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FILED

JUN 02 2000

DEPARTMENT OF REAL ESTATE

By Jean Brunot

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
PLANNING HORIZONS CORPORATION,)	<u>No. H-2456 SAC</u>
KENNETH WALTER FORD,)	<u>H-3201 SAC</u>
Respondents.)	

ORDER GRANTING REINSTATEMENT OF LICENSE

On April 19, 1990, in Case No. H-2456 SAC, a Decision was rendered herein revoking the real estate broker licenses of Respondents but granting Respondents the right to apply for restricted real estate broker licenses. Restricted real estate broker licenses were issued to Respondents on August 21, 1990.

On July 25, 1996, in Case No. H-3201 SAC, an Order was rendered revoking the restricted real estate broker licenses of Respondents, but granting Respondents the right to the issuance of restricted real estate broker licenses. Restricted real estate broker licenses were issued to Respondents on September 3, 1996.

///

1 On April 6, 1999, Respondents petitioned for
2 reinstatement of their broker licenses and the Attorney General
3 of the State of California has been given notice of the filing of
4 said petitions.

5 I have considered the petitions of Respondents and the
6 evidence and arguments in support thereof including Respondents'
7 records as restricted licensees.

8 Respondents have failed to discharge the following
9 adjudicated debts:

- 10 1. \$29,448.82 plus interest and attorney fees unpaid
11 on the judgment in Webster v. Ford, et al.,
12 Sacramento Superior Court Case No. 99AS06869.
- 13 2. \$56,814 unpaid on the judgment in Haft v. Woodleaf
14 Partners, et al., Sacramento Superior Court Case
15 No. 99AS04754.

16 However, Respondents have entered into bona fide
17 arrangements to pay those debts and once those debts are paid,
18 Respondents will have demonstrated to my satisfaction that
19 Respondents meet the requirements of law for the issuance to
20 Respondents of unrestricted real estate broker licenses and that
21 it would not be against the public interest to issue said
22 licenses to Respondents.

23 NOW, THEREFORE, IT IS ORDERED that Respondents'
24 petition for reinstatement is granted and that real estate broker
25 licenses be issued to Respondents if Respondents satisfy the
26 following conditions within nine months from the date of this
27 Order:

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1. Submittal of completed applications and payment of the fees for real estate broker licenses.

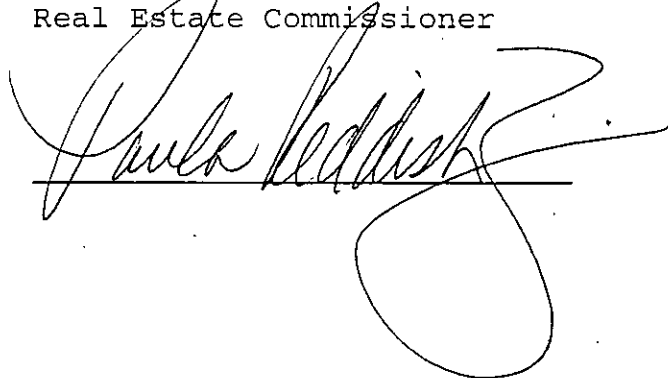
2. Submittal of evidence of Respondent Ford having, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license.

3. Submittal of proof of payment of \$29,448.82 plus interest and attorney fees in Webster v. Ford, et al. and proof of payment of \$56,814 in Haft v. Woodleaf Partners, et al..

This Order shall be effective immediately.

DATED: May 16, 2000.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



1 I have considered Respondents' petition and the evidence
2 and arguments in support thereof. Respondents have failed to
3 demonstrate to my satisfaction that Respondents have undergone
4 sufficient rehabilitation to warrant the reinstatement of
5 Respondents' real estate broker licenses, in that an audit
6 conducted in November, 1994, indicates that Respondents have been
7 guilty of the following violations:

8 A. Respondents retained funds owned by them in their
9 trust fund account thus commingling their own money with the funds
10 belonging to others and held by Respondents in trust.

