

FILED

MAY 12 2021

DEPARTMENT OF REAL ESTATE

By *pdw*

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7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 THE TEAM REALTY, INC. and)
13 CRISTEN RAZZARI FAZAL,)
14 Respondents.)

No. H-3364 FR
ACCUSATION

15 The Complainant, BRENDA SMITH, acting in her official capacity as a
16 Supervising Special Investigator of the State of California, for cause of Accusation against THE
17 TEAM REALTY, INC. (TTR) and CRISTEN RAZZARI FAZAL (FAZAL), sometimes
18 collectively referred to as Respondents, is informed and alleges as follows:

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

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23 At all times mentioned, TTR was and is licensed by the State of California
24 Department of Real Estate (Department) as a real estate broker corporation.

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26 At all times mentioned herein, FAZAL was and is licensed by the Department
27 individually as a real estate broker, and as the designated broker officer of TTR. As the

1 designated broker officer, FAZAL was responsible, pursuant to Section 10159.2 of the Code, for
2 the supervision of the activities of officers, agents, real estate licensees and employees of TTR
3 for which a real estate license is required to ensure the compliance of the corporation with the
4 Real Estate Law and Regulations.

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

11 5

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

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22 At all times herein mentioned, Respondents conducted real estate activity under
23 TTR's real estate broker corporation license and the registered fictitious business names,
24 "Rental Zebra" and "Team Realty".

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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 June 17, 2020, and continuing intermittently through August 21,
7 2020, an audit was conducted of the records of TTR. The auditor examined records for the
8 period of May 1, 2019, through April 30, 2020 (the audit period).

9 9

10 While acting as a real estate broker as described in Paragraph 5, above, and
11 within the audit period, Respondents accepted or received funds in trust (trust funds) from or on
12 behalf of property owners, lessees and others in connection with property management
13 activities, and deposited or caused to be deposited those funds into bank accounts maintained by
14 Respondents, at the following financial institutions, including but not limited to the following:

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BANK ACCOUNT #1	
16 Bank:	Wells Fargo Bank, N.A., 3538 G Street, Merced, CA 95340
17 Account No.:	XXXXXXX3327
18 Entitled:	RENTAL ZEBRA, LLC

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BANK ACCOUNT #2	
21 Bank:	Wells Fargo Bank, N.A., 3538 G Street, Merced, CA 95340
22 Account No.:	XXXXXXX0632
23 Entitled:	RENTAL ZEBRA, LLC

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BANK ACCOUNT #3	
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Bank:	Mechanics Bank, 2000 M Street, Merced, CA 95340
Account No.:	XXXXX3482
Entitled:	RENTAL ZEBRA, LLC PROFESSIONAL TRUST FUND

BANK ACCOUNT #4	
Bank:	Mechanics Bank, 2000 M Street, Merced, CA 95340
Account No.:	XXXXX0030
Entitled:	RENTAL ZEBRA, LLC PROFESSIONAL TRUST FUND

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

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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) Respondents failed to properly designate Bank Account #1, Bank Account #2, Bank Account #3 and Bank Account #4, as trust accounts with the broker as trustee, as required by Section 10145 of the Code and Section 2832 of Chapter 6, Title 10, California Code of Regulations (Regulations);
- (b) An accountability was performed on Bank Account #1, and as of March 31, 2020, a shortage of \$7,578.60 was revealed, in violation of Section 10145 of the Code;
- (c) An accountability was performed on Bank Account #3, and as of March 31, 2020, a shortage of \$979.33 was revealed, in violation of Section 10145 of the Code;
- (d) Respondents failed to obtain written permission from owners of trust funds in Bank Account #1 and Bank Account #3 to allow the balance to drop below accountability, in violation of Section 2832.1 of the Regulations;

