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FEB 08 1999

DEPARTMENT OF REAL ESTATE

By Jean Alonzo

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
JOAN INEZ HILBERS, )  
Respondent. )

No. H-3055 SAC

ORDER GRANTING REINSTATEMENT OF LICENSE

On July 5, 1995, an Order was rendered herein revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on August 2, 1995, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On July 29, 1998, 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.

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1 I have considered the petition of Respondent and the  
2 evidence and arguments in support thereof including Respondent's  
3 record as a restricted licensee. Respondent has demonstrated to  
4 my satisfaction that Respondent meets the requirements of law for  
5 the issuance to Respondent of an unrestricted real estate broker  
6 license and that it would not be against the public interest to  
7 issue said license to Respondent.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's petition  
9 for reinstatement is granted and that a real estate broker license  
10 be issued to Respondent if Respondent satisfies the following  
11 conditions within nine months from the date of this Order:

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

14 2. Submittal of evidence of having, since the most  
15 recent issuance of an original or renewal real estate license,  
16 taken and successfully completed the continuing education  
17 requirements of Article 2.5 of Chapter 3 of the Real Estate Law  
18 for renewal of a real estate license.

19 This Order shall be effective immediately.

20 DATED: January 15, 1999.  
21

22 JOHN R. LIBERATOR  
23 Acting Real Estate Commissioner

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FILED  
DEC 18 1995  
DEPARTMENT OF REAL ESTATE

*Laurie A. Zain*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
NORTHERN CALIFORNIA )  
MANAGEMENT, INC., )  
LEO JOSEPH SPECKERT, )  
JOAN INEZ HILBERS, )  
DENNIS HOWARD McNEIL, )  
Respondent. )

NO. H-3055 SAC

DECISION AFTER RECONSIDERATION

On October 24, 1995, a Decision was rendered herein by the Real Estate Commissioner which revoked the real estate licenses of LEO JOSEPH SPECKERT (hereinafter "Respondent") with the right to a restricted real estate broker license on specified terms and conditions including a continuing education requirement. Said Decision was to become effective on December 18, 1995.

On November 9, 1995, Respondent petitioned for Reconsideration of said Decision. I have considered the petition of Respondent and have concluded that good cause has been presented for reconsideration of the Decision of October 24, 1995,

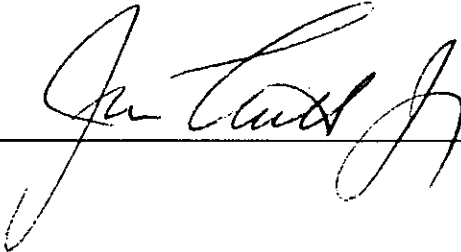
1 for the limited purpose of considering the continuing education  
2 requirement.

3 I have reconsidered said Decision and it is hereby  
4 ordered that the continuing education requirement therein imposed  
5 against the real estate broker license of Respondent be reduced by  
6 modifying the Order of said Decision to delete the paragraph  
7 II(4).

8 As hereby modified, the Decision of October 24, 1995,  
9 shall become effective as of 12 o'clock noon on  
10 January 8, 1996.

11 IT IS SO ORDERED 12/18, 1995.

12 JIM ANTT, JR.  
13 Real Estate Commissioner

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FILED  
NOV 15 1995  
DEPARTMENT OF REAL ESTATE

By Laurie A. Zin

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
NORTHERN CALIFORNIA )  
MANAGEMENT, INC., )  
LEO JOSEPH SPECKERT, )  
JOAN INEZ HILBERS, )  
DENNIS HOWARD McNEIL, )  
Respondents. )

NO. H-3055 SAC

ORDER STAYING EFFECTIVE DATE

On October 24, 1995, a Decision was rendered in the  
above-entitled matter to become effective November 16, 1995.

IT IS HEREBY ORDERED that the effective date of the  
Decision of October 24, 1995 as to LEO JOSEPH SPECKERT only is  
stayed for a period of thirty (30) days.

The Decision of October 24, 1995, as to LEO JOSEPH  
SPECKERT only shall become effective at 12 o'clock noon on  
December 18, 1995.

DATED: Nov. 13, 1995

JIM ANTT, JR.  
Real Estate Commissioner

Jim Antt, Jr.

FILED  
OCT 25 1995

DEPARTMENT OF REAL ESTATE

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

By Laurie A. Zain

\* \* \*

In the Matter of the Accusation of )  
NORTHERN CALIFORNIA )  
MANAGEMENT, INC., )  
LEO JOSEPH SPECKERT,, )  
JOAN INEZ HILBERS, )  
DENNIS HOWARD McNEIL, )  
Respondents. )

NO. H-3055 SAC

OAH NO. N-9411161

DECISION

The Proposed Decision dated September 22, 1995, 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 November 16, 1995.

IT IS SO ORDERED 10-24, 1995.

JIM ANTT, JR.  
Real Estate Commissioner

J. Antt Jr.

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation	)	
Against:	)	No. H-3055 SAC
	)	
NORTHERN CALIFORNIA MANAGEMENT, INC.	)	OAH No. N-9411161
LEO JOSEPH SPECKERT,	)	
JOAN INEZ HILBERS	)	
DENNIS HOWARD McNEIL,	)	
	)	
	)	
Respondents.	)	

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PROPOSED DECISION

On August 1, 1995, in Sacramento, California, John D. Wagner, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Complainant was represented by David A. Peters, Counsel, Department of Real Estate.

Respondent Leo Joseph Speckert and Dennis Howard McNeil represented themselves.