11 B. Respondents had a total of \$7,349.95 of unidentified
12 trust funds in their trust fund account.

13 The disciplinary action originally taken in this matter
14 was based upon Respondents' improper handling of trust funds. The
15 November audit described above demonstrates that Respondents have
16 not corrected their business practices nor learned from the
17 disciplinary action taken against the real estate broker licenses.
18 Additional time and evidence of correction is necessary to
19 establish that Respondents will conduct their real estate
20 brokerage business in accordance with the requirements of law.

21 NOW, THEREFORE, IT IS ORDERED that Respondents' petition
22 for reinstatement of Respondents' real estate broker licenses is
23 denied.

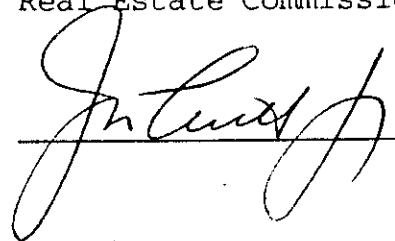
24 This Order shall become effective at 12 o'clock
25 noon on August 30, 1995.

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DATED: 8-7-95

JIM ANTT, JR.
Real Estate Commissioner



FILED
JUN 20 1990
DEPARTMENT OF REAL ESTATE

By *Laurie A. Zian*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
) NO. H-2456 SAC
PLANNING HORIZONS CORPORATION,)
KENNETH WALTER FORD,)
)
Respondents.)
)

ORDER GRANTING RECONSIDERATION

On April 19, 1990, a Decision was rendered in the above-entitled matter. The Decision is to become effective on June 20, 1990.

On May 16, 1990, respondents PLANNING HORIZONS CORPORATION and KENNETH WALTER FORD petitioned for reconsideration of said Decision.

I find that there is good cause to reconsider the Decision of April 19, 1990. Reconsideration is hereby granted for the limited purpose of allowing Respondents additional time to pay restitution in the amount of \$12,741.09 to clients as required in the Decision of April 19, 1990.

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Respondents shall have until August 20, 1990 to pay said
restitution. The Decision of April 19, 1990 as originally adopted
shall become effective at 12 o'clock noon on August 21, 1990.

IT IS SO ORDERED June 15, 1990.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

By: Robin T. Wilson

ROBIN T. WILSON
Chief Legal Officer

IV

At all times herein mentioned, respondent Ford was licensed as a real estate broker and as the broker-officer of respondent Horizons. Whenever reference is made in this Proposed Decision to "Respondents", such reference shall be to the respondents named in the caption hereof, acting individually, jointly and severally.

V

Respondents manage 134 properties for approximately 85 owners; collect rents, make mortgage payments, and pay other related bills on the properties. Respondents are also authorized by the owners to advertise the properties and screen the tenants. Respondents also offer their clients a maintenance service. All employees of this maintenance service were also employees of respondents. Respondents are primarily in the real estate investment business and property management is an extension of that business. Approximately 95 percent of respondents' property management business consists of clients that respondents have put into real estate rental property. Respondents offered this as a service to their clients who do not have time to manage their own properties.

VI

An auditor from the Department of Real Estate performed an audit on respondent Horizons commencing May 16 and ending May 26, 1989. The audit covered the period April 1, 1986 through April 24, 1989.

VII

During the course of respondents' property management activities, respondents received and disbursed funds held in trust on behalf of another or others. Respondents deposited trust funds into an account known as Planning Horizons Management Account No. 0366-061760 and an interest bearing account identified as Money Market Account No. 6366-150944. These accounts were located at Wells Fargo Bank, Sacramento-Sunrise office, Citrus Heights, California. Respondents considered these accounts as trust accounts, but they were not properly designated as such.

