was the agent and employee of Respondent HARBOLDT, and was acting within the course and scope of such agency and employment. All further references herein to "Respondents" include HARBOLDT and SCHLEM and the employees, agents and real estate licensees employed by or associated with such respondents who at times mentioned herein were engaged in the furtherance of the business or operations of such Respondents and were acting within the course and scope of their authority and employment.

VI

At all times herein mentioned, Respondents, and each of them, engaged in the business of, acted in the capacity of, and assumed to act as a real estate broker as defined by

1 Section 10131(b) of the Code, operating and conducting a property
2 management business with the public under the fictitious business
3 name "A-CREATIVE PROPERTY MANAGEMENT", wherein, for or in
4 expectation of compensation, Respondents leased and rented and
5 offered to lease and rent, and placed for rent, and solicited
6 listings of places for rent, and solicited for prospective
7 tenants, and collected rents from real property, or improvements
8 thereon.

9
10 VII

11 From on or about November 23, 1988, through on or
12 about August 8, 1989, in the course of the activities described in
13 Paragraph VI above, HARBOLDT employed SCHLEM and PRISCILLA
14 MARGUERITE MORRIS as real estate salespersons without having a
15 written relationship agreement with such salespersons, or either
16 of them, covering material aspects of their broker - salesperson
17 relationships.

18 VIII

19 From on or about November 23, 1988, through on or
20 about July 28, 1989, including but not limited to November 25,
21 1988, January 15, 1989, July 5, 1989, and July 21, 1989, in the
22 course of the activities described in Paragraph VI above, HARBOLDT
23 failed to timely review and affix his dated initials to
24 instruments prepared and/or signed by SCHLEM, in connection with
25 transactions for which a real estate license is required, having a
26 material affect upon the rights or obligations of a party to such
27 transaction.

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IX

From on or about November 23, 1988, through on or about November 17, 1989, HARBOLDT used the fictitious business name "A-CREATIVE PROPERTY MANAGEMENT" in the conduct of the activities described in Paragraph VI above without first obtaining a license from the Department bearing such fictitious name.

X

From on or about January 1, 1989, through on or about September 29, 1989, in connection with Respondents' activities operating and conducting a property management business, as described above, Respondents accepted or received funds in trust (hereinafter trust funds) from or on behalf of owners of real properties and thereafter made disbursements of such funds. These funds were deposited by Respondents in accounts, held by Respondents in the name of "A-Creative Property Management", including but not limited to the "A-Creative Property Management Trust I" account at the Fountain Valley branch of Guardian Bank, the "A-Creative Property Management Trust" account at the Huntington Valley branch of the Tokai Bank of California, and the "A-Creative Property Management Trust II Collections" account at the Fountain Valley branch of Guardian Bank.

XI

On or about November 17, 1989, the Department completed an examination of the books and records pertaining to trust funds handled by Responents in connection with Respondents' property management business for the period from January 1, 1989,

1 through September 29, 1989, which disclosed the facts alleged
2 below in Paragraph XII.

3
4 XII

5 In connection the the trust funds described in
6 Paragraph X, in course of the activities described in Paragraph
7 VI, and during the audit period described in Paragraph XI:

8 (a) Respondents deposited trust funds entrusted to
9 Respondents into the accounts described above while the accounts
10 were not held by HARBOLDT in HARBOLDT's name as trustee;

11 (b) HARBOLDT failed to maintain a columnar record
12 of all trust funds received and disbursed, in violation of Section
13 2831 of the Regulations;

14 (c) HARBOLDT failed to reconcile the cash records
15 of the trust account with the separate records of beneficiaries on
16 a monthly basis;

17 (d) HARBOLDT caused or permitted the withdrawal or
18 disbursement of trust funds from the said trust accounts, thereby
19 reducing the account balance of the said accounts to an amount
20 approximately \$7,924.33 less than the aggregate trust fund
21 liability to all owners of the trust funds in said accounts
22 without prior written consent of all such owners.