Prior to the hearing, Joan Inez Hilbers entered into a settlement with the Department. She was not a party in these proceedings.<sup>1</sup>

FINDINGS OF FACT

I

Complainant Charles W. Koenig made the Accusation in this matter in his official capacity as a Deputy Real Estate Commissioner of the State of California.

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<sup>1</sup> This Proposed Decision does not deal with any violation allegations in the Accusation applicable only to Ms. Hilbers.

## II

At all times herein mentioned:

A. Northern California Management, Inc. (Management) was licensed as a real estate broker corporation. Respondent Management's license was cancelled as of September 1, 1993.

B. Leo Joseph Speckert was licensed as a real estate broker. He was the designated broker-officer for respondent Management from in or about November 1988 through April 20, 1992; and from April 22, 1993, to September 1, 1993. His license expired on July 28, 1995, unless renewed.

C. Dennis Howard McNeil was licensed as a real estate salesperson. His license expires on May 5, 1997.

## III

Between October 19, 1991, and continuing to April 21, 1992, respondent Management and respondent Speckert, as the designated broker-officer for respondent Management, for or in expectation of compensation and acting on behalf of another or others, solicited prospective tenants for, negotiated rental agreements for, collected rents from and otherwise managed certain real properties.

## IV

During the property management activities described in Finding III, respondents Management and Speckert received and disbursed funds held in trust on behalf of others.

## V

During the period of time from October 19, 1991, and continuing through April 21, 1992, respondents Management and Speckert maintained the following trust fund accounts:

<u>Account Title &amp; No.</u>	<u>Bank</u>
Northern California Management, Inc. Property Trust Account No. 103462 ("Trust #1")	Foothill Community Bank/ Gold Country National Bank Live Oak, California
Northern California Management, Inc. Security Deposit Trust Account No. 2101416 ("Trust #2")	Foothill Community Bank/ Gold Country National Bank Live Oak, California



NCMI Shelter Cove Apartments  
No. 2102366  
("Trust #3")

Foothill Community Bank/  
Gold Country National Bank  
Live Oak, California

## VI

In connection with the collection and disbursement of said trust funds, respondents Management and Speckert failed to deposit and maintain said trust funds in said accounts in such manner that as of March 31, 1992, there was a minimum shortage of \$79,626.52 of trust funds.

## VII

In connection with the collection and disbursement of said trust funds, respondents Management and Speckert failed to obtain prior written consent of their principals for the reduction of the above aggregate balance of trust funds in said bank accounts to an amount less than the aggregate trust fund liability to the owners of said funds.

## VIII

In connection with the receipt and disbursement of trust funds in Trust #3, described in Finding V, respondents Management and Speckert permitted withdrawals to be made from said trust fund account by a person other than a salesperson licensed by respondents and authorized in writing by respondents to withdraw said funds. Respondent's bookkeeper could sign checks from trust #3, and only one signature was required for this account. This unlicensed employee was not covered by an adequate fidelity bond.

## IX

Beginning on April 21, 1992, and continuing through on or about November 25, 1992, respondent Management for or in expectation of a compensation and acting on behalf of others, solicited prospective tenants for, negotiated rental agreements for, collected rents from and otherwise managed certain real properties.

## X

During the course of the property management activities set forth in Finding IX, respondent Management received and disbursed funds held in trust on behalf of others.

XI

Beginning on or before April 21, 1992, and continuing through November 25, 1992, respondent Management maintained the trust fund accounts described in Finding V and the following trust fund account:

Account Title & No.

Bank

Northern California Management, Inc.  
Sunrise Center Apartments  
No. 1280001542  
("Trust #4")

Union Bank  
Citrus Heights, CA.

XII

In connection with the collection and disbursement of said trust funds, respondent Management failed to deposit and maintain said trust funds in said accounts in such manner that as of July 31, 1992, there was a shortage of \$164,246.07 of trust funds.

XIII

In connection with the collection and disbursement of said trust funds, respondent Management failed to obtain prior written consent of its principals for the reduction of the aggregate balance of trust funds in said bank accounts to an amount less than the aggregate trust fund liability to the owners of said funds.

XIV

It was not proved that in connection with the receipt and disbursement of trust funds, respondent Management permitted withdrawals to be made from trust fund account #4 by a person other than a salesperson licensed by respondent Management and authorized in writing by respondent Management to withdraw said funds.

XV

During the periods of time from October 19, 1991, (and prior thereto) to April 21, 1992, and from April 22, 1993, to September 1, 1993, respondent Management by and through respondent Speckert employed respondent McNeil pro forma as a real estate salesperson. In fact, respondent Speckert permitted respondent McNeil to operate his own property management business, respondent Northern California Management, Inc. Respondent Speckert failed to exercise reasonable supervision over respondent McNeil, and permitted respondent McNeil to

operate the property management business as if respondent McNeil were a licensed real estate broker. Respondent Speckert's failure to reasonably supervise the activities of respondents Management and McNeil for which a real estate license was required included the acts or omissions set forth in the following findings XVI, XVII and XVIII.

#### XVI

In connection with the property management business described in Finding XV, respondent Speckert failed to review, initial and date, within five (5) working days, all instruments having a material effect upon a party's rights or obligations prepared by respondent Speckert's employees, associates, or real estate salespersons.

#### XVII

In connection with the receipt and disbursement of trust funds in the trust fund accounts set forth in Findings V and XI, respondent Speckert, during the periods of time set out in Finding XV, permitted respondent McNeil to commingle with respondent McNeil's own money, the money of others which was received and held by him.