VIII

Respondents failed to deposit and maintain funds in their trust accounts or disbursed said funds in such a manner that as of April 24, 1989, there was a shortage of \$154,341.18 of trust funds in said bank accounts.

IX

Respondents failed to obtain the prior written consent of their principal for the reduction of the aggregate balance of trust funds in said bank accounts to an amount less than the existing aggregate trust fund liability to the owners of said funds.

X

On or about April 20, 1988, respondents used trust funds to purchase, in the name of Planning Horizons Management Account, a certificate of deposit totaling \$135,000 and is included in the trust fund shortage described above in Finding X. The certificate of deposit was purchased by respondent Ford and he was the only one who could cash it out and obtain the funds.

XI

In the period covered by the Department's audit, respondents comingled with their own money or property funds held in trust for others and converted said trust funds to their own use or benefit or for purposes not authorized by the rightful owners of said funds. The management account, No. 0366-061760 contained rents on properties managed for clients of the respondents, as well as those on four properties respondent Ford was managing general partner on and one property in Tahoe that respondent Ford had 100 percent interest in. Respondents would transfer monies from the management account to the money market account, No. 6366-150944 so the monies would earn interest. A list was not kept as to which owners' funds and in what amount went in and out of this account. The interest earned on the money market account over the three year period examined by the Department's auditor, was \$3,737.17. Interest earned on the certificate of deposit for the same period was \$9,003.92. The interest earned on the certificate of deposit would be credited to the money market account monthly. On December 7, 1988, two withdrawals of interest were made, one for \$4,653.51 in check form for the benefit of respondent Ford and the other was a transfer for \$1,500 to account No. 0366-379063, which was respondent Ford's personal checking account. The remaining \$6,587.58 in interest earned was applied to respondent Horizons' account discrepancies or used for bank service charges.

The certificate of deposit for \$135,000 was pledged to the City of Roseville for an encroachment permit on a project respondent Ford was general partner of. The project was a 92 unit apartment complex known as Madden Lane. The City of Roseville required an encroachment permit be obtained to ensure payment of utilities before ground could be broke on the project. This required a bond to be produced and respondent Ford testified that the developer had a problem and could not be bonded so he used the certificate of deposit and pledged it to obtain a bond for this encroachment permit. A lesser amount, \$98,556, was required by the City of Roseville; however, it was more expeditious to pledge the certificate of deposit than to go through a six week process to acquire the required bond. The assistant financial director for the City of Roseville testified that if the required work had not been completed, the certificate of deposit would have been cashed and the work completed from the proceeds. The CD was pledged in September of 1988 and was not released by the City of Roseville until May 25, 1989. It was only produced then, because the Department's auditor requested to physically inspect the CD. Respondent Ford had to put up other security in order to have the

CD released. Respondent Ford initially misled the auditor into believing the CD was in a safe deposit box at the bank.

Eight client accounts handled by respondents had negative balances totaling \$4,883.96 at the time of the audit. These negative balances resulted from respondents making disbursements chargeable to these accounts in excess of what the receipts credited therein.

On three occasions during the period covered by the audit, commissions or management fees were advanced to the respondents without written authorization from all property owners.

Respondent Ford's own receipts and disbursements on property he owns at Lake Tahoe were handled out of the trust accounts for property owners. The property carried a negative balance a majority of the period examined.

XII

In the period covered by the audit, respondent Ford failed to review, initial, and date, within five working days, all instruments having a material affect upon a parties rights or obligations prepared by respondent Ford's employees, associates, or real estate salespersons. There was no licensed person with written authorization from respondent Ford to review and initial the documents.

XIII

Respondents failed to maintain adequate records of all trust funds received and disbursed. Respondents' computer system adequately recorded receipts and disbursements on each property account, but it had no record to show the total cash receipts, disbursements, and the balances in the bank account as of any certain date. The cash receipts and cash disbursements journals did not carry forward balances after each transaction or daily transactions. The cash receipts journal also lacked information pertaining to the date the income was received and the date it was deposited. Due to the daily totals not being forwarded and no control account being maintained, proper reconciliation was not done. Respondents were reconciling their bank statements and comparing the reconciliations adjusted bank balance to their liabilities; however, they could not compare it to their cash balance in their books because they did not maintain the proper record nor carry balances forward.

