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2 At all times mentioned, Respondent was and is licensed by the Department
3 individually as a real estate broker.

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

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14 While acting as a corporate real estate broker as described in Paragraph 4,
15 Respondent accepted or received funds in trust (hereinafter "trust funds") from or on behalf of
16 owners and tenants in connection with the leasing, renting, and collection of rents on real
17 property or improvements thereon, as alleged herein, and thereafter from time to time made
18 disbursements of said trust funds.

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20 The trust funds accepted or received by Respondent, as described in Paragraph 5,
21 were deposited or caused to be deposited by Respondent into trust accounts which were
22 maintained by Respondent for the handling of trust funds, and thereafter from time-to-time
23 Respondent made disbursements of said trust funds, identified as follows:

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TRUST ACCOUNT # 1	
Bank Name and Location:	Bank of America, 1155 West Steele Lane, Santa Rosa, CA 95403
Account No.:	xxxxxx-73313
Account Name (per signature card):	Wesley J. Leckner Sole Prop DBA Above the Bay Real Estate Anova Property Management (Trust Account)
Account Name (per cancelled checks):	Wesley J. Leckner, Esq. DBA Above The Bay Real Estate Anova Property Management (Trust)

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In the course of the activities described in Paragraph 4, above, Respondent:

(a) caused, suffered, or permitted the balance of funds in Trust Account #1 to be reduced to an amount which, as of October 31, 2010, was approximately \$607.18 less than the aggregate liability of Trust Account #1 to all owners of such funds, without the prior written consent of each and every owner of such funds, in violation of Section 10145 of the Code and Section 2832.1 of Title 10 of the California Code of Regulations (hereinafter "Regulations");

(b) failed to keep accurate separate records for each beneficiary or transaction, accounting therein for all funds which were deposited into the Trust Account #1, containing all of the information required by Section 2831.1 of the Regulations;

(c) failed to reconcile the balance of separate beneficiary or transaction records with the control record of trust funds received and disbursed at least once a month, and/or failed to maintain a record of such reconciliations for each account as required by Section 2831.2 of the Regulations;

(d) prior to November 10, 2010, operated his real estate business under the fictitious business names of "ANOVA Property Management" and "Above the Bay Real Estate" without obtaining a license bearing said fictitious business name in violation of Section 2731 of the Regulations;

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1 (e) failed to notify the Department within the next business day that
2 Respondent had closed its main office as required by Section 2715 of the Regulations; and
3 (f) failed to disclose Respondent's real estate license identification number on
4 his business card in violation of Section 2773 of the Regulations.

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7 The facts alleged in the above are grounds for the suspension or revocation of
8 Respondent's licenses and license rights under the following sections of the Code and
9 Regulations:

10 (1) As to Paragraph 7(a), under Section 10177(d) of the Code in conjunction
11 with Section 10145 of the Code and Section 2832.1 of the Regulations;

12 (2) As to Paragraph 7(b), under Section 10177(d) of the Code in conjunction
13 with Section 2831.1 of the Regulations;

14 (3) As to Paragraph 7(c), under Section 10177(d) of the Code in conjunction
15 with Section 2831.2 of the Regulations;

16 (4) As to Paragraph 7(d), under Section 10177(d) of the Code in conjunction
17 with Section 2731 of the Regulations;

18 (5) As to Paragraph 7(e), under Section 10177(d) of the Code in conjunction
19 with Section 2715 of the Regulations; and

20 (6) As to Paragraph 7(f), under Section 10177(d) of the Code in conjunction
21 with Section 2773 of the Regulations.

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23 The acts and/or omissions of Respondent as alleged above, entitle the Department
24 to reimbursement of the costs of its audit pursuant to Section 10148 (Reimbursement for Cost of
25 Audit for Trust Fund Handling Violation) of the Code.

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1 PRIOR DISCIPLINE

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3 On November 18, 1999, in Case No. H-28295 LA, the Real Estate Commissioner
4 issued an Order to Desist and Refrain to Respondent for violation of Section 10145 of the Code,
5 and Sections 2731, 2832, and 2834 of the Regulations.

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

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13 E.J. HABERER II
14 Deputy Real Estate Commissioner

15 Dated at Oakland, California,
16 this 5TH day of ^{DEC} November, 2011

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19 DISCOVERY DEMAND

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