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Department of Real Estate  
320 West Fourth Street, Suite 350  
Los Angeles, California 90013-1105  
  
Telephone: (213) 576-6982

**FILED**  
SEP 20 1999  
DEPARTMENT OF REAL ESTATE  
By: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
NKL, INC., a corporation, )  
doing business as )  
Century 21 Center Realty; )  
and FRANKLIN D. LEE, )  
individually and as )  
designated officer of )  
NKL, INC., )  
  
Respondents. )

NO. H-28129 LA  
L-1999060161

STIPULATION AND AGREEMENT

It is hereby stipulated by and between NKL, INC., a corporation, doing business as Century 21 Center Realty; and FRANKLIN D. LEE, individually and as designated officer of NKL, INC., (sometimes referred to as Respondents) and their attorney of record, Eugene F. McMenamin, and the Complainant, acting by and through Tuan Van Lai, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on May 14, 1999, in this matter:

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

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

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

8 3. On May 28, 1999, Respondents filed a Notice of  
9 Defense pursuant to Section 11506 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 right to require the Commissioner to prove the  
15 allegations in the Accusation at a contested hearing held in  
16 accordance with the provisions of the APA and that they will waive  
17 other rights afforded to them in connection with the hearing such  
18 as the right to present evidence in defense of the allegations in  
19 the Accusation and the right to cross-examine witnesses.

20 4. Respondents, pursuant to the limitations set forth  
21 below, hereby admit that the factual allegations in Paragraphs 1  
22 through 12 of the Accusation filed in this proceeding are true and  
23 correct and the Real Estate Commissioner shall not be required to  
24 provide further evidence of such allegations.

25 5. It is understood by the parties that the Real Estate  
26 Commissioner may adopt the Stipulation and Agreement as his  
27 Decision in this matter, thereby imposing the penalty and sanctions



1 on Respondents' real estate licenses and license rights as set  
2 forth in the below "Order". In the event that the Commissioner in  
3 his discretion does not adopt the Stipulation and Agreement, it  
4 shall be void and of no effect, and Respondents shall retain the  
5 right to a hearing and proceeding on the Accusation under all the  
6 provisions of the APA and shall not be bound by any admission or  
7 waiver made herein.

8 6. The Order or any subsequent Order of the Real Estate  
9 Commissioner made pursuant to this Stipulation and Agreement shall  
10 not constitute an estoppel, merger or bar to any further  
11 administrative or civil proceedings by the Department of Real  
12 Estate with respect to any matters which were not specifically  
13 alleged to be causes for accusation in this proceeding.

14 DETERMINATION OF ISSUES

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

19 The acts and omissions of Respondents, as described in  
20 Paragraphs 1 through 12 of the Accusation, are cause for the  
21 suspension or revocation of all of the real estate licenses and  
22 license rights of Respondents under the provision of Section  
23 10177(d) of the Business and Professions Code.

24 /////  
25 /////  
26 /////  
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28

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I

All licenses and licensed rights of Respondents NKL, INC., and FRANKLIN D. LEE under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondents pursuant to Section 10156.5 of the Business and Professions Code if Respondents make application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 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:

1. The restricted license issued to Respondents may be suspended subsequent to hearing by Order of the Real Estate Commissioner in the event of Respondents' conviction or plea of nolo contendere to a crime which is substantially related to Respondents' fitness or capacity as a real estate licensee.

2. The restricted license issued to Respondents may be suspended subsequent to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondents have violated



1 provisions of the California Real Estate Law, the  
2 Subdivided Lands Law, Regulations of the Real Estate  
3 Commissioner or conditions attaching to the restricted  
4 license.

5  
6 3. Respondents shall not be eligible to apply for the  
7 issuance of an unrestricted real estate license nor  
8 for the removal of any of the conditions, limitations  
9 or restrictions of a restricted license until two  
10 years have elapsed from the effective date of this  
11 Decision.

12  
13 4. Respondent FRANKLIN D. LEE shall, within nine  
14 months from the effective date of this Decision,  
15 present evidence satisfactory to the Real  
16 Estate Commissioner that Respondent has, since the  
17 most recent issuance of an original or renewal real  
18 estate license, taken and successfully completed the  
19 continuing education requirements of Article 2.5 of  
20 Chapter 3 of the Real Estate Law for renewal of a real  
21 estate license. If Respondent fails to satisfy this  
22 condition, the Commissioner may order the suspension  
23 of the restricted license until the Respondent  
24 presents such evidence. The Commissioner shall  
25 afford Respondent the opportunity for a hearing  
26 pursuant to the Administrative Procedure Act to  
27 present such evidence.