#### XVIII

Respondent Speckert failed to have a written agreement with his salesperson, respondent McNeil, dated and signed by the parties and covering material aspects of the relationship between the parties.

#### XIX

During the period of time between October 19, 1991, (and prior thereto) and September 1, 1993, respondent McNeil for and in expectation of a commission and acting on behalf of others, solicited prospective tenants for, negotiated rental agreements for, collected rents from and otherwise managed certain real properties.

#### XX

In connection with the property management activities set forth in Finding XIX, respondent McNeil received and disbursed trust funds and in so doing, respondent McNeil failed to immediately deliver the funds to his broker under whom he was licensed, or place the funds into the hands of the broker's principal, into a neutral escrow depository, or deposit the funds into the broker's trust fund account.

## XXI

In connection with the receipt and disbursement of trust funds described in Finding XX, respondent McNeil commingled with his own money or property, the money or property of others received and held by him. Respondent McNeil managed his own properties through trust accounts managed for the public, Trust #1 and #2. Rents and security deposits on properties wholly owned by respondent McNeil were deposited in these accounts.

## XXII

During the period of time set fourth in Finding XIX, and in connection with the property management activities set forth in said finding, respondent McNeil, while licensed as a real estate salesperson, engaged in property management activities for which a real estate broker license is required.

## XXIII

During the period of time set forth in Finding XIX, and in connection with the property Management activities set forth in said finding, respondent McNeil accepted compensation for acts for which a real estate license is required from persons other than the broker under whom respondent McNeil was employed.

## XXIV

Respondent Management began business on June 30, 1980. Its president and sole stock holder is respondent McNeil. It has had four separate broker-officers since its inception. Respondent Speckert became its broker-officer in 1988. He continued in this capacity until April 21, 1992. On this date Joan Hilbers became the broker-officer. She continued until July 27, 1992. On this date respondent Speckert again became the broker-officer. He continued until respondent Management's license was cancelled as of September 1, 1993.

In May 1993, respondent Management managed 70 single family dwellings and two apartment complexes for 70 owners. It collected rents, made mortgage payments, and paid other bills on the properties. It was also authorized by the owners to advertise the properties and screen the tenants.

Respondent Speckert is 69 years old and has been licensed as a real estate broker since 1971. He has never sold real estate. He is in the mortgage brokering business by himself and only employs a secretary. He became the broker-officer of respondent Management as a favor to respondent McNeil. His only compensation was having respondent McNeil provide a landscape maintenance company to mow and trim his residential lawns, a service valued at approximately \$100 per month.

Ms. Hilbers was employed full time by respondent Management (McNeil) beginning in January 1992 with a salary of \$2,000 per month. She was employed to acquire new management properties, to supervise these new properties, and to conduct training meetings for resident managers.

On February 5, 1992, respondent Management's bookkeeper left because of a disability. Respondent McNeil and Ms. Hilbers took over most of the bookkeeping functions until a replacement could be found. They became aware that there were shortages in the trust accounts. On March 23, 1992, they hired a new bookkeeper with an accounting degree to correct bookkeeping problems and to determine the amount of shortages. On July 28, 1992, Ms. Hilbers resigned and respondent McNeil allowed her to take the new business she had acquired with her to a newly formed property management company.

In the fall of 1992, respondent Management's internal audit had not yet been completed. The total amount of the shortages had not yet been determined. Respondent McNeil, however, began arrangements to fund the shortages. He borrowed money from a bank and a private lender, borrowed on his life insurance policies, and sold some assets. Respondent Speckert loaned him \$50,000.

Based upon two audits conducted by the Department of Real Estate, the minimum aggregate shortage in the trust accounts as of March 31, 1992 was \$79,627. By July 31, 1992, this had risen to \$164,246. On March 31, 1993, it was \$119,964. By May 14, 1993, it had been reduced to \$4,000. On August 31, 1993, there was a \$642 surplusage.

Most of the above shortages which could be identified, were not in accounts managed by respondents for the public. For example, as of July 31, 1992, when the total shortage was \$164,246, only three accounts owned by the public were identified with negative balances, totaling \$4,268. On March 31, 1993, when the total aggregate shortage was \$119,964, nine accounts owned by the public were identified with negative balances totaling \$3,437.

The first Department audit was conducted between April 19, 1993, and May 4, 1993. Prior to this audit, respondent McNeil was fully aware that there were substantial shortages in the trust accounts. He had already begun an audit to determine the amount of these shortages. He had also substantially funded them. No evidence was received to indicate that any of the shortages were the result of fraud or personal financial gain. Evidence was received that indicates they were the result of poor bookkeeping practices and record management. During the Department's audit, respondent McNeil cooperated completely with the Department's auditor, although his attorney had advised him

not to cooperate. During the audit, the Department's auditor found that respondents' new bookkeeper of 13 months was competent.

Respondent McNeil has been licensed as a salesperson for 19 years. He's been involved with property management since the creation of respondent Management in 1980. After correcting the shortages in the trust accounts of respondent Management, as set forth above, respondent McNeil sold his business to a completely separate and independent property management corporation in September 1993. Respondent McNeil agreed to work for the purchasing corporation for approximately 90 days. Because he is a hard worker and has done a good job for the new corporation he has been allowed to continue to work for the new corporation as a salesperson. Respondent McNeil acknowledges his past mistakes.

