

1 Department of Real Estate
2 P.O. Box 137007
3 Sacramento, CA 95813-7007

4 Telephone: (916) 576-8700

FILED

NOV 10 2022

DEPARTMENT OF REAL ESTATE
By B.A. CHW, JR.

6
7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 RENT SMART PROPERTY MANAGEMENT) No. H-3410 FR
13 INC., and TANYA ISLAS TOPETE,) STIPULATION AND
14 Respondents.) AGREEMENT

15 It is hereby stipulated by and between RENT SMART PROPERTY
16 MANAGEMENT INC. (RENT SMART), and TANYA ISLAS TOPETE (TOPETE)
17 (collectively "Respondents"), and the Complainant, acting by and through Truly Sughrue,
18 Counsel for the Department of Real Estate (Department), as follows for the purpose of settling
19 and disposing the Accusation filed on December 8, 2021, in this matter:

20 1. All issues which were to be contested and all evidence which was to be
21 presented by Complainant and Respondents at a formal hearing on the Accusation, which
22 hearing was to be held in accordance with the provisions of the Administrative Procedure Act
23 (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of
24 this Stipulation and Agreement.

25 2. Respondents have received, read, and understand the Statement to
26 Respondent, and the Discovery Provisions of the APA filed by the Department in this
27 proceeding.

1 3. Respondents filed a Notice of Defense pursuant to Section 11505 of the
2 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
3 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents
4 acknowledge that Respondents understand that by withdrawing said Notice of Defense
5 Respondents will thereby waive Respondents' rights to require the Real Estate Commissioner
6 (Commissioner) to prove the allegations in the Accusation at a contested hearing held in
7 accordance with the provisions of the APA, and that Respondents will waive other rights
8 afforded to Respondents in connection with the hearing such as the right to present evidence in
9 defense of the allegations in the Accusation and the right to cross-examine witnesses.

10 4. This Stipulation and Agreement is based on the factual allegations
11 contained in the Accusation. In the interest of expediency and economy, Respondents choose not
12 to contest these factual allegations, but to remain silent and understand that, as a result thereof,
13 these factual statements will serve as a prima facie basis for the "Determination of Issues" and
14 "Order" set forth below. The Commissioner shall not be required to provide further evidence to
15 prove such allegations.

16 5. This Stipulation and Agreement and Respondents' decision not to contest
17 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and
18 are expressly limited to this proceeding and any other proceeding or case in which the
19 Department, the state or federal government, an agency of this state, or an agency of another
20 state is involved.

21 6. Respondents understand that by agreeing to this Stipulation and
22 Agreement, Respondents agree to pay, pursuant to Section 10148 of the California Business and
23 Professions Code (Code), the cost of the audit, which resulted in the determination that
24 Respondent committed the trust fund handling violation(s) found in the Determination of Issues.
25 The amount of said costs is \$3,395.

26 7. Respondents further understand that by agreeing to this Stipulation and
27 Agreement, the findings set forth below in the Determination of Issues become final, and that

1 the Commissioner may charge said Respondents for the costs of any audit conducted pursuant
2 to Section 10148 of the Code to determine if the violations have been corrected. The maximum
3 costs of said audit shall not exceed \$4,243.75.

4 8. It is understood by the parties that the Commissioner may adopt the
5 Stipulation and Agreement as his decision in this matter thereby imposing the penalty and
6 sanctions on the real estate licenses and license rights of Respondents as set forth in the below
7 "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and
8 Agreement, it shall be void and of no effect, and Respondents shall retain the right to a hearing
9 and proceeding on the Accusation under all the provisions of the APA and shall not be bound by
10 any admission or waiver made herein.

11 9. The Order or any subsequent Order of the Commissioner made pursuant to
12 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further
13 administrative or civil proceedings by the Department with respect to any matters which were
14 not specifically alleged to be causes for action in Accusation H-3410 FR.

15 * * *

16 DETERMINATION OF ISSUES

17 By reason of the foregoing stipulations and waivers and solely for the purpose of
18 settlement of the pending Accusation without a hearing, it is stipulated and agreed that the
19 following determination of issues shall be made:

20 I

21 The acts and omissions of Respondents as described in the First Cause of Action
22 in the Accusation are grounds for the suspension or revocation of Respondents' licenses and
23 license rights under the following sections of the Code and Title 10, Chapter 6, of the California
24 Code of Regulations (Regulations):

25 As to Paragraph 11(a), under Section 10177(d) of the Code in conjunction with
26 Section 10145 of the Code and Section 2832.1 of the Regulations; and

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

1 II

2 The acts and/or omissions of TOPETE as described in the Second Cause of
3 Action of the Accusation is cause for the suspension or revocation of TOPETE's license and/or
4 license rights under Section 10177(h) of the Code.

