

Flag

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FILED
AUG 14 1992

DEPARTMENT OF REAL ESTATE

By Agda Montiel

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
DONALD GENE HARDEN,)
Respondent.)

No. H-6035 SF

ORDER GRANTING REINSTATEMENT OF LICENSE

On January 26, 1990, a Decision 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 April 2, 1990 and Respondent has
operated as a restricted licensee without cause for disciplinary
action against Respondent since that time.

On April 10, 1991, 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 the petition.

/ / / / /

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 him.

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 him if he satisfies the following condition within
11 six (6) 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.

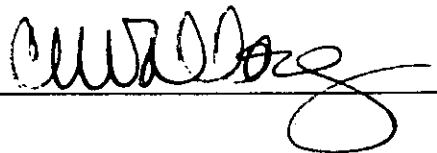
14 2. Submittal of evidence of having, since the most
15 recent issuance of an original or renewal real estate license,
16 taken and successfully completed the continuing education
17 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
18 for renewal of a real estate license.

19 This Order shall become effective immediately.

20 DATED: _____

6/25/92

21 CLARK WALLACE
22 Real Estate Commissioner

23 
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COPY

FILED
AUG 14 1992

DEPARTMENT OF REAL ESTATE

By *Sydney Montiel*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
BARBARA SCHAUDRA,)
Respondent.)

No. H-6035 SF

ORDER GRANTING REINSTATEMENT OF LICENSE

On January 26, 1990, a Decision was rendered herein
revoking the real estate salesperson license of Respondent, but
granting Respondent the right to the issuance of a restricted real
estate salesperson license. A restricted real estate salesperson
license was issued to Respondent on April 2, 1990 and Respondent
has operated as a restricted licensee without cause for
disciplinary action against Respondent since that time.

On April 10, 1991, Respondent petitioned for
reinstatement of said real estate salesperson license and the
Attorney General of the State of California has been given notice
of the filing of the petition.

/ / / / /

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
6 salesperson license and that it would not be against the public
7 interest to issue said license to her.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
9 for reinstatement is granted and that a real estate salesperson
10 license be issued to her if she satisfies the following condition
11 within six (6) months from the date of this Order:

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

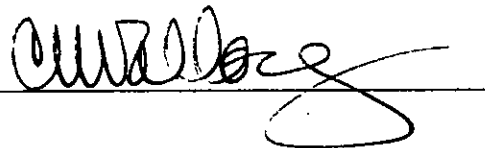
14 2. Submittal of evidence of having, since the most
15 recent issuance of an original or renewal real estate license,
16 taken and successfully completed the continuing education
17 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
18 for renewal of a real estate license.

19 This Order shall become effective immediately.

20 DATED: _____

6/25/92

21 CLARK WALLACE
22 Real Estate Commissioner

23 
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COPY

FILED
MAR 12 1990
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

Victoria Allon

STATE OF CALIFORNIA

In the Matter of the Accusation of)
HARVEST PROPERTY MANAGEMENT, INC.,)
DONALD GENE HARDEN, and)
BARBARA SCHAUDRA,)
Respondent(s).)

No. H-6035 SF

DECISION

The Proposed Decision dated November 29, 1989
of Robert E. McCabe, Regional Manager, Department of Real
Estate, State of California, is hereby adopted as the Decision of
the Real Estate Commissioner in the above-entitled matter.

The Decision shall become effective at 12 o'clock noon
on April 2, 1990.

IT IS SO ORDERED January 26, 1990.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

John R. Liberator
BY: John R. Liberator
Chief Deputy Commissioner

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-6035 SF
)
HARVEST PROPERTY MANAGEMENT, INC.,)
DONALD GENE HARDEN, and)
BARBARA SCHAUDRA,)
)
Respondents.)
)

PROPOSED DECISION

This matter was presided over as an uncontested case by Robert E. McCabe, Regional Manager, Department of Real Estate, as the designee of the Real Estate Commissioner, in San Francisco, California on November 29, 1989.

Deidre L. Johnson, Counsel, represented the Complainant.

