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FILED

FEB - 3 2016

BUREAU OF REAL ESTATE

By *[Signature]*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

WINSTON PROPERTY MANAGEMENT, INC.;

STEVEN BARRY MEDOFF, individually and as
designated officer of Winston Property
Management, Inc.; and

ANDREA WAGMAN-CHRISTIAN,

Respondents.

No. H-04773 SD.

ACCUSATION

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against WINSTON PROPERTY MANAGEMENT, INC.; STEVEN BARRY MEDOFF, individually and as designated officer of Winston Property Management, Inc.; and ANDREA WAGMAN-CHRISTIAN, alleges as follows:

1.

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

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2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

LICENSE HISTORY

3.

Respondent WINSTON PROPERTY MANAGEMENT, INC. (hereinafter "WPMI") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a corporation, real estate broker license ID 01926403. Respondent WPMI was originally licensed by the Bureau (then "Department") of Real Estate (hereinafter "Bureau") on or about February 5, 2013. Respondent WPMI's current main office address of record as of August 19, 2014 is 2305 Meade Ave., #1, San Diego, CA 92116. As of July 25, 2014, WPMI's main office address of record was 2637 University Avenue, San Diego, CA 92104. WPMI's current mailing address of record is 2260 El Cajon Blvd., Box 408, San Diego, CA 92104. WPMI maintains no licensed branch offices and employs one salesperson, ANDREA WAGMAN-CHRISTIAN. WPMI holds one active licensed DBA, American Real Estate Agents, active as of April 3, 2013.

4.

Respondent STEVEN BARRY MEDOFF (hereinafter "MEDOFF") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a real estate broker, license ID 00339489. Respondent MEDOFF was originally licensed by the Bureau as a salesperson on March 30, 1971. Respondent MEDOFF's current main office address of record is 2305 Meade Ave., Suite 1, San Diego, CA 92116, and his current mailing address of record is 4860 Gusto Street, Las Vegas, NV 89135. As of July 25, 2014, MEDOFF's mailing address of record was 255 N. Sierra Street, Unit 2009, Reno, NV 89501 and MEDOFF's main office address was 400 Pico Blvd., Santa Monica, CA 90405. Respondent MEDOFF has one

1 branch office of record at 2637 University Ave., San Diego, CA 92104. Respondent MEDOFF is
2 the designated officer of record for WPMI until February 4, 2017. Respondent MEDOFF was
3 also the designated officer of record for Lotus Interworks Inc until September 21, 2015.

4 5.

5 Respondent ANDREA WAGMAN-CHRISTIAN (hereinafter "WAGMAN-
6 CHRISTIAN") is presently licensed and/or has license rights under the Real Estate Law (Part 1
7 of Division 4 of the Code) as a real estate salesperson, license ID 01313027. Respondent
8 WAGMAN-CHRISTIAN was originally licensed by the Bureau as a salesperson on
9 July 16, 2001. On or about June 11, 2014, in BRE Case No., H-04589 SD (filed
10 February 20, 2014), Respondent WAGMAN-CHRISTIAN's real estate salesperson license was
11 suspended for sixty (60) days, stayed upon certain terms and conditions. WAGMAN-
12 CHRISTIAN's present employing broker of record is WPMI.

13 BROKERAGE

14 6.

15 At all times mentioned in San Diego, California, Respondent WPMI acted as a
16 real estate broker, and ordered, caused, authorized or participated in licensed activities within the
17 meaning of: (1) Code Section 10131(a), by selling or offering to sell, buying or offering to buy,
18 soliciting prospective sellers or purchasers of, soliciting or obtaining listings of, or negotiating
19 the purchase, sale or exchange of real property or a business opportunity ("real estate sales") and
20 (2) Code Section 10131(b), wherein WPMI engaged in property management activities, and
21 leased or rented or offered to lease or rent, or placed for rent, or solicited listings of places for
22 rent, or solicited for prospective tenants, or negotiated the sale, purchase or exchanges of leases
23 on real property, or on a business opportunity, or collected rent from real property, or
24 improvements thereon, or from business opportunities ("property management").

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1 more fully discussed in Audit Report SD 130023.

