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DEPARTMENT OF REAL ESTATE
BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H- 38410 LA
)	
12 GERALD FRED ZIGROSSI,)	<u>ACCUSATION</u>
13 doing business as)	
14 Cajon Property Management,)	
)	
15 Respondent,)	
)	

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17 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State
18 of California acting in her official capacity, for cause of Accusation against GERALD FRED
19 ZIGROSSI, doing business as Cajon Property Management is informed and alleges as follows:

20 1.

21 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State
22 of California, makes this Accusation in her official capacity.

24 2.

25 All references to the "Code" are to the California Business and Professions Code
26 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

FIRST CAUSE OF ACCUSATION
(Audit Examination)

5.

On August 24, 2011 the Department completed an audit examination of the books and records of ZIGROSSI, pertaining to the property management activities described in Paragraph 3, that require a real estate license. The audit examination covered a period of time beginning on June 1, 2009 and ending on May 31, 2011. The audit examination revealed violations of the Code and the Regulations as set forth below, and more fully discussed in Audit Report LA 100272 and the exhibits and work papers attached.

Trust Accounts

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, ZIGROSSI accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties to transactions handled by ZIGROSSI, including property owners and tenants. ZIGROSSI maintained the following bank accounts:

1. T/A 1

Account Name: Cajon Property Management, LLC Trust Account
Account No.: XXXXXXXXXXXX-0432
Bank Name: Community Bank
Bank Address: 200 E. Citrus Avenue
 Redlands,, CA 92373

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2. T/A 2

Account Name: Zigrossi Company Inc.
Account No.: XXXXXXXXXXXXX-9471
Bank Name: Community Bank
Bank Address: 200 E. Citrus Avenue
Redlands,, CA 92373

3. T/A 3

Account Name: Cajon Property Management
Account No.: XXXXXXXXXXXXX-0440
Bank Name: Community Bank
Bank Address: 200 E. Citrus Avenue
Redlands,, CA 92373

Violations of the Real Estate Law

7.

In the course of activities described in Paragraphs 4 and 6, above, and during the audit examination period described in Paragraph 5, Respondent ZIGROSSI, acted in violation of the Code and the Regulations in that ZIGROSSI:

(a)(1) Permitted, allowed or caused the disbursement of trust funds from T/A 1 where the disbursement of funds reduced the total of aggregate funds in T/A 1, ZIGROSSI's property management trust account, to an amount which, on May 31, 2011, was \$39,320.64, less than the existing aggregate trust fund liability to every principal who was an owner of said funds, without first obtaining the prior written consent of the owners of said funds, in violation of Code

1 Sections 10145 and 10176(i) and Regulation 2832.1. On August 11, 2011, the shortage was
2 restored to T/A 1;

3 (a)(2) The T/A 1 had a shortage of \$39,320.64 as of May 31, 2011, consisted of
4 negative balance of property owner accounts of \$2,365.00, bank charges of \$1,390.03,
5 conversion of trust funds totaling \$13,529.75, as tabled below, and unidentified shortage totaling
6 \$22,035.86.
7

8 (a)(3) Remaining were broker's funds of \$185.33 as of May 31, 2011 in T/A 1:

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10 Conversion of Property Management Trust Funds from T/A 1 (W/P B-1 & B-2.1):

<u>Check No.</u>	<u>Date</u>	<u>Amount</u>	<u>Payee</u>	<u>Purpose</u>
11 Debit	08/25/09	\$500.00	Cajon PM	Transfer to B/A 1
12 Debit	01/26/09	\$1,273.97	Community Bank	Loan Payment
13 1325	03/08/10	\$533.32	Quantum Structures	Business Partner
14 1367	03/09/10	\$569.32	Quantum Structures	Business Partner
15 Debit	10/19/10	\$3,153.14	Community Bank	Loan Payment
16 1962	12/01/10	\$7,500.00	Gerald Zigrossi	Cash Withdrawal
		<u>\$13,529.75</u>		

17 (b) Failed to maintain an accurate control record in the form of a columnar record
18 in chronological order of all trust funds including security deposits and rental receipts received,
19 deposited and disbursed for all properties managed through T/A 1, in violation of Code Section
20 10145 and Regulation 2831;

21 (c) Failed to maintain an accurate separate record for each beneficiary or
22 transaction, thereby failing to account for all trust funds including security deposits and rental
23 receipts received, deposited and disbursed for each property managed, in violation of Code
24 Section 10145 and Regulation 2831.1;
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1 (d) Failed to perform a monthly reconciliation of the balance of all separate
2 beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all
3 trust funds received and disbursed by T/A 1, in violation of Code Section 10145 and Regulation
4 2831.2;