5 * * *

6 ORDER

7 I

8 All licenses and licensing rights of RENT SMART under the Real Estate Law are
9 suspended for a period of forty-five (45) days from the effective date of this Order; provided,
10 however, that:

11 1) Fifteen (15) days of said suspension shall be stayed, upon the condition that
12 RENT SMART petition pursuant to Section 10175.2 of the Code and pays a monetary penalty
13 pursuant to Section 10175.2 of the Code at a rate of \$100 for each day of the suspension for a
14 total monetary penalty of \$1,500.

15 a) Said payment shall be in the form of a cashier's check made payable to the
16 Department of Real Estate. Said check must be delivered to the Department of Real Estate,
17 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of
18 this Order.

19 b) No further cause for disciplinary action against the Real Estate licenses of RENT
20 SMART occurs within two (2) years from the effective date of the decision in this matter.

21 c) If RENT SMART fails to pay the monetary penalty as provided above prior to the
22 effective date of this Order, the stay of the suspension shall be vacated as to that RENT SMART
23 and the order of suspension shall be immediately executed, under this Order, in which event the
24 said RENT SMART shall not be entitled to any repayment nor credit, prorated or otherwise, for
25 the money paid to the Department under the terms of this Order.

26 d) If RENT SMART pays the monetary penalty and any other moneys due under this
27 Stipulation and Agreement and if no further cause for disciplinary action against the real estate

1 license of said RENT SMART occurs within two (2) years from the effective date of this Order,
2 the entire stay hereby granted this Order, as to said RENT SMART only, shall become
3 permanent.

4 2) Thirty (30) days of said suspension shall be stayed for two (2) years upon the
5 following terms and conditions:

6 a) RENT SMART shall obey all laws, rules and regulations governing the rights,
7 duties and responsibilities of a real estate licensee in the State of California; and,

8 b) That no final subsequent determination be made, after hearing or upon stipulation,
9 that cause for disciplinary action occurred within two (2) years from the effective date of this
10 Order. Should such a determination be made, the Commissioner may, in his discretion, vacate
11 and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no
12 such determination be made, the stay imposed herein shall become permanent.

13 II

14 All licenses and licensing rights of TOPETE under the Real Estate Law are
15 suspended for a period of forty-five (45) days from the effective date of this Order; provided,
16 however, that:

17 1) Fifteen (15) days of said suspension shall be stayed, upon the condition that
18 TOPETE petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant
19 to Section 10175.2 of the Code at a rate of \$100 for each day of the suspension for a total
20 monetary penalty of \$1,500.

21 a) Said payment shall be in the form of a cashier's check made payable to the
22 Department of Real Estate. Said check must be delivered to the Department of Real Estate,
23 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of
24 this Order.

25 b) No further cause for disciplinary action against the Real Estate licenses of
26 TOPETE occurs within two (2) years from the effective date of the decision in this matter.

27

1 c) If TOPETE fails to pay the monetary penalty as provided above prior to the
2 effective date of this Order, the stay of the suspension shall be vacated as to that TOPETE and
3 the order of suspension shall be immediately executed, under this Order, in which event the said
4 TOPETE shall not be entitled to any repayment nor credit, prorated or otherwise, for the money
5 paid to the Department under the terms of this Order.

6 d) If TOPETE pays the monetary penalty and any other moneys due under this
7 Stipulation and Agreement and if no further cause for disciplinary action against the real estate
8 license of said TOPETE occurs within two (2) years from the effective date of this Order, the
9 entire stay hereby granted this Order, as to said TOPETE only, shall become permanent.

10 2) Thirty (30) days of said suspension shall be stayed for two (2) years upon the
11 following terms and conditions:

12 a) TOPETE shall obey all laws, rules and regulations governing the rights, duties
13 and responsibilities of a real estate licensee in the State of California; and,

14 b) That no final subsequent determination be made, after hearing or upon stipulation,
15 that cause for disciplinary action occurred within two (2) years from the effective date of this
16 Order. Should such a determination be made, the Commissioner may, in his discretion, vacate
17 and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no
18 such determination be made, the stay imposed herein shall become permanent.