2 Bank Accounts

3 10.

4 During the audit examination period described in Paragraph 9 above, Respondent
5 WPMI accepted or received funds including funds in trust (hereinafter "trust funds") from or on
6 behalf of actual or prospective parties, including tenants and property owners, and thereafter
7 made deposits or disbursements of such funds. During the examination period WPMI deposited
8 and/or maintained said trust funds relating to its property management activities in one (1) trust
9 account at Bank of America and three (3) bank accounts at Union Bank. The BRE Auditor
10 examined the following four (4) WPMI accounts:

11 WPMI Trust Account 1 ("T/A 1")

- 12 * Account Name: WINSTON PROPERTY MANAGEMENT INC. dba American
Real Estate Agents Trust Account
- 13 * Bank: Bank of America, San Diego, CA 92104
- 14 * Account # xxxxxxxx4366
- 15 * Signatories: STEVEN BARRY MEDOFF, ANDREA WAGMAN-CHRISTIAN
- 16 * Number of signatures required for withdrawals: one
- 17 * Signatory on checks: ANDREA WAGMAN-CHRISTIAN
- 18 * Date Opened: 2/27/13

19 T/A 1 was used as a depository for security deposits and rents collected from tenants.
20 Disbursements from T/A 1 were payments for expenses related to the property managed, for
21 owner remittances, to WPMI for management fees, or to B/A 2.

22 WPMI Bank Account 2 ("B/A 2")

- 23 * Account Name: WINSTON PROPERTY MANAGEMENT INC. dba American
Real Estate Agents
- 24 * Bank: Union Bank, San Diego, CA 92104
- 25 * Account # xxxxxx3598
- 26 * Signatories: STEVEN BARRY MEDOFF, ANDREA WAGMAN-CHRISTIAN
- 27 * Number of signatures required for withdrawals: one
- * Signatory on checks: ANDREA WAGMAN-CHRISTIAN
- * Date Opened: 2/27/13

1 B/A 2 was used as a depository for security deposits collected from tenants, some of
2 which were deposited to T/A 1, then transferred to B/A 2. Disbursements from B/A 2 were
3 payments for move-out expenses related to the property managed and for deposits returned to
4 tenants.

5 WPMI Bank Account 3 ("B/A 3") – not included in Audit Examination

6 * Account Name: WINSTON PROPERTY MANAGEMNT INC. dba American
7 Real Estate Agents

8 * Bank: Union Bank, San Diego, CA 92104

9 * Account # xxxxxx3709

10 * Signatories: STEVEN BARRY MEDOFF, ANDREA WAGMAN-CHRISTIAN

11 * Number of signatures required for withdrawals: one

12 * Signatory on checks: ANDREA WAGMAN-CHRISTIAN

13 * Date Opened: 2/27/13

14 According to WAGMAN-CHRISTIAN, B/A 3 was used as a depository for rents
15 collected from tenants of the two (2) commercial properties, both of which were owned by the
16 same owner. Disbursements from B/A 3 were payments for expenses related to the property
17 managed, for owner remittances, and to WPMI for management fees. B/A 3 and B/A 4 are for
18 the same properties/owner.

19 WPMI Bank Account 4 ("T/A 4")– not included in Audit Examination

20 * Account Name: WINSTON PROPERTY MANAGEMNT INC. dba American
21 Real Estate Agents

22 * Bank: Union Bank, San Diego, CA 92104

23 * Account # xxxxxx8797

24 * Signatories: STEVEN BARRY MEDOFF, ANDREA WAGMAN-CHRISTIAN

25 * Number of signatures required for withdrawals: one

26 * Signatory on checks: ANDREA WAGMAN-CHRISTIAN

27 * Date Opened: 2/27/13

28 According to WAGMAN-CHRISTIAN, B/A 4 was used as a depository for security
29 deposits collected from tenants of the two (2) commercial properties, both of which were owned
30 by the same owner. Disbursements from B/A 3 were payments for move-out expenses related to
31 the property managed and for deposits returned to tenants. B/A 3 and B/A 4 are for the same
32 properties/owner.