XIV

Beginning on or about October, 1986, and continuing thereafter, respondents employed or compensated Heidi Feist, aka Heidi Smith, Diane Feist and Lori H. Lusk, persons unlicensed by the Department of Real Estate, to perform acts for which a real estate license is required. They were drawing up rental/lease agreements, as well as managements agreements with prospective tenants and owners. One of Lori Lusk's job duties was to show properties for rent to prospective tenants. Respondent testified that he was unaware that

his employees needed a license to show rental properties and write rental agreements. He had encouraged Heidi Feist to get a real estate license in order to enhance the professionalism of the office. Lori Lusk has been replaced by a licensed person.

XV

Respondents, pursuant to management contracts with various principals, ordered work done on properties owned by those principals and paid on behalf of those principals, bills for landscape maintenance and other work done by third persons relating to the properties of such principals. Respondents thereafter billed the principals for higher amounts for the work done and withdrew these higher amounts from the trust funds held by respondents on behalf of such principals. Respondents at no time obtained the consent of the principals involved for collecting from them the amounts which exceeded the cost of the service billed by the third persons performing the work described above. Respondents pocketed the difference between the actual service billings and the higher amounts collected from their principals. Respondents contend that the higher amounts charged are to cover their overhead involved in inspecting the properties. Respondents have prepared and sent a letter to all principals describing their charging practices. Apparently, only one principal responded that he did not wish to have the extra service.

XVI

Respondent Ford was candid in admitting respondents have been out of compliance with the real estate laws, as alleged, and respondents have been working diligently to make the necessary corrections. Respondent Ford properly designated the trust accounts the day after it was brought to his attention by the Department's auditor. Respondents notified their clients in writing of the extra fees involved in the maintenance service. Respondent Ford brought in computer personnel to make the necessary refinements to the property management program so it would provide all the required information. He hired a competent bookkeeper and his computer system now produces a daily cash balance and a monthly reconciliation. Respondents have hired licensed personnel to perform tasks that require a license and previously were performed by unlicensed personnel.

Respondent Ford has a reputation for being an honest, hard-working and aggressive person. He has a loyal client base and his clients believe they are getting superior service and advice. Respondent was described as responsible and accountable to his clients and has been known to put up his own money to protect his clients against losses. Respondent Ford has been a leader in his church for many years and has been active in youth activities. Most importantly, in terms of mitigation and rehabilitation, respondent Ford demonstrated he understands the importance of being in compliance with real estate laws related to trust funds and that he acted inappropriately in subjecting his clients' money to certain risks, even though he has always been accountable in the past. Respondent Ford further

demonstrated he understands that he has limitations and that events can occur that are beyond his control and foresight and hence the need to protect clients' funds entrusted to the respondents.

DETERMINATION OF ISSUES

I

Cause for discipline of respondents' license for violation of Business and Professions Code section 10145(d) and Title 10 California Code of Regulations section 2830 was established by Finding VII.

II

Cause for discipline of respondents' license for violation of Business and Professions Code sections 10145 and 10177(d) and Title 10 California Code of Regulations sections 2830, 2832 and 2832.1 was established by Findings VIII and IX.

III

Cause for discipline of respondents' license for violation of Business and Professions Code section 10145(d) and Title 10 California Code of Regulations section 2830 was established by Finding X.

IV

Cause for discipline of respondents' license for violation of Business and Professions Code sections 10176(e), 10176(i), 10177(d) and 10145 and Title 10 California Code of Regulations section 2830 was established by Finding XI.

