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DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of

CARITAS MANAGEMENT CORPORATION
and RICHARD MALCOLM HIPPARD,

Respondents.

No. H-12415 SF

ACCUSATION

The Complainant, ROBIN S. TANNER, acting in her official capacity as a
Supervising Special Investigator of the State of California, for cause of Accusation against
Respondents CARITAS MANAGEMENT CORPORATION (CMC) and RICHARD
MALCOLM HIPPARD (HIPPARD), sometimes collectively referred to as Respondents, is
informed and alleges as follows:

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

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At all times mentioned, CMC was and is licensed by the State of California
Department of Real Estate (Department) as a real estate broker corporation.

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At all times mentioned herein, HIPPARD was and is licensed by the Department individually as a real estate broker, and as the designated broker officer of CMC. As the designated broker officer, HIPPARD was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of officers, agents, real estate licensees and employees of CMC for which a real estate license is required to ensure the compliance of the corporation with the Real Estate Law and Regulations.

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

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the State of California within the meaning of Section 10131(b) of the Code, including 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 or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or negotiated the sale, purchase or exchanges of leases on real property, or on a business opportunity, or collected rents from real property, or improvements thereon, or from business opportunities.

FIRST CAUSE OF ACTION

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

On or about January 17, 2019, through January 22, 2019, an audit was conducted of the records of CMC. The auditor examined records for the period of January 1, 2018, through December 31, 2018 (the audit period).

While acting as real estate brokers as described in Paragraph 5, above, and within the audit period, Respondents accepted or received funds in trust (trust funds) from or on behalf of property owners, lessees and others in connection with property management activities, and deposited or caused to be deposited those funds into bank accounts maintained by Respondents, at the following financial institutions, including but not limited to the following:

BANK ACCOUNT #1	
Bank:	Wells Fargo Bank, 3027 16 th Street, San Francisco, CA
Account No.:	XXXXXX2611
Entitled:	REALITY HOUSE WEST – Cadillac Hotel

BANK ACCOUNT #2	
Bank:	Fremont Bank, 200 Townsend Street, San Francisco, CA
Account No.:	XXXX3687
Entitled:	EPISOCOPAL COMMUNITY SERVICES OF SAN FRANCISCO

BANK ACCOUNT #3	
Bank:	Bank of America, 501 Castro Street, San Francisco, CA
Account No.:	XXXXXXXXXX1302
Entitled:	MISSION BAY AFFORDABLE HOUSING

BANK ACCOUNT #4	
Bank:	Bank of America, 501 Castro Street, San Francisco, CA
Account No.:	XXXXXXXXXX0401
Entitled:	CANON KIP ASSOCIATES II, LP

and thereafter from time-to-time made disbursement of said trust funds.

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In the course of the activities described in Paragraph 5, in connection with the collection and disbursement of trust funds, it was determined that:

- (a) Respondents failed to disclose its license number on the corporation website as required by Section 10140.6 of the Code and Section 2773 of Chapter 6, Title 10, California Code of Regulations (Regulations);
- (b) Respondents failed to designate Bank Account #1, Bank Account #2, Bank Account #3, and Bank Account #4 as a trust fund account and in the name of the broker as trustee as required by Section 10145 of the Code and Section 2832 of the Regulations;
- (c) Respondents failed to place trust funds, in the form of rent checks collected, into the hands of the principal, into a neutral escrow depository, or into a trust fund account within three days of receipt, in violation of Section 10145 of the Code and Section 2832 of the Regulations;
- (d) Respondents allowed unlicensed persons not employed by CMC, to be a signatory on Bank Account #1, Bank Account #2 and Bank Account #4, in violation of Section 10145 and Section 2834 of the Regulations;
- (e) Respondents caused, suffered or permitted funds of others which were received and held by Respondents to be commingled with broker funds which had not been disbursed within 25 days of earning them in Bank Account # 4, in violation of Section 10176 (e) of the Code;
- (f) Respondent failed to properly and accurately maintain an accurate columnar record in chronological sequence of all trust funds received and disbursed (Control Record), containing all required information, for Bank Account #1, Bank Account #2, Bank Account #3 and Bank Account #4, in violation of Section 2831 of the Regulations; and

1 (g) HIPPARD was not an authorized signer on Bank Account #1, Bank Account
2 #2 and Bank Account #4, in violation of Section 2725 of the Regulations.

