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FILED
MAY 11 1998

DEPARTMENT OF REAL ESTATE

By Jean Arundel

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-1223 SA
)	
)	
HUBERT MACK HEMBREE)	
)	
Respondent.)	
)	
)	

ORDER DENYING REINSTATEMENT OF LICENSE

On April 1, 1992, a Decision was rendered herein revoking the real estate broker license of HUBERT MACK HEMBREE, (hereinafter referred to as Respondent), effective April 20, 1992. Respondent was given the right to apply for and receive a restricted real estate broker license which was issued to him on April 20, 1992.

On October 23, 1997, Respondent petitioned for reinstatement of said real estate broker license and the Attorney General of the State of California has been given notice of the filing of said Petition.

1 I have considered the petition of Respondent and the
2 evidence submitted in support thereof. Respondent has failed to
3 demonstrate to my satisfaction that he has undergone sufficient
4 rehabilitation to warrant the reinstatement of his real estate
5 broker license at this time. This determination has been made
6 in light of Respondent's history of acts and conduct which are
7 substantially related to the qualifications, functions and
8 duties of a real estate licensee. That history includes:

9
10 I

11 On November 29, 1988, an Order to Desist and Refrain
12 was issued to Respondent and Hembree Realty, Inc. for trust fund
13 violations and Respondent's failure to properly supervise.

14 II

15 On August 6, 1991, in Case No. H-1223 SA an Accusation
16 was filed against Respondent and Jarupa Realty, Inc. charging
17 these Respondents with multiple violations of Chapter 6, Title
18 10, California Code of Regulations (Regulations) and charging
19 Respondent with failure to exercise the supervision and control
20 required by Section 10159.2 of the Business and Professions Code
21 (Code) to insure that Jarupa was in compliance with Real Estate
22 Law. This Accusation resulted in Respondent having his real
23 estate broker license revoked pursuant to Sections 10177(d) and
24 10177(h) of the Code.

25 III

26 On or about October 7, 1997, the Department completed
27 an audit of the books and records of Jarupa and Respondent
pertaining to their activities requiring a real estate license



1 for the period from August 1, 1997, to September 30, 1997. That
2 examination revealed that Respondent and Jarupa were not
3 operating in compliance with Sections 2832, 2834 and 2753 of the
4 Regulations and that Respondent had once more failed to exercise
5 proper supervision over the activities of the corporate broker.
6 The Accusation also alleged that Respondent was still operating
7 in violation of the Order to Desist and Refrain set forth,
8 above, in Paragraph I.

9
10 IV

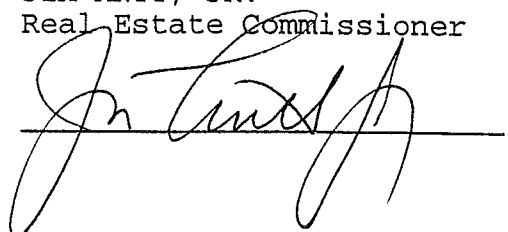
11 The violations set forth above are cause for the
12 suspension or revocation of Respondent's license and license
13 rights and indicate a complete lack of rehabilitation. This is
14 cause to deny his petition pursuant to Sections 10086, 10177(d)
15 and 10177(h) of the Code.

16
17 NOW, THEREFORE, IT IS ORDERED that Respondent's
18 petition for reinstatement of license is denied.

19 This Order shall become effective at 12 o'clock
20 noon on June 1, 1998.

21 DATED; 5/5/98
22

23
24 JIM ANTT, JR.
25 Real Estate Commissioner
26
27



JP

FILED
APR 15 1992

DEPARTMENT OF REAL ESTATE
DEPARTMENT OF REAL ESTATE *C. Berg*

STATE OF CALIFORNIA

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In the Matter of the Accusation of)	No. H-1223 SA
)	
JURUPA REALTY, INC., a,)	L-55202
a Corporation, and HUBERT MACK)	
HEMBREE, individually and as)	
designated officer of Jurupa)	
Realty, Inc.,)	
)	
Respondents.)	

ORDER MODIFYING EFFECTIVE DATE

On April 1, 1992, a Decision was rendered in the above-entitled matter to become effective April 30, 1992. On April 15, 1992, Respondents stipulated and requested that the effective date of the Decision of April 1, 1992 be modified pursuant to Government Code Section 11519(a) to become effective on April 20, 1992.