Respondents HARVEST PROPERTY MANAGEMENT, INC., DONALD GENE HARDEN, and BARBARA SCHAUDRA, nor their attorney Charles R. Keller were present at the hearing and written Stipulations on their behalf were introduced into evidence.

Based upon said stipulations, the following decision is proposed, certified and recommended for adoption:

FINDINGS OF FACT

FIRST CAUSE OF ACTION

I

Edward V. Chiolo made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California, and not otherwise.

II

At all times herein mentioned, Respondent HARVEST PROPERTY MANAGEMENT, INC. was licensed as a real estate broker acting by and through Respondent DONALD GENE HARDEN as its designated broker-officer, and said license expires August 17, 1992.

III

At all times herein mentioned, DONALD GENE HARDEN was licensed as a real estate broker, and as the broker/officer of Respondent HARVEST PROPERTY MANAGEMENT, INC.; said individual license expires July 31, 1991, and said license as the designated broker-officer expires August 17, 1992. Respondent DONALD GENE HARDEN was also licensed as the designated broker-officer of Don Harden, Inc., a corporate real estate broker. This license expires on September 27, 1991.

IV

At all times herein mentioned, Respondent BARBARA SCHAUDRA was licensed as a real estate salesperson acting in the employ of HARVEST PROPERTY MANAGEMENT, INC., and said license expired September 11, 1988, and she now has the right of late renewal thereof.

V

Beginning in or before June, 1986, Respondent HARVEST PROPERTY MANAGEMENT, INC., acting on behalf of others and for or in expectation of compensation, managed certain rental real properties located in the State of California. Respondent DONALD GENE HARDEN was the President and Chief Executive Officer of said corporation, and Respondent BARBARA SCHAUDRA was the Chief Financial Officer of said corporation.

VI

During the course of the property management activities described above, Respondents maintained general trust account No. 01-233261 at the Bank of Salinas, 301 Main Street, Salinas, California; and Respondents received, deposited and disbursed funds to and from this account which consisted primarily of rental incomes and owner expense funds to be held in trust on behalf of others.

VII

During the course of the property management activities described above, Respondents maintained money market account No. 01-233253 at said Bank of Salinas; and Respondents received, deposited and disbursed funds to and from this account, which consisted primarily of security deposits to be held in trust on behalf of others.

VIII

In connection with the collection and/or disbursement of the trust funds referred to in Paragraph VI and VII above, Respondents failed to deposit and maintain said funds in both of said bank accounts in such a manner that as of September 30, 1987, there was a shortage of approximately \$21,631.70 of trust funds in said accounts.

IX

Respondents failed to obtain the prior written consent of the owners of the funds for the reduction of the aggregate balance of trust funds in said bank accounts to an amount less than the existing aggregate trust fund liability to the owners of said funds.

SECOND CAUSE OF ACTION

X

There is hereby incorporated into this second, separate and distinct cause of action, all of the findings contained in Paragraphs I through VII of the first cause of action as if herein set forth in full.

XI

The money market account described in Paragraph VII above was an interest bearing account, in which security deposit trust funds belonging to many owners of the real properties managed and serviced by Respondents were commingled, and as of September 30, 1987, the total liability for said security deposit trust funds was about \$48,598.00.

XII

Said money market account earned interest periodically over a period of years, and as of September 30, 1987, interest earned on said account totaled about \$6,593.89, of which about \$5,555.91 inured directly or indirectly to the benefit of Respondents and not to the owners of the funds.

THIRD CAUSE OF ACTION

XIII

There is hereby incorporated into this third, separate and distinct cause of action, all of the findings contained in Paragraphs I through VII of the first cause of action as if herein set forth in full.

XIV

In connection with the management of rental real properties and services to property owners described above, Respondents utilized a written property management agreement, upon the expiration of which a written "Extension of Management Contract" would be entered into between Respondents and property owners, and said extension contract provided in pertinent part as follows: "Terms: Renewed until cancelled by 30 days notice from either party."

