

1 Elliott Mac Lennan, Counsel (SBN 66674)
2 Bureau of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105

4 Telephone: (213) 576-6982
5 Direct: (213) 576-6911
6 Facsimile: (213) 576-6917

FILED

JUL 21 2014

BUREAU OF REAL ESTATE

By 

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of)
12)
13 ABACUS PREMIER PROPERTY)
MANAGEMENT INC.;)
14)
15 GEORGE MICHAEL MURPHY,)
individually and as designated officer of)
16 Abacus Premier Property Management)
Inc.; and)
17)
18 MELISSA LYNN REYNOSO,)
Respondents.)
19)
20)

No. H-02899 FR

ACCUSATION

21 The Complainant, Brenda Smith, a Deputy Real Estate Commissioner of the
22 State of California, Bureau of Real Estate ("Bureau") for cause of Accusation against ABACUS
23 PREMIER PROPERTY MANAGEMENT INC., GEORGE MICHAEL MURPHY individually
24 and as designated officer of Abacus Premier Property Management Inc. and MELISSA LYNN
25 REYNOSO aka Melissa Torpen (collectively "Respondents,") is informed and alleges as
26 follows:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1.

The Complainant, Brenda Smith, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

Individuals and Entities

3.a

From June 4, 2004, through the present, Respondent ABACUS PREMIER PROPERTY MANAGEMENT INC ("ABACUS") has been licensed as a corporate real estate broker. At all times relevant herein, ABACUS was acting by and through Respondent GEORGE MICHAEL MURPHY as its designated officer pursuant to Business and Professions Code ("Code") Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law.

3.b

Respondent GEORGE MICHAEL MURPHY ("MURPHY") was originally licensed as a real estate salesperson on October 26, 1989, and a real estate broker on January 2, 2007 and has been the designated officer of ABACUS since December 14, 2006.

3.c

Respondent MELISSA LYNN REYNOSO aka Melissa Torpen ("REYNOSO") was originally licensed as a real estate salesperson on September 1, 2006 and had been employed by ABACUS September 1, 2006 until August 27, 2013. REYNOSO was employed as ABACUS' office and property manager:

1
2 Table: ABACUS Management Structure and Ownership

3

Name	Licensee	Ownership/Title
George Michael Murphy	Broker	Designated Officer; 50% owner
Judy Henbury	Unlicensed	50% owner
Melissa Lynn Reynoso	Salesperson	Operational/Property Manager

4

7 4.

8 Whenever reference is made in an allegation in this Accusation to an act or
9 omission of "Respondents" such allegation shall be deemed to mean that the officers, directors,
10 employees, agents and real estate licensees employed by or associated with Respondents
11 committed such act or omission while engaged in the furtherance of the business or operations
12 of Respondents and while acting within the course and scope of their corporate authority and
13 employment, including MURPHY, and real estate salesperson REYNOSO. However,
14 ABACUS and MURPHY are specifically excepted from any allegation of fraud, dishonest
15 dealing, deceit, embezzlement or conversion.

16
17 FIRST CAUSE OF ACCUSATION
18 (Property Management Audit)

19 5.

20 A. Code Section 10131(b). Respondents ABACUS and MURPHY engaged in
21 the business of, acted in the capacity of, advertised or assumed to act as real estate brokers,
22 including the operation and conduct of a property management business with the public
23 wherein, for or in expectation of compensation, for another or others, Respondents leased or
24 rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or
25 solicited for prospective tenants, or collected rents from real property, or improvements thereon.
26

1 ABACUS manages (137) residential properties for 103 property owners
2 consisting of 178 units and collects \$208,000 monthly in monthly rentals. ABACUS collects
3 rents, pays expenses, and screens tenants for compensation.

4 B. Code Section 10132. Respondent REYNOSO is a real estate salesperson
5 employed by ABACUS from September 22, 2006 until August 27, 2013.
6

7 Audit Examination

8 6.

9 On December 17, 2013, the Bureau completed an audit examination of the books
10 and records of Respondent ABACUS pertaining to property management activities described in
11 Paragraph 5, which require a real estate license. The audit examination covered a period of time
12 beginning on January 1, 2013 and ending on September 1, 2013. The audit examination
13 revealed violations of the Code and Regulations as alleged in the following paragraphs and more
14 fully set forth in the Bureau's Audit Report FR 120037 and the exhibits and work papers
15 attached thereto.