23 XIII

24 The acts and omissions by Respondent HARBOLDT
25 described in Paragraphs VII through XII above violated Section
26 10145 of the California Business and Professions Code (hereinafter
27 the Code) and Sections 2725, 2726, 2731, 2830, 2831, 2831.2 and
2832.1 of Chapter 6, Title 10, California Code of Regulations

1 (hereinafter the Regulations). Each of the foregoing violations
2 separately constitutes cause for the suspension or revocation of
3 all licenses and license rights of Respondent HARBOLDT under the
4 provisions of Section 10177(d) of the Code.

5 SECOND CAUSE OF ACCUSATION

6 XIV

7 Complainant incorporates herein the allegations of
8 Paragraphs I through XIII, inclusive, hereinabove.

9 XV

10 On or about November 25, 1988, in the course of the
11 activities described in Paragraph VI, above, Respondents, acting
12 through SCHLEM using the fictitious name A-CREATIVE PROPERTY
13 MANAGEMENT, entered into a written agreement with CINDY RUTH
14 PHARIS (hereinafter PHARIS) and ROBIN ROE MILLER (hereinafter
15 MILLER) under which Respondents undertook, for or in expectation
16 of compensation, the management of residential real property owned
17 by PHARIS and MILLER at 20641 Sandpiper Lane, Huntington Beach,
18 California, (hereinafter the Property) as the agents of PHARIS and
19 MILLER. Said agency was terminable by either party on thirty days
20 notice.

21 XVI

22 From on or about November 25, 1988, through on or
23 about April 1, 1988, in the course of the agency described in
24 Paragraph XII, HARBOLDT, acting in his own name or under the
25 fictitious business names "T & G HANDYMAN SERVICE" and "NVINC",
26 charged PHARIS and MILLER various sums for maintenance services
27 purportedly furnished on the Property, and SCHLEM paid HARBOLDT

1 such sums from trust funds belonging to PHARIS and MILLER
2 deposited by Respondents in the "A-Creative Property Management
3 Trust" account at the Huntington Valley branch of the Tokai Bank
4 of California, and Respondents, and each of them, concealed and
5 failed to disclose to PHARIS and MILLER the facts, known by
6 Respondents to be material to PHARIS and MILLER, that such charges
7 were being made by HARBOLDT and not some other maintenance
8 service, that such payments were being made to HARBOLDT and not
9 some other maintenance service, and that HARBOLDT was then
10 SCHLEM's employing real estate broker.

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XVII

In the course of their employment by MILLER and
PHARIS described in Paragraph XV, above, on or about January 15,
1989, Respondents leased the Property to NORMAN INGRAM HARBOLDT
III, the son of HARBOLDT. At the time Respondents so leased the
Property to HARBOLDT's son, Respondents and each of them knew, but
concealed and failed to disclose to PHARIS and MILLER the facts,
known by Respondents to be material to PHARIS and MILLER, that (a)
HARBOLDT was then SCHLEM's employing broker, (b) the lessee NORMAN
INGRAM HARBOLDT III was and is HARBOLDT's son, (c) HARBOLDT's said
son intended to construct modifications of the Property without
the owners' authorization to facilitate more dense occupancy of
the Property, and (d) HARBOLDT's son intended to sublet the
modified property without the owners' authorization and not occupy
it himself. Thereafter you permitted and suffered HARBOLDT's son
to construct such unauthorized improvements and effect such

1 unauthorized subleases of the Property, and concealed and failed
2 to disclose those material facts to PHARIS and MILLER.

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4 XVIII

5 The conduct of HARBOLDT, as set forth in Paragraphs
6 XVI and XVII, above, consititutes the making of material
7 misrepresentations or omissions and fraud and dishonest dealing
8 and is cause to suspend or revoke the license and license rights
9 of HARBOLDT under Sections 10176(a) and 10176(i) of the Code.

10 XIX

11 The conduct of SCHLEM, as set forth in Paragraphs
12 XVI and XVII, above, consititutes the making of material
13 misrepresentations or omissions and fraud and dishonest dealing
14 and is cause to suspend or revoke the license and license rights
15 of SCHLEM under Sections 10176(a) and 10176(i) of the Code.

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

8 Dated at Santa Ana, California
9 this 22nd day of January, 1991.

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THOMAS McCRADY

Deputy Real Estate Commissioner

cc: Norman Ingram Harboldt, Jr.
Sharon Ann Harboldt
Sacto.
BSV