19 3) All licenses and licensing rights of TOPETE are indefinitely suspended unless or
20 until TOPETE provides proof satisfactory to the Commissioner, of having taken and successfully
21 completed the continuing education course on trust fund accounting and handling specified in
22 paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of satisfaction of these
23 requirements includes evidence that TOPETE has successfully completed the trust fund account
24 and handling continuing education courses, no earlier than 120 days prior to the effective date of
25 the Decision and Order in this matter. Proof of completion of the trust fund accounting and
26 handling course must be delivered to the Department of Real Estate, Flag Section at P.O. Box
27 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the effective date of

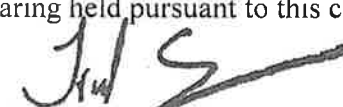
1 this Decision and Order.

2 III

3 1) Pursuant to Section 10148 of the Code, Respondents shall pay the sum of \$3,395
4 for the Commissioner's cost of the audit which led to this disciplinary action. Respondents shall
5 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.
6 Payment of audit costs should not be made until Respondents receive the invoice. If
7 Respondents fail to satisfy this condition in a timely manner as provided for herein,
8 Respondents' real estate license shall automatically be suspended until payment is made in full,
9 or until a decision providing otherwise is adopted following a hearing held pursuant to this
10 condition.

11 2) Pursuant to Section 10148 of the Code, Respondents shall pay the
12 Commissioner's reasonable cost, not to exceed \$4,243.75, for an audit to determine if
13 Respondents have corrected the violation(s) found in the Determination of Issues. In calculating
14 the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated
15 average hourly salary for all persons performing audits of real estate brokers, and shall include
16 an allocation for travel time to and from the auditor's place of work. Respondents shall pay such
17 costs within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment
18 of the audit costs should not be made until Respondents receive the invoice. If Respondents fail
19 to satisfy this condition in a timely manner as provided for herein, Respondents' real estate
20 license shall automatically be suspended until payment is made in full, or until a decision
21 providing otherwise is adopted following a hearing held pursuant to this condition.

22 23 June 2022
23 DATED


24 TRULY SUGHRUE
25 Counsel for Complainant

26 * * *

27 I have read the Stipulation and Agreement, and its terms are understood by me
and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the

1 California Administrative Procedure Act, and I willingly, intelligently and voluntarily waive
2 those rights, including the right of requiring the Commissioner to prove the allegations in the
3 Accusation at a hearing at which I would have the right to cross-examine witnesses against me
4 and to present evidence in defense and mitigation of the charges.

5 Respondents further agree to send the original signed Stipulation and Agreement
6 by mail to the following address no later than one (1) week from the date the Stipulation and
7 Agreement is signed by Respondents and Respondents' attorney: *Department of Real Estate,*
8 *Legal Section, P.O. Box 137007, Sacramento, California 95813-7007.* Respondents and
9 Respondents' attorney understand and agree that if they fail to return the original signed
10 Stipulation and Agreement by the due date, Complainant retains the right to set this matter for
11 hearing.

12 6/20/2022

13 DATED


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Tanya Islas Topete, Designated Officer
RENT SMART PROPERTY MANAGEMENT
INC.,
Respondent

16 6/20/2022

17 DATED


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TANYA ISLAS TOPETE
Respondent

18 * * *

19 The foregoing Stipulation and Agreement is hereby adopted as my Decision and
20 Order and shall become effective at 12 o'clock noon on DEC 01 2022.

21 IT IS SO ORDERED 10.14.22

23 DOUGLAS R. McCAULEY
24 REAL ESTATE COMMISSIONER

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FILED

MAR 28 2022

DEPARTMENT OF REAL ESTATE

By B. Nicholas

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:)
) DRE No. H-3410 FR
RENT SMART PROPERTY MANAGEMENT)
INC., and TANYA ISLAS TOPETE,)
)
Respondents.)

ORDER VACATING DECISION AND SETTING ASIDE DEFAULT

On March 4, 2022, a Decision was rendered revoking the real estate broker license of Respondents, RENT SMART PROPERTY MANAGEMENT INC. and TANYA ISLAS TOPETE, effective April 01, 2022.

On March 23, 2022, good cause was presented to vacate the Decision of March 4, 2022, and to have the matter remanded to the Office of Administrative Hearings as a contested matter.

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1 NOW, THEREFORE, IT IS ORDERED that the Decision of March 4, 2022, is
2 vacated and that the Matter of the Accusation filed on December 08, 2021, is remanded to the
3 Office of Administrative Hearings.