XV

On or about August 21, 1987, an Extension of Management Contract was entered into between Respondents and Arthur and Phyllis Holmes, to extend Respondents' management of certain real property owned by them at 1337 Garner Avenue, Salinas; and said extension contract contained the cancellation terms set forth in Paragraph XIV above.

XVI

The property management agreements referred to in Paragraphs XIV and XV above, as extended, do not contain a definite, specified date of final and complete termination as required by Section 10176(f) of the Code.

FOURTH CAUSE OF ACTION

XVII

There is hereby incorporated into this fourth, separate and distinct cause of action all of the findings contained in Paragraphs I through VII of the first cause of action as if herein set forth in full.

XVIII

From about June 26, 1986, through September 30, 1987, Respondents allowed withdrawals to be made from both of said trust accounts upon the signatures of persons not licensed in the employ of a real estate broker at the time, and/or persons unlicensed by the Department of Real Estate and without fidelity bond coverage at least equal to the maximum amount of the trust funds to which said persons had access during the time period, including but not limited to Jan Taylor and Bonnie Pere.

DETERMINATION OF ISSUES

I

The acts and/or omissions of Respondents HARVEST

PROPERTY MANAGEMENT, INC. and DONALD GENE HARDEN as found in the first cause of action above are in violation of Section 10145(a) of the Code, and Section 2832.1 of Title 10 of the California Code of Regulations (hereinafter the Regulations), and constitute grounds for disciplinary action pursuant to Section 10177(d) of the Code.

II

The acts and/or omissions of Respondent BARBARA SCHAUDRA as found in the first cause of action constitute grounds for disciplinary action pursuant to the provisions of Section 10177(g) of the Code.

III

The acts and/or omissions of Respondents HARVEST PROPERTY MANAGEMENT, INC. and DONALD GENE HARDEN as found in the second cause of action were in violation of Section 10145(d) of the Code, and constitute grounds for disciplinary action pursuant to the provisions of Section 10177(d) of the Code.

IV

The acts and/or omissions of Respondent BARBARA SCHAUDRA as found in the second cause of action constitute grounds for disciplinary action pursuant to the provisions of Section 10177(g) of the Code.

V

The acts and/or omissions of Respondents HARVEST PROPERTY MANAGEMENT, INC., DONALD GENE HARDEN, and BARBARA SCHAUDRA as found in the third cause of action constitute grounds for disciplinary action pursuant to the provisions of Section 10176(f) of the Code.

VI

The acts and/or omissions of Respondents HARVEST PROPERTY MANAGEMENT, INC., DONALD GENE HARDEN and BARBARA SCHAUDRA as found in the fourth cause of action were in violation of Section 2834 of the Regulations, and constitute grounds for disciplinary action pursuant to the provisions of Section 10177(d) and 10177(g) of the Code.

VII

The correction of the above matters has been taken into consideration.

ORDER

I

A. The corporate real estate broker license of Respondent HARVEST PROPERTY MANAGEMENT, INC. is revoked. The individual real estate broker license of DONALD GENE HARDEN is revoked. The licenses of DONALD GENE HARDEN as the designated broker/officer of DON HARDEN, INC. and HARVEST PROPERTY MANAGEMENT, INC. are revoked.

B. A restricted individual real estate broker license shall be issued to Respondent DONALD GENE HARDEN, and a restricted corporate real estate broker license shall be issued to HARVEST PROPERTY MANAGEMENT, INC., and a restricted officer license shall be issued to DONALD GENE HARDEN as designated broker/officer of HARVEST PROPERTY MANAGEMENT, INC., and a restricted officer license shall be issued to DONALD GENE HARDEN as designated broker/officer of DON HARDEN, INC., provided the respective Respondent makes application for each and/or any of said licenses and pays to the Department the appropriate fee for each such license within sixty (60) days from the effective date of the Decision.

C. Any and all restricted licenses issued to the respective Respondent as set forth in subparagraph (B) above shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations imposed under authority of Section 10156.6 of said Code: Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations imposed under authority of Section 10156.6 of said Code:

- (1) Each such restricted license may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of the respective Respondent's conviction or pleading of nolo contendere to a crime which bears a significant relation to the Respondent's fitness or capacity as a real estate licensee;
- (2) Each such restricted license may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that the respective Respondent has violated the provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, and conditions attaching to such restricted license;

- (3) Respondent DONALD GENE HARDEN, as a condition and limitation imposed on each restricted individual and/or designated broker/officer license, shall within twelve (12) months from the effective date of the Decision, present evidence satisfactory to the Real Estate Commissioner that he 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 each such 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;
- (4) Respondent DONALD GENE HARDEN shall, within six months from the effective date of the restricted individual and/or designated broker/officer licenses, 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 each such restricted license until Respondent passes the examination;
- (5) Respondents shall not be eligible to apply for the issuance of any unrestricted real estate license(s) nor the removal of any of the conditions, limitations or restrictions of any restricted license(s) until one (1) year has elapsed from the date of issuance of each such restricted license.

II

A. The real estate salesperson license of Respondent BARBARA SCHAUDRA is revoked.

B. A restricted real estate salesperson license shall be issued to Respondent BARBARA SCHAUDRA pursuant to Section 10156.5 of the Business and Professions Code if she makes application therefore and pays to the Department the appropriate fee for said license within sixty (60) days from the effective date of the Decision.

C. The restricted real estate salesperson license issued to Respondent BARBARA SCHAUDRA shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations imposed under authority of Section 10156.6 of the said Code:

- (1) The restricted license 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 bears a significant relation to Respondent's fitness or capacity as a real estate licensee;
- (2) The restricted license may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated the provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, and conditions attaching to the restricted license;
- (3) Respondent shall, within twelve (12) months from the effective date of the Decision, present evidence satisfactory to the Real Estate Commissioner that she has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the 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;
- (4) Respondent shall, within six 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;

- (5) Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions of a restricted license until one (1) year has elapsed from the date of the issuance of the restricted license;
- (6) Respondent shall submit with her application for license under any employing broker, or her application for transfer to a new employing broker, a statement signed by the prospective employing broker which shall certify:
- (a) That he/she has read the Decision of the Commissioner which granted the right to a restricted license; and
- (b) That he/she will exercise close supervision over the performance by the restricted licensee of activities for which a real estate license is required.

DATED: November 29, 1989

Robert E. McCabe
ROBERT E. MCCABE
Regional Manager
Department of Real Estate

FILED
OCT 18 1988

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By *[Signature]*
Typed Name

In the Matter of the Accusation of

HARVEST PROPERTY MANAGEMENT, INC.,
DONALD GENE HARDEN,
and BARBARA SCHAUDRA,

} Case No. H-6035 SF
OAH No. N 32139

Respondent(s)

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____
OFFICE OF ADMINISTRATIVE HEARINGS, STATE BUILDING,
455 Golden Gate Avenue, Room 2248, San Francisco, California 94102

on the 9th day of February, 19 89, at the hour of 1:30 p.m., or as soon thereafter
as the matter can be heard, upon the charges made in the Accusation served upon you.

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

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

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

DEPARTMENT OF REAL ESTATE

Dated: October 18, 1988

By *[Signature]*
DEIDRE L. JOHNSON, Counsel

1 DEIDRE L. JOHNSON, Counsel
2 Department of Real Estate
3 185 Berry Street, Room 5816
4 San Francisco, California 94107-1770

5 Telephone: (415) 557-3220

FILED
JUL 20 1988
DEPARTMENT OF REAL ESTATE

By Sydney Thiel

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:) H-6035 SF
12)
12 HARVEST PROPERTY MANAGEMENT, INC.,)
13 DONALD GENE HARDEN,) ACCUSATION
13 and BARBARA SCHAUDRA,)
14 Respondents.)
15

16 The Complainant, Edward V. Chiolo, a Deputy Real
17 Estate Commissioner of the State of California, for causes of
18 accusation against HARVEST PROPERTY MANAGEMENT, INC., DONALD
19 GENE HARDEN, and BARBARA SCHAUDRA (hereinafter respondents), is
20 informed and alleges as follows:

21 FIRST CAUSE OF ACTION

22 I

23 At all times herein mentioned, respondents were and
24 are presently licensed and/or have license rights under the Real
25 Estate Law (Part 1 of Division 4 of the Business and Professions
26 Code) (hereinafter the Code).

