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DEPARTMENT OF REAL ESTATE
By B. Nicholas

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 MANAGEMENT CONSULTING GROUP, INC.)
13 LANCE EDWARD ARMO, and SALLIE)
14 WALKER MERKER,)
15 Respondents.)

DRE No. H-6865 SAC
FIRST AMENDED ACCUSATION

16 The Complainant, TRICIA D. PARKHURST, a Supervising Special Investigator
17 of the State of California, for cause of Accusation against MANAGEMENT CONSULTING
18 GROUP, INC., LANCE EDWARD ARMO, and SALLIE WALKER MERKER (collectively
19 "Respondents"), are informed and allege as follows:

20 PRELIMINARY ALLEGATIONS

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22 The Complainant, TRICIA D. PARKHURST, a Supervising Special Investigator
23 of the State of California, makes this Accusation in her official capacity.

24 2

25 Respondents are presently licensed and/or have license rights under the Real
26 Estate Law, Part 1 of Division 4 of the Business and Professions Code (Code).

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2 Beginning on or about June 20, 2009, and continuing through June 19, 2017,
3 Respondent MANAGEMENT CONSULTING GROUP, INC. (MCGI) was licensed by the State
4 of California Department of Real Estate (Department) as a real estate broker corporation. On
5 June 20, 2017, MCGI's real estate broker corporation license expired, and was not renewed until
6 September 24, 2018. Beginning on or about September 24, 2018, and continuing until present,
7 MCGI's was and is licensed by the Department as a real estate broker corporation.

8 4

9 At all times mentioned, Respondent LANCE EDWARD ARMO (ARMO) was
10 and is licensed by the Department individually as a real estate broker. At all times prior to June
11 20, 2017, and after September 24, 2018, ARMO was licensed by the Department as the
12 designated broker officer of MCGI. As said designated broker officer, ARMO was responsible
13 pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers,
14 agents, real estate licensees, and employees of MCGI for which a license is required.

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16 At all times mentioned, ARMO, under his individual broker license, was licensed
17 to do business under the fictitious business name "A+ Property Management."

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19 At all times mentioned, SALLIE WALKER MERKER (MERKER) was and is
20 licensed by the Department as a real estate salesperson. Beginning on or about January 15,
21 2016, and continuing through June 19, 2017, MERKER's salesperson license was affiliated
22 under the brokerage of MCGI. Beginning on or about June 20, 2017, and continuing through
23 September 12, 2017, MERKER's salesperson had no broker affiliation. Beginning on or about
24 September 13, 2017, and continuing through October 23, 2018, MERKER's salesperson license
25 was affiliated under the broker of ARMO. Beginning on or about October 24, 2018, and
26 continuing through present, MERKER's salesperson license was affiliated under the brokerage
27 of MCGI. MERKER is the President and sole shareholder of MCGI.

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Whenever reference is made in an allegation in this Accusation to an act or omission of MCGI, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with MCGI committed such acts or omissions while engaged in furtherance of the business or operation of MCGI and while acting within the course and scope of their corporate authority and employment.

8

At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers in the State of California, within the meaning of Section 10131(b) of the Code in the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents leased or rented and offered to lease or rent, and placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

FIRST CAUSE OF ACTION

(Audit #SC18-0026 of MCGI)

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Each and every allegation in Paragraphs 1 through 8, inclusive, is incorporated by this reference as if fully set forth herein.

10

On or about October 24, 2018, and continuing through October 26, 2018, an audit was conducted of the records of MCGI (MCGI audit). The auditor herein examined MCGI's records for the period of January 1, 2017, through September 30, 2018.

11

While acting as a real estate broker as described in Paragraph 8, MCGI accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in connection

1 with the leasing, renting, and collection of rents on real property or improvements thereon, as
2 alleged herein, and thereafter from time-to-time made disbursements of said trust funds.

