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FILED

DEC 08 2021

DEPARTMENT OF REAL ESTATE
By B. Nicholas

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)

13 RENT SMART PROPERTY MANAGEMENT)
14 INC., and TANYA ISLAS TOPETE,)

Respondents.)

No. H-3410 FR

ACCUSATION

15 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the
16 State of California, for cause of Accusation against RENT SMART PROPERTY
17 MANAGEMENT INC., and TANYA ISLAS TOPETE (collectively "Respondents"), are
18 informed and allege as follows:

19 PRELIMINARY ALLEGATIONS

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

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

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At all times mentioned, Respondent RENT SMART PROPERTY MANAGEMENT INC. (RENT SMART) 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 TANYA ISLAS TOPETE (TOPETE) was and is licensed by the Department individually as a real estate broker, and as the designated broker officer of RENT SMART. As said designated broker officer, TOPETE 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 RENT SMART 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 RENT SMART, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with RENT SMART committed such acts or omissions while engaged in furtherance of the business or operation of RENT SMART 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 An audit was conducted of the records of RENT SMART. The auditor herein
7 examined the records for the period of May 1, 2019, through April 30, 2020.

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

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

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ACCOUNT # 1	
20 Bank Name and Location:	Bank of the Sierra 427 W. Lacey Blvd. Hanford, CA 93230
21 Account No.:	XXXXXXX4272
22 Entitled:	Rent Smart Property Management, Inc. Trust Account

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

(a) caused, suffered, or permitted the balance of funds in Account #1 to be reduced to an amount which, as of March 31, 2020, was approximately \$30,234.12 less than the aggregate liability of Account #1 to all owners of such funds in violation of Section 10145 of the Code and Section 2832.1 of Title 10, Chapter 6, of the California Code of Regulations (Regulations); and

(b) commingled with its own money or property, the money or property of others which was received or held by RENT SMART in trust in violation of Section 10176(e) of the Code.

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

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

As to Paragraph 11(b), under Section 10176(e) of the Code.

SECOND CAUSE OF ACTION

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

Respondent TOPETE failed to exercise reasonable supervision over the acts of RENT SMART in such a manner as to allow the acts and events described above to occur.

The acts and/or omissions of TOPETE as described in Paragraph 14, constitutes failure on the part of TOPETE, as designated broker-officer for RENT SMART, to exercise

1 reasonable supervision and control over the licensed activities of RENT SMART as required by
2 Section 10159.2 of the Code and Section 2725 of the Regulations.

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4 The facts described above as to the Second Cause of Action constitute cause for
5 the suspension or revocation of the licenses and license rights of Respondent TOPETE under
6 Section 10177(g) and/or Section 10177(h) of the Code, and Section 10159.2 of the Code in
7 conjunction with Section 10177(d) of the Code.

8 COST RECOVERY

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

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

19 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
20 of this Accusation and that upon proof thereof, a decision be rendered imposing discipline on all
21 licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the
22 Business and Professions Code), for the cost of the investigation and enforcement of this case as

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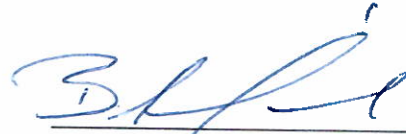
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1 permitted by law, for the cost of the Department's audit as permitted by law, and for such other
2 and further relief as may be proper under the provisions of law.

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5 BRENDASMITH
6 Supervising Special Investigator

6 Dated at Fresno, California,

7 this 1 day of December, 2021

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14 DISCOVERY DEMAND

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