27 / / / / /

1 II

2 At all times herein mentioned, respondent HARVEST
3 PROPERTY MANAGEMENT, INC. was licensed as a real estate broker
4 acting by and through respondent DONALD GENE HARDEN as its
5 designated broker-officer, and said license expires August 18,
6 1988.

7 III

8 At all times herein mentioned, DONALD GENE HARDEN was
9 licensed as a real estate broker, and as the broker/officer of
10 respondent HARVEST PROPERTY MANAGEMENT, INC.; said individual
11 license expires July 31, 1991, and said license as the
12 designated broker-officer expires August 18, 1988.

13 IV

14 At all times herein mentioned, BARBARA SCHAUDRA was
15 licensed as a real estate salesperson acting in the employ of
16 HARVEST PROPERTY MANAGEMENT, INC., and said license expires
17 September 11, 1988.

18 V

19 The Complainant, Edward V. Chiolo, a Deputy Real
20 Estate Commissioner of the State of California, makes this
21 accusation in his official capacity and not otherwise.

22 VI

23 Beginning in or before June, 1986, respondent HARVEST
24 PROPERTY MANAGEMENT, INC., acting on behalf of others and for or
25 in expectation of compensation, managed certain rental real
26 properties located in the State of California. Respondent
27 DONALD GENE HARDEN was the President and Chief Executive Officer

1 of said corporation, and respondent BARBARA SCHAUDRA was the
2 Chief Financial Officer of said corporation.

3 VII

4 During the course of the property management
5 activities described above, respondents maintained general trust
6 account No. 01-233261 at the Bank of Salinas, 301 Main Street,
7 Salinas, California; and respondents received, deposited to said
8 trust account, and disbursed funds consisting primarily of
9 rental incomes and owner expense funds to be held in trust on
10 behalf of others.

11 VIII

12 During the course of the property management
13 activities described above, respondents maintained money market
14 account No. 01-233253 at said Bank of Salinas; and respondents
15 received, deposited to said trust account, and disbursed funds
16 consisting primarily of security deposits to be held in trust on
17 behalf of others.

18 IX

19 In connection with the collection and/or disbursement
20 of the trust funds referred to in Paragraph VII and VII above,
21 respondents failed to deposit and maintain said funds in both of
22 said bank accounts in such a manner that as of September 30,
23 1987, there was a shortage of approximately \$21,631.70 of trust
24 funds in said accounts.

25 X

26 Respondents failed to obtain the prior written consent
27 of the owners of the funds for the reduction of the aggregate

1 balance of trust funds in said bank accounts to an amount less
2 than the existing aggregate trust fund liability to the owners
3 of said funds.

4 XI

5 The acts and/or omissions of respondents HARVEST
6 PROPERTY MANAGEMENT, INC. and DONALD GENE HARDEN as above
7 alleged are in violation of Section 10145(a) of the Code, and
8 Section 2832.1 of Title 10 of the California Code of Regulations
9 (hereinafter the Regulations), and constitute grounds for
10 disciplinary action pursuant to Section 10177(d) of the Code.

11 XII

12 The acts and/or omissions of respondent BARBARA
13 SCHAUDRA as alleged above constitute grounds for disciplinary
14 action pursuant to the provisions of Section 10177(g) of the
15 Code.

16 SECOND CAUSE OF ACTION

17 XIII

18 There is hereby incorporated into this second,
19 separate and distinct cause of action, all of the allegations
20 contained in Paragraphs. I through VIII of the first cause of
21 action as if herein set forth in full.