4 This Order shall be effective immediately.

5 DATED: **MAR 28 2022**

6 DOUGLAS R. McCAULEY
7 REAL ESTATE COMMISSIONER

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9 

10

11 for Doug McCauley

FILED

MAR 11 2022

DEPARTMENT OF REAL ESTATE

By B. Nicholas

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:)	
)	DRE No. H-03410 FR
RENT SMART PROPERTY MANAGEMENT)	
INC., and TANYA ISLAS TOPETE,)	
)	
Respondents.)	

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on 02/23/2022, and the Findings of Fact set forth herein, which are based on one or more of the following: (1) The express admissions of Respondents, RENT SMART PROPERTY MANAGEMENT INC., and TANYA ISLAS TOPETE (Respondents); (2) affidavits; and (3) other evidence.

This Decision revokes one or more real estate licenses on the grounds of the violation of the Real Estate Law, Part 1 commencing with Section 10000 of the Business and Professions Code (Code) and/or the Regulations of the Real Estate Commissioner, Title 10, Chapter 6 of the California Code of Regulations (Regulations).

Pursuant to Government Code Section 11521, the California Department of Real Estate (Department) may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license, or to the reduction of a penalty, is controlled by Section 11522 of the Government Code. A copy of Government Code Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

FINDINGS OF FACT

1.

On December 1, 2021, Brenda Smith made the Accusation in her official capacity as a Supervising Special Investigator of the Department.

The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, and regular mail to:

- Respondents last known mailing address on file with the Department, 11211 16th Avenue, Lemoore, California 93245, on December 08, 2021; and
- Respondent TANYA ISLAS TOPETE at 718 N. 11th Avenue, Suite D, Hanford, California 93230, on December 8, 2021.

On February 23, 2022, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2.

Respondents are presently licensed and/or have license rights under Code.

3.

At all times mentioned, Respondent RENT SMART PROPERTY MANAGEMENT INC. (RENT SMART) was and is licensed by the Department as a real estate broker corporation.

4.

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.

5.

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.

6.

Attached as Exhibit "A" is a true and correct copy of the Accusation filed on December 08, 2021, which is incorporated herein as part of this Decision.

DETERMINATION OF ISSUES

7.

The allegations contained in the First Cause of Action in the Accusation, incorporated herein by reference made in Paragraph 6, above, constitute cause for the suspension or revocation of all the licenses, license endorsements, and license rights of Respondents under the provisions of Sections 10177(d) of the Code in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations, and Section 10176(e) of the Code.

8.

The allegations contained in the Second Cause of Action in the Accusation, incorporated herein by reference made in Paragraph 6, above, constitute cause for the suspension or revocation of all the licenses, license endorsements, and license rights of Respondent TOPETE under the provisions of Section 10177(h) of the Code.

9.

The standard of proof applied was clear and convincing evidence to a reasonable certainty.

ORDER

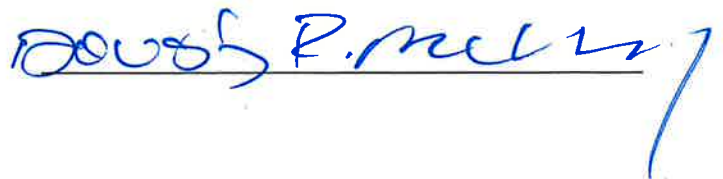
All licenses and licensing rights of Respondents RENT SMART PROPERTY MANAGEMENT INC., and TANYA ISLAS TOPETE under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

APR 01 2022

This Decision shall become effective at 12 o'clock noon on _____.

DATED: 3.4.22

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER



1 Department of Real Estate
2 1651 Exposition, Blvd.
3 Sacramento, CA, 95815

FILED

FEB 23 2022

DEPARTMENT OF REAL ESTATE

By B. Nicholas

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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 RENT SMART PROPERTY MANAGEMENT)
13 INC., and TANYA ISLAS TOPETE,)
14 Respondents.)

No. H-3410 FR
DEFAULT ORDER

15 Respondents RENT SMART PROPERTY MANAGEMENT INC., and
16 TANYA ISLAS TOPETE, having failed to file a Notice of Defense within the time required
17 by Section 11506 of the Government Code, are now in default. It is, therefore, ordered that
18 a default be entered on the record in this matter.

19 IT IS SO ORDERED FEBRUARY 10, 2022.

20 DOUGLAS R. McCAULEY
21 REAL ESTATE COMMISSIONER

22
23 By: 
24 CHIKA SUNQUIST
25 Assistant Commissioner, Enforcement
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27