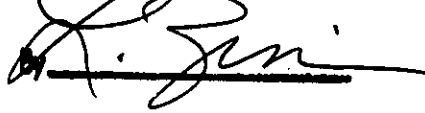


FILED

FEB 15 2011

DEPARTMENT OF REAL ESTATE



BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

THOMMAS ROBERT YARAK and
YARAK REALTY, INC.,

No. H-4830 SAC

Respondents.

ORDER GRANTING REINSTATEMENT OF LICENSES

On April 8, 2008, in Case No. H-4830 SAC, a Decision was rendered revoking the real estate broker and real estate corporation licenses of Respondents effective May 2, 2008, but granting Respondents the right to the issuance of a restricted real estate broker license and a restricted real estate corporation license. A restricted real estate broker license and a restricted real estate corporation license were issued to Respondents on May 2, 2008, and Respondents have operated as restricted licensees since that time.

On May 5, 2010, Respondent THOMAS ROBERT YARAK petitioned for the removal of restrictions attaching to Respondent THOMAS ROBERT YARAK's real estate broker license, and on June 28, 2010, Respondent YARAK REALTY INC. petitioned for the removal of restrictions attaching to Respondent YARAK REALTY INC.'s real estate

1 corporation license. The Attorney General of the State of California has been given notice of the
2 filing of the petitions.

3 I have considered Respondents' petitions and the evidence and arguments in
4 support thereof. Respondents have demonstrated to my satisfaction that Respondents meet the
5 requirements of law for the issuance to Respondents of an unrestricted real estate broker license
6 and an unrestricted real estate corporation license, and that it would not be against the public
7 interest to issue said licenses to Respondents.

8 NOW, THEREFORE, IT IS ORDERED that Respondents' petitions for
9 reinstatement are granted and that real estate broker and real estate corporation licenses be issued
10 to Respondents if Respondents satisfy the following requirements:

11 1. Submit a completed application and pay the fee for a real estate broker
12 license and a real estate corporation license within the 12 month period following the date of this
13 Order; and

14 2. Submit proof that Respondent THOMAS ROBERT YARAK has
15 completed the continuing education requirements for renewal of the license sought. The
16 continuing education courses must be completed either (i) within the 12 month period preceding
17 the filing of the completed application, or (ii) within the 12 month period following the date of
18 this Order.

19 This Order shall become effective immediately.

20 DATED: 1/26/2011

21 JEFF DAVI
22 Real Estate Commissioner
23
24
25
26
27

FILED

APR 14 2008

1 Department of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0781

DEPARTMENT OF REAL ESTATE

[Signature]

7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10		
11	In the Matter of the Accusation of)	No. H-4830 SAC
12	THOMAS ROBERT YARAK,)	OAH No. 2007080870
13	YARAK REALTY, INC.,)	<u>STIPULATION AND AGREEMENT</u>
14	a California Corporation, and)	
15	VIRGINIA ANN YARAK,)	
	Respondents.)	

16
17 It is hereby stipulated by and between THOMAS ROBERT
18 YARAK, YARAK REALTY, INC., a California Corporation and
19 VIRGINIA ANN YARAK (collectively referred to as Respondents)
20 and their attorney, Douglas E. Kirkman, and the Complainant,
21 acting by and through Angela L. Cash, Counsel for the
22 Department of Real Estate, as follows for the purpose of
23 settling and disposing the Accusation filed on July 18, 2007 in
24 this matter:

25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and Respondents
27 at a formal hearing on the Accusation, which hearing was to be

1 held in accordance with the provisions of the Administrative
2 Procedure Act (APA), shall instead and in place thereof be
3 submitted solely on the basis of the provisions of this
4 Stipulation and Agreement.

5 2. Respondents have received, read and understand the
6 Statement to Respondent, and the Discovery Provisions of the APA
7 filed by the Department of Real Estate in this proceeding.

8 3. On July 26, 2007, Respondents filed a Notice of
9 Defense pursuant to Section 11505 of the Government Code for the
10 purpose of requesting a hearing on the allegations in the
11 Accusation. Respondents hereby freely and voluntarily withdraw
12 said Notice of Defense. Respondents acknowledge that they
13 understand that by withdrawing said Notice of Defense they will
14 thereby waive their rights to require the Commissioner to prove
15 the allegations in the Accusation at a contested hearing held in
16 accordance with the provisions of the APA, and that they will
17 waive other rights afforded to them in connection with the
18 hearing such as the right to present evidence in defense of the
19 allegations in the Accusation and the right to cross-examine
20 witnesses.

