

1 expire on November 14, 2020, however, pursuant to Governor Newsom's Executive Order No. N-
2 83-20, CRJRMI's license expiration date was extended until June 30, 2021, unless renewed.
3 CRJRMI is licensed through JACOBS's real estate broker ("REB") license, ID 00300881, and
4 JACOBS is the designated officer ("D.O."). According to Department records as of October 30,
5 2019, CRJRMI had no branch offices, maintained no fictitious business names, and employed no
6 salespersons.

7 4. Respondent JACOBS has been licensed by the Department as a REB, from on or
8 about August 7, 1982, through the present, with JACOBS's license scheduled to expire on June 1,
9 2023, unless renewed. According to Department records to date, the fictitious business names
10 "Newport Beach Realty" and "Desert Realty" are licensed to JACOBS, and have been active as of
11 October 13, 2011, and November 28, 2011, respectively.

12 **BROKERAGE: CRJRMI**

13 5. At all times mentioned, in Orange County, California, CRJRMI acted as a real estate
14 broker, conducting licensed activities within the meaning of Code Section 10131(b): leasing or
15 renting, offering to lease or rent, or collecting rents from real property for others. At all times
16 mentioned, CRJRMI was acting by and through JACOBS as its D.O. pursuant to Code section
17 10159.2 and JACOBS was responsible for ensuring compliance with the Real Estate Law.

18 **FACTS DISCOVERED BY DRE**

19 6. On February 6, 1984, Articles of Incorporation were filed for Cannery Rentals, Inc.
20 with the California Secretary of State ("SOS") under California Corporate Number ("CCN")
21 1223308.

22 7. On or about March 26, 2009, a Statement of Information was filed with the SOS for
23 CRJRMI, CCN 1223308, listing JACOBS as chief executive officer, and Sally Cook as secretary,
24 chief financial officer, and sole director for CRJRMI.

25 8. On or about February 27, 2017, another Statement of Information was filed with the
26 SOS for CRJRMI, CCN 1223308, stating there had been no change in any of the information
27 contained in the last Statement of Information.

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9. On or about June 25, 2019, the SOS suspended CRJRM's powers, rights and privileges pursuant to the provisions of the California Corporations Code.

10. On or about November 1, 2019, the California Franchise Tax Board suspended CRJRM's powers, rights and privileges pursuant to the provisions of the California Revenue and Taxation Code. As of August 20, 2020, CRJRM's powers, rights, and privileges remained suspended.

AUDIT OF CRJRM: AUDIT NO. LA180130

11. On November 26, 2019, the Department completed an audit examination of the books and records of CRJRM's real estate activities that require a corporate real estate broker license under Code Section 10131. The audit examination, LA180130, covered the time period September 1, 2016 to June 30, 2019 ("audit period") and was limited to CRJRM's property management activities.

12. The purpose of the audit examinations was to determine whether CRJRM conducted its real estate activities and handled and accounted for trust funds in accordance with the Real Estate Law and the Regulations.

13. An entrance conference was held by the DRE's auditor on July 24, 2019 with JACOBS at JACOBS's main office located in Anaheim, California.

14. Based on discussions between the Department's auditor and JACOBS, CRJRM's sole owner is Sally Cook and CRJRM's corporate structure was as follows:

<u>Name</u>	<u>Title</u>	<u>License</u>	<u>Shareholder %</u>
Sally Cook ("Cook")	Secretary, Chief Financial Officer	00752723 (Expired Real Estate Salesperson License)	100%

15. According to JACOBS and documents examined, CRJRM filed for Chapter 7 bankruptcy on October 19, 2017. Cook was the person in charge of CRJRM's property management activities. The DRE's auditor was not able to determine either the number of properties managed or the number of property owners and, thus, CRJRM's business activities during the audit period could not be determined. Based on an examination of subpoenaed bank statements received from Wells Fargo Bank, CRJRM had total deposits of \$2,140,026.71 during the audit period from September 2016 to June 2019.

1 16. During the audit period, CRJRMi maintained two (2) bank accounts for multiple
2 beneficiaries. CRJRMi's bank accounts were as follows:

3 a. **Bank Account 1 ("BA1")**

4 Bank: Wells Fargo Bank
5 Account Name: Cannery Rentals-J R Management Inc.
6 Account #: XXXXXXXX1651
7 Signatories: Sally Ann Cook (CRJRMi's owner/non-licensee)
8 Signatures required: One (1) signature
9 Description: BA1 was maintained for handling trust fund receipts and
disbursements related to CRJRMi's property management activity.

10 b. **Bank Account 2 ("BA2")**

11 Bank: Wells Fargo Bank
12 Account Name: Cannery Rentals-J R Management Inc.
13 Account #: XXXXXXXX7017
14 Signatories: Sally Ann Cook (CRJRMi's owner/non-licensee)
15 Signatures required: One (1) signature
16 Description: BA1 was maintained for handling trust fund receipts and
disbursements related to CRJRMi's property management activity.