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The following general and personal bank accounts held at Bank of America were referenced in Audit SD 130023:

<u>Account Reference</u>	<u>Account Number</u>	<u>Description</u>
General Account ("GA")	xxxxxxxx0670	Checking account – commissions earned and business expenses paid (signatories: WAGMAN-CHRISTIAN and Winston B. Christian)
Personal Account 1 ("P/A 1")	xxxxxxxx5108	WAGMAN-CHRISTIAN's personal account for mortgage payments
Personal Account 2 ("PA 2")	xxxxxxxx6152	WAGMAN-CHRISTIAN's personal checking account
Personal Account 3 ("P/A 3")	xxxxxxxx6939	WAGMAN-CHRISTIAN's personal checking account
Personal Account 4 ("P/A 4")	xxxxxxxx4798	WAGMAN-CHRISTIAN's personal checking account
Personal Account 5 ("P/A 5")	xxxxxxxx4163	WAGMAN-CHRISTIAN's personal savings account
Personal Account 6 ("P/A 6")	xxxxxxxx3748	Plantscapes (business checking account for Winston Christian's business)

Violations of the Real Estate Law

11.

In the course of activities as described in Paragraph 7, above, and during the examination period described in Paragraph 9, Respondents acted in violation of the Code and the Regulations, as described below:

A. Trust Fund Handling for Multiple Beneficiaries

According to bank records provided by WPMI and the bank reconciliations prepared as of June 30, 2014 for both T/A 1 and B/A 2 (records were reconstructed from the separate records for: the April, May and June 2014 rents received and disbursements for fifty-three (53) of the approximately one hundred and three (103) properties), minimum shortages were discovered in both T/A 1 and B/A 2.

1 (1) As of June 30, 2014, T/A 1 had a **minimum trust fund shortage** of
2 **<\$59,769.06>** caused by:

3 (a) minimum negative property balances **<\$ 8,929.49>**

4 (This negative balance was caused primarily by disbursements relating to
5 properties when funds were insufficient: <\$ 3,385.50> to Meadowbrook
6 Drive; <\$ 2,850.00> to Graves Street; and <\$ 1,735.65> to Lexington.)

7 (b) unreimbursed bank charges (2/27/13-6/30/14) **<\$ 4,204.00>**

8 (These were monthly charges incurred by T/A 1, but not reimbursed, for
9 wire transfers, remote deposit access, returned items for checks deposited,
10 insufficient funds for checks disbursed and overdraft items. Since WPMI
11 withdrew more funds than management fees earned it was determined the
12 bank charges were not reimbursed.)

13 (c) excess funds to WPMI (4/01/14-6/30/14) **<\$21,400.34>**

14 (No evidence was provided at the time of audit that demonstrated WPMI
15 maintained a record of management fees earned and disbursed. WPMI
16 transferred funds to WPMI's general account or to one of WAGMAN-
17 CHRISTIAN's personal accounts. According to WAGMAN-
18 CHRISTIAN, WPMI earned approximately \$14,00.00 per month in
19 management fees, plus owner proceeds totaling approximately \$2,473.00
20 for two properties. During the above-referenced period, \$67,440.00 was
21 disbursed to WAGMAN-CHRISTIAN or WPMI, an amount
22 approximately \$21,400.34 greater than that which was earned as
23 management fees.)

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(d) excess funds paid to owners <\$ 300.00>

(According to WAGMAN-CHRISTIAN, when some owners were paid late, an overnight transfer fee was incurred, and she paid an additional \$20.00 to the owners.)

(e) minimum unidentified cause(s) <\$24,935.23>

Total (a) + (b) + (c) + (d) + (e) = <\$59,769.06>

(2) As of June 30, 2014, B/A 2 had a **minimum trust fund shortage of <\$62,895.28>** caused by:

(a) minimum negative property balances <\$ 800.00>

(This negative balance was caused by disbursements relating to the Petra Drive property when funds were insufficient.)

(b) unreimbursed bank charges from T/A 1 (2/27/13-6/30/14) <\$ 150.42>

(T/A 1 incurred bank charges not reimbursed by WPMI, including \$150.42 for wire transfer fees, stop payment fees, cashier check purchases, and check orders, the bank charges of which affect B/A 2 transfers.)