21 4. This stipulation is based on the factual
22 allegations contained in the Accusation. In the interest of
23 expediency and economy, Respondents choose not to contest these
24 factual allegations, but to remain silent and understand that,
25 as a result thereof, these factual allegations, without being
26 admitted or denied, will serve as a prima facie basis for the
27 "Determination of Issues" and "Order" set forth below. The Real

1 Estate Commissioner shall not be required to provide further
2 evidence to prove such allegations.

3 5. This Stipulation and Respondents decision not to
4 contest the Accusation are made for the purpose of reaching an
5 agreed disposition of this proceeding and are expressly limited
6 to this proceeding and any other proceeding or case in which the
7 Department of Real Estate (herein "the Department"), the state
8 or federal government, an agency of this state, or an agency of
9 another state is a party.

10 6. It is understood by the parties that the Real
11 Estate Commissioner may adopt the Stipulation and Agreement as
12 his decision in this matter thereby imposing the penalty and
13 sanctions on the real estate licenses and license rights of
14 Respondent as set forth in the below "Order". In the event that
15 the Commissioner in his discretion does not adopt the
16 Stipulation and Agreement, it shall be void and of no effect,
17 and Respondents shall retain the right to a hearing and
18 proceeding on the Accusation under all the provisions of the APA
19 and shall not be bound by any admission or waiver made herein.

20 7. The Order or any subsequent Order of the Real
21 Estate Commissioner made pursuant to this Stipulation and
22 Agreement shall not constitute an estoppel, merger or bar to any
23 further administrative or civil proceedings by the Department of
24 Real Estate with respect to any matters which were not
25 specifically alleged to be causes for accusation in this
26 proceeding.

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DETERMINATION OF ISSUES

I

By reason of the foregoing stipulations, admissions, and waivers, and for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the following determinations of issues shall be made:

The acts and/or omissions of Respondents THOMAS ROBERT YARAK, YARAK REALTY, INC., and VIRGINIA ANN YARAK as stipulated above constitute grounds for disciplinary action against the real estate licenses and license rights of Respondents under the provision of Section 10177(d) of the Business and Professions Code (hereinafter "the Code") in conjunction with Section 2801.5 of Chapter 6, Title 10, California Code of Regulations (hereinafter "Regulations") and Sections 11018.1 and 11018.2 of the Code.

ORDER

I

A. All real estate license(s) and license rights of Respondent YARAK REALTY, INC. (hereinafter YARAK REALTY) are revoked.

B. A restricted real estate broker license shall be issued to Respondent YARAK REALTY pursuant to Section 10156.6 of the Code if within ninety (90) days of the effective date of the Order Respondent YARAK REALTY makes application therefor and pays to the Department the appropriate fee for said license.

///
///

1 C. The restricted license issued to Respondent YARAK
 2 REALTY shall be subject to all of the provisions of Section
 3 10156.7 of the Code and to the following conditions and
 4 limitations imposed under authority of Section 10156.6 of said
 5 Code:

6 1) The restricted license issued to Respondent YARAK
 7 REALTY may be suspended prior to hearing by order of the Real
 8 Estate Commissioner in the event of Respondent's conviction or
 9 plea of nolo contendere to a crime which bears a substantial
 10 relationship to Respondent's fitness or capacity as a real
 11 estate licensee.

12 2) The restricted license may be suspended prior to
 13 hearing by Order of the Real Estate Commissioner on evidence
 14 satisfactory to the Commissioner that Respondent YARAK REALTY
 15 has violated provisions of the California Real Estate Law, the
 16 Subdivided Lands Law, Regulations of the Real Estate
 17 Commissioner or conditions attaching to the restricted license.

18 3) Respondent YARAK REALTY shall not be eligible to
 19 apply for the issuance of an unrestricted real estate license,
 20 nor the removal of any of the conditions of the restricted
 21 license, until two (2) years have elapsed from the effective
 22 date of this Order.

23 II

24 A. All real estate license(s) and license rights of
 25 Respondent THOMAS ROBERT YARAK (hereinafter THOMAS YARAK) are
 26 revoked.

27 ///

1 B. A restricted real estate broker license shall be
 2 issued to Respondent THOMMAS YARAK pursuant to Section 10156.6
 3 of the Code if within ninety (90) days of the effective date of
 4 the Order Respondent THOMMAS YARAK makes application therefor
 5 and pays to the Department the appropriate fee for said license.

