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**FILED**

**JAN 27 2016**

**BUREAU OF REAL ESTATE**

By B. Nicholas

8  
9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of )

13 JACQUE' AND COMPANY INC, )  
14 MANUEL CHAVEZ, JR. and )  
15 ESTHELA MARTINEZ SALAS, )

Respondents. )

No. H- 2983 FR

ACCUSATION

16 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the  
17 State of California, for Accusation against Respondents JACQUE' AND COMPANY, INC.  
18 (JAC), MANUEL CHAVEZ, JR.(CHAVEZ) and ESTHELA MARTINEZ SALAS (SALAS),  
19 collectively, Respondents, is informed and alleges as follows:

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21 The Complainant makes this Accusation against Respondents in her official  
22 capacity.

23 2

24 From and since July 22, 2014, JAC has and is presently licensed and/or has  
25 license rights by the Bureau of Real Estate (Bureau), all times mentioned herein under the  
26 California Business and Professions Code (Code) as a corporate real estate broker.

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2 At all times herein mentioned, CHAVEZ has been licensed by the Bureau as a  
3 real estate broker and was the Designated Officer of JAC from July 22, 2014, until July 21,  
4 2015.

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6 At all times herein mentioned, SALAS has been licensed by the Bureau as a real  
7 estate broker and was the Designated Officer of JAC from July 21, 2015, until the present.

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9 At all times herein mentioned, Respondents engaged in the business of, acted in  
10 the capacity of, advertised, or assumed to act as real estate broker within the State of California  
11 within the meaning of Section 10131(b) of the Code, including the operation and conduct of a  
12 property management business with the public wherein, on behalf of others, for compensation or  
13 in expectation of compensation. Respondents leased or rented or offered to lease or rent, or  
14 places for rent, or solicited listings of places for rent or solicited for prospective tenants, or  
15 negotiated the sale, purchase or exchange of leases on real property, or on a business  
16 opportunity, or collected rents from tenants.

17 6

18 From July 22, 2014, until July 21, 2015, CHAVEZ, was the designated broker-  
19 officer of JAC. From July 21, 2015, until the present, SALAS was and is the designated broker-  
20 officer of JAC. CHAVEZ and SALAS were responsible, pursuant to Section 10159.2 of the  
21 Code, for the supervision of the activities of officers, agents, real estate licensees and employees  
22 of JAC for which a real estate license is required to ensure the compliance of the corporation  
23 with the Real Estate law and the Regulations.

24 FIRST CAUSE OF ACTION

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26 Complainant refers to Paragraphs 1 through 6, above, and incorporates them  
27 herein by reference.

Beginning on October 20, 2014, and continuing intermittently through July 13, 2015, an audit was conducted of JAC's accounting and other records, where the auditor examined records for the period of April 30, 2013, through November 30, 2014 (the audit period).

While acting as a real estate broker as described in Paragraph 5, above, and within the audit period, JAC accepted or received funds in trust (trust funds) from or on behalf of property owners, lessees and others in connection with property management activities, deposited or caused to be deposited those funds into bank accounts maintained by JAC, at Wells Fargo Bank, 201 E. Yosemite Avenue, Madera, CA 93638, as described below:

ACCOUNT #1	
Account No.:	XXXXXXX7364
Entitled:	Jacque and Company, Inc.

ACCOUNT #2	
Account No.:	XXXXXXX6733
Entitled:	Jacque and Company, Inc.

and thereafter from time to time made disbursement of said trust funds.

In the course of the activities described in Paragraph 5, in connection with the collection and disbursement of trust funds, it was determined that:

- (a) JAC failed to designate Account #1 and Account #2 as a trust accounts as required by Section 2832 of Chapter 6, Title 10, California Code of Regulations (Regulations);

- 1 (b) JAC allowed a person who was not licensed and did not have a surety  
2 bond to be a signatory on the trust account, in violation of Section 2834  
3 of the Regulations;
- 4 (c) During an accountability performed on Account #1, and as of November  
5 30, 2014, a shortage of \$5,128.73 was revealed, in violation of Section  
6 10145 of the Code;
- 7 (d) JAC failed to obtain written permission from owners of trust funds in  
8 Account #1 to allow the balance to drop below accountability, in  
9 violation of Section 2832.1 of the Regulations;
- 10 (e) JAC failed to set up Account #1 as an interest bearing account for a  
11 specified beneficiary and allowed interest to inure to the benefit of JAC in  
12 violation of Section 10145(d) of the Code and
- 13 (f) JAC failed to perform monthly reconciliations of the separate beneficiary  
14 records and control records for Account #1, as required by Section 2831.2  
15 of the Regulations.