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- 1 (e) Bank Account #3 contained unidentified and/or unaccounted for funds of at
2 least \$7,358.00 for which no separate record was maintained, in violation of
3 Section 10145 (g) of the Code and Section 2831.1 of the Regulations;
- 4 (f) Respondents allowed unlicensed persons to be signatories on Bank Account
5 #1, Bank Account #2, Bank Account #3 and Bank Account #4, without an
6 adequate fidelity bond, in violation of Section 10145 of the Code and Section
7 2834 of the Regulations;
- 8 (g) Respondents allowed persons licensed as brokers to be signatories on Bank
9 Account # 1, Bank Account #2, Bank Account #3 and Bank Account #4,
10 without having entered into a written agreement pursuant to Section 2726 with
11 TTR, in violation of Section 10145 of the Code and Section 2834 of the
12 Regulations;
- 13 (h) Respondents employed broker associates, Erin Hamm and Jamie Tyrell, to
14 perform property management activities, and failed to notify the Department
15 within 5 days of employment, in violation of Section 10161.8 of the Code and
16 Section 2752 of the Regulations;
- 17 (i) Respondents caused, suffered, or permitted funds of others which were
18 received and held by Respondents to be commingled with broker funds in
19 excess of \$200 in Bank Account #1 and Bank Account #4 in accordance with
20 Section 2835 of the Regulations, and in violation of Section 10176 (e) of the
21 Code; and
- 22 (j) Respondents allowed trust funds to be deposited into Bank Account #1, an
23 interest-bearing account, for multiple beneficiaries when trust funds were not
24 kept separate, distinct and apart from funds belonging to the broker or to any
25 other person for whom the broker holds funds in trust, in violation of Section
26 10145 (d) of the Code and Section 2830.1 of the Regulations.

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The acts and/or omissions described above constitute violations of Sections 2752 (Notice of Change of Broker), 2830.1 (Interest Bearing Account), 2832 (Bank Account Not Properly Designated as Trust Account), 2831.2 (Separate Records), 2832.1 (Written Permission for Balance Below Accountability), 2834 (Trust Fund Signatories), and 2835 (Commingling) of the Regulations and of Sections 10145 (Trust Fund Handling), 10161.8 (Broker Associate Retention), 10176 (e) (Commingling) of the Code and are grounds for discipline under Sections 10177(d) (Willful Disregard of Real Estate Laws) and/or 10177(g) (Negligence/Incompetence Licensee) of the Code.

SECOND CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 10, inclusive, is incorporated by this reference as if fully set forth herein.

Respondent FAZAL failed to exercise reasonable supervision and control over the property management activities of TTR. In particular, FAZAL permitted, ratified and/or caused the conduct described above to occur, and failed to take reasonable steps, including but not limited to, the handling of trust funds, supervision of employees, and the implementation of policies, rules and systems to ensure the compliance of the business with the Real Estate Law and the Regulations.

The above acts and/or omissions of FAZAL violate Section 2725 (Broker Supervision) of the Regulations and Section 10159.2 (Responsibility/Designated Officer) of the Code and constitute grounds for disciplinary action under the provisions of Sections 10177(d), 10177(g) and/or 10177(h) (Broker Supervision) of the Code.

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1 COST RECOVERY

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3 Audit Costs

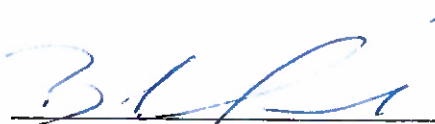
4 The acts and/or omissions of Respondents, as alleged above, entitle the
5 Department to reimbursement of the costs of its audits pursuant to Section 10148(b) (Audit Costs
6 for Trust Fund Handling Violations) of the Code.

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8 Costs of Investigation and Enforcement

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 the
11 administrative law judge to direct a licensee found to have committed a violation of this part to
12 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

13 WHEREFORE, Complainant prays that a hearing be conducted on the
14 allegations of this Accusation and that upon proof thereof a decision be rendered imposing
15 disciplinary action against all licenses and license rights of Respondents under the Real Estate
16 Law, for the cost of the investigation and enforcement as permitted by law, for the cost of the
17 audit as permitted by law, and for such other and further relief as may be proper under other
18 provisions of law.

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21 BRENDA SMITH
22 Supervising Special Investigator

23 Dated at Fresno, California,
24 this 7 day of May, 2021.
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DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate may result in the exclusion of witnesses and documents at the hearing or other sanctions that the Office of Administrative Hearings deems appropriate.