6 C. The restricted license issued to Respondent
 7 THOMMAS YARAK shall be subject to all of the provisions of
 8 Section 10156.7 of the Code and to the following conditions and
 9 limitations imposed under authority of Section 10156.6 of said
 10 Code:

11 1) The restricted license issued to Respondent
 12 THOMMAS YARAK may be suspended prior to hearing by order of the
 13 Real Estate Commissioner in the event of Respondent's conviction
 14 or plea of nolo contendere to a crime which bears a substantial
 15 relationship to Respondent's fitness or capacity as a real
 16 estate licensee.

17 2) The restricted license may be suspended prior to
 18 hearing by Order of the Real Estate Commissioner on evidence
 19 satisfactory to the Commissioner that Respondent THOMMAS YARAK
 20 has violated provisions of the California Real Estate Law, the
 21 Subdivided Lands Law, Regulations of the Real Estate
 22 Commissioner or conditions attaching to the restricted license.

23 3) Respondent THOMMAS YARAK shall not be eligible to
 24 apply for the issuance of an unrestricted real estate license,
 25 nor the removal of any of the conditions of the restricted
 26 license, until two (2) years have elapsed from the effective
 27 date of this Order.

1 4) Respondent THOMMAS YARAK shall, within nine (9)
 2 months from the effective date of this Order, present evidence
 3 satisfactory to the Real Estate Commissioner that Respondent
 4 THOMMAS YARAK has, since the most recent issuance of an original
 5 or renewal real estate license, taken and successfully completed
 6 the continuing education requirements of Article 2.5 of Chapter
 7 3 of the Real Estate Law for renewal of a real estate license.
 8 If Respondent THOMMAS YARAK fails to satisfy this condition, the
 9 Commissioner may order the suspension of the restricted license
 10 until Respondent THOMMAS YARAK presents such evidence. The
 11 Commissioner shall afford Respondent THOMMAS YARAK the
 12 opportunity for hearing pursuant to the Administrative Procedure
 13 Act to present such evidence.

14 5) Respondent THOMMAS YARAK shall, within six (6)
 15 months from the effective date of this Decision, take and pass
 16 the Professional Responsibility Examination administered by the
 17 Department including the payment of the appropriate examination
 18 fee. If Respondent THOMMAS YARAK fails to satisfy this
 19 condition, the Commissioner may order suspension of the
 20 restricted license until Respondent THOMMAS YARAK passes the
 21 examination.

22 III

23 All licenses and licensing rights of Respondent
 24 VIRGINIA ANN YARAK under the Real Estate Law are suspended for
 25 a period of one hundred and fifty (150) days from the effective
 26 date of this Order; provided, however, that:

27 A. Ninety (90) days of said suspension shall be

1 stayed for two (2) years upon the following terms and
2 conditions:

3 (1) Respondent VIRGINIA ANN YARAK shall obey all
4 laws, rules and regulations governing the rights, duties and
5 responsibilities of a real estate licensee in the State of
6 California; and

7 (2) That no final subsequent determination be made,
8 after hearing or upon stipulation, that cause for disciplinary
9 action occurred within two (2) years from the effective date of
10 this Order. Should such a determination be made, the
11 Commissioner may, in his discretion, vacate and set aside the
12 stay order and reimpose all or a portion of the suspension
13 stayed pursuant to this Paragraph III(A). Should no such
14 determination be made, the stay so imposed herein shall become
15 permanent.

16 B. The remaining sixty (60) days of said 150-day
17 suspension shall be stayed upon the condition that Respondent
18 VIRGINIA ANN YARAK petition pursuant to Section 10175.2 of the
19 Business and Professions Code and pays a monetary penalty
20 pursuant to Section 10175.2 of the Business and Professions
21 Code at a rate of \$125.00 for each day of the suspension for a
22 total monetary penalty of \$7,500.00:

23 (1) Said payment shall be in the form of a cashier's
24 check or certified check made payable to the Recovery Account
25 of the Real Estate Fund. Said check must be delivered to the
26 Department prior to the effective date of the Order in this
27 matter.

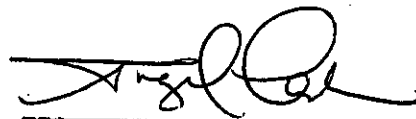
1 (2) No further cause for disciplinary action against
 2 the Real Estate license of said Respondent occurs within two
 3 (2) years from the effective date of the decision in this
 4 matter.

