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FILED  
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DEPARTMENT OF REAL ESTATE

By *Laurie A. Zinn*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 )  
13 NETWORK REAL ESTATE OF )  
14 CENTRAL CALIFORNIA, INC., )  
15 WILLIAM PAPOLA, JR., )  
16 Respondents. )

No. H-3174 SAC

ACCUSATION

16 The Complainant, Charles W. Koenig, a Deputy Real Estate  
17 Commissioner of the State of California for cause of Accusation  
18 against NETWORK REAL ESTATE OF CENTRAL CALIFORNIA, INC. dba ERA  
19 Network Real Estate and ERA Network Real Estate Property  
20 Management (hereinafter "Respondent NETWORK") and WILLIAM PAPOLA,  
21 JR. (hereinafter "Respondent PAPOLA"), is informed and alleges as  
22 follows:

23 FIRST CAUSE OF ACCUSATION

24 I

25 The Complainant, Charles W. Koenig, a Deputy Real Estate  
26 Commissioner of the State of California, makes this Accusation in  
27 his official capacity.

1 II

2 Respondent NETWORK is presently licensed and/or has  
3 license rights under the Real Estate Law (Part 1 of Division 4 of  
4 the Business and Professions Code) (hereinafter "Code"). At all  
5 time herein mentioned, Respondent NETWORK was licensed as a real  
6 estate broker corporation by and through its designated broker-  
7 officer Respondent PAPOLA.

8 III

9 Respondent PAPOLA is presently licensed and/or has  
10 license rights under the Code. At all times herein mentioned,  
11 Respondent was licensed as the designated broker-officer of  
12 Respondent NETWORK.

13 IV

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

19 V

20 Beginning on or before August 1, 1993 through on or  
21 about February 28, 1995, Respondents, acting on behalf of another  
22 or others and in expectation of a compensation, leased or rented,  
23 offered to lease or rent, solicited prospective tenants, or  
24 collected rents and otherwise managed certain real properties  
25 located in or near Grass Valley, California.

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1 VI

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

5 VII

6 Beginning on or before August 1, 1993 through on or  
7 about February 28, 1995, Respondents maintained the following  
8 trust fund accounts:

<u>ACCOUNT NAME &amp; NO.</u>	<u>BANK</u>
ERA Network RE, Property Management Division Account No. 03906 (hereinafter "Trust #1")	Bank of Commerce Grass Valley, CA
ERA Network RE, Property Management Division Account No. 05914 (hereinafter "Trust #2")	Bank of Commerce Grass Valley, CA
ERA Network Real Estate Property Management, Petty Cash Account No. 0506 (hereinafter "Account #1")	Bank of Commerce Grass Valley, CA

17  
18 Account #1 was not designated a trust account in the  
19 name of Respondent NETWORK or Respondent PAPOLA as trustee at a  
20 bank or other financial institution as required by Section 2830 of  
21 Title 10, California Code of Regulations (hereinafter  
22 "Regulations").

23 VIII

24 In connection with the collection and disbursement of  
25 said trust funds, Respondents failed to deposit and maintain said  
26 trust funds in Trust #1 and Trust #2 in such manner that as of  
27 February 28, 1995, there was a shortage of \$365.57 of trust funds.

IX

1  
2 Respondents failed to obtain prior written consent of  
3 their principals for the reduction of the aggregate balance of  
4 trust funds in said bank accounts to an amount less than the  
5 existing aggregate trust fund liability to the owners of said  
6 funds.

X

7  
8 In connection with Account #3, as of February 28, 1995,  
9 Respondents had an unexplained trust account overage of \$183.77.  
10 Respondents failed to maintain a separate record of said  
11 unexplained trust account overage as required by Section 2833 of  
12 the Regulations.

XI

13  
14 In connection with the receipt and disbursement of trust  
15 funds described in Paragraph VI above, as to Account #1,  
16 Respondents failed to adequately maintain a separate record for  
17 each beneficiary or transaction, accounting therein for all said  
18 trust funds received, deposited, and disbursed in the manner  
19 required by Section 2831.1 of the Regulations.

XII

20  
21 In connection with the receipt and disbursement of trust  
22 funds described in Paragraph VI above, as to Account #1,  
23 Respondents failed to adequately maintain separate records of all  
24 trust funds received and disbursed as required by Section 2831.1  
25 of the Regulations. Respondents failed to reconcile the balance  
26 of all separate beneficiary or transaction records at least once  
27 per month, in conformance with Section 2831.2 of the Regulations.



1 part of Respondent PAPOLA, as designated broker-officer for  
2 Respondent NETWORK, to exercise reasonable supervision and control  
3 over the licensed activities of Respondent PAPOLA required by  
4 Section 10159.2 of the Code, and is cause for the suspension or  
5 revocation of Respondent PAPOLA's licenses and/or license rights  
6 under Section 10177(h) of the Code.

7 SECOND CAUSE OF ACCUSATION

8 XV

9 There is hereby incorporated in this second, separate  
10 and distinct cause of accusation, all of the allegations contained  
11 in Paragraphs I through III of the First Cause of Accusation with  
12 the same force and effect as if herein fully set forth.

13 XVI

14 Within the three-year period immediately preceding the  
15 filing of this Accusation, in connection with the property  
16 management activities described in Paragraph V above, Respondents  
17 engaged in the business of claiming, demanding, charging,  
18 receiving, collecting or contracting for the collection of advance  
19 fees within the meaning of Sections 10026 and 10131.2 (advance  
20 fees) of the Code. Said advance fees were trust funds pursuant to  
21 Section 10145 of the Code.

22 XVII

23 In connection with the collection and handling of said  
24 advance fees, Respondents failed to cause their advance fee  
25 contracts and materials to be submitted to the Department prior to  
26 use as required by Section 10085 of the Code and Section 2970 of  
27 the Regulations.

XVIII

1  
2 In connection with the collection and handling of said  
3 advance fees, Respondents failed to furnish a verified accounting  
4 of the receipt, deposit and disbursement of said trust funds to  
5 each principal as required by Section 10146 of the Code and  
6 Section 2972 of the Regulations.

7 XIX

8 The acts and/or omissions of Respondents described above  
9 in this Second Cause of Accusation are grounds for the suspension  
10 or revocation of the licenses and/or license rights of Respondents  
11 under the following sections of the Code and Regulations:

12 1) As to Paragraph XVII, under Section 10177(d) of the  
13 Code in conjunction with Section 10085 of the Code and Section  
14 2970 of the Regulations; and

15 2) As to Paragraph XVIII, under Section 10177(d) of  
16 the Code in conjunction with Section 10146 of the Code and Section  
17 2972 of the Regulations.

18 PRIOR DISCIPLINARY ACTION

19 On May 31, 1994, effective June 30, 1994, in Case No.  
20 H-2978 SAC, the Real Estate Commissioner suspended the real estate  
21 broker licenses of Respondents for ten (10) days all time stayed  
22 on terms and conditions for violation of Section 10177(d) of the  
23 Business and Professions Code in conjunction with Section 10145 of  
24 the Business and Professions Code and Sections 2830 and 2832.1 of  
25 Title 10, California Code of Regulations.

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

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9   
10 CHARLES W. KOENIG  
Deputy Real Estate Commissioner

11 Dated at Sacramento, California,  
12 this 4th day of November, 1995.

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