	FILED
1	DEPARTMENT OF REAL ESTATE
2	P. O. Box 187007 October 31, 2012
3	Sacramento, CA 95818-7007 DEPARTMENT OF REAL ESTATE
4	Telephone: (916) 227-0789
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8	BEFORE THE STATE OF CALIFORNIA
9	DEPARTMENT OF REAL ESTATE
10	* * *
11	To: )
12	MATHIS & ASSOCIATES INC. and ) No. H-5903 SAC
13	BARRY VANCE MATHIS
14	(B&P Code Section 10086)
15	
16	The Real Estate Commissioner (Commissioner) of the California Department of
17	Real Estate (Department) caused an investigation to be made of the activities of MATHIS &
18	ASSOCIATES INC. (M&A) and BARRY VANCE MATHIS (MATHIS). Based on that
19	investigation, the Commissioner has determined that M&A and MATHIS have engaged in, are
20	engaging in, or are attempting to engage in, acts or practices constituting violations of the
21	California Business and Professions Code (Code) and/or Title 10, Chapter 6, of the California
22	Code of Regulations (Regulations), including, but not limited to the embezzlement,
23	misappropriation or conversion of trust funds, commingling of trust funds with personal or
24	business funds, and causing a trust fund shortage to occur in one or more trust accounts, all in
25	violation of Sections 10145, 10176(e), 10176(i), 10177(d), and/or 10177(g) of the Code, and
26	Section 2832.1 of Title 10 of the Regulations.
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	ORDER TO DESIST AND REFRAIN - 1 - MATHIS & ASSOCIATES INC., ET AL

1	Furthermore, based on the investigation, the Commissioner hereby issues the
2	following Findings of Fact, Conclusions of Law, and Desist and Refrain Order under the
3	authority of Section 10086 of the Code.
4	Whenever acts referred to below are attributed to M&A and MATHIS those acts
5	are alleged to have been done by MATHIS, acting by himself, or by and/or through one or more
6	agents, associates, affiliates, and/or co-conspirators, including, but not limited to MATHIS.
7	FINDINGS OF FACT
8	1. M&A was and is licensed by the Department as a corporate real estate broker.
9	At all times mentioned, M&A was and is acting by and through MATHIS, as its designated
10	officer broker.
11	2. MATHIS was and is licensed by the Department individually as a real estate
12	broker, and as the designated broker officer of M&A. As said designated officer-broker,
13	MATHIS was and is responsible pursuant to Section 10159.2 of the Code for the supervision of
14	the activities of the officers, agents, real estate licensees, and employees of M&A for which a
15	license is required.
16	3. At all times mentioned, M&A and MATHIS negotiated to do one or more of
17	the following acts for another or others, for or in expectation of compensation, within the
18	meaning of Section 10131(b) of the Code: lease or rent or offer to lease or rent; place for rent;
19	solicit listings of places for rent; solicit for prospective tenants; negotiate the sale, purchase or
20	exchange of leases on real property, or on a business opportunity; collect rents from real
21	property, or improvements thereon, or from business opportunities.
22	4. In so acting as a real estate broker, as described in Paragraph 3, M&A and
23	MATHIS accepted or received funds in trust (trust funds) from or on behalf of owners, tenants,
24	and others in connection with the leasing, renting, and collection of rents on real property or
25	improvements thereon.
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	ORDER TO DESIST AND REFRAIN - 2 - MATHIS & ASSOCIATES INC., ET AL

1	5. The trust funds accepted or received by M&A and MATHIS were deposited
2	or caused to be deposited into one or more bank or trust accounts (trust accounts) maintained for
3	the handling of trust funds at Mechanics Bank, including but not limited to the following:
4	Account Number (Last 4 Digits)
5	XXXX6342
6	6. In connection with the property management activities described in Paragraph
7	3, M&A and MATHIS:
8	(a) caused, suffered, or permitted the balance of funds in the trust accounts
. 9	identified in Paragraph 5, to be reduced to an amount which, as of March 30, 2012, was
10	approximately \$153,677.45 less than the aggregate liability of those trust accounts to all owners
11	of such funds, without the prior written consent of each and every owner of such funds, in
12	violation of Sections 10145 (Trust Fund Handling) of the Code and Section 2832.1 (Trust Fund
13	Shortage) of the Regulations;
14	(b) misappropriated and/or converted for personal use trust funds totaling at
15	least \$100,000 from the trust accounts identified in Paragraph 5, in violation of Sections 10145
16	(Trust Fund Handling) and 10176(i) (Fraud or Dishonest Dealing) of the Code; and
17	(c) caused, suffered or permitted money of others, trust funds, which were
18	received and held by M&A and MATHIS in the trust accounts identified in Paragraph 5, to be
19	commingled with M&A and MATHIS's own money, in violation of Section 10176(e)
20	(Commingling of Trust Funds) of the Code.
21	7. The acts and/or omissions of M&A and MATHIS as described in Paragraph
22	6, constitute the violation of Section 10177(d) (Willful Disregard for Real Estate Law), 10176(i)
23	(Fraud or Dishonest Dealing), and/or Section 10177(g) (Negligence or Incompetence) of the
24	Code, in conjunction with the violations described above.
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	ORDER TO DESIST AND REFRAIN - 3 - MATHIS & ASSOCIATES INC., ET AL

1	CONCLUSIONS OF LAW
2	Based on the Findings of Fact contained in Paragraphs 1 through 7, M&A and
3	MATHIS, acting by himself, or by and/or through one or more agents, associates, affiliates,
4	and/or co-conspirators, including, but not limited to MATHIS, violated Sections 10145,
5	10176(e), 10176(i), 10177(d), and/or 10177(g) of the Code, and Section 2832.1 of the
6	Regulations.
7	DESIST AND REFRAIN ORDER
8	Based on the Findings of Fact and Conclusions of Law stated herein, MATHIS &
9	ASSOCIATES INC. and BARRY VANCE MATHIS, whether doing business under your own
10	name, or any other names or fictitious names, ARE HEREBY ORDERED to immediately Desist
11	and Refrain from collecting and disbursing trust funds in any form and under any condition from
12	any trust fund account or any other bank account in which trust funds are held, including but not
13	limited to the trust accounts identified in Paragraph 5 and described in the Findings of Fact,
14	above.
15	DATED: $10/24/20/2-$
16	REAL ESTATE COMMISSIONER
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18	Alth
19	By WAYNE S. BELL Chief Counsel
20	(Caller Coulise)
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	ORDER TO DESIST AND REFRAIN -4 - MATHIS & ASSOCIATES INC., ET AL