V

Cause for discipline of respondents' license for violation of Business and Professions Code section 10177(d) and Title 10 California Code of Regulations section 2725 was established by Finding XII.

VI

Cause for discipline of respondents' license for violation of Business and Professions Code section 10177(d) and Title 10 California Code of Regulations section 2831 was established by Finding XIII.

VII

Cause for discipline of respondents' license for violation of Business and Professions Code section 10137 was established by Finding XIV.

VIII

Cause for discipline of respondents' license for violation of Business and Professions Code sections 10176(a) and 10176(i) was established by Finding XV.

ORDER

All real estate licenses and licensing rights issued to respondents Planning Horizons Corporation and Kenneth Walter Ford by the Department of Real Estate are revoked; provided, however, a restricted real estate license shall be issued to respondents pursuant to section 10156.5 of the Business and Professions Code if respondents make application therefor within thirty days from the effective date of this decision. The restricted license issued to respondents shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that Code:

- A. Respondents shall not be eligible to apply for the issuance of an unrestricted real estate license, nor the removal of any of the restrictions of the restricted license, until three (3) years have elapsed from the date of issuance of the restricted broker licenses provided for in this decision.
- B. Any restricted licenses issued to respondents may be suspended prior to hearing by order of the Commissioner in the event that respondents are convicted (including a plea of nolo contendere) of any crime which bears a substantial relationship to respondents' fitness to be real estate licensees or as otherwise provided by law.
- C. Respondents shall comply with all the laws to which they are subject, including all of the provisions of the California Real Estate Law, the Subdivided Lands Law and all Regulations of the Real Estate Commissioner.
- D. Respondent Ford shall, within six months from the effective date of this decision, present evidence satisfactory to the Real Estate Commissioner that respondent Ford has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent Ford fails to

satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent Ford the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

- E. Respondent Ford shall, within six (6) months from the effective date of the restricted license, take and pass the Professional Responsibility Examination administered by the Department, including the payment of the appropriate examination fee. If respondent Ford fails to satisfy this condition, the Commissioner may order suspension of the restricted license until respondent Ford passes the examination.
- F. Respondent Ford, individually and as designated officer of respondent Planning Horizons Corporation, shall submit to the Real Estate Commissioner a Trust Fund Position Statement as of the last day of each calendar quarter (the accounting date) for so long as said restricted licenses shall remain in effect.

The Position Statement shall consist of the following:

- (1) A schedule of trust fund accountability with the following information for each transaction in which respondents are accountable as agent or trustee to the owner of funds:
 - a. Account number;
 - b. Type of transaction (purchase and sale, property management, loan collection);
 - c. Name of principal or beneficiary;
 - d. Description of real estate property; and
 - e. Trust fund liability.
- (2) A report of trust funds in the custody and control of respondents as of the accounting date consisting of:

- a. A copy of respondents' trust account bank statement showing the balance of funds in the account as of the accounting date; and
 - b. A schedule of uncleared checks drawn on the account adjusting the account to its true balance as of the accounting date.
- (3) A statement explaining any discrepancy between the total liability shown under (1) above and the adjusted trust account balance shown under (2) above.

The Trust Fund Position Statement shall be submitted by respondent Ford to the Sacramento Office of the Department of

Real Estate not later than thirty (30) days after each accounting date. If respondents have no trust fund liability as of any accounting date, their report to the Department shall so state.

Respondent Ford shall certify the completeness and accuracy of each Position Statement to the best of his knowledge and belief. Respondent Ford, individually and as designated officer for respondent Planning Horizons Corporation, shall regularly report in writing to the Real Estate Commissioner all of his dealing in real estate undertaken as a broker, which reports shall set forth the following information for each such transaction:

1. The nature of the transactions and a brief description of the property involved;
2. The name and address of each party to the transaction;
3. The date of execution of the agreement and date of the closing of a transaction;
4. The name and address of the escrow agent, if any;
5. The purchase price of the property or the amount of the loan or other consideration involved;


6. An accounting of the receipt and disposition of the funds received by respondent as agent in the transaction; and
7. The amount of commission received.