17 **Audit Violations in Audit No. LA180130**

18 17. The Complainant realleges and incorporates by reference all of the allegations
19 contained in paragraphs 1 through 16 above, with the same force and effect as though fully set forth
herein.

20 18. The audit examination revealed violations of the Code and the Regulations, as set
21 forth in the following paragraphs, and more fully discussed in Audit No. LA180130 and the
22 exhibits and work papers attached to the audit report:

23 **Issue Three (3).^{1/} Code Section 10145(a): Handling of Trust Funds**

24 19. Based on documents submitted to the DRE, and according to discussions with
25 JACOBS, CRJRMi filed for Chapter 7 bankruptcy in October 2017 and abandoned its main office
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27 ^{1/} Issues One (1) and Two (2) were skipped intentionally. Complainant reserves the right to conduct further
28 investigation and to amend the accusation should further evidence be acquired in support of Issues One and Two, as
well as potential causes of accusation not alleged in this Accusation at the time of filing.

1 in Newport Beach at that time. According to property owner C.A.,^{2/} there was a security deposit of
2 \$5,000.00 due to C.A., which was not disbursed to C.A. when CRJRMi filed for bankruptcy.
3 CRJRMi did not disburse the \$5,000.00 security deposit to C.A. in accordance with her instructions
4 as owner of the funds.

5 20. CRJRMi's acts and/or omissions in failing to disburse trust funds to C.A. in
6 accordance with her instructions as owner of the funds was in violation of **Code section 10145(a).**

7 **Issue Four (4). Code Section 10145 and Regulation 2831: Trust Fund Records to be**
8 **Maintained**

9 21. During the audit period (September 2016 to June 2019), BA1 had total deposits of
10 \$2,140,026.71 and total disbursements of \$2,127,578.87. Based on an examination of BA1's bank
11 statements dated through June 2019, some receipts showed the property address and/or tenant at
12 that property, however, no records were provided showing the property owners. BA1's
13 disbursements did not indicate the name or names of the property, the property owner, or the
14 tenant.

15 22. During the period from September 2016 to October 2018, BA2 had total deposits of
16 \$143,348.39 and total disbursements of \$134,321.76. Based on an examination of BA2's bank
17 statements dated through October 2018, some receipts showed the property address and or tenant at
18 that property, however, no records were provided showing the property owners. BA2's
19 disbursements did not indicate the name or names of the property, the property owner, or the
20 tenant. According to JACOBS, CRJRMi's owner, Sally Cook, handled the trust funds and the trust
21 fund records. Neither CRJRMi nor JACOBS provided records of all trust fund receipts and
22 disbursements (control record) for BA1 and BA2 related to CRJRMi's property management
23 activity.

24 23. CRJRMi's failure to maintain complete and accurate control records of trust funds
25 for BA1 and BA2 in connection with CRJRMi's property management activities was in violation
26 of **Code section 10145 and Regulations 2831.**

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28 ^{2/} Initials are used in place of an individual's full name to protect their privacy. Documents containing the individual's full name will be provided during the discovery phase of this case to Respondents and/or their attorney(s), after service of a timely and proper request for discovery on Complainant's counsel.

1 **Issue Five (5). Code Section 10145 and Regulation 2832: Trust Account Designation and**
2 **Trust Fund Handling**

3 24. Based on an examination of subpoenaed bank signature cards dated September 6,
4 2013 for BA1 and BA2, BA1 and BA2 were not designated as trust accounts in the name of
5 CRJRM as trustee. CRJRM's failure to designate BA1 and BA2 as trust accounts in the name of
6 CRJRM as trustee was in Code section 10145 and Regulation 2832.

7 **Issue Six (6). Code Section 10145 and Regulation 2834: Handling of Trust Funds/Trust**
8 **Account Withdrawals**

9 25. Based on an examination of subpoenaed bank signature cards dated September 6,
10 2013 for BA1 and BA2 revealed that that Sally Cook, the unlicensed sole owner of CRJRM, was
11 authorized to sign and make withdrawals from BA1 and BA2 during the audit period. JACOBS,
12 the D.O. for CRJRM, was not authorized to sign and make withdrawals from BA1 and BA2 during
13 the audit period. Sally Cook is not an officer through whom CRJRM is licensed pursuant to Code
14 sections 10158 or 10211 and is not an unlicensed employee of REB JACOBS.

15 26. CRJRM's authorization of an unlicensed individual—who is not authorized by an
16 REB, is not an officer through whom CRJRM is licensed pursuant to Code sections 10158 or
17 10211, and is not an employee of the REB JACOBS—to make withdrawals from BA1 and BA2
18 during the audit period was in violation of Code Section 10145 and Regulation 2834.