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5. Respondent FRANKLIN D. LEE shall, within six  
months from the date of this Decision, take and pass  
the Professional Responsibility Examination  
administered by the Department including the payment  
of appropriate examination fee. If Respondent fails  
to satisfy this condition, the Commissioner may order  
suspension of Respondent's license until Respondent  
passes the examination.

II

Pursuant to Section 10148 of the Business and

Professions Code, Respondents, or either of them shall pay the  
Commissioner's reasonable cost for an audit to determine if  
Respondents has corrected the trust fund violations found in  
the Determination of Issues. In calculating the amount of the  
Commissioner's reasonable cost, the Commissioner may use the  
estimated average hourly salary for all persons performing  
audits of real estate brokers, and shall include an allocation  
for travel time to and from the auditor's place of work.  
Respondent shall pay such cost within 45 days of receiving an  
invoice from the Commissioner detailing the activities performed  
during the audit and the amount of time spent performing those  
activities. The Commissioner may suspend the restricted license  
issued to Respondent pending a hearing held in accordance with  
Section 11500, et seq., of the Government Code, if payment is  
not timely made as provided for herein, or as provided for in a

1 subsequent agreement between the Respondent and the  
2 Commissioner. The suspension shall remain in effect until  
3 payment is made in full or until Respondent enters into an  
4 agreement satisfactory to the Commissioner to provide for  
5 payment, or until a decision providing otherwise is adopted  
6 following a hearing held pursuant this condition.

7 III

8 Respondent FRANKLIN D. LEE (individually and as  
9 designated officer for Respondent NKL, INC. or any other real  
10 estate broker-corporation) shall submit to the Real Estate  
11 Commissioner a Trust Fund Position Statement as of the last day of  
12 each calendar quarter (the accounting date) for so long as said  
13 restricted license shall remain in effect. If Respondent engages  
14 in no real estate transactions as a real estate broker or acts as a  
15 broker-salesperson for another broker during the calendar quarter  
16 in question, his quarterly report shall so state.

17 The Position Statement shall consist of the following:

18 1. A schedule of trust fund accountability with the  
19 following information for each transaction in which Respondent is  
20 accountable as agent or trustee to the owner of funds:

- 21 (a) Account number;
- 22 (b) Type of transaction (purchase and sale, property  
23 management, loan collection);
- 24 (c) Name of principal or beneficiary;
- 25 (d) Description of real property; and
- 26 (e) Trust fund liability.

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2. A report of trust funds in the custody and control of Respondent as of the account date consisting of:

(a) A copy of Respondent's 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 to the Los Angeles District Office of the Department of Real Estate not later than thirty (30) days after each accounting date. If Respondent has no trust fund liability as of an accounting date, his report to the Department shall so state.

Respondent shall certify the completeness and accuracy of each Position Statement to the best of his knowledge and belief.

DATED: August 18, 1999      Tuan Van Lai  
TUAN VAN LAI, ESQ.  
Counsel for Complainant

\* \* \* \*

We have read the Stipulation and Agreement, have discussed it with our counsel, and its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508,



1 11509 and 11513 of the Government Code), and we willingly,  
2 intelligently and voluntarily waive those rights, including the  
3 right of requiring the Commissioner to prove the allegations in the  
4 Accusation at a hearing at which we would have the right to cross-  
5 examine witnesses against us and to present evidence in defense and  
6 mitigation of the charges.

7  
8 DATED: 8/20/99

Franklin D. Lee  
NKL, INC.,  
a corporation, Respondent  
by Franklin D. Lee  
Designated Officer

9  
10  
11 DATED: 8/20/99

Franklin D. Lee  
FRANKLIN D. LEE  
Respondent

12  
13  
14 DATED: 8/20/99

Eugene F. McMnamin  
EUGENE F. McMENAMIN, ESQ.  
Counsel for Respondents

15  
16 \* \* \* \*

17 The foregoing Stipulation and Agreement is hereby adopted  
18 as my Decision in this matter and shall become effective at 12  
19 o'clock noon on October 12, 1999.