(c) unauthorized disbursements to WPMI (3/31/13-6/30/14) <\$38,295.00>

(According to WAGMAN-CHRISTIAN, she withdrew funds from B/A 2 totaling \$38,295 without authorization. Subsequent to the audit examination period, on or about 7/16/14, WPMI disbursed an additional \$5,339.00 (check #1023) without authorization, for a total of \$43,634.00; and on 7/28/14, WAGMAN-CHRISTIAN made a deposit of \$41,639.00 to cure most of the \$43,634.00 shortage.)

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(d) unauthorized debit card purchases <\$ 1,766.27>

(There was a total of \$1,766.27 of unauthorized debit card purchases not recorded on the B/A 2 trust records and not related to the security deposits held in B/A 2.)

(e) unauthorized/unexplained check disbursements <\$ 3,772.75>

(There were three (3) unauthorized check disbursements totaling \$3,772.75 not recorded on the B/A 2 trust records and not related to the security deposits held in B/A 2.)

(f) unauthorized/unexplained cash withdrawals <\$ 7,375.86>

(There were three (3) unauthorized cash withdrawals totaling \$7,375.86 not recorded on the B/A 2 trust records and not related to the security deposits held in B/A 2.)

(g) trust funds not deposited <\$1,525.00>

(According to records examined, the security deposit for the Corte Sabio property was posted on the separate record on 2/14/14 and on the control record on 2/18/14, but there was no related deposit into B/A 2.)

(h) minimum unidentified cause(s) <\$ 9,209.98>

Total (a) + (b) + (c) + (d) + (e) + (f) + (g) + (h) = <\$59,769.06>

According to the records provided by WPMI during the audit examination, there was no evidence that the owners of the trust funds consented to WPMI's reduction of the balance of the funds in trust accounts T/A 1 and B/A 2. WPMI reduced the balances in T/A 1 and B/A 2 to an amount less than the existing aggregate trust fund liabilities without first obtaining written authorization from the owners of the trust funds, in violation of **Code Section 10145(a) and Regulation 2832.1.**

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1 **B. Trust Fund Handling – Commingling**

2 An examination of the records and bank statements for WPMI's T/A 1 and B/A 2
3 revealed unauthorized disbursements of trust funds to WPMI and/or WAGMAN-CHRISTIAN:

4 **(1) T/A 1: Excess Funds to WPMI and/or WAGMAN-CHRISTIAN**

5 As of June 30, 2014, T/A 1 had a minimum trust fund shortage in the amount
6 <\$59,769.06> attributable to unauthorized disbursements from T/A 1 to WPMI and/or
7 WAGMAN-CHRISTIAN. Between April 1, 2014 and June 30, 2014, although WPMI and
8 WAGMAN-CHRISTIAN earned a total of \$46,039.66 (comprised of management fees earned
9 and owner proceeds for WAGMAN-CHRISTIAN's properties), a total of \$67,440.00 was
10 transferred from T/A 1 to WPMI and/or WAGMAN-CHRISTIAN, yielding a transfer of at least
11 \$21,400.34 in excess of what was earned. The \$21,400.34 that was transferred from the trust
12 funds of T/A 1 to WPMI's GA or WAGMAN-CHRISTIAN's P/A 1, P/A 2, P/A 5, and P/A 6
13 comprises a primary portion of the <\$59,769.06> shortage in T/A 1.

14 **(2) T/A 1: Overdrawn Balances**

15 According to the bank statements, T/A 1 was overdrawn at least nineteen (19)
16 times between February 27, 2013 and June 30, 2014, four (4) of which overdrawn balances
17 exceeded <\$1,000.00> on the following dates: April 10, 2013 (<\$1,996.35>); December 9, 2013
18 (<\$1,678.62>); February 7, 2014 (<\$1,969.28>); and April 7, 2014 (<\$3,516.38>).

19 **(3) T/A 1: July 2014 Rents**

20 According to the records examined, although the July 2014 rents totaling
21 \$39,452.63 were deposited into T/A 1 on or before June 30, 2014, the bank balance for T/A 1 as
22 of June 30, 2014 was \$4,191.49.