16 Trust Account

17 7.

18 At all times mentioned, in connection with the activities described in Paragraph
19 6, above, ABACUS accepted or received funds including funds in trust ("trust funds") from or
20 on behalf of property owners and tenants handled by ABACUS and thereafter made deposits
21 and disbursements of such funds. From time to time herein mentioned, during the audit period
22 and thereafter, said trust funds were deposited and/or maintained by ABACUS in the trust
23 account described below:

24 ///

25 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Trust Account (Trust 1)

Bank: Rabobank N.A.
2739 Santa Maria Way
Santa Maria, CA 93455

Account Name: Abacus Premier Property Management Inc
(Trust Account handling trust funds for property management)

Account Number: xxxx-xxxx-1911

Signatories: George Michael Murphy and Melissa Lynn Reynoso until August 20, 2013.
Signatories: George Michael Murphy as of September 20, 2013.

Violations of the Real Estate Law

8.

In the course of activities described in Paragraphs 5 and 7 above, and during the audit examination period, described in Paragraph 6, Respondents ABACUS, MURPHY and REYNOSO acted in violation of the Code and the Regulations in which Respondents:

(a) ABACUS, MURPHY, REYNOSO. Permitted, allowed or caused the disbursement of trust funds from ABACUS' property management trust account, Trust 1, into which trust funds in the form of rents and security deposits collection, and where the disbursement of funds reduced the total of aggregate funds in Trust 1 to an amount which, on August 31, 2013, was at a combined minimum accountability of \$113,907.72, less than the existing aggregate trust fund accountability of ABACUS to every principal who was an owner of said trust funds, without first obtaining the prior written consent of the owners of said funds, in violation:

(1) Code Section 10145(a) and Regulation 2832.1 for ABACUS and MURPHY.

(2) Code Sections 10176(i) and/or 10177(j) for REYNOSO.

1 (b) ABACUS and MURPHY. Failed to maintain a control record in the form of
2 a columnar record in chronological order of all trust funds received, deposited and disbursed in
3 Trust 1, in violation of Code Section 10145 and Regulation 2831;

4 (c) ABACUS and MURPHY. Failed to maintain an accurate and complete
5 separate record for each beneficiary or transaction, thereby failing to account for all trust funds
6 received, deposited and disbursed for Trust 1, in violation of Code Section 10145 and
7 Regulation 2831.1; and
8 Regulation 2831.1; and

9 (d) Failed to perform an accurate and complete monthly reconciliation of the
10 balance of all separate beneficiary or transaction records maintained pursuant to Regulation
11 2831.1 with the record of all trust funds received and disbursed by Trust 1, in violation of Code
12 Section 10145 and Regulations 2831.2.

13 9.

14 The conduct of Respondents ABACUS, MURPHY and REYNOSO, as the case
15 may be, described in Paragraph 8, above, violated the Code and the Regulations as set forth
16 below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
18 8(a)	Code Sections 10145 and 10176(i)/10177(j) and Regulation 2832.1
19 8(b)	Code Section 10145 and Regulation 2832.1
20 8(c)	Code Section 10145 and Regulation 2831
21 8(d)	Code Section 10145 and Regulation 2831.1
22 8(e)	Code Section 10145 and Regulation 2831.2

23
24 The foregoing violations constitute cause for the discipline of the real estate licenses and license
25 rights of Respondents ABACUS and MURPHY under the provisions of Code Section 10145,
26 10177(d), and/or 10177(g).

1 The foregoing violations also constitute cause for the discipline of the real estate licenses and
2 license rights of Respondent REYNOSO, under the provisions of Code Sections 10176(i) and/or
3 10177(j), 10177(d), and 10177(g).
4

5 SECOND CAUSE OF ACCUSATION
6 (Fraudulent Embezzlement Scheme by MELISSA LYNN REYNOSO)

7 10.

8 General Allegations

9 At all times mentioned herein, Respondent REYNOSO was hired by MURPHY
10 as the operational office and property manager of ABACUS.

11 11.