20 IT IS SO ORDERED September 8, 1999.

21  
22 JOHN R. LIBERATOR  
Acting Real Estate Commissioner

23  
24 John R. Liberator  
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SACCO  
FLM

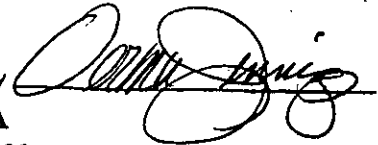
BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

**FILED**  
JUL - 1 1999  
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of )  
 )  
NKL, INC., et al., )  
 )  
Respondents. )

Case No. H-28129 LA  
OAH No. L-1999060161

By 

**NOTICE OF HEARING ON ACCUSATION**

To the above-named Respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California, on August 25 and 26, 1999, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission 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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: July 1, 1999.

DEPARTMENT OF REAL ESTATE

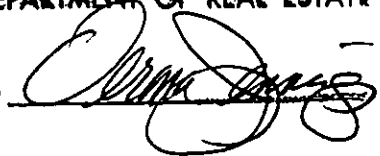
cc: NKL, Inc.  
Franklin D. Lee  
Eugene F. McMnamin, Esq.  
Danio Fajardo  
Dorcas Cheng  
Sacto.  
OAH

By:   
TUAN VAN LAI, Counsel

SACED.  
Flaj.

**FILED**  
MAY 14 1999  
DEPARTMENT OF REAL ESTATE

1 TUAN VAN LAI, Counsel (182967)  
2 Department of Real Estate  
3 320 West Fourth Street, Suite 350  
4 Los Angeles, California 90013-1105  
5  
6  
7  
8 Telephone: (213) 576-6982  
9 -or- (213) 576-6916 (Direct)

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 NKL, INC., a corporation, )  
13 doing business as )  
14 Century 21 Center Realty; )  
15 and FRANKLIN D. LEE, )  
16 individually and as )  
17 designated officer of )  
18 NKL, INC., )  
19 Respondents. )

No. H-28129 LA  
A C C U S A T I O N

18 The Complainant, Thomas McCrady, a Deputy Real Estate  
19 Commissioner of the State of California, for cause of accusation  
20 against NKL, INC., a corporation, doing business as Century 21  
21 Center Realty; and FRANKLIN D. LEE, individually and as designated  
22 officer of NKL., Inc., is informed and alleges in his official  
23 capacity as follows:

24 1.

25 NKL, INC., a corporation, doing business as Century 21  
26 Center Realty (hereinafter "NKL"), and FRANKLIN D. LEE,  
27 individually and as designated officer of NKL (hereinafter "LEE"),

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

4 2.

5 At all times material herein, NKL was and now is licensed  
6 by the Department of Real Estate of the State of California  
7 (hereinafter "Department") as a corporate real estate broker, by  
8 and through LEE, as the designated officer and broker responsible,  
9 pursuant to the provisions of Code Section 10159.2 for the  
10 supervision and control of the activities conducted on behalf of  
11 NKL by NKL's officers and employees.

12 3.

13 At all times material herein, LEE was and now is licensed  
14 by the Department, individually as a real estate broker and as the  
15 designated officer of NKL. As the designated broker-officer, LEE  
16 was and is responsible for the supervision and control of the  
17 activities conducted on behalf of NKL by NKL's officers and  
18 employees as necessary to secure full compliance with the Real  
19 Estate Law pursuant to Code Section 10159.

20 4.

21 All further reference to "Respondents", unless otherwise  
22 specified, include the parties identified in Paragraphs 1 through 3  
23 above and also include the officers, directors, employees and real  
24 estate licensees employed by or associated with said parties, who  
25 at all times herein mentioned were engaged in the furtherance of  
26 the business or operations of said parties and who were acting  
27 within the course and scope of their authority and employment.

PRIOR DISCIPLINE (LEE)

On or about December 31, 1982, in Case No. H-21566 LA, a case then pending before the Department, a Decision of the Real Estate Commissioner was entered against Respondent LEE's real estate license for violations of the Real Estate Law. The Decision, effective April 7, 1983, suspended Respondent LEE's real estate license and license rights for a period of thirty (30) days.

6.

At all times material herein, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers for others in the State of California, within the meaning of Code Sections 10131(a) and 10131(b), for another or others, for or in expectation of compensation. Said activity included the operation and conduct of:

(a) a real estate sale business with the public wherein Respondents sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, solicited or obtained listings of, or negotiated the purchase, sale or exchange of real property or a business opportunity; and

(b) a property management business with the public wherein Respondents leased or rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or negotiated the sale, purchase or exchange of leases on real property, or on a business opportunity, or collected rents from real property, or improvements thereon, or from business opportunities.