3 12

4 The trust funds accepted or received by MCGI as described in Paragraph 11 were
5 deposited or caused to be deposited by MCGI into trust accounts which were maintained by
6 MCGI for the handling of trust funds, and thereafter from time-to-time MCGI made
7 disbursements of said trust funds, identified as follows:

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MCGI TRUST ACCOUNT # 1	
10 Bank Name and Location:	Umpqua Bank 11 1545 River Park Drive #101 12 Sacramento, CA 95815
13 Account No.:	XXXXXXX3227
14 Entitled:	Management Consulting Group, Inc., SIL Investments LLC 15 Client Trust account

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MCGI BANK ACCOUNT # 1	
18 Bank Name and Location:	Umpqua Bank 19 1545 River Park Drive #101 20 Sacramento, CA 95815
21 Account No.:	XXXXXXX0452
22 Entitled:	American River Drive Office Park c/o Mgmt Consulting 23 Group Inc

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MCGI BANK ACCOUNT # 2	
26 Bank Name and Location:	Umpqua Bank

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	1545 River Park Drive #101 Sacramento, CA 95815
Account No.:	XXXXXXX0591
Entitled:	American River Drive Office Park Association c/o Mgmt Consulting Group Inc

MCGI BANK ACCOUNT # 3	
Bank Name and Location:	Umpqua Bank 1545 River Park Drive #101 Sacramento, CA 95815
Account No.:	XXXXXXX1338
Entitled:	Le-Jo Inc dba Cavitt c/o Mgmt Consulting Group Inc

MCGI BANK ACCOUNT # 4	
Bank Name and Location:	Umpqua Bank 1545 River Park Drive #101 Sacramento, CA 95815
Account No.:	XXXXXXX1325
Entitled:	Le-Jo Inc. DBA Merryhill Plaza c/o Mgmt Consulting Group Inc

MCGI BANK ACCOUNT # 5	
Bank Name and Location:	Umpqua Bank 1545 River Park Drive #101 Sacramento, CA 95815
Account No.:	XXXXXXX0478

1	Entitled:	Eugene W Lee Property c/o Mgmt Consulting Group Inc
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2	MCGI BANK ACCOUNT # 6	
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4	Bank Name and Location:	Umpqua Bank
5		1545 River Park Drive #101
6		Sacramento, CA 95815
7	Account No.:	XXXXXX1309
8	Entitled:	Le-Jo Inc. DBA Roseville Commons II c/o Mgmt Consulting
9		Group Inc

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11 In the course of the activities described in Paragraph 8, MCGI & ARMO:

12 (a) caused, suffered, or permitted the balance of funds in MCGI Trust
 13 Account #1 to be reduced to an amount which, as of August 31, 2018, was approximately
 14 \$2,907.28 less than the aggregate liability of MCGI Trust Account #1 to all owners of such
 15 funds in violation of Section 10145 of the Code and Section 2832.1 of Title 10 of the California
 16 Code of Regulations (Regulations);

17 (b) caused, suffered, or permitted the balance of funds in MCGI Bank
 18 Account #1 to be reduced to an amount which, as of August 31, 2018, was approximately
 19 \$849.52 less than the aggregate liability of MCGI Bank Account #1 to all owners of such funds
 20 in violation of Section 10145 of the Code and Section of the Regulations;

21 (c) caused, suffered, or permitted the balance of funds in MCGI Bank
 22 Account #3 to be reduced to an amount which, as of August 31, 2018, was approximately
 23 \$474.15 less than the aggregate liability of MCGI Bank Account #3 to all owners of such funds
 24 in violation of Section 10145 of the Code and Section of the Regulations;

25 (d) failed to deposit trust funds into a trust fund account in the name of MCGI
 26 as trustee at a bank or other financial institution, in conformance with Section 10145 of the Code
 27 and Section 2832 of the Regulations; and

1 (e) failed to keep accurate separate records for each beneficiary or transaction,
2 accounting therein for all funds which were deposited into MCGI Bank Account #1, 3, and 6,
3 containing all of the information required by Section 2831.1 of the Regulations;

4 (f) failed to reconcile the balance of separate beneficiary or transaction
5 records with the control record of trust funds received and disbursed at least once a month,
6 and/or failed to maintain a record of such reconciliations for MCGI Bank Account #1, 3, and 6,
7 as required by Section 2831.2 of the Regulations;

8 (g) caused, permitted, and/or allowed, the possible withdrawal of trust funds
9 from MCGI Trust Account #1 and MCGI Bank Account #1, 2, 3, 4, 5, and 6, by a person,
10 MERKER, who was not licensed under MCGI and not covered by a fidelity bond in violation of
11 Section 2834 of the Regulations; and

12 (h) caused, permitted, and/or allowed, the possible withdrawal of trust funds
13 from MCGI Bank Account #3, 4, and 6, by a person, Britney Eck, who was not licensed by the
14 Department and not covered by a fidelity bond in violation of Section 2834 of the Regulations.