ACCORDINGLY, IT IS HEREBY ORDERED that the effective date of the Decision of April 1, 1992, be and hereby is advanced 10 days. The Decision of April 1, 1992, shall become effective at 12 o'clock noon on April 20, 1992.

DATED: APRIL 15, 1992

CLARK WALLACE
Real Estate Commissioner

By: *Randolph Brendia*
/ RANDOLPH BRENDIA
Regional Manager

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Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California, 90012

Telephone: (213) 897-3937

FILED
APR -7 1992
DEPARTMENT OF REAL ESTATE
BY C. Bey

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) DRE No. H-1223 SA
)
JURUPA REALTY, INC., a) OAH No. L-55202
)
a Corporation, and HUBERT MACK)
)
HEMBREE, individually and as)
)
designated officer of Jurupa)
)
Realty, Inc.,)
)
)
Respondents.)
)
_____)

STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

I

STIPULATION

It is hereby stipulated by and between JURUPA REALTY, INC. and HUBERT MACK HEMBREE ("Respondents") and the Complainant, acting by and through James L. Beaver, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on August 6, 1991 in this matter as amended by Amendment To Accusation filed herein August 12, 1991 (hereinafter "the Accusation"):

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

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

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

C. On August 16, 1991, Respondents each filed a Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents each hereby freely and voluntarily withdraw said Notice of Defense. Each Respondent acknowledges that it understands that by withdrawing said Notice of Defense, said Respondent will thereby waive such Respondent's right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that Respondents will waive other rights afforded to Respondents in connection with the hearing such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

D. Respondents hereby waive any right to contest the factual allegations in Paragraphs I through XVII, inclusive, of the Accusation, and stipulate that said waiver be deemed for all purposes by the Real Estate Commissioner as an admission of said factual allegations. Respondents further stipulate, subject to the

1
2 limitations set forth below, that the Real Estate Commissioner
3 shall not be required to provide further evidence of such
4 allegations.

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

16 F. The Order or any subsequent Order of the Real
17 Estate Commissioner made pursuant to this Stipulation shall
18 not constitute an estoppel, merger or bar to any further
19 administrative or civil proceedings by the Department of Real
20 Estate with respect to any matters which were not specifically
21 alleged to be causes for accusation in this proceeding. This
22 Stipulation and any order made pursuant to this Stipulation shall
23 have no collateral estoppel or res judicata effect in any
24 proceeding in which the Respondent and the Department (or the
25 Department's representative) are not parties. However, no ruling
26 in an action brought by a party other than Respondent or the
27 Department shall affect the finality of the Decision entered in
these proceedings pursuant to this Stipulation and Agreement In

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Settlement And Order.

II

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 following determination of Issues shall be made:

A, The acts and omissions of Respondents described in Paragraphs X(a), X(b), and XI(a), inclusive, of the Accusation violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>	
X(a)	Sec. <u>10145</u>	of the Code, and
	Sec. <u>2832</u>	of the Regulations;
X(b)	Sec. <u>2832.1</u>	of the Regulations;
XI(a)	Sec. <u>10159.5</u>	of the Code, and
	Sec. <u>2731</u>	of the Regulations.

Each of the foregoing violations separately constitutes cause for the suspension or revocation of all real estate licenses and license rights of Respondents pursuant to the provisions of Section 10177(d) of the Code.

B. The acts and omissions of Respondents described in Paragraphs XI(b) and XI(c) of the Accusation constitute cause for the suspension or revocation of all real estate licenses and license rights of Respondents pursuant to the provisions of Sections 10165 and 10177(d) of the Code.

C. The acts and omissions of Respondent HEMBREE, as described in Paragraphs XIV and XV of the Accusation constitute the failure to exercise the supervision and control required by

1
2 Section 10159.2 of the Code over the licensed activities of JURUPA
3 REALTY, INC. and are cause for the suspension or revocation of all
4 licenses and license rights of HEMBREE under the provisions of
5 Section 10177(h) of the Code.

6 D. HEMBREE's conduct in failing to comply with
7 Sections 10145 and 10159.2 of the Code and Sections 2725, 2832
8 and 2832.1 of the Code, as described hereinabove, after being
9 ordered to desist and refrain from said conduct violated Section
10 10086 of the Code. Said violation constitutes cause for the
11 suspension or revocation of all licenses and license rights of
12 HEMBREE under the provisions of Section 10177(d) of the Code.