22 XIV

23 The money market account described in Paragraph VIII
24 above was an interest bearing account, in which security deposit
25 trust funds belonging to many owners of the real properties
26 managed and serviced by respondents were commingled, and as of
27 / / / / /

1 September 30, 1987, the total liability for said security
2 deposit trust funds was about \$48,598.00.

3 XV

4 Said money market account earned interest periodically
5 over a period of years, and as of September 30, 1987, interest
6 earned on said account totaled about \$6,593.89, of which about
7 \$5,555.91 inured directly or indirectly to the benefit of
8 respondents and not to the owners of the funds.

9 XVI

10 The above acts and/or omissions of respondents HARVEST
11 PROPERTY MANAGEMENT, INC. and DONALD GENE HARDEN were in
12 violation of Section 10145(d) of the Code, and constitute
13 grounds for disciplinary action pursuant to the provisions of
14 Section 10177(d) of the Code.

15 XVII

16 The above acts and/or omissions of respondent BARBARA
17 SCHAUDRA constitute grounds for disciplinary action pursuant to
18 the provisions of Section 10177(g) of the Code.

19 THIRD CAUSE OF ACTION

20 XVIII

21 There is hereby incorporated into this third,
22 separate and distinct cause of action, all of the allegations
23 contained in Paragraphs I through VIII of the first cause of
24 action as if herein set forth in full.

25 XIX

26 In connection with the management of rental real
27 properties and services to property owners described above,

1 respondents utilized a written property management agreement,
2 upon the expiration of which a written "Extension of Management
3 Contract" would be entered into between respondents and property
4 owners, and said extension contract provided in pertinent part
5 as follows: "Terms: Renewed until cancelled by 30 days notice
6 from either party."

7 XX

8 On or about August 21, 1987, an Extension of
9 Management Contract was entered into between respondents and
10 Arthur and Phyllis Holmes, to extend respondents' management of
11 certain real property owned by them at 1337 Garner Avenue,
12 Salinas; and said extension contract contained the cancellation
13 terms set forth in Paragraph XIX above.

14 XXI

15 The property management agreement referred to in
16 Paragraph XIX and XX above, as extended, do not contain a
17 definite, specified date of final and complete termination as
18 required by Section 10176(f) of the Code.

19 XXII

20 The acts and/or omissions of respondents HARVEST
21 PROPERTY MANAGEMENT, INC., DONALD GENE HARDEN, and BARBARA
22 SCHAUDRA constitute grounds for disciplinary action pursuant to
23 the provisions of Section 10176(f) of the Code.

24 FOURTH CAUSE OF ACTION

25 XXIII

26 There is hereby incorporated into this fourth,
27 separate and distinct cause of action all of the allegations

1 contained in Paragraphs I through VIII of the first cause of
2 action as if herein set forth in full.

3 XXIV

4 From about June 26, 1986, through September 30, 1987,
5 respondents allowed withdrawals to be made from both of said
6 trust accounts upon the signatures of persons not licensed in
7 the employ of a real estate broker at the time, and/or persons
8 unlicensed by the Department of Real Estate and without fidelity
9 bond coverage at least equal to the maximum amount of the trust
10 funds to which said persons had access during the time period,
11 including but not limited to Jan Taylor and Bonnie Pere.

12 XXV

13 The acts and/or omissions of respondents HARVEST
14 PROPERTY MANAGEMENT, INC., DONALD GENE HARDEN and BARBARA
15 SCHAUDRA were in violation of Section 2834 of the Regulations,
16 and constitute grounds for disciplinary action pursuant to the
17 provisions of Sections 10177(d) and 10177(g) of the Code.

18 WHEREFORE, Complainant prays that a hearing be
19 conducted on the allegations of this Accusation and that upon
20 proof thereof, a decision be rendered imposing disciplinary
21 action against all licenses and license rights of respondents

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1 under the Real Estate Law (Part 1 of Division 4 of the Business
2 and Professions Code), and for such other and further relief as
3 may be proper under other provisions of law.

4 *Edward V. ChioLo*

5 EDWARD V. CHIOLO
6 Deputy Real Estate Commissioner

7 Dated at San Francisco, California

8 this 20th day of July, 1988.