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1 (4) B/A 2: Unauthorized Check Disbursements to WPMI/WAGMAN

2 CHRISTIAN

3 According to WAGMAN-CHRISTIAN and the records examined, she made
4 unauthorized check disbursements, without proper authorization from the owners of the trust
5 funds, totaling at least \$38,295.00 between February 27, 2013 and June 30, 2014:

<u>Date</u>	<u>Check No.</u>	<u>Amount</u>
3/7/13	1153	\$ 200.00
3/7/13	1157	\$ 5,000.00
5/22/13	1167	\$ 3,000.00
5/28/13	1164	\$ 1,995.00
8/21/13	1182	\$ 5,000.00
11/20/13	1234	\$ 5,000.00
11/20/13	1235	\$ 2,500.00
6/6/14	1006	\$ 4,950.00
6/16/14	1007	\$ 4,950.00
6/17/14	1009	\$ 4,100.00
6/23/14	1010	\$ 1,600.00
	Total	\$38,295.00

19 On or about July 16, 2014, WAGMAN-CHRISTIAN made an additional
20 unauthorized check disbursement (check #1023) of \$5,339.00; as of July 16, 2014, the total of
21 unauthorized disbursements from B/A 2 was \$43,634.00. On or about July 28, 2014,
22 WAGMAN-CHRISTIAN made a deposit of \$41,639.00 to return most of the funds to B/A 2.

23 (5) B/A 2: Unauthorized Debit Card Purchases

24 Between February 27, 2013 and June 30, 2014, WAGMAN-CHRISTIAN made
25 eighteen (18) unauthorized debit card purchases totaling \$1,766.27 that were not recorded on the
26

1 B/A 2 records and were not related to the security deposits held in B/A 2. According to the
 2 descriptions listed on the bank statements, the debit card purchases were made at various
 3 restaurants, grocery stores, and retail stores:

Date	Amount	Description
5/16/13	\$ 143.14	VCA Angel Animal Hospital
5/20/13	\$ 158.10	Albertsons (grocery store)
5/22/13	\$ 52.82	Miramar Wholesale Nurseries
5/23/13	\$ 90.00	Total Tax
5/24/13	\$ 219.80	Replacement Limited
5/24/13	\$ 38.38	Arco Gas Station
5/24/13	\$ 2.50	Southbay Expressway
5/28/13	\$ 46.20	North Park Bikes
5/28/13	\$ 49.04	The Corvette Diner Restaurant
5/28/13	\$ 185.99	The Home Depot
5/28/13	\$ 280.34	Vons (grocery store)
5/30/13	\$ 5.90	Starbucks
5/30/13	\$ 8.00	Spot Free Rinse Car Wash
6/3/13	\$ 93.84	The Smoking Goat Restaurant
7/31/13	\$ 72.40	Walter Anderson Nursery
8/1/13	\$ 20.15	Gala Foods (market)
8/2/13	\$ 11.00	Café Madeleine
8/2/13	\$ 288.67	Bed Bath & Beyond store
Total	\$1,766.27	

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1 (6) B/A 2: Other Unauthorized/Unexplained Check Disbursements

2 Between February 27, 2013 and June 30, 2014, there were three (3) unauthorized
3 check disbursements totaling \$3,772.75 that were not recorded on the B/A 2 trust records and not
4 related to the security deposits held in B/A 2:

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Check Date	Check No.	Check Amount	Payee
3/24/14	1281	\$ 297.75	State Fund
4/15/14	1293	\$ 975.00	Olivas Business Consulting
5/15/14	1294	\$2,500.00	WPMI
	Total	\$3,772.75	

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10 (7) B/A 2: Unauthorized/Unexplained Withdrawals

11 Between February 27, 2013 and June 30, 2014, there were three (3) unauthorized
12 or unexplained withdrawals totaling \$7,375.86 which were not recorded on the B/A 2 trust
13 records.