13 III

14 ORDER

15 WHEREFORE, THE FOLLOWING ORDER is hereby made:

16 A. TRUST FUND POSITION STATEMENTS

17 Each Trust Fund Position Statement referred to in this
18 Order shall include the information and documents specified herein
19 and be verified as true and accurate by the reporting Respondent
20 or the designated officer of a corporate Respondent under penalty
21 of perjury. If such Respondent has no trust fund liability as of
22 the last day of the calendar quarter, the Position Statement shall
23 so state.

24 1. The Position Statement shall consist of the
25 following information covering the calendar quarter for each trust
26 fund bank account:

- 27 (a) A statement identifying the account number and the name and
address of each trust fund depository.
- (b) A schedule of trust fund accountability as of the last day of
the calendar quarter which names each trust fund beneficiary
or principal, states the trust fund liability to each such
beneficiary or principal, and states the aggregate trust fund
liability as of that day.
- (c) A statement explaining any discrepancy as of the last day of
the calendar quarter between the aggregate trust fund
liability and the balance of the trust fund bank account

1 adjusted for any uncleared checks drawn on the account.

2
3 2. The position statement shall be accompanied by the
4 following supporting documentation covering the calendar quarter
5 for each trust fund bank account:

6 (a) A copy of the bank statement covering the last day of the
7 calendar quarter, a schedule of uncleared checks drawn on the
8 account as of that day.

9 (b) For each trust fund bank account, a copy of the columnar
10 record in chronological sequence maintained by Respondent in
11 compliance with the provisions of Section 2831 of the
12 Regulations, a copy of the separate beneficiary or
13 transactions records maintained in compliance with Section
14 2831.1 of the Regulations, and a copy of the records of
15 reconciliations produced in compliance with Section 2831.2 of
16 the Regulations.

17
18 B. HUBERT MACK HEMBREE

19 1. The license and license rights of Respondent
20 HEMBREE under the provisions of Part 1 of Division 4 of the
21 Business and Professions Code are hereby revoked;

22 2. A restricted real estate broker license shall be
23 issued to Respondent HEMBREE if, within 90 days after the
24 effective date of the Decision entered herein, said Respondent
25 makes application for said license and pays to the Department of
26 Real Estate the appropriate fee for said license.

27 3. The restricted license issued to Respondent HEMBREE
shall be suspended for the ten (10) day period commencing upon
issuance of said restricted license. However, the entire ten (10)
days of the ten-day suspension period shall be permanently stayed
if, prior to the effective date of the Decision herein, said
Respondent petitions pursuant to Section 10175.2 of the Code and
pays to the Real Estate Recovery Account \$250.00 for each day
stayed for a maximum of \$2,500.00. The adoption of this provision

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2 in the Decision of the Real Estate Commissioner shall constitute a
3 determination that it would not be against the public interest to
4 permit said Respondent to pay a monetary penalty. Payment of the
5 monetary penalty shall be by certified or cashier's check made
6 payable to the Department of Real Estate.

7 4. The restricted license issued to Respondent HEMBREE
8 shall be subject to all of the provisions of Section 10156.7 of
9 the Business and Professions Code and to the following
10 limitations, conditions and restrictions imposed under authority
11 of Section 10156.6 of the Code:

- 12 (a) For so long as said restricted license shall remain in
13 effect, Respondent shall submit to the Department of Real
14 Estate a Quarterly Trust Funds Position Statement as of the
15 last day of each March, June, September and December. The
16 Position Statement shall cover all trust funds subject to the
17 provisions of Section 10145 of the Code held by Respondent as
18 agent or as trustee. The Position Statement shall be
19 submitted to the District Manager of the Department's Santa
20 Ana office not later than 60 days following the last day of
21 each such calendar quarter.
- 22 (b) Respondent shall, within nine (9) months after the effective
23 date of the Decision herein, take and pass the Professional
24 Responsibility Examination administered by the Department
25 including the payment of the appropriate examination fee. If
26 Respondent fails to satisfy this condition, the Commissioner
27 may order suspension of the restricted license until
Respondent passes the examination.
- (c) Respondent shall, within nine (9) months after the effective
date of the Decision herein, present evidence satisfactory to
the Real Estate Commissioner that he has, since January 1,
1992, 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. If
Respondent fails to satisfy this condition, the Commissioner
may order the suspension of the restricted license until the
Respondent presents such evidence. The Commissioner shall
afford Respondent the opportunity for a hearing pursuant to
the Administrative Procedure Act to present such evidence.
- (d) The restricted license may be suspended, prior to a hearing
by Order of the Real Estate commissioner, in the event of

1 Respondent's conviction or plea of nolo contendere to a crime
2 which bears a substantial relation to Respondent's fitness or
3 capacity as a real estate licensee, or upon receipt of
4 evidence satisfactory to the Real Estate Commissioner that
5 Respondent has violated provisions of the Real Estate Law of
6 the State of California, the Subdivided Lands Act, the Real
7 Estate Regulations of the State of California, or any of the
8 conditions attached to the restricted license.

9 (e) Respondent shall not be eligible to apply for the issuance of
10 an unrestricted real estate license nor the removal of any of
11 the restrictions, conditions or limitations set forth herein
12 until one (1) year has elapsed from the date of issuance of
13 the restricted license to Respondent.

14 C. JURUPA REALTY, INC.

15 1. The license and license rights of Respondent JURUPA
16 REALTY, INC. under the provisions of Part 1 of Division 4 of the
17 Business and Professions Code are hereby revoked.

18 2. A restricted real estate broker license shall be
19 issued to Respondent JURUPA REALTY, INC. if, within 90 days after
20 the effective date of the Decision entered herein, said Respondent
21 makes application for said license and pays to the Department of
22 Real Estate the appropriate fee for said license.

23 3. The restricted license issued to Respondent JURUPA
24 REALTY, INC. shall be suspended for the ten (10) day period
25 commencing upon issuance of said restricted license. However, the
26 entire ten (10) days of the ten-day suspension period shall be
27 permanently stayed if, prior to the effective date of the Decision
herein, said Respondent petitions pursuant to Section 10175.2 of
the Code and pays to the Real Estate Recovery Account \$250.00 for
each day stayed for a maximum of \$2,500.00. The adoption of this
provision in the Decision of the Real Estate Commissioner shall
constitute a determination that it would not be against the public

1
2 interest to permit said Respondent to pay a monetary penalty.
3 Payment of the monetary penalty shall be by certified or cashier's
4 check made payable to the Department of Real Estate.

5 4. The restricted license issued to Respondent JURUPA
6 REALTY, INC. shall be subject to all of the provisions of Section
7 10156.7 of the Business and Professions Code and to the following
8 limitations, conditions and restrictions imposed under authority
9 of Section 10156.6 of the Code:

- 10 (a) For so long as said restricted license shall remain in
11 effect, Respondent shall submit to the Department of Real
12 Estate a Quarterly Trust Funds Position Statement as of the
13 last day of each March, June, September and December. The
14 Position Statement shall cover all trust funds subject to the
15 provisions of Section 10145 of the Code held by Respondent as
16 agent or as trustee. The Position Statement shall be
17 submitted to the District Manager of the Department's Santa
18 Ana office not later than 60 days following the last day of
19 each such calendar quarter.
- 20 (b) 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.

24 IV

25 EXECUTION OF STIPULATION

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

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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.

DATED: 3-21-92

Hubert Mack Hembree
HUBERT MACK HEMBREE
Respondent

DATED: 3-21-92

JURUPA REALTY, INC.
Respondent

Hubert Mack Hembree
By HUBERT MACK HEMBREE
Designated Officer

DATED: March 23, 1992

James L. Beaver
JAMES L. BEAVER, Counsel
Department of Real Estate

APPROVED AS TO FORM.

DATED: March 21, 1992

THOMAS LUEBS & MORT
Attorneys for Respondent
S. A. Nicolas III
By SAMUEL A. NICOLAS III, Esq.

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V

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 April 30, 1992.

It is so ordered 4/1, 1992.

CLARK WALLACE
Real Estate Commissioner



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James L. Beaver, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California, 90012

(213) 620-4790

AUG 12 1991

DEPARTMENT OF REAL ESTATE
BY *Sybil Williams*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	H-1223 SA
JURUPA REALTY, INC., a)	<u>NOTICE OF AMENDMENT</u>
a Corporation, and HUBERT MACK)	<u>TO ACCUSATION</u>
HEMBREE, individually and as)	
designated officer of Jurupa)	
Realty, Inc.,)	
Respondents.)	

NOTICE IS HEREBY GIVEN that on on August 8, 1991, the Accusation filed herein August 6, 1991 was amended by Complainant to change the incorrectly spelled name "Jarupa Realty, Inc." to its correct spelling, "Jurupa Realty, Inc." in each and every instance the name appears in the caption and text of said Accusation.

Dated: August 8, 1991

James L. Beaver

JAMES L. BEAVER
Counsel

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James L. Beaver, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California, 90012

(213) 620-4790

FILED
AUG-6 1991

DEPARTMENT OF REAL ESTATE
BY *Sybil Williams*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	H-1223 SA
JARUPA REALTY, INC., a)	
a Corporation, and HUBERT MACK)	<u>A C C U S A T I O N</u>
HEMBREE, individually and as)	
designated officer of Jarupa)	
Realty, Inc.,)	
Respondents.)	

The Complainant, THOMAS McCRADY, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against JARUPA REALTY, INC., a Corporation, and HUBERT MACK HEMBREE, individually and as designated officer of JARUPA REALTY, INC. (herein "Respondents"), is informed and alleges as follows:

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 (herein "the Code") as individual or corporate real estate brokers.

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II

The term "the Regulations" as used herein refers to provisions of Chapter 6, Title 10, California Code of Regulations.

III

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

IV

At all times mentioned herein, Respondent JARUPA REALTY, INC. (herein "JRI"), a California corporation, was and now is licensed by the Department of Real Estate of the State of California (herein "the Department") as a corporate real estate broker by and through HUBERT MACK HEMBREE (herein "HEMBREE") as the officer and broker responsible pursuant to the provisions of Section 10159.2(a) of the Code for supervising the activities requiring a real estate license conducted on behalf of JRI by JRI's officers and employees.

V

At all times mentioned herein, Respondent HEMBREE was and now is licensed by the Department individually as a real estate broker and as an officer of JRI.

VI

All further references herein to "Respondents" include the parties identified in Paragraphs IV and V above, and also include the officers, directors, employees, agents and real estate licensees employed by or associated with said parties and who at all times herein mentioned were engaged in the furtherance of the

1
2 business or operations of said parties and who were acting within
3 the course and scope of their authority and employment.

4 VII

5 At all times herein mentioned, Respondents engaged in
6 the business of, acted in the capacity of, advertised or assumed
7 to act as a real estate broker in the State of California within
8 the meaning of Sections 10131(a) and 10131(b) of the Code,
9 including:

10 (a) The operation of a real estate sale business with
11 the public wherein, on behalf of others and for compensation or in
12 expectation of compensation, Respondents sold or offered to sell,
13 bought or offered to buy, solicited prospective sellers or
14 purchasers of, solicited or obtained listings of, or negotiated
15 the purchase, sale or exchange of real property; and

16 (b) The operation of a property management business
17 with the public wherein, on behalf of others and for compensation
18 or in expectation of compensation, Respondents leased or rented or
19 offered for lease or rent or placed for rent, or solicited for
20 prospective tenants, or collected rents from real property or
21 improvements thereon.

22 VIII

23 At all times mentioned herein, in connection with the
24 activities described in Paragraph VII, above, Respondents accepted
25 or received funds in trust (herein "trust funds") from or on
26 behalf of actual or prospective parties to real estate sale or
27 property management transactions handled by Respondents and
thereafter made disbursement of such funds. From time to time

1 mentioned herein these trust funds were maintained by Respondents
2 in bank accounts, including but not necessarily limited to the
3 "Jarupa Realty Inc. dba Century 21 Hembree Property Management
4 Trust Acct", account number 5508056 (hereinafter "the property
5 management account"), maintained by Respondents at the Woodcrest
6 Branch of Valley Bank in the City of Riverside, California.
7

8 IX

9 On or about November 21, 1990, the Department completed
10 an examination of Respondent's books and records pertaining to the
11 real estate sale, property management, and trust fund handling
12 activities described in Paragraphs VII and VIII, above, for the
13 fourteen month period ending November 20, 1990, which revealed
14 violations of the Code and the Regulations as set forth in the
15 following paragraphs.

16 X

17 In connection with the trust funds described in
18 Paragraph VIII, Respondents acted in violation of the Code and the
19 Regulations in that:

20 (a) Respondents failed to timely deposit trust funds
21 into a neutral escrow depository, into the hands of a principal on
22 whose behalf the funds were received, or into a trust fund account
23 in the name of JRI as trustee, within one business day following
24 Respondents' receipt of the funds, thereby violating Section 10145
25 of the Code and Section 2832 of the Regulations;

26 (b) Respondents disbursed or caused or allowed the
27 disbursement of trust funds from the property management account,
where the disbursement of said funds reduced the funds in the

1
2 property management account to an amount which, on October 31,
3 1990, was approximately \$10,076.96 less than the existing
4 aggregate trust fund liability to all owners of said funds,
5 without first obtaining the written consent of every principal who
6 was an owner of said funds.

7 XI

8 In course of the real estate sale and property
9 management activities described in Paragraph VII, during the
10 fourteen month period ending November 20, 1990, Respondents acted
11 in violation of the Code and the Regulations in that:

12 (a) Respondents used the fictitious names "Century 21
13 Hembree" and "Century 21 Hembree Country" without first obtaining
14 a license from the Department bearing such fictitious names, as
15 required by Section 10159.5 of the Code in conjunction with
16 Section 2731 of the Regulations;

17 (b) Respondents filed to notify the Commissioner in
18 writing upon termination of JRI's relationship as employing broker
19 for ten or more real estate salespersons licensed under JRI as and
20 when prescribed by Section 10161.8(b) of the Code in conjunction
21 with Section 2710(c) of the Regulations;

22 (c) Respondents conducted business as real estate
23 brokers at 6515 Clay Street, Riverside, California, without first
24 obtaining a branch office license for that address as required by
25 Section 10163 of the Code, and without filing with the
26 Commissioner the address of such branch business office as and
27 when prescribed in Section 2710(c) and Section 2715 of the
Regulations.

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XII

The acts and omissions of Respondents described in Paragraphs X(a), X(b), and XI(a), inclusive, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>	
X(a)	Sec. 10145	of the Code, and
	Sec. 2832	of the Regulations;
X(b)	Sec. 2832.1	of the Regulations;
XI(a)	Sec. 10159.5	of the Code, and
	Sec. 2731	of the Regulations.

Each of the foregoing violations separately constitutes cause for the suspension or revocation of all real estate licenses and license rights of Respondents pursuant to the provisions of Section 10177(d) of the Code.

XIII

The acts and omissions of Respondents described in Paragraphs XI(b) and XI(c), above, constitute cause for the suspension or revocation of all real estate licenses and license rights of Respondents pursuant to the provisions of Sections 10165 and 10177(d) of the Code.

SECOND CAUSE OF ACCUSATION

XIV

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

XV

In connection with the activities described in Paragraph VII and VIII, above, during the fourteen month examination period described in Paragraph IX, above, Respondent HEMBREE failed to

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exercise reasonable supervision or control over the activities of JRI for which a license is required, in that:

(a) During such period HEMBREE violated Section 2725 of the Regulations by failing to review and initial instruments prepared or signed by real estate salespersons in connection with transactions for which a real estate license is required, which instruments may have a material effect upon the rights or obligations of a party to the transaction; and

(b) While serving as the designated officer of JRI, Respondent HEMBREE caused, allowed or permitted the conduct, acts or omissions of JRI, set forth hereinabove.

XVI

The acts and omissions of Respondent HEMBREE, as described in Paragraphs XIV and XV, hereinabove, constitute the failure to exercise the supervision and control required by Section 10159.2 of the Code over the licensed activities of JRI, and are cause for the suspension or revocation of all licenses and license rights of HEMBREE under the provisions of Section 10177 (h) of the Code.

XVII

On or about November 29, 1988, in Case No. H-23439 LA, then pending before the Department, an Order To Desist And Refrain was entered in accordance with the provisions of Section 10086 of the Code requiring Respondent HEMBREE to desist and refrain from accepting trust funds from others in the course of activities for which a real estate license is required unless and until said Respondent complied with Section 10145 of the Code and

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2 Sections 2832 and 2832.1 of the Code, among others, and further
3 requiring Respondent HEMBREE to desist and refrain from all
4 activities requiring a real estate license unless and until said
5 Respondent complied with Section 2725 of the Regulations and
6 Section 10159.2 of the Code. Said Order was thereafter filed and
7 served upon HEMBREE on or about November 29, 1988. HEMBREE's
8 conduct in failing to comply with Sections 10145 and 10159.2 of
9 the Code and Sections 2725, 2832 and 2832.1 of the Code, as
10 described hereinabove, after being ordered to desist and refrain
11 from said conduct violated Section 10086 of the Code; said
12 violation constitutes further cause for the suspension or
13 revocation of all licenses and license rights of HEMBREE under the
14 provisions of Section 10177(d) of the Code.

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

22
23 THOMAS McCRADY
24 THOMAS McCRADY
Deputy Real Estate Commissioner

25 Dated at Santa Ana, California .
26 this 6th day of August , 1991.

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