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4 The acts and/or omissions described above constitute violations of Sections 2725
5 (Broker Supervision), 2773 (Disclosure of License Identification Number), 2831 (Control
6 Records), 2832 (Bank Account Not Properly Designated as Trust Account), and 2834 (Trust
7 Fund Signatory) of the Regulations and of Sections 10140.6 (Disclosure of License
8 Identification in Advertising), 10145 (Trust Fund Handling), 10176 (e) (Commingling) of the
9 Code, and are grounds for discipline under Sections 10176 (e), 10177(d) (Willful Disregard of
10 Real Estate Laws) and/or 10177(g) (Negligence/Incompetence Licensee) of the Code.

11 SECOND CAUSE OF ACTION

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13 Each and every allegation in Paragraphs 1 through 10, inclusive, is incorporated
14 by this reference as if fully set forth herein.

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16 On or about September 7, 2016, CMC employed Devesh Patel (PATEL), a
17 licensed real estate salesperson, to perform property management activities, as described in
18 Paragraph 5.

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20 The Department did not receive information that PATEL was employed by CMC
21 within 5 days of employment.

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23 The acts and/or omissions of described above, constitute violations of Section
24 10161.8 (a) (Salesperson Employment) of the Code, and are grounds for discipline under
25 Sections 10177(d) and/or 10177(g) of the Code.

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

During the audit period, PATEL performed property management activities for compensation on behalf of CMC, as described in Paragraph 5, and while still employed and affiliated with another broker, California Standards Inc.

The acts and/or omissions described above constitutes grounds for discipline under Sections 10137 (Unlawful Employment/Retention and Compensation), 10177 (d) and/ or 10177 (g) of the Code.

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Each and every allegation in Paragraphs 1 through 17, inclusive, is incorporated by this reference as if fully set forth herein.

Respondent HIPPARD failed to exercise reasonable supervision and control over the property management activities of CMC. In particular, HIPPARD permitted, ratified and/or caused the conduct described above to occur, and failed to take reasonable steps, including but not limited to, the handling of trust funds, supervision of employees, and the implementation of policies, rules and systems to ensure the compliance of the business with the Real Estate Law and the Regulations.

The above acts and/or omissions of HIPPARD violate Section 2725 of the Regulations and Section 10159.2 (Responsibility/Designated Officer) of the Code and constitute

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1 grounds for disciplinary action under the provisions of Sections 10177(d), 10177(g) and/or
2 10177(h) (Broker Supervision) of the Code.

3 COST RECOVERY

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5 Audit Costs

6 The acts and/or omissions of Respondents, as alleged above, entitle the
7 Department to reimbursement of the costs of its audits pursuant to Section 10148(b) (Audit Costs
8 for Trust Fund Handling Violations) of the Code.

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10 Costs of Investigation and Enforcement

11 Section 10106 of the Code provides, in pertinent part, that in any order issued in
12 resolution of a disciplinary proceeding before the Department, the commissioner may request the
13 administrative law judge to direct a licensee found to have committed a violation of this part to
14 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

15 WHEREFORE, Complainant prays that a hearing be conducted on the
16 allegations of this Accusation and that upon proof thereof a decision be rendered imposing
17 disciplinary action against all licenses and license rights of Respondents under the Real Estate
18 Law, for the cost of the investigation and enforcement as permitted by law, for the cost of the
19 audit as permitted by law, and for such other and further relief as may be proper under other
20 provisions of law.

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22 ROBIN S. TANNER
23 Supervising Special Investigator
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25 Dated at Oakland, California,
26 this 12th day of December, 2019.
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