12 Specific Allegations

13 Through the instrumentality of keeping a double set of books, invoices, and
14 check vouchers, to wit, a prima facie indicia of fraud, whereby trust funds in the form of rental
15 receipts received from tenants for proper pay over to property owners were diverted to Albert
16 Reynoso and paid over to him, to wit, 58 checks from ABACUS' were written to Albert
17 Reynoso in minimum amount of \$38,170.00, and also to other unknown persons and entities, in
18 minimum amount of \$284,520.94, by his wife, REYNOSO, while employing other fraudulent
19 stratagems of:

- 20 A. Altering bank statements to falsely reflect a higher deposit of
21 rental deposits on the altered back statements than that which
22 actually cleared the bank;
23 B. Removing her husband Albert Reynoso's name and
24 substituting in the name of a vendor used by ABACUS for
25 legitimate services;
26 C. Not depositing rent deposits received in cash;
D. Deceitfully presenting the altered statements to designated

1 officer MURPHY as legitimate; and

2 E. Failure to provide invoices or documentary support for the
3 unauthorized disbursements constituting embezzlement and
4 conversion of trust funds in the form of rental receipts and
5 property owner trust funds.

6 12.

7 Disciplinary Statutes

8 The conduct of Respondent REYNOSO, described in Paragraphs 11 and 11,
9 above, violated the Code and the Regulations as set forth below:

10

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
11 10-11	Code Section 10176(a)(substantial misrepresentation)
12 10-11	Code Section 10176(g)(secret profit and undisclosed compensation)
13 10-11	Code Section 10176(i)(fraud and dishonest dealing)
14 10-11	Code Section 10177(j)(embezzlement and conversion)
15 10-11	Code Section 10177(d)(willful violation of the Real Estate Law)

16 The foregoing violations constitute cause for discipline of the real estate licenses and license
17 rights of Respondent REYNOSO under the provisions of said sections.

18 THIRD CAUSE OF ACCUSATION
19 (Negligence)

20 10.

21 The overall conduct of Respondents ABACUS, MURPHY and REYNOSO
22 constitutes negligence and is cause for discipline of the real estate license and license rights of
23 said Respondents pursuant to the provisions of Code Section 10177(g).

24 ///

25 ///

26 ///

1 FOURTH CAUSE OF ACCUSATION
2 (Breach of Fiduciary Duty MELISSA LYNN REYNOSO)

3 11.

4 The conduct, acts and omissions of Respondent REYNOSO constitutes a breach
5 of fiduciary duty owed to ABACUS' clients of good faith, trust, confidence and candor, within
6 the scope of REYNOSO's property management relationship with property owners and tenants,
7 in violation of Code Sections 10177(d), 10177(g) and 10176(i)/10177(j) and constitutes cause
8 for discipline of the real estate license and license rights of said Respondent's pursuant to the
9 provisions of said sections. Respondent REYNOSO, ABACUS' property manager,
10 systematically looted tenant and property owner trust funds for her own intents and purposes.

11 FIFTH CAUSE OF ACCUSATION

12 (Supervision)

13 12.

14 The overall conduct of Respondent MURPHY constitutes a failure on his part to
15 exercise reasonable supervision and control over the licensed activities of his brokerage and
16 employee/salesperson REYNOSO, in violation of Code Section 10177(h) and Regulation 2725.
17 Respondent MURPHY failed to keep ABACUS in compliance with the Real Estate Law, and is
18 cause for discipline of the real estate license and license rights of Respondent MURPHY,
19 pursuant to the provisions of Code Sections 10177(d), 10177(g) and/or 10177(h).

20 13.

21 (Investigation and Enforcement Costs)

22 Code Section 10106 provides, in part, that in any order issued in resolution of a
23 disciplinary proceeding before the Bureau of Real Estate, the Commissioner may request the
24 administrative law judge to direct a licensee found to have committed a violation of this part to
25 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.
26

14.


(Audit Costs)

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

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 ABACUS PREMIER PROPERTY MANAGEMENT INC.INC., GEORGE MICHAEL MURPHY, individually and as designated officer of Abacus Premier Property Management Inc., and MELISSA LYNN REYNOSO, under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law, including but not limited to repatriation of trust fund shortages, restitution, costs of investigation, enforcement and audit.

Dated at Los Angeles, California

this 9 day of July, 2014.


BRENDA SMITH
Deputy Real Estate Commissioner

cc: Abacus Premier Property Management Inc.
George Michael Murphy
Melissa Lynn Reynoso
Brenda Smith
Diana Brewster - Audits
Sacto