16 11

17 The acts and/or omissions described above constitute violations of Sections  
18 2831.2 (monthly reconciliations), 2832 (trust fund designation), 2832.1 (written permission  
19 balance below accountability) and 2834 (trust fund signatories) of the Regulations and of  
20 Section 10145 (trust fund handling) of the Code and are grounds for discipline under Sections  
21 10177(d) (willful disregard of real estate laws) and 10177(g) (negligence/incompetence  
22 licensee) of the Code.

23 SECOND CAUSE OF ACTION

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25 Complainant refers to Paragraphs 1 through 11, above, and incorporates them  
26 herein by reference.

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At all times mentioned herein, Jacqueline Marie Aviles (Aviles) was employed by Respondents to conduct property management activities.

14

A no time mentioned herein, was Aviles licensed by the Bureau as a real estate broker or real estate salesperson.

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At all times mentioned herein, between June 5, 2014, and continuing up to at least January 15, 2016, Aviles represented that she was a Property Manager on her business cards and on the JAC website indicated that she was a Property Manager for Don Floyd Realty for the previous eight (8) years.

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At all times mentioned herein, between June 5, 2014, and continuing up to at least January 15, 2016, Respondents employed and/or compensated Aviles for performing the acts set out above which require a real estate license pursuant to Section 10131(b) of the Code (property management activities).

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The acts or omission of Respondents described above constitute violations of Section 10137 (compensating not licensed person) of the Code and are grounds for discipline under Section 10137 of the Code.

### THIRD CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 17, above, and incorporates them herein by reference.

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From July 22, 2014, until July 21, 2015, CHAVEZ, and from July 21, 2015, until the present, SALAS, were responsible as the supervising designated broker/officer for JAC, for

1 the supervision and control of the activities conducted on behalf of JAC'S business by its  
2 employees to ensure its compliance with the Real Estate Law and Regulations. CHAVEZ and  
3 SALAS failed to exercise reasonable supervision and control over the property management  
4 activities of JAC. In particular, CHAVEZ and SALAS, each permitted, ratified and/or caused the  
5 conduct described above to occur, and failed to take reasonable steps, including but not limited  
6 to, the handling of trust funds, supervision of employees, and the implementation of policies,  
7 rules, and systems to ensure the compliance of the business with the Real Estate Law and the  
8 Regulations.

9 20

10 The above acts and/or omissions of CHAVEZ and SALAS violate Section 2725  
11 (broker supervision) of the Regulations and Section 10159.2 (responsibility/designated officer) of  
12 the Code, and constitute grounds for disciplinary action under the provisions of Sections  
13 10177(d), 10177(g) and 10177(h) (broker supervision) of the Code.

14 21

15 Audit Costs

16 The acts and/or omissions of JAC as alleged above, entitle the Bureau to  
17 reimbursement of the costs of its audits pursuant to Section 10148(b) (audit costs for trust fund  
18 handling violations) of the Code.

19 22

20 Costs of Investigation and Enforcement

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

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1                   WHEREFORE, Complainant prays that a hearing be conducted on the  
2 allegations of this Accusation and that upon proof thereof a decision be rendered imposing  
3 disciplinary action against all licenses and license rights of Respondents under the Code, for the  
4 reasonable costs of investigation and prosecution of this case, and for such other and further  
5 relief as may be proper under other provisions of law.

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8 BREND A SMITH  
9 Supervising Special Investigator

10 Dated at Fresno, California,  
11 this 20 day of January, 2016.