1 FIRST CAUSE OF ACCUSATION

2 (Audit Findings of Real Estate Sale Activities)

3 7.

4 On December 4, 1998, the Department concluded its  
5 examination of Respondents' books and records pertaining to the  
6 real estate sale activities described in Paragraph 6, above, for  
7 the period of September 1, 1996, to September 30, 1998. The  
8 examination revealed violations of the Code and of Title 10,  
9 Chapter 6, California Code of Regulations (hereinafter  
10 "Regulations"), as set forth below.

11 8.

12 Respondents acted in violation of the Code and the  
13 Regulations in that:

14 (a) earnest money deposits received from buyers Meckler,  
15 Duran, Garcia and Hughes were not forwarded to the escrow companies  
16 within three (3) business days of acceptance of the purchase  
17 contracts, in violation of Code Section 10145 and Regulation 2832;  
18 and

19 (b) the Department was not notified of the employment of  
20 licensees Gray, Madsen, Martins, Nelson, Rojo and Zaveri; and  
21 termination of employment of licensees De Flores, Flores, Gonzalez,  
22 Olmos, Shelat and Vela, in violation of Regulation 2752.

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1 SECOND CAUSE OF ACCUSATION

2 (Audit Findings of Property Management Activities)

3 9.

4 At all times material herein, in connection with the  
5 property management activities described in Paragraph 6 above,  
6 Respondents accepted or received funds including funds in trust  
7 (hereinafter "trust funds") from or on behalf of actual and  
8 prospective tenants and thereafter made deposits and/or  
9 disbursements of such funds. From time to time herein mentioned,  
10 said trust funds were deposited and/or maintained by Respondents in  
11 Account No. 21757-31833, known as the "NKL Inc. Real Estate Broker  
12 Trust" (hereinafter "Trust Account") at Bank of America located at  
13 12221 E. Artesia Blvd., Cerritos, California.

14 10.

15 On February 22, 1999, the Department concluded its  
16 examination of Respondents' books and records pertaining to the  
17 property management activities described in Paragraph 7, above, for  
18 the period of January 1, 1995, to December 31, 1998, which  
19 examination revealed violations of the Code and of the Regulations  
20 as set forth below.

21 11.

22 Respondents acted in violation of the Code and the  
23 Regulations in that:

24 (a) as of December 31, 1998, the Trust Account had a  
25 shortage in the amount of approximately \$27,237.07. Respondents  
26 caused, permitted and/or allowed the withdrawal or disbursement of  
27 trust funds from this account without the prior written consent of

1 every principal who then was an owner of funds in the account,  
2 thereby reducing the balance of funds in the said account to an  
3 amount less than the existing aggregate trust fund liability of the  
4 broker to all owners of said trust funds, in violation of Code  
5 Section 10145 and Regulation 2832.1;

6 (b) Respondents failed to maintain a monthly  
7 reconciliation record as described in Regulations 2831 and 2831.1  
8 for the Trust Account, in violation of Regulation 2831.2;

9 (c) Respondents allowed an unlicensed person to be a  
10 signatory on the Trust Account. In addition, Respondents failed to  
11 obtain fidelity bond coverage for said person, in violation of  
12 Regulation 2834; and

13 (d) Respondents failed to retain or provide for  
14 inspection of the records for the period from 1995 to 1997, in  
15 violation of Code Section 10148.

16 12.

17 The conduct, acts and omissions of Respondents as  
18 described in Paragraphs 9 and 12, above, constitute cause for the  
19 suspension or revocation of all real estate licenses and license  
20 rights of Respondents under the provisions of Code Section  
21 10177(d).

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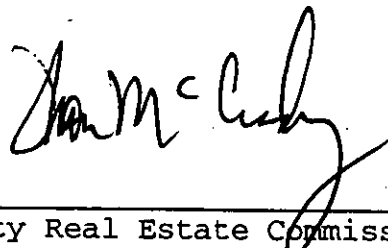




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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and/or license rights of Respondents NKL, INC., a corporation, doing business as Century 21 Center Realty; and FRANKLIN D. LEE, individually and as designated officer of NKL, Inc., 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 applicable provisions of law.

Dated at Los Angeles, California  
this 14th day of May, 1999.



Deputy Real Estate Commissioner

cc: NKL, Inc.  
Franklin D. Lee  
Thomas McCrady  
L.A. Audit Section  
Sacto.  
EC