19 **Issue Seven (7). Code section 10162: Place of Business: Contact Information**

20 27. On or about July 24, 2019, the DRE's auditor drove to CRJRM's main office
21 address located at 2919 Newport Blvd. in Newport Beach, CA. The DRE's auditor did not see
22 CRJRM's name listed at that address, but instead "White Sail Realty" was listed. Based on DRE
23 licensing records, CRJRM's main office address location was occupied by the fictitious business
24 name, "White Sail Realty," which is licensed to REB Arthur Burr White IV (ID No. 01905655).
25 JACOBS did not inform the DRE of any change to CRJRM's main office address in a timely
26 manner.

27 28. CRJRM and JACOBS failed to inform the DRE of any change to CRJRM's main
28 office address within 30 days after making the change, in violation of Code section 10162.

1 **Issue Eight (8). Code section 10148: Retention of Records; Failure to Provide Records for**
2 **Examination**

3 29. The DRE's auditor was unable to conduct an examination of CRJRM's real estate
4 activities because CRJRM and JACOBS failed to provide real estate records related to CRJRM's
5 real estate activities for the audit. According to JACOBS, CRJRM's owner, Sally Cook, handled
6 the property management services for CRJRM.

7 30. CRJRM did not provide the records of all trust fund receipts and disbursements
8 (control records), reconciliation of records, separate records, deposit slips/tickets, cancelled checks,
9 invoices, property management agreements, and rent/lease agreements for the audit examination.
10 As of the audit report date, November 26, 2019, CRJRM failed to make available all books,
11 accounts, and records related to its property management activity for examination, inspection, and
12 copying in violation of Code section 10148.

13 **Issue Nine (9). Code Sections 10159.2 and 10177(h) and Regulation 2725: Responsibility of**
14 **Corporate Officer in Charge / Broker Supervision**

15 31. The Complainant realleges and incorporates by reference all of the allegations
16 contained in paragraphs 1 through 30 above, with the same force and effect as though fully set forth
17 herein.

18 32. Based on the above findings in Issues 3 through 8 above, as the REB and D.O. of
19 CRJRM, JACOBS did not exercise adequate supervision and control over the real estate activities
20 of CRJRM's employees and its salespersons licensees to ensure compliance with the Real Estate
21 Laws and Regulations. JACOBS failed to establish policies, rules, procedures, and systems to
22 review, oversee, inspect, and manage transactions requiring a real estate license and the handling of
23 trust funds.

24 33. JACOBS's acts and/or omissions were in violation of Code Sections 10159.2,
25 10177(h) and 10177(h), and Regulation 2725.

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CAUSE OF ACCUSATION

AUDIT VIOLATIONS IN AUDIT NO. LA180130

34. The Complainant realleges and incorporates by reference all of the allegations contained in paragraphs 1 through 33 above, with the same force and effect as though fully set forth herein.

35. CRJRM's and JACOBS's conduct as described above in paragraphs 17 through 33 above violated the Code and the Regulations as set forth below:

<u>Issue No.</u>	<u>Paragraphs</u>	<u>Violations</u>
3	19-20	Code section 10145(a)
4	21-23	Code section 10145; Regulation 2831
5	24	Code section 10145; Regulation 2832
6	25-26	Code section 10145; Regulation 2834
7	27-28	Code section 10162
8	29-30	Code section 10148
9	31-33	Code sections 10159.2 and 10177(h); Regulation 2725

36. The foregoing violations in Issues Three (3) through Eight (8) constitute cause for the suspension or revocation of CRJRM's real estate license and license rights under the provisions of **Code sections 10177(d) and/or (g)**.

37. The foregoing violations in Issue Nine (9) constitute cause for the suspension or revocation of JACOBS's real estate license and license rights under the provisions of **Code sections 10177(h), 10177(d) and/or (g)**.

INVESTIGATION AND ENFORCEMENT COSTS

38. Code Section 10106 provides that in any order issued in resolution of a disciplinary proceeding before the Department of Real Estate, 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.

AUDIT COSTS

39. Code Section 10148(b) provides, in pertinent part, the Commissioner shall charge a real estate broker for the cost of any audit, if the Commissioner has found in a final decision following a disciplinary hearing that the broker has violated Code Section 10145 or a regulation or rule of the Commissioner interpreting said section.

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
2 this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
3 against all the licenses and license rights of CANNERY RENTALS-J R MANAGEMENT INC.
4 and JOHN WILLIAM JACOBS under the Real Estate Law, for the costs of investigation and
5 enforcement, and audit as permitted by law, and for such other and further relief as may be proper
6 under other applicable provisions of law, and for costs of audit.

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8 Dated at San Diego, California this 10 day of May, 2021.

9
10 *Veronica Kilpatrick*

11 Veronica Kilpatrick
12 Supervising Special Investigator

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14 cc: CANNERY RENTALS-J R MANAGEMENT INC.
15 JOHN WILLIAM JACOBS
16 Veronica Kilpatrick
17 Sacto.
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