#### DETERMINATION OF ISSUES

Pursuant to the above Findings of Fact, the Administrative Law Judge makes the following Determination of Issues:

##### I

Cause for discipline of respondents Northern California Management, Inc., and Leo Joseph Speckert was established pursuant to section 10177(d) of the Business and Professions Code, for violation of section 10145 of said code, in conjunction with sections 2830, 2832.1 and 2834, title 10, of the California Code of Regulations, by reason of Findings VI, VII and VIII.

##### II

Cause for discipline of respondent Northern California Management, Inc., was established pursuant to section 10177(d) of the Business and Professions Code, for violation of section 10145 of said code, in conjunction with sections 2830 and 2834, title 10, of the California Code of Regulations, by reason of Findings XII, XIII, and XIV.

##### III

A. Cause for discipline of respondent Leo Joseph Speckert's license was established for violation of section 10177(h) in conjunction with 10159.2 of the Business and Professions Code, by reason of Findings XV, XVI, XVII and XVIII.

B. Said cause was established pursuant to section 10177(d) of the Business and Professions Code for violation of

section 2725, title 10, of the California Code of Regulations, by reason of Finding XVI.

C. Said cause was established pursuant to section 10177(d) of the Business and Professions Code for violation of section 2726, title 10, of the California Code of Regulations, by reason of Finding XVIII.

#### IV

Cause for discipline of respondent Dennis Howard McNeil's license was established pursuant to section 10177(d) of the Business and Professions Code as follows:

1. For violation of section 10145(c) of said code, by reason of Finding XX.

2. For violation of section 10176(e) of said code, by reason of Finding XXI.

3. For violation of section 10130 of said code, by reason of Finding XXII.

4. For violation of section 10137 of said code, by reason of Finding XXIII.

#### V

In view of the extenuation, mitigation and rehabilitation set forth in Finding XXIV, particularly the facts that respondents McNeil and Speckert had taken steps to fund trust account shortages prior to being audited by the Department of Real Estate and have fully cooperated with the Department, it would not be contrary to the public interest and welfare to issue them restricted licenses.

#### ORDER

Wherefore, the following order is hereby made:

#### I

All licenses and licensing rights of respondent Northern California Management, Inc., under the Real Estate Law are revoked.

#### II

All licenses and licensing rights of respondent Leo Joseph Speckert under the Real Estate Law are revoked; provided,

however, 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 the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of 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 that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner 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 the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until 3 years has elapsed from the effective date of this Decision.
4. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent 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. 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.

Delete



5. Respondent shall, within six months from the effective date of this Decision, 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 respondent's license until respondent passes the examination.
6. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of respondent and periodic summaries of salient information concerning each real estate transaction in which the respondent engaged during the period covered by the report.

### III

All licenses and licensing rights of respondent Dennis Howard McNeil under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson 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 the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of 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 that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to

the Commissioner 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 the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until 4 years have elapsed from the effective date of this Decision.
4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:
  - a. That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and
  - b. That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.
5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent 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. 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.
6. Respondent shall, within six months from the effective date of this Decision, 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 respondent's license until respondent passes the examination.

Dated: September 22, 1995

John D. Wagner  
JOHN D. WAGNER  
Administrative Law Judge  
Office of Administrative Hearings

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4  
5 Telephone: (916) 227-0789  
6  
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FILED  
JUL 13 1995  
DEPARTMENT OF REAL ESTATE

By *Laurie A. Zia*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )	
12 NORTHERN CALIFORNIA )	NO. H-3055 SAC
13 MANAGEMENT, INC., )	<u>STIPULATION AND</u>
14 LEO JOSEPH SPECKERT, )	<u>AGREEMENT IN</u>
15 JOAN INEZ HILBERS, )	<u>SETTLEMENT AND ORDER</u>
16 DENNIS HOWARD McNEIL, )	
17 Respondent. )	

18 It is hereby stipulated by and between JOAN INEZ HILBERS  
19 (hereinafter "Respondent"), and the Complainant, acting by and  
20 through David A. Peters, Counsel for the Department of Real  
21 Estate, as follows for the purpose of settling and disposing of  
22 the Accusation filed on October 31, 1994, as to respondent  
23 JOAN INEZ HILBERS only:

24 1. All issues which were to be contested and all  
25 evidence which was to be presented by Complainant and Respondent  
26 at a formal hearing on the Accusation, which hearing was to be  
27 held in accordance with the provisions of the Administrative  
Procedure Act (APA), shall instead and in place thereof be

H-3055 SAC

- 1 -

STIPULATION OF  
JOAN INEZ HILBERS

1 submitted solely on the basis of the provisions of this  
2 Stipulation and Agreement in Settlement.

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

7 3. On November 14, 1994, Respondent filed a Notice of  
8 Defense pursuant to Section 11505 of the Government Code for the  
9 purpose of requesting a hearing on the allegations in the  
10 Accusation. Respondent hereby freely and voluntarily withdraws  
11 said Notice of Defense. Respondent acknowledges that she  
12 understands that by withdrawing said Notice of Defense she will  
13 thereby waive her right to require the Commissioner to prove the  
14 allegations in the Accusation at a contested hearing held in  
15 accordance with the provisions of the APA and that she will waive  
16 other rights afforded to her in connection with the hearing such  
17 as the right to present evidence in defense of the allegations in  
18 the Accusation and the right to cross examine witnesses.

19 4. Respondent, pursuant to the limitations set forth  
20 below, hereby admits that the factual allegations in the Second  
21 Cause of Accusation, Paragraphs XI through XVI and in the Fourth  
22 Cause of Accusation, Paragraphs XXV through XXVIII of the  
23 Accusation filed in this proceeding are true and correct and the  
24 Real Estate Commissioner shall not be required to provide further  
25 evidence to prove such allegations.

26 ///

27 ///

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

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

18                               DETERMINATION OF ISSUES

19           By reason of the foregoing stipulations, admissions, and  
20 waivers and solely for the purpose of settlement of the pending  
21 Accusation without hearing, it is stipulated and agreed that the  
22 following determination of issues shall be made:

23   I

24           The acts and/or omissions of Respondent as described in  
25 Paragraphs XI through XVI and XXV through XXVIII of the  
26 Accusation, violate Section 10177(h) of the Business and  
27 Professions Code and Section 10177(d) of the Business and

1 Professions Code in conjunction with Section 10145 of the Business  
2 and Professions Code and Sections 2830, 2832.1, 2834, 2725 and  
3 2726 of Title 10, California Code of Regulations and are grounds  
4 for the suspension or revocation of the real estate license and  
5 all license rights of Respondent under the provisions of the Real  
6 Estate Law.

7 ORDER

8 I

9 A. The real estate broker license and all license  
10 rights of Respondent under the Real Estate Law are revoked.

11 B. A restricted real estate broker license shall be  
12 issued to Respondent pursuant to Business and Professions Code  
13 Section 10156.5, if Respondent makes application therefor and pays  
14 to the Department the appropriate fee for said license within  
15 ninety (90) days from the effective date of this ORDER.

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

21 (1) The license shall not confer any property right in  
22 the privileges to be exercised, and the Real Estate  
23 Commissioner may by appropriate order suspend the right  
24 to exercise any privileges granted under the restricted  
25 license in the event of:

26 (a) The conviction of Respondent (including a plea of  
27 nolo contendere) to a crime which bears a

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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, Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

(2) Respondent shall not be eligible to apply for  
issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until two (2) years have elapsed from the date of issuance of a restricted license to Respondent.

(3) Respondent shall not become or act as a designated broker officer for a real estate broker corporation.

(4) Prior to the effective date of this ORDER  
Respondent shall provide evidence satisfactory to the  
Real Estate Commissioner that the \$164,246.07 trust fund  
shortage alleged in Paragraph XIV of the Accusation has  
been cured.

D. 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 the suspension of the restricted license until Respondent passes the examination.



1 E. Any restricted real estate broker license issued to  
2 Respondent may be suspended or revoked for a violation by  
3 Respondent of any of the conditions attaching to the restricted  
4 license.

5 5/24/95  
6 DATED

David A. Peters  
7 DAVID A. PETERS, Counsel  
8 DEPARTMENT OF REAL ESTATE

9 \* \* \*

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

20 6/15/95  
21 DATED

Joan Inez Hilbers  
22 JOAN INEZ HILBERS  
23 Respondent

24 \* \* \*

25 The foregoing Stipulation and Agreement in Settlement  
26 is hereby adopted by the Real Estate Commissioner as Decision and  
27 Order and shall become effective at 12 o'clock noon on  
August 2, 1995.

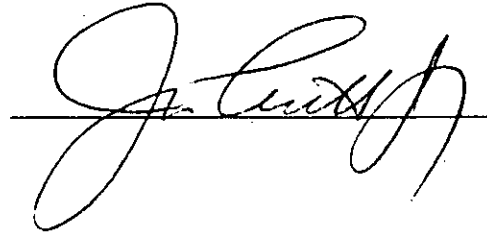
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IT IS SO ORDERED

7/5

, 1995.

JIM ANTT, JR.  
Real Estate Commissioner



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F I L E D  
DEC 12 1994

**BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

By Louise A. Zian

***In the Matter of the Accusation of***

NORTHERN CALIFORNIA MANAGEMENT, INC.,  
LEO JOSEPH SPECKERT,  
JOAN INEZ HILBERS,  
DENNIS HOWARD MCNEIL,

}

Case No. H-3055 SAC

OAH No. N9411161

*Respondent*

**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 the  
Office of Administrative Hearings, 501 J Street, Suite 220 (Second  
Floor Hearing Rooms), Sacramento, CA 95814

on Tuesday and Wednesday, August 1st and 2nd, 1995, at the hour of 9:00 AM,  
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission 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 Administrative Law Judge 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 Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: December 12, 1994

By David A. Peters  
DAVID A. PETERS *Counsel*

1 DAVID A. PETERS, Counsel  
2 Department of Real Estate  
3 P. O. Box 187000  
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789

FILED  
OCT 31 1994

DEPARTMENT OF REAL ESTATE

By Laurie A. Zia

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

11 In the Matter of the Accusation of )  
12 NORTHERN CALIFORNIA MANAGEMENT, )  
13 INC., )  
14 LEO JOSEPH SPECKERT, )  
15 JOAN INEZ HILBERS, )  
16 DENNIS HOWARD McNEIL, )  
17 \_\_\_\_\_ Respondents. )

NO. H-3055 SAC

ACCUSATION

16 The Complainant, Charles W. Koenig, a Deputy Real Estate  
17 Commissioner of the State of California, for cause of Accusation  
18 against NORTHERN CALIFORNIA MANAGEMENT, INC., (hereinafter  
19 "Respondent MANAGEMENT"); LEO JOSEPH SPECKERT (hereinafter  
20 "Respondent SPECKERT"); JOAN INEZ HILBERS (hereinafter "Respondent  
21 HILBERS"); and DENNIS HOWARD McNEIL (hereinafter "Respondent  
22 McNEIL"), is informed and alleges as follows:

FIRST CAUSE OF ACCUSATION

I

25 The Complainant, Charles W. Koenig, a Deputy Real Estate  
26 Commissioner of the State of California, makes this Accusation  
27 against Respondents in his official capacity.