6 (3) If Respondent VIRGINIA ANN YARAK fails to pay
 6 the monetary penalty as provided above prior to the effective
 7 date of this Order, the stay of the suspension shall be vacated
 8 as to Respondent VIRGINIA ANN YARAK and the order of suspension
 9 under this Paragraph III(B) of this Order, shall be
 10 immediately executed, in which event Respondent VIRGINIA ANN
 11 YARAK shall not be entitled to any repayment nor credit,
 12 prorated or otherwise, for the money paid to the Department
 13 under the terms of this Order.

14 (4) If Respondent VIRGINIA ANN YARAK pays the
 15 monetary penalty and any other moneys due under this
 16 Stipulation and Agreement and if no further cause for
 17 disciplinary action against the real estate license of
 18 Respondent VIRGINIA ANN YARAK occurs within two (2) years from
 19 the effective date of this Order, the entire stay hereby
 20 granted under Paragraph III of this Order, as to Respondent
 21 VIRGINIA ANN YARAK only, shall become permanent.

23 11/30/08

24 DATED



24 ANGELA L. CASH
 25 Counsel for Complainant

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* * *

I have read the Stipulation and Agreement, discussed it with my counsel, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act, and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

YARAK REALTY, INC.
Respondent

12-7

DATED

By:

THOMAS ROBERT YARAK
President

12-7

DATED

THOMAS ROBERT YARAK
Respondent

12/7/07

DATED

VIRGINIA ANN YARAK
Respondent

I have reviewed the Stipulation and Agreement as to form and content and have advised my clients accordingly.

12/7/07

DATED

DOUGLAS B. KIRKMAN
Attorney for Respondents

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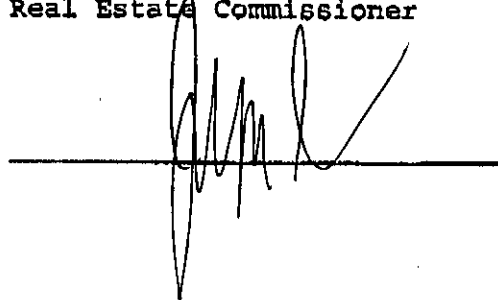
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* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision and shall become effective at 12 o'clock
noon on MAY - 2 2008

IT IS SO ORDERED 4-8-08

JEFF DAVI
Real Estate Commissioner



1 ANGELA L. CASH, Counsel
2 State Bar No. 230882
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0785

FILED
JUL 18 2007
DEPARTMENT OF REAL ESTATE
By R. Max

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-4830 SAC
12 THOMMAS ROBERT YARAK,) ACCUSATION
13 YARAK REALTY, INC.,)
14 a California Corporation, and)
15 VIRGINIA ANN YARAK)
Respondents.)

16 The Complainant, Charles W. Koenig, a Deputy Real
17 Estate Commissioner of the State of California, for cause of
18 Accusation against THOMMAS ROBERT YARAK (hereinafter "Respondent
19 THOMMAS YARAK"), YARAK REALTY, INC., a California Corporation
20 (hereinafter "Respondent YARAK REALTY"), and VIRGINIA ANN YARAK
21 (hereinafter "Respondent VIRGINIA YARAK") is informed and alleges
22 as follows:

23 I

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

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1 II

2 Respondents THOMMAS YARAK, YARAK REALTY, INC. and
3 VIRGINIA YARAK are presently licensed and/or have license rights
4 under the Real Estate Law (Part 1 of Division 4 of the
5 California Business and Professions Code) (hereinafter "Code").

6 III

7 At all times herein mentioned, Respondent YARAK REALTY
8 was and now is licensed by the Department of Real Estate of the
9 State of California (hereinafter "the Department") as a corporate
10 real estate broker by and through Respondent THOMMAS YARAK as
11 designated officer-broker of YARAK REALTY to qualify said
12 corporation and to act for said corporation as a real estate
13 broker.

14 IV

15 At all times herein mentioned, Respondent THOMMAS YARAK
16 was licensed as a real estate broker individually and beginning
17 on or about February 20, 2002 as the designated broker-officer
18 for Respondent YARAK REALTY. As said designated officer-broker,
19 Respondent THOMMAS YARAK was at all times mentioned herein
20 responsible pursuant to Section 10159.2 of the Code for the
21 supervision of the activities of the officers, agents, real
22 estate licensees and employees of Respondent YARAK REALTY for
23 which a license is required.

24 V

25 At all times herein mentioned, Respondents YARAK
26 REALTY and THOMMAS YARAK acted in the capacity of, advertised,
27 or assumed to act as real estate brokers within the State of

1 California within the meaning of Sections 10131(a) of the Code,
2 including the operation and conduct of a real estate brokerage
3 business with the public wherein, on behalf of others, for
4 compensation or in expectation of compensation, Respondent sold
5 and offered to sell, solicited prospective sellers and
6 purchasers of, and negotiated the purchase and sale of real
7 property.

8 VI

9 At all times material herein, Respondent VIRGINIA
10 YARAK was licensed as a real estate salesperson in the employ of
11 Respondent YARAK REALTY.

12 VII

13 At all times mentioned herein Respondents were the
14 owners or subdividers, or agents of the owners or subdividers of
15 subdivided lands as defined in Sections 11000, 11003, and 11004.5
16 of the Code.

17 VIII

18 Said subdivision is a condominium project known as or
19 commonly called The Regency, Tract No. 1552, and is located in or
20 near the County of San Joaquin, State of California (hereinafter
21 "Subdivision").

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IX

At no time herein mentioned has the Department issued any conditional or final public report authorizing any person to offer for sale or lease, negotiate the sale or lease, or sell or lease any lots, units or parcels in the Subdivision.

X

Between on or about January 10, 2005 and on or about July 31, 2006, Respondents solicited prospective purchasers, offered for sale, and sold lots, units or parcels in the Subdivision, including but not limited to the sales tabulated below:

Date	Purchaser(s)	Parcel
1/10/2005	Silva Gregory	APN 123-260-05, Unit 5
1/25/2005	Phyllis Williams	APN 123-260-08, Unit 8
2/15/2005	Catherine Kanellis	APN 123-270-06, Unit 31
2/15/2005	Robert & Alice Wolf	APN 123-260-24, Unit 24
2/22/2005	Alan & Barbara Hemstad	APN 123-270-24, Unit 48
3/9/2005	Khader & Suzy Nino	APN 123-260-12, Unit 12
3/11/2005	Mario Barrera	APN 123-270-20, Unit 44
3/16/2005	Joan Santiago	APN 123-270-17, Unit 41
4/1/2005	Brian Rose	APN 123-260-23, Unit 23
4/12/2005	Pamela Walker	APN 123-260-17, Unit 17
5/12/2005	Roeun Sophorn	APN 123-260-06, Unit 6
5/26/2005	Denan Wang	APN 123-270-09, Unit 33
6/20/2005	Harold & Debbie Tietz	APN 123-270-23, Unit 47
6/30/2005	Braden & Lisa Rankin	APN 123-270-15, Unit 39
8/1/2005	Sherry West	APN 123-270-21, Unit 45

1	11/9/2005	Tina Barber	APN 123-270-16, Unit 40
2	11/21/2005	Francisco Castro	APN 123-260-16, Unit 16
3	12/8/2005	Damon Hamm	APN 123-270-18, Unit 42
4	12/23/2005	Matthew & Sharon Johnson	APN 123-270-19, Unit 43
5	12/29/2005	Garrett & Patricia Archer	APN 123-270-22, Unit 46
6	4/25/2006	Laura Jasso	APN 123-260-15, Unit 15
7	5/8/2006	Jesus Ramirez	APN 123-270-04, Unit 28
8	6/30/2006	Martha A. Griffin	APN 123-260-04, Unit 4
9	7/27/2006	Tiffani Vonalvensleben	APN 123-270-08, Unit 32
10	7/31/2006	Sidoeun Hang	APN 123-260-07, Unit 7

11 XI

12 Respondents sold and offered for sale lots, units, or
13 parcels in said Subdivision, as described in Paragraph X, above,
14 without having first obtained a public report as required by
15 Section 11018.2 of the Business and Professions Code of the
16 State of California (hereinafter "the Code") and Section 2801.5
17 of Chapter 6, Title 10, California Code of Regulations
18 (hereinafter "the Regulations").

19 XII

20 In course of the transactions described in Paragraph
21 X, above, Respondents failed to provide the purchasers with a
22 copy of a current active subdivision public report issued by the
23 Department authorizing Respondents to offer for sale, negotiate
24 for sale, and/or sell lots or units in said Subdivision.

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XIII

The acts and omissions of Respondents described in Paragraphs XI and XII, above, constitute cause for the suspension or revocation of the licenses and license rights of Respondents under Section 10177(d) of the Code in conjunction with Section 2801.5 of the Regulations and Sections 11018.1 and 11018.2 of the Code.

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


CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 18th day of July, 2007