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FILED

AUG 02 2019

DEPARTMENT OF REAL ESTATE
By B. Nicholas

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 DLP REAL ESTATE INC. and RICARDO) DRE No. H-3263 FR
14 DELAPAZ,)
15) ACCUSATION
16 Respondents.)

17 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the
18 State of California, for cause of Accusation against DLP REAL ESTATE INC. and RICARDO
19 DELAPAZ (collectively "Respondents"), are informed and allege as follows:

20 PRELIMINARY ALLEGATIONS

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22 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the
23 State of California, makes this Accusation in her official capacity.

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25 Respondents are presently licensed and/or have license rights under the Real
26 Estate Law, Part 1 of Division 4 of the Business and Professions Code (Code).

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At all times mentioned, Respondent DLP REAL ESTATE INC. (DLP) was and is licensed by the State of California Department of Real Estate (Department) as a real estate broker corporation.

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At all times mentioned, Respondent RICARDO DELAPAZ (DELAPAZ) was and is licensed by the Department individually as a real estate broker, and as the designated broker officer of DLP. As said designated broker officer, DELAPAZ was responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees, and employees of DLP for which a license is required.

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Whenever reference is made in an allegation in this Accusation to an act or omission of DLP, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with DLP committed such acts or omissions while engaged in furtherance of the business or operation of DLP and while acting within the course and scope of their corporate authority and employment.

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At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers in the State of California, within the meaning of Section 10131(b) of the Code in the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents leased or rented and offered to lease or rent, and placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

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1 FIRST CAUSE OF ACTION

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3 Each and every allegation in Paragraphs 1 through 6, inclusive, is incorporated by
4 this reference as if fully set forth herein.

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6 On or about April 5, 2018, and continuing through April 24, 2019, an audit was
7 conducted of the records of DLP. The auditor herein examined the records for the period of
8 January 1, 2018, through September 1, 2018.

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10 While acting as a real estate broker as described in Paragraph 6, Respondents
11 accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in
12 connection with the leasing, renting, and collection of rents on real property or improvements
13 thereon, as alleged herein, and thereafter from time-to-time made disbursements of said trust
14 funds.

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16 The trust funds accepted or received by Respondents as described in Paragraph 9
17 were deposited or caused to be deposited by Respondents into trust accounts which were
18 maintained by Respondents for the handling of trust funds, and thereafter from time-to-time
19 Respondents made disbursements of said trust funds, identified as follows:

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ACCOUNT # 1	
21 Bank Name and Location:	Chase
	550 K Street
	Los Banos, CA 93635
22 Account No.:	XXXXXX8366
23 Entitled:	DLP Property Management Inc.

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2 In the course of the activities described in Paragraph 6, Respondents:

3 (a) caused, suffered, or permitted the balance of funds in Account #1 to be
4 reduced to an amount which, as of July 31, 2018, was approximately \$83,448.95 less, and as of
5 August 31, 2018, less was approximately \$79,180.91 less than the aggregate liability of Account
6 #1 to all owners of such funds in violation of Section 10145 of the Code and Section 2832.1 of
7 Title 10 of the California Code of Regulations (Regulations);

8 (b) commingled with its own money or property, the money or property of
9 others which was received or held by Respondents in trust in violation of Section 10176(e) of the
10 Code;

11 (c) failed to maintain an accurate columnar record in chronological sequence
12 of all trust funds received and disbursed from Account #1 containing all required information, in
13 violation of Section 2831 of the Regulations;

14 (d) failed to keep accurate separate records for each beneficiary or transaction,
15 accounting therein for all funds which were deposited into Account #1 containing all of the
16 information required by Section 2831.1 of the Regulations;

17 (e) failed to reconcile the balance of separate beneficiary or transaction
18 records with the control record of trust funds received and disbursed at least once a month,
19 and/or failed to maintain a record of such reconciliations for Account #1, as required by Section
20 2831.2 of the Regulations; and

21 (f) failed to deposit trust funds into one or more trust funds accounts in the
22 name of DLP as trustee at a bank or other financial institution, in conformance with Section
23 10145 of the Code and Section 2832 of the Regulations.

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25 The facts alleged in the First Cause of Action are grounds for the suspension or
26 revocation of Respondents' licenses and license rights under the following Sections of the Code
27 and Regulations:

1 As to Paragraph 11(a), under Section 10177(d) and/or 10177(g) of the Code in
2 conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

3 As to Paragraph 11(b), under Section 10176(e);

4 As to Paragraph 11(c), under Sections 10177(d) and/or 10177(g) of the Code in
5 conjunction with Section 10145 of the Code and Section 2831 of the Regulations;

6 As to Paragraph 11(d), under Sections 10177(d) and/or 10177(g) of the Code in
7 conjunction with Section 10145 of the Code and Section 2831.1 of the Regulations;

8 As to Paragraph 11(e), under Sections 10177(d) and/or 10177(g) of the Code in
9 conjunction with Section 10145 of the Code and Section 2831.2 of the Regulations; and

10 As to Paragraph 11(f), under Section 10177(d) and/or 10177(g) of the Code in
11 conjunction with Section 10145 of the Code and Section 2832 of the Regulations.

12 SECOND CAUSE OF ACTION

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14 Each and every allegation in Paragraphs 1 through 12, inclusive, is incorporated
15 by this reference as if fully set forth herein.

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17 Respondent DELAPAZ failed to exercise reasonable supervision over the acts of
18 DLP in such a manner as to allow the acts and events described above to occur.

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20 The acts and/or omissions of DELAPAZ as described in Paragraph 14, constitutes
21 failure on the part of DELAPAZ, as designated broker-officer for DLP, to exercise reasonable
22 supervision and control over the licensed activities of DLP as required by Section 10159.2 of the
23 Code and Section 2725 of the Regulations.

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25 The facts described above as to the Second Cause of Action constitute cause for
26 the suspension or revocation of the licenses and license rights of Respondent DELAPAZ under

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1 Section 10177(g) and/or Section 10177(h) of the Code, and Section 10159.2 of the Code in
2 conjunction with Section 10177(d) of the Code.

3 COST RECOVERY

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5 The acts and/or omissions of Respondents as alleged above, entitle the
6 Department to reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs
7 for trust fund handling violation) of the Code.

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9 Section 10106 of the Code provides, in pertinent part, that in any order issued in
10 resolution of a disciplinary proceeding before the Department, the Commissioner may request
11 the Administrative Law Judge to direct a licensee found to have committed a violation of this
12 part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
13 case.

14 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
15 of this Accusation and that upon proof thereof, a decision be rendered imposing discipline on all
16 licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the
17 Business and Professions Code), for the cost of the investigation and enforcement of this case as
18 permitted by law, for the cost of the Department's audit as permitted by law, and for such other
19 and further relief as may be proper under the provisions of law.

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21 
22 BREND A SMITH
23 Supervising Special Investigator

24 Dated at Fresno, California,

25 this 1 day of August, 2019
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