II

Respondents MANAGEMENT, SPECKERT, HILBERS, and McNEIL are 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") as follows:

NORTHERN CALIFORNIA MANAGEMENT, INC. - at all times herein mentioned as a real estate broker corporation.

LEO JOSEPH SPECKERT - as a real estate broker and from on or about November 26, 1988 through on or about April 20, 1992 and from on or about April 22, 1993 through the present as designated broker-officer for Respondent MANAGEMENT.

JOAN INEZ HILBERS - as a real estate broker and from on or about April 21, 1992 through on or about November 25, 1992 as designated broker-officer for Respondent MANAGEMENT.

DENNIS HOWARD McNEIL - at all times herein mentioned as a real estate salesperson.

III

Within the three-year period immediately preceding the filing of this Accusation and continuing through on or about March 31, 1992, Respondent MANAGEMENT and Respondent SPECKERT as designated broker-officer for Respondent MANAGEMENT for or in expectation of a compensation and acting on behalf of another or others, solicited prospective tenants for, negotiated rental agreements for, collected rents from and otherwise managed certain real properties.

IV

During the course of the property management activities described in Paragraph III above, Respondents MANAGEMENT and SPECKERT received and disbursed funds held in trust on behalf of another or others.

V

Within the three-year period immediately preceding the filing of this Accusation and continuing through on or about March 31, 1992, Respondents MANAGEMENT and SPECKERT maintained the following trust fund accounts:

<u>Account Title &amp; No.</u>	<u>Bank</u>
Northern California Management, Inc. Property Trust Account No. 103462 (hereinafter "Trust #1")	Foothill Community Bank/ Gold Country National Bank Live Oak, California
Northern California Management, Inc. Security Deposit Trust Account No. 2101416 (hereinafter "Trust #2")	Foothill Community Bank/ Gold Country National Bank Live Oak, California
NCMI Shelter Cove Apartments No. 2102366 (hereinafter "Trust #3")	Foothill Community Bank/ Gold Country National Bank Live Oak, California

VI

In connection with the collection and disbursement of said trust funds, Respondents MANAGEMENT and SPECKERT failed to deposit and maintain said trust funds in said accounts in such manner that as of March 31, 1992, there was a shortage of \$79,626.52 of trust funds.

VII

In connection with the collection and disbursement of said trust funds, Respondents MANAGEMENT and SPECKERT failed to

1 obtain prior written consent of their principals for the reduction  
2 of the aggregate balance of trust funds in said bank account to an  
3 amount less than the aggregate trust fund liability to the owners  
4 of said funds.

5 VIII

6 In connection with the receipt and disbursement of trust  
7 funds described in Paragraph IV above, Respondents MANAGEMENT and  
8 SPECKERT permitted withdrawals to be made from said trust fund  
9 accounts described in Paragraph V above, by persons other than a  
10 salesperson licensed by Respondents and authorized in writing by  
11 Respondents to withdraw said funds in violation of Section 2834 of  
12 Title 10, California Code of Regulations (hereinafter  
13 "Regulations").

14 IX

15 The acts and/or omissions of Respondents MANAGEMENT and  
16 SPECKERT described above in this First Cause of Accusation are  
17 grounds for the suspension or revocation of the licenses and/or  
18 license rights of Respondents MANAGEMENT and SPECKERT under  
19 Section 10177(d) of the Code in conjunction with Section 10145 of  
20 the Code and Sections 2830, 2832.1 and 2834 of the Regulations.

21 In the alternative, the acts and/or omissions of  
22 Respondent SPECKERT, as designated broker-officer for Respondent  
23 MANAGEMENT, to exercise reasonable supervision and control over  
24 the licensed activities of Respondent MANAGEMENT required by  
25 Section 10159.2 of the Code is cause for the suspension or  
26 revocation of Respondent SPECKERT's licenses and/or license rights  
27 under Section 10177(h) of the Code.

SECOND CAUSE OF ACCUSATION

X

There is hereby incorporated in this Second, separate, and distinct, Cause of Accusation, all of the allegations contained in Paragraphs I and II of the First Cause of Accusation with the same force and effect as if herein fully set forth.

XI

Beginning on or about April 21, 1992 and continuing through on or about November 25, 1992, Respondent MANAGEMENT and Respondent HILBERS as designated broker-officer for Respondent MANAGEMENT for or in expectation of a compensation and acting on behalf of another or others, solicited prospective tenants for, negotiated rental agreements for, collected rents from and otherwise managed certain real properties.

XII

During the course of the property management activities described in Paragraph XI above, Respondents MANAGEMENT and HILBERS received and disbursed funds held in trust on behalf of another or others.

XIII

Beginning on or before April 21, 1992 and continuing through November 25, 1992, Respondents MANAGEMENT and HILBERS maintained the trust fund accounts described in Paragraph V above in the First Cause of Accusation and the following trust fund account:

///

///



<u>Account Title &amp; No.</u>	<u>Bank</u>
Northern California Management, Inc. Sunrise Center Apartments No. 1280001542 (hereinafter "Trust #4")	Union Bank Citrus Heights, CA.

XIV

In connection with the collection and disbursement of said trust funds, Respondents MANAGEMENT and HILBERS failed to deposit and maintain said trust funds in said accounts in such manner that as of July 31, 1992, there was a shortage of \$164,246.07 of trust funds.

XV

In connection with the collection and disbursement of said trust funds, Respondents MANAGEMENT and HILBERS failed to obtain prior written consent of their principals for the reduction of the aggregate balance of trust funds in said bank account to an amount less than the aggregate trust fund liability to the owners of said funds.

XVI

In connection with the receipt and disbursement of trust funds described in Paragraph XII above, Respondents MANAGEMENT and HILBERS permitted withdrawals to be made from said trust fund accounts described in Paragraphs V and XIII above, by persons other than a salesperson licensed by Respondents and authorized in writing by Respondents to withdraw said funds in violation of Section 2834 of the Regulations.

XVII

The acts and/or omissions of Respondents MANAGEMENT and HILBERS described above in this Second Cause of Accusation are

1 grounds for the suspension or revocation of the licenses and/or  
2 license rights of Respondents MANAGEMENT and HILBERS under Section  
3 10177(d) of the Code in conjunction with Section 10145 of the Code  
4 and Sections 2830, 2832.1 and 2834 of the Regulations.

5 In the alternative, the acts and/or omissions of  
6 Respondent HILBERS, as designated broker-officer for Respondent  
7 MANAGEMENT, to exercise reasonable supervision and control over  
8 the licensed activities of Respondent MANAGEMENT required by  
9 Section 10159.2 of the Code is cause for the suspension or  
10 revocation of Respondent HILBERS' licenses and/or license rights  
11 under Section 10177(h) of the Code.

12 THIRD CAUSE OF ACCUSATION

13 XVIII

14 There is hereby incorporated in this Third, separate,  
15 and distinct, Cause of Accusation, all of the allegations  
16 contained in Paragraphs I and II of the First Cause of Accusation  
17 with the same force and effect as if herein fully set forth.

18 XIX

19 Within the three year period immediately preceding the  
20 filing of this Accusation through on or about April 20, 1992 and  
21 from on or about April 22, 1993, and continuing thereafter,  
22 Respondent MANAGEMENT by and through Respondent SPECKERT employed  
23 Respondent McNEIL, pro forma, as a real estate salesperson. In  
24 fact, Respondent SPECKERT permitted Respondent McNEIL to operate  
25 his own property management business located in Yuba City,  
26 California under Respondent SPECKERT's real estate broker license.  
27 Respondent SPECKERT failed to exercise reasonable supervision over

1 Respondent McNEIL, and permitted Respondent McNEIL to operate the  
2 property management business in Yuba City, California as if  
3 Respondent McNEIL were a licensed real estate broker. Respondent  
4 SPECKERT's failure to reasonably supervise the activities of  
5 Respondents MANAGEMENT and SPECKERT for which a real estate  
6 license was required included, but is not limited to, the acts  
7 and/or omissions set forth below.

8 XX

9 In connection with the property management business  
10 described in Paragraph XIX above, Respondent SPECKERT failed to  
11 review, initial and date, within five (5) working days, all  
12 instruments having a material effect upon a party's rights or  
13 obligations prepared by Respondent SPECKERT's employees,  
14 associates, or real estate salespersons as required by Section  
15 2725 of the Regulations.

16 XXI

17 In connection with the receipt and disbursement of trust  
18 funds in the trust fund accounts described in Paragraphs V and  
19 XIII above, Respondent SPECKERT during the periods described in  
20 Paragraph XIX above, permitted Respondent McNEIL to commingle with  
21 Respondent McNEIL's own money, the money of others which was  
22 received and held by him.

23 XXII

24 Respondent SPECKERT failed to have a written agreement  
25 with his salesperson, Respondent McNEIL, dated and signed by the  
26 parties and covering material aspects of the relationship between  
27 the parties as required by Section 2726 of the Regulations.

XXIII

The acts and/or omissions of Respondent SPECKERT described above in this Third Cause of Accusation constitute failure on the part of Respondent SPECKERT, as designated broker-officer for Respondent MANAGEMENT, to exercise reasonable supervision and control over the licensed activities of his salespersons and of Respondent MANAGEMENT required by Section 10159.2 of the Code and are grounds for the suspension or revocation of Respondent SPECKERT's licenses and/or license rights under Section 10177(h) of the Code.

In the alternative, the acts and/or omissions of Respondent SPECKERT described above in this Third Cause of Accusation constitute negligence on the part of Respondent SPECKERT and are grounds for the suspension or revocation of Respondent SPECKERT's licenses and/or license rights under Section 10177(g) of the Code.

The acts and/or omissions of Respondents MANAGEMENT and SPECKERT described in Paragraphs XX and XXII above, are grounds for the suspension or revocation of all licenses and license rights of Respondents MANAGEMENT and SPECKERT under the Code and Regulations as follows:

- (1) As to Paragraph XX, under Section 10177(d) of the Code in conjunction with Section 2725 of the Regulations.
- (2) As to Paragraph XXII, under Section 10177(d) of the Code in conjunction with Section 2726 of the Regulations.

1 FOURTH CAUSE OF ACCUSATION

2 XXIV

3 There is hereby incorporated in this Fourth, separate  
4 and distinct, Cause of Accusation, all of the allegations  
5 contained in Paragraphs I and II of the First Cause of Accusation  
6 with the same force and effect as if herein fully set forth.

7 XXV

8 Beginning on or about April 21, 1992 and continuing  
9 through on or about November 25, 1992, Respondent MANAGEMENT by  
10 and through Respondent HILBERS employed Respondent McNEIL, pro  
11 forma, as a real estate salesperson. In fact, Respondent HILBERS  
12 permitted Respondent McNEIL to operate his own property management  
13 business located in Yuba City, California under Respondent  
14 HILBERS' real estate broker license. Respondent HIBLERS failed to  
15 exercise reasonable supervision over Respondent McNEIL, and  
16 permitted Respondent McNEIL to operate the property management  
17 business in Yuba City, California as if Respondent McNEIL were a  
18 licensed real estate broker. Respondent HILBERS' failure to  
19 reasonably supervise the activities of Respondents MANAGEMENT and  
20 McNEIL for which a real estate license was required included, but  
21 is not limited to, the acts and/or omissions set forth below.

22 XXVI

23 In connection with the property management business  
24 described in Paragraph XXV above, Respondent HILBERS failed to  
25 review, initial and date, within five (5) working days, all  
26 instruments having a material effect upon a party's rights or  
27 obligations prepared by Respondent HILBERS' employees, associates,

1 or real estate salespersons as required by Section 2725 of the  
2 Regulations.

3 XXVII

4 In connection with the receipt and disbursement of trust  
5 funds in the trust fund accounts described in Paragraphs V and  
6 XIII above, Respondent HILBERS during the periods described in  
7 Paragraph XXV above, permitted Respondent McNEIL to commingle with  
8 Respondent McNEIL's own money, the money of others which was  
9 received and held by him.

10 XXVIII

11 Respondent HILBERS failed to have a written agreement  
12 with her salesperson, Respondent McNEIL, dated and signed by the  
13 parties and covering material aspects of the relationship between  
14 the parties as required by Section 2726 of the Regulations.

15 XXIX

16 The acts and/or omissions of Respondent HILBERS  
17 described above in this Fourth Cause of Accusation constitute  
18 failure on the part of Respondent HILBERS, as designated broker-  
19 officer for Respondent MANAGEMENT, to exercise reasonable  
20 supervision and control over the licensed activities of her  
21 salespersons and of Respondent MANAGEMENT required by Section  
22 10159.2 of the Code and are grounds for the suspension or  
23 revocation of Respondent HILBERS' licenses and/or license rights  
24 under Section 10177(h) of the Code.

25 In the alternative, the acts and/or omissions of  
26 Respondent HILBERS described above in this Fourth Cause of  
27 Accusation constitute negligence on the part of Respondent HILBERS

1 and are grounds for the suspension or revocation of Respondent  
2 HILBERS' licenses and/or license rights under Section 10177(g) of  
3 the Code.

4 The acts and/or omissions of Respondents MANAGEMENT and  
5 HILBERS described in Paragraphs XXVI and XXVIII above, are grounds  
6 for the suspension or revocation of all licenses and license  
7 rights of Respondents MANAGEMENT and HILBERS under the Code and  
8 Regulations as follows:

9 (1) As to Paragraph XXVI under Section 10177(d) of  
10 the Code in conjunction with Section 2725 of  
11 the Regulations.

12 (2) As to Paragraph XXVIII under Section 10177(d)  
13 of the Code in conjunction with Section 2726  
14 of the Regulations.

15 FIFTH CAUSE OF ACCUSATION

16 XXX

17 There is hereby incorporated in this Fifth, separate and  
18 distinct, Cause of Accusation, all of the allegations contained in  
19 Paragraphs I and II of the First Cause of Accusation with the same  
20 force and effect as if herein fully set forth.

21 XXXI

22 Within the three-year period immediately preceding the  
23 filing of this Accusation, Respondent McNEIL for or in expectation  
24 of a compensation and acting on behalf of another or others,  
25 solicited prospective tenants for, negotiated rental agreements  
26 for, collected rents from and otherwise managed certain real  
27 properties.

XXXII

1  
2 In connection with the property management activities  
3 described in Paragraph XXXI above, Respondent McNEIL received and  
4 disbursed trust funds and in so doing, Respondent McNEIL failed to  
5 immediately deliver the funds to his broker under whom he was  
6 licensed, place the funds into the hands of the broker's  
7 principal, into a neutral escrow depository, or deposit the funds  
8 into the broker's trust fund account in violation of Section  
9 10145(c) of the Code.

XXXIII

10  
11 In connection with the receipt and disbursement of trust  
12 funds described in Paragraph XXXII above, Respondent McNEIL  
13 commingled with his own money or property, the money or property  
14 of others received and held by him in violation of Section  
15 10176(e) of the Code.

XXXIV

16  
17 Within the three-year period immediately preceding the  
18 filing of this Accusation, in connection with the property  
19 management activities described in Paragraph XXXI above,  
20 Respondent McNEIL while licensed as a real estate salesperson  
21 engaged in property management activities for which a real estate  
22 broker license is required in violation of Section 10130 of the  
23 Code.

XXXV

24  
25 Within the three-year period immediately preceding the  
26 filing of this Accusation, in connection with the property  
27 management activities described in Paragraph XXXI above,



1 Respondent McNEIL accepted compensation for acts for which a real  
2 estate license is required from persons other than the broker  
3 under whom Respondent McNEIL was employed in violation of Section  
4 10137 of the Code.

5 XXXVI

6 The acts and/or omissions of Respondent McNEIL described  
7 in this Fifth Cause of Accusation are grounds for the suspension  
8 or revocation of all licenses and/or license rights of Respondent  
9 McNEIL under Sections 10176(e) and 10137 of the Code, and Section  
10 10177(d) of the Code in conjunction with Sections 10145(c) and  
11 10130 of the Code.

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

19  
20   
21 CHARLES W. KOENIG  
22 Deputy Real Estate Commissioner

23 Dated at Sacramento, California,  
24 this 19th day of October, 1994.