Such report shall be submitted quarterly to the Sacramento office of the Real Estate Commissioner prior to the 15th day of each January, April, July and October for so long as said restricted license shall be in effect, and each report shall contain the information hereinabove specified for the calendar quarter immediately preceding the submission of each such report.

If respondents engage in no real estate transactions as a real estate broker during the calendar year in question, their report shall so state.

- G. Any restricted real estate broker license issued to respondents pursuant to this decision shall be suspended for sixty (60) days from the effective date of said restricted license.
- H. The issuance of a restricted brokers license to the respondents is conditioned upon respondents making restitution in the amount of \$12,741.09 to clients for which monies were placed in an interest bearing money market account and in a certificate of deposit, as found above.
- I. The restricted licenses may be suspended or revoked for a violation by respondents of any of the conditions attached to these restricted licenses.

Dated: April 2, 1990



KEITH A. LEVY
Administrative Law Judge
Office of Administrative Hearings

FILED
NOV 16 1989
DEPARTMENT OF REAL ESTATE

**BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

By *Laurie A. Gjin*

In the Matter of the Accusation of

PLANNING HORIZONS CORPORATION,
KENNETH WALTER FORD,

}
}

Case No. H-2456 SAC

OAH No. N-34781

Respondent(s)

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office
of Administrative Hearings, 501 J Street, Suite 220 (Second Floor Hearing Rooms),
Sacramento, CA 95814
on the 5th & 6th day of March, 19 90, at the hour of 9:00 AM, or as soon thereafter
as the matter can be heard, upon the charges made in the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the hearing officer conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the hearing officer directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: 11/16/89

By *David A. Peters*
DAVID A. PETERS Counsel

1 DAVID A. PETERS, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000
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6 (916) 739-3607
7

FILED
OCT 16 1989

DEPARTMENT OF REAL ESTATE

By Kathleen Contreas

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 PLANNING HORIZONS CORPORATION,) NO. H- 2456 SAC
13 KENNETH WALTER FORD,) ACCUSATION
14 Respondents.)

15 The Complainant, Les R. Bettencourt, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against PLANNING HORIZONS CORPORATION (hereinafter
18 "respondent HORIZONS") and KENNETH WALTER FORD (hereinafter
19 "respondent FORD") is informed and alleges as follows:

20 FIRST CAUSE OF ACCUSATION

21 I

22 The Complainant, Les R. Bettencourt, a Deputy Real
23 Estate Commissioner of the State of California, makes this
24 Accusation against respondent HORIZONS and respondent FORD in his
25 official capacity.

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II

Respondent HORIZONS and respondent FORD are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "Code").

III

At all times herein mentioned, respondent HORIZONS was licensed as a real estate corporation acting by and through respondent FORD as its designated broker-officer.

IV

At all times herein mentioned, respondent FORD was licensed as a real estate broker and as the broker-officer of respondent HORIZONS.

V

Whenever reference is made in an allegation in this Accusation to an act or omission of "Respondents", such allegation shall be deemed to mean the act or omission of each of the Respondents named in the caption hereof, acting individually, jointly and severally.

VI

Within the three-year period immediately preceding the filing of this Accusation, Respondents acting on behalf of another or others and in expectation of compensation, leased or rented, offered to lease or rent, solicited prospective tenants, or collected rents from certain real properties located in or near Sacramento, California.

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VII

During the course of the property management activities described in Paragraph VI above, Respondents received and disbursed funds held in trust on behalf of another or others.

VIII

In connection with the collection and disbursement of said trust funds, Respondents failed to deposit and maintain said funds in said bank account or disbursed said funds in such a manner that as of April 24, 1989, there was a shortage of \$154,341.18 of trust funds in said bank account.