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Date	Amount	Comment
4/8/13	\$4,500.00	
7/3/13	\$ 175.86	Difference: \$18,175.86 withdrawal and \$18,00 correction credit
4/16/14	\$2,700.00	
Total	\$7,375.86	

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20 **WPMI and WAGMAN-CHRISTIAN commingled the rents, security deposits**
21 **and trust funds of T/A 1 and B/A 2 with their own funds, in violation of Code Section 10145**
22 **and Regulation 2835, and Code Sections 10176(e), 10176(i) and 10177(j)**

23 **C. Trust Fund Handling – Deposits**

24 Between April 1, 2014 and June 30, 2014, three (3) rent checks totaling \$2,850.00
25 (check numbers 2048, 1081, and 2077) from tenant Melinda P. (who is also employed by WPMI)
26

1 for rent of the Graves Court property, were not deposited into T/A 1; it was not known by
2 WAGMAN-CHRISTIAN or WPMI whether the checks were deposited into any WPMI account.
3 According to WAGMAN-CHRISTIAN, she did not know whether Melinda P.'s checks were
4 deposited into an account other than T/A 1 or never deposited, in violation of **Code Section**
5 **10145 and Regulation 2832.**

6 **D. Trust Fund Handling -Account Designation**

7 According to the bank records provided for B/A 2, B/A 3, and B/A 4, utilized for
8 trust funds received and disbursed by WPMI for property management activities, B/A 2, B/A 3
9 and B/A 4 were not designated as trust accounts, nor was WPMI named as trustee on the
10 accounts, in violation of **Code Section 10145 and Regulation 2832.**

11 **E. Trust Fund Handling - Interest-Bearing Trust Account**

12 According to the bank records, B/A 2 was an interest-bearing trust fund account in
13 which the funds were not kept separate, distinct and apart from funds belonging to other persons
14 for whom WPMI held funds in trust. Between February 27, 2013 and June 30, 2014,
15 B/A 2 earned a total of \$69.59 in interest, from which WPMI benefited when unauthorized
16 withdrawals were made from B/A 2 leaving a minimum shortage of <\$62,895.28> as of June 30,
17 2014, in violation of **Code Section 10145(d).**

18 **F. Trust Fund Handling - Control Records**

19 WPMI did not maintain complete control records for T/A 1: a check disbursement
20 register was not maintained until May 1, 2014; cancelled checks or copies of such were not
21 maintained; the deposit record did not include tenant names, owner names or property references;
22 and many of the entries on WPMI's monthly Master List lacked dates and amounts received and
23 paid. Neither did WPMI maintain complete control records for B/A 2, as the deposits and
24 disbursements record was not inclusive of all deposits and disbursements; specifically not
25 recorded for B/A 2 were: three (3) checks totaling \$3,772.75; three (3) withdrawals totaling
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1 \$7,375.86; eighteen (18) debit card purchases totaling \$1,766.27; and at least nine (9) deposits
2 totaling \$13,431.86. **WPMI** failed to maintain for T/A 1 and B/A 2 accurate and complete
3 control records, in violation of **Code Section 10145 and Regulation 2831.**

4 **G. Trust Fund Handling – Separate Records for Each Beneficiary or**
5 **Transaction**

6 WPMI's records for T/A 1 neither included a balance after posting transactions,
7 nor matched the transaction amounts and dates on bank statements. WPMI's records for B/A 2
8 neither included a balance after posting transactions, nor matched the transaction amounts and
9 dates on bank statements; as of June 30, 2014, B/A 2 had a total of \$13,431.86 in unidentified
10 deposits for which there were no separate records. **WPMI** did not maintain adequate or accurate
11 separate records for each beneficiary or transaction for T/A 1 and for B/A 2, in violation of **Code**
12 **Section 10145 and Regulation 2831.1.**

13 **H. Trust Fund Handling - Monthly Written Reconciliation for Separate**
14 **Records**

15 During the audit examination period, **WPMI** failed to perform and maintain a
16 monthly written reconciliation comparing all separate record balances to the control record
17 balances for T/A 1 and B/A 2, in violation of **Code Section 10145 and Regulation 2831.2.**

18 **I. Trust Fund Handling - Account Withdrawals**

19 According to the records, and in particular, the February 27, 2013 "Independent
20 Contractor Agreement (Between Broker and Associate-Licensee)" (hereinafter "Broker-
21 Salesperson Agreement") signed by MEDOFF and WAