

FILED
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1 ANNETTE E. FERRANTE, Counsel (SBN 258842)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

DEPARTMENT OF REAL ESTATE
By [Signature]

4 Telephone: (916) 227-0789
5 -or- (916) 227-0788 (Direct)
6 Fax: (916) 227-9458

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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12 In the Matter of the Accusation of)
13 CAL-PROP MANAGEMENT, INC.) NO. H-4249 SD
14 and RICHARD NEIL THORNTON,) ACCUSATION
15 Respondents.)
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17 The Complainant, PHILLIP IHDE, in his official capacity as a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation against CAL-PROP
19 MANAGEMENT, INC. (hereinafter "CPMI"), and RICHARD NEIL THORNTON (hereinafter
20 "THORNTON") (collectively referred to herein as "Respondents"), is informed and alleges as
21 follows:

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23 CPMI is presently licensed by the Department of Real Estate (hereinafter "the
24 Department") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the
25 Business and Professions Code (hereafter "the Code"), as a real estate corporation, acting by and
26 through THORNTON as its designated officer.

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2 THORNTON is presently licensed by the Department and/or has license rights under
3 the Real Estate Law, Part 1 of Division 4 of the Code, as the designated officer of CPMI.

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5 At all times herein mentioned, THORNTON was licensed by the Department as the
6 designated officer of CPMI. As the designated officer, THORNTON was responsible, pursuant to
7 Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate
8 licensees and employees of CPMI for which a real estate license is required.

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10 Whenever reference is made in an allegation in this Accusation to an act or omission
11 of CPMI, such allegation shall be deemed to mean that the employees, agents and real estate
12 licensees employed by or associated with CPMI committed such act or omission while engaged in
13 furtherance of the business or operations of CPMI and while acting within the course and scope of
14 their authority and employment.

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16 At all times relevant herein, CPMI engaged in the business of, acted in the capacity
17 of, advertised, or assumed to act as a corporate real estate broker within the State of California on
18 behalf of others, for compensation or in expectation of compensation within the meaning of Section
19 10131(b) of the Code, including the leasing or renting or offer to lease or rent, or placing for rent, or
20 solicitation of listings of places for rent, or solicitation of prospective tenants, or negotiation of the
21 sale, purchase or exchanges of leases on real property, or on a business opportunity, or collection of
22 rents from real property, or improvements thereon, or from business opportunities.

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1 PRIOR ADMINISTRATIVE PROCEEDINGS

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3 Effective November 15, 2006, in Case No. H-3471 SD, pursuant to a Stipulation and
4 Agreement in Settlement and Order, the Real Estate Commissioner suspended CPMI and
5 THORNTON's licenses for thirty (30) days, and stayed the suspension for two (2) years. The stay
6 became permanent on or about November 15, 2008.

7 FIRST CAUSE OF ACTION

8 As To Respondent CPMI

9 Audit Period November 15, 2006 through March 31, 2009

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11 Each and every allegation in Paragraphs 1 through 6, inclusive, above, is
12 incorporated by this reference as if fully set forth herein.

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14 Beginning on or about February 13, 2009, and continuing intermittently until May
15 19, 2009, an audit was conducted at CPMI's main office location on Bayard Street in San Diego,
16 California, wherein the Auditor examined CPMI's records for the period of November 15, 2006
17 through March 31, 2009 (hereinafter "the audit period").

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19 While acting as real estate broker as described in Paragraph 5, above, and within the
20 audit period, CPMI accepted or received funds in trust (hereinafter "trust funds") from or on behalf
21 of owners, tenants and others in connection with the rental or lease of residential property, for or in
22 expectation of compensation, as alleged herein, and thereafter from time-to-time made
23 disbursements of said trust funds.

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25 The trust funds accepted or received by CPMI as described in Paragraph 9, above,
26 were deposited or caused to be deposited by CPMI into a trust account which was maintained by

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1 CPMI for the handling of trust funds, and thereafter from time-to-time CPMI made disbursements
2 of said trust funds, identified as follows:

TRUST ACCOUNT # 1	
3 Bank Name and Location:	San Diego Trust Bank, 2550 5 th Avenue, San Diego, CA 92103
4 Account No.:	Last 4 Digits: 2124
5 Entitled:	"Cal-Prop Management Inc Trust Account"
6 Signatories:	Richard N. Thornton (D.O.) Teresa M. Jackson (Unlicensed)
7 Withdrawal Requirements:	One signature.

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12 In the course of the activities described in Paragraph 5, above, and within the audit
13 period, CPMI:

- 14 (a) caused, suffered, or permitted the balance of funds in Trust Account #1 to be
15 reduced to an amount which, as of February 28, 2009, was approximately
16 \$260,661.10 less than the aggregate liability of Trust Account #1 to all
17 owners of such funds, without the prior written consent of each and every
18 owner of such funds, in violation of Section 10145 of the Code and Section
19 2832.1 of Title 10 of the California Code of Regulations (hereafter "the
20 Regulations");
- 21 (b) failed to reconcile the total of separate beneficiary records with a control
22 record on a monthly basis for Trust Account #1, in violation of Section 10145
23 of the Code and Section 2831.2 of the Regulations;
- 24 (c) allowed an unlicensed individual, Teresa M. Jackson, to appear as a signatory
25 on Trust Account #1, without first obtaining fidelity bond coverage at least
26 equal to the maximum amount of the trust funds to which the unlicensed

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1 individual had access at any time, in violation of Section 10145 of the Code,
2 and Section 2834 of the Regulations; and

3 (d) failed to comply with findings noted in the Stipulation and Agreement in
4 Settlement and Order in Department Case No. H-3471 SD, which became
5 effective November 15, 2006, specifically Sections 2831.2, 2832.1 and 2834
6 of the Regulations and Section 10145 of the Code.

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8 The acts and/or omissions of CPMI as alleged in Paragraph 11, above, constitute
9 grounds for discipline of all licenses and license rights of CPMI pursuant to Sections 10177(d)
10 (Willful Disregard/Violation of Real Estate Law) and/or Section 10177(g)
11 (Negligence/Incompetence in Performing Act Requiring License) of the Code.

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13 The acts and/or omissions of CPMI as alleged in Paragraph 11, above, entitle the
14 Department to reimbursement of the costs of its audit pursuant to Section 10148 (Reimbursement
15 for Cost of Audit for Trust Fund Handling Violation) of the Code.

16 SECOND CAUSE OF ACTION
17 As To Respondent THORNTON,

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19 Each and every allegation in Paragraphs 1 through 13, inclusive, above, is
20 incorporated by this reference as if fully set forth herein.

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22 THORNTON, as the designated officer of CPMI, was required to exercise reasonable
23 supervision and control over the activities of CPMI and its employees pursuant to Section 10159.2
24 (Reasonable Supervision by Designated Officer) of the Code.

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26 THORNTON failed to exercise reasonable supervision over the acts and/or
27 omissions of CPMI and its employees in such a manner as to allow the acts and/or omissions as

1 described in Paragraph 11, above, to occur, which constitutes cause for the suspension or revocation
2 of the licenses and license rights of THORNTON under Sections 10177(d) (Willful
3 Disregard/Violation of Real Estate Law) and/or 10177(g) (Negligence/Incompetence in Performing
4 Act Requiring License) of the Code, and Sections 10177(h) (Failure to Exercise Reasonable
5 Supervision) and 10159.2 (Reasonable Supervision by Designated Officer) of the Code.

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

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14 PHILLIP IHDE
Deputy Real Estate Commissioner

15 Dated at Sacramento, California,
16 this 2ND day of DECEMBER, 2011.
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