IX

Respondents failed to obtain the prior written consent of their principal for the reduction of the aggregate balance of trust funds in said bank account to an amount less than the existing aggregate trust fund liability to the owners of said funds.

X

The facts alleged above are grounds for the suspension or revocation of Respondents' licenses under Sections 2830, 2832 and 2832.1 of Title 10, California Code of Regulations (hereinafter "Regulations") and Section 10145 of the Code in conjunction with Section 10177(d) of the Code.

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XIV

On or about April 20, 1988, Respondents using trust funds described in Paragraph VII above, purchased in the name of Planning Horizons Management Account a certificate of deposit totalling \$135,000 and is included in the trust fund shortage described in Paragraph VIII above. In purchasing said certificate of deposit, Respondents failed to comply with the requirements of Section 2830 of the Regulations and Section 10145(d) of the Code.

XV

Within the three-year period immediately preceding the filing of this Accusation in connection with the collection and disbursement of trust funds on behalf of another or others as described in Paragraph VII above, Respondents commingled with their own money or property funds held in trust for others and converted said trust funds to their own use or benefit or for purposes not authorized by the rightful owners of said funds. The exact amount of said commingled and converted trust funds is unknown to Complainant, but well known to Respondents and is not less than \$150,901.19 and is included in the trust fund shortage described in Paragraph VIII above.

XVI

The facts alleged above are grounds for the suspension or revocation of Respondents' licenses under Section 10176(e), 10176(i) and 10177(d) of the Code in conjunction with Section 10145 of the Code and Section 2830 of the Regulations.

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XXI

The facts alleged above are grounds for the suspension or revocation of Respondents' licenses under Sections 10137 and 10177(d) of the Code in conjunction with Section 2831 of the Regulations.

The facts alleged above are grounds for the suspension or revocation of Respondent FORD's license under Section 10177(d) of the Code in conjunction with Section 2725 of the Regulations.

FOURTH CAUSE OF ACCUSATION

XXII

There is hereby incorporated in this fourth, separate and distinct cause of Accusation all of the allegations contained in Paragraphs I, II, III, IV, V, and VI of the First Cause of Accusation with the same force and effect as if herein fully set forth.

XXIII

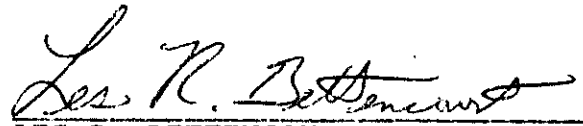
Within the three-year period immediately preceding the filing of this Accusation, in connection with the property management activities described in Paragraph VI above, Respondents, pursuant to management contracts with various principals, ordered work done on properties owned by those principals and paid on behalf of those principals, bills for landscape maintenance and other work done by third persons related to the properties of such principals. Respondents thereafter billed the principals for higher amounts for the work done and withdrew these higher amounts from the trust funds held by Respondents on behalf of such principals. Respondents at no time

1 obtained the consent of the principals involved for collecting
2 from them the amounts which exceeded the cost of the service
3 billed by the third persons performing the work described above.
4 Respondents pocketed the difference between the actual service
5 billings and the higher amounts collected from their principals.

6 XXIV

7 The facts alleged above are grounds for the suspension
8 or revocation of Respondents' licenses under Sections 10176(a) and
9 10176(i) of the Code.

10 WHEREFORE, Complainant prays that a hearing be conducted
11 on the allegations of this Accusation and that upon proof thereof,
12 a decision be rendered imposing disciplinary action against all
13 licenses and license rights, under the Real Estate Law (Part 1 of
14 Division 4 of the Business and Professions Code) of Respondents
15 HORIZONS and FORD, and for such other and further relief as may be
16 proper under the provisions of law.

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20 LES R. BETTENCOURT
Deputy Real Estate Commissioner

21 Dated at Sacramento, California
22 this 12th day of October, 1989.

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