



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

Beginning on September 21, 2021, and continuing intermittently through June 30, 2022, an audit was conducted of the records of Respondent. The auditor examined the records for the period of June 1, 2020, through June 30, 2021 (the audit period).

Respondent, while acting as a real estate broker, as described in Paragraph 3, accepted or received funds in trust (trust funds) from or on behalf of owners, lessees and others in connection with property management activities, and deposited those funds into bank accounts maintained by Respondent, at Bank of America, N.A., 834 State Street, Santa Barbara, CA 93101:

BANK ACCOUNT #1	
Account No.:	XXXXXXXXX5338
Entitled:	PLAYA AZUL PROPERTY MANAGEMENT LLC

BANK ACCOUNT #2	
Account No.:	XXXXXXXXX5189
Entitled:	PLAYA AZUL PROPERTY MANAGEMENT LLC

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

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2 In the course of the activities described in Paragraph 3, in connection with the  
3 collection and disbursement of trust funds, it was determined that:

- 4 (a) An accountability was performed on Bank Account #1, and as of June 30,  
5 2021, there was a shortage in the amount of \$19,542.51 revealed, in violation  
6 of Section 10145 of the Code;
- 7 (b) An accountability was performed on Bank Account #2, and as of June 30,  
8 2021, there was a shortage in the amount of \$6,438.08 revealed, in violation of  
9 Section 10145 of the Code;
- 10 (c) Respondent failed to obtain written permission from owners of trust funds in  
11 Bank Account #1 and Bank Account #2, to allow the balances to drop below  
12 accountability, in violation of Section 2832.1 of Chapter 6, Title 10, California  
13 Code of Regulations (Regulations);
- 14 (d) Respondent conducted real estate activities using the fictitious business name  
15 "Playa Azul Property Management" without first registering with the  
16 Department, in violation of Sections 10159.5 of the Code, and Section 2731 of  
17 the Regulations;
- 18 (e) Respondent failed to inform the Department of the change of Respondent's  
19 main office address to 11420 Ming Avenue, Suite 530, Bakersfield, CA  
20 93311, within 30 days, in violation of Section 10162 of the Code, and Section  
21 2715 of the Regulations;
- 22 (f) Respondent caused, suffered or permitted funds of others which were received  
23 and held by Respondent to be commingled with broker funds in Bank Account  
24 #2, in violation of Section 10176 (e) of the Code;
- 25 (g) Respondent failed to properly designate Bank Account #1 and Bank Account  
26 #2 as trust accounts in the name of the broker as trustee, as required by  
27 Section 10145 of the Code and Section 2832 of the Regulations;

- 1 (h) Respondent collected and retained compensation, commission, or profit, and  
2 failed to disclose the compensation, commission or profit from property  
3 owners in connection with charging 20% mark-up fees on  
4 repairs/maintenance, in violation of Section 10176 (g) of the Code; and  
5 (i) Respondent allowed persons who were not licensed to be a signatory on trust  
6 fund accounts without an adequate fidelity bond, in violation of Section 10145  
7 of the Code, and Section 2834 of the Regulations; and  
8 (j) Respondent allowed persons who were not licensed to be a signatory on trust  
9 fund accounts and did not maintain a separate bond, insurance coverage or  
10 funds to cover the amount of the deductible of the fidelity bond, in violation of  
11 Section 10145 of the Code, and Section 2834 of the Regulations.

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13 The acts and/or omissions described above constitute violations of Sections 2715  
14 (Business and Mailing Addresses of Licensees), 2731 (Use of False/Fictitious Name), 2832  
15 (Bank Account Not Properly Designated as Trust Account), 2832.1 (Written Permission for  
16 Balance Below Accountability), and 2834 (Trust Fund Signatories) of the Regulations, and  
17 Sections 10145 (Trust Fund Handling), 10159.5 (Fictitious Name), 10162 (Place of Business:  
18 Contact Information) and 10176 (e) (Commingling), 10176 (g) (Secret or Undisclosed  
19 Compensation) of the Code, and are grounds for discipline under Sections 10176 (e), 10176 (g)  
20 10177(d) (Willful Disregard of Real Estate Laws) and/or 10177(g) (Negligence/Incompetence  
21 Licensee) of the Code.

22 COST RECOVERY

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24 Audit Costs

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

Costs of Investigation and Enforcement

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

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Code, for the reasonable cost of investigation and enforcement as permitted by law, for the cost of the audit, and for such other and further relief as may be proper under other provisions of law.

  
BRENDA SMITH  
Supervising Special Investigator

Dated at Fresno, California,  
this 5 day of May, 2023

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.