5 (e) Mixed and commingled trust funds and personal funds, in violation of Code
6 Sections 10145 and 10176(e) and Regulation 2835(b). Respondent ZIGROSSI made deposits to
7 and disbursements from T/A 1 of rents received in connection with the three (3) properties he
8 owned, to wit, (1) Cajon Professional Building located at 256 Cajon Street; (2) 93 Kansas Street
9 #401; and (3) 93 Kansas Street #402 in Redlands. In addition, ZIGROSSI retained \$3,574.80 of
10 his broker funds in T/A 1 as of October 30, 2009;

11 (f) Performed acts for which a real estate license is required, including soliciting
12 for prospective tenants and negotiating leases on real property and executing property
13 management agreements with property owners for managing their real properties before
14 ZIGROSSI's broker license had issued, in violation of Code Section 10130. Between June 2008
15 and September 2009, ZIGROSSI conducted activities requiring a real estate license under the
16 name "Zigrossi Company Inc.";

17 (g) Failed to exercise reasonable control and supervision over the activities
18 conducted by his employees and/or licensees as necessary to secure full compliance with the Real
19 Estate laws, in particular with respect to his trust fund handling for his property management
20 brokerage, as required by and pursuant to Code Section 10177(h) and Regulation 2725.
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Disciplinary Statutes and Regulations

8.

The conduct of Respondent ZIGROSSI, as alleged and described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
7(a)	Code Section 10145 and Regulations 2832.1
7(b)	Code Section 10145 and Regulations 2831
7(c)	Code Section 10145 and Regulations 2831.1
7(d)	Code Section 10145 and Regulations 2831.2
7(e)	Code Sections 10145, 10176(e) and Regulation 2835(b)
7(f)	Code Section 10130
7(g)	Code Section 10177(h) and Regulation 2725

The foregoing violations constitute cause for discipline of the real estate license and license rights of Respondent ZIGROSSI, under the provisions of Code Sections 10176(e), 10176(i), 10177(d) and/or 10177(g) and 10177(h).

SECOND CAUSE OF ACCUSATION
(Negligence)

9.

The overall conduct of Respondent ZIGROSSI. constitutes negligence or incompetence. This conduct and violation are cause for discipline of the real estate license and license rights of Respondent pursuant to Code Section 10177(g).

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THIRD CAUSE OF ACCUSATION
(Breach of Fiduciary Duty)

10.

The conduct, acts and omissions of Respondent ZIGROSSI. constitutes a breach of fiduciary duty of good faith, trust, confidence and candor, within the scope of their contractual relationship, owed to Respondent ZIGROSSI's real estate consumers and property management clientele. This conduct and violation are cause for discipline of the real estate license and license rights of Respondent ZIGROSSI pursuant to Code Section 10177(g).

FOURTH CAUSE OF ACCUSATION
(Supervision)

11.

The overall conduct of Respondent ZIGROSSI. constitutes a failure on his part to exercise reasonable supervision and control over the licensed activities his brokerage, in violation of Code Section 10177(h) and Regulation 2725. Respondent ZIGROSSI. failed to keep his brokerage in compliance with the Real Estate Law, and is cause for discipline of the real estate license and license rights of Respondent ZIGROSSI. pursuant to the provisions of Code Sections 10177(d), 10177(g) and/or 10177(h).

PRIOR DEPARTMENT ACTION

12.

On March 24, 1982, in Case No. H-264 SA, an Accusation was filed against Respondent ZIGROSSI' et al., which resulted in discipline by revocation with right to a restricted broker license and other terms and conditions, for violations of Code Section 10176(a), effective November 24, 1982.

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this
2 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
3 against the license and license rights of Respondent GERALD FRED ZIGROSSI, under the Real
4 Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and
5 further relief as may be proper under other applicable provisions of law including, but not
6 limited to, but not limited to (1) restitution, where applicable (2) costs of audit pursuant to Code
7 Section 10148; and (3) costs of investigation and enforcement pursuant to Code Section 10106,
8 and as pursuant to applicable provisions of the California Administrative Procedure Act.

9 Dated at Los Angeles, California

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11 this 23 August 2012


Deputy Real Estate Commissioner

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23 cc: Gerald-Fred Zigrossi
24 Maria Suarez
25 Audits - Zaky Wanis
26 Sacto
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