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16 The facts alleged in the First Cause of Action are grounds for the suspension or
17 revocation of MCGI and ARMO licenses and license rights under the following Sections of the
18 Code and Regulations:

19 As to Paragraphs 13(a), 13(b), and 13(c), under Section 10177(d) and/or
20 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2832.1 of the
21 Regulations;

22 As to Paragraph 13(d), under Sections 10177(d) and/or 10177(g) of the Code in
23 conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

24 As to Paragraph 13(e), under Sections 10177(d) and/or 10177(g) of the Code in
25 conjunction with Section 10145 of the Code and Section 2831.1 of the Regulations;

26 As to Paragraph 13(f), under Sections 10177(d) and/or 10177(g) of the Code in
27 conjunction with Section 10145 of the Code and Section 2831.2 of the Regulations; and

1 As to Paragraphs 13(g) and 12(h), under Section 10177(d) and/or 10177(g) of the
2 Code in conjunction with Section 10145 of the Code and Section 2834 of the Regulations.

3 SECOND CAUSE OF ACTION

4 (Unlicensed Activity of MCGI & MERKER)

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6 Each and every allegation in Paragraphs 1 through 14, inclusive, above, are
7 incorporated by this reference as if fully set forth herein.

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9 Between June 20, 2017 and September 23, 2018, MCGI, while its license was
10 expired, employed and compensated MERKER, to perform the acts and conduct the real estate
11 activities described in Paragraph 8, above, including but not limited to the activities described in
12 Paragraph 17, below.

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14 Between June 20, 2017 and September 23, 2018, MERKER, while employed
15 under the individual broker license of ARMO or with no broker affiliation, and on behalf of
16 MCGI, solicited prospective tenants for, negotiated rental agreements for, and/or collected rents
17 from real properties owned by another or others, including but to the collection of rents for
18 sixteen commercial complexes totaling eighty-seven units on behalf of eleven owners. MCGI
19 was also advertising its property management services on its website, www.managementcg.com.

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21 In acting as described in paragraphs 15 through 17, above, MERKER and MCGI
22 willfully caused, suffered, permitted, and/or disregarded Sections 10130 and/or 10137 of the
23 Code.

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25 The facts described in the Second Cause of Action constitute cause to suspend or
26 revoke all licenses and license rights of MERKER and MCGI pursuant to the provisions of
27 Sections 10130 and/or 10137 of the Code in conjunction with Section 10177(d) of the Code.

1 THIRD CAUSE OF ACTION

2 (Failure to Supervise MCGI)

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

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7 Respondent ARMO failed to exercise reasonable supervision over the acts of
8 MCGI in such a manner as to allow the acts and events described in the First and Second Causes
9 of Action to occur.

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11 The acts and/or omissions of ARMO as described in Paragraph 21, constitutes
12 failure on the part of ARMO, as designated broker-officer for MCGI, to exercise reasonable
13 supervision and control over the licensed activities of MCGI as required by Section 10159.2 of
14 the Code and Section 2725 of the Regulations.

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16 The facts described above as to the Third Cause of Action constitute cause for the
17 suspension or revocation of the licenses and license rights of Respondent ARMO under Section
18 10177(g) and/or Section 10177(h) of the Code, and Section 10159.2 of the Code in conjunction
19 with Section 10177(d) of the Code.

20 FORTH CAUSE OF ACTION

21 (Audit #FR17-0127 of ARMO)

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23 Each and every allegation in Paragraphs 1 through 23, inclusive, is incorporated
24 by this reference as if fully set forth herein.

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26 The trust funds accepted or received by ARMO as described in Paragraph 8 were
27 deposited or caused to be deposited by ARMO into trust accounts which were maintained by

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

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4 ARMO TRUST ACCOUNT # 1

5 Bank Name and Location:	Wells Fargo
6	1851 E. Herndon Avenue
7	Clovis, CA 93611
8 Account No.:	XXXXXX1552
9 Entitled:	Vicki Lea Miller DBA A+ Property Management Trust
10	Account

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12 ARMO BANK ACCOUNT # 1

13 Bank Name and Location:	US Bank
14	P.O. Box 1800
15	Saint Paul, MN 55101
16 Account No.:	XXXXXXXXX2513
17 Entitled:	Jessica Pierce dba Empire Property Management

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19 In the course of the activities described in Paragraph 8, ARMO:

20 (a) Caused, suffered, or permitted the balance of funds in ARMO Trust
21 Account #1 to be reduced to an amount which, as of April 30, 2018, was approximately
22 \$8,901.62 less than the aggregate liability of ARMO Trust Account #1 to all owners of such
23 funds in violation of Section 10145 of the Code and Section 2832.1 of the Regulations.

24 (b) Caused, suffered, or permitted the balance of funds in ARMO Bank
25 Account #1 to be reduced to an amount which, as of April 30, 2018, was approximately \$350.00
26 less than the aggregate liability of ARMO Bank Account #1 to all owners of such funds in
27 violation of Section 10145 of the Code and Section 2832.1 of the Regulations.

1 (c) Failed to deposit trust funds into a trust fund account in the name of
2 ARMO as trustee at a bank or other financial institution, in conformance with Section 10145 of
3 the Code and Section 2832 of the Regulations.

4 (d) commingled with its own money or property, the money or property of
5 others which was received or held by ARMO in trust in violation of Section 10176(e) of the
6 Code;

7 (e) failed to register his branch office located at 264 Clovis Avenue, Suite
8 110, Clovis, CA 93612, with the Department, in violation of Section 10163 of the Code;

9 (f) Collected and retained unearned fees, compensation, profit, and/or failed
10 to disclose failed to reveal the full amount of compensation from homeowners in connection with
11 payment for property management legal services performed by "Law Office of Lance E. Armo,"
12 a maintenance company owned by Respondent, in violation of Section 10176(g) of the Code.
13 Specifically, Respondent failed to disclose his ownership interest on property management
14 agreements or on any other kind of other disclosures to at least some owner clients legal services
15 provided by ARMO, including but not limited to the following:

16

Property Address	Payment Date	Amount Paid
3740 N. Thompson	1/4/18	\$800
4230 E. Shaw	1/30/18	\$850
3740 N. Thompson	3/7/18	\$35
1318 Safford	4/16/18	\$850

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23 At all times relevant herein, ARMO was required to exercise reasonable
24 supervision and control over the activities of ARMO's employees, agents, and others acting on
25 ARMO's behalf pursuant to Section 2725 of the Regulations.

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The facts alleged above are grounds for the suspension or revocation of ARMO's license and license rights under the following sections of the Code and Regulations:

As to Paragraphs 26(a) and 26(b), under Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

As to Paragraph 26(c), under Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 2832 of the Regulations and Section 10145 of the Code;

As to Paragraph 26(d), under Section 10176 of the Code;

As to Paragraph 27(e), under Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 10163 of the Code;

As to Paragraph 26(f), under Section 10176(g) of the Code;

As to Paragraph 27, under Sections 10177(d), 10177(g), and/or 10177(h) of the Code, in conjunction with Section 2725 of the Regulations.

COST RECOVERY

The acts and/or omissions of Respondents as alleged above, entitle the Department to reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund handling violation) of the Code.

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, the Commissioner may request the Administrative Law Judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing discipline on all licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of the investigation and enforcement of this case as permitted by law, for the cost of the Department's audit as permitted by law, and for such other and further relief as may be proper under the provisions of law.


TRICIA D. PARKHURST
Supervising Special Investigator

Dated at Sacramento, California,
this 22nd day of June, 2020

DISCOVERY DEMAND

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Pursuant to Sections 11507.6, *et seq.* of the *Government Code*, the Department of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate may result in the exclusion of witnesses and documents at the hearing or other sanctions that the Office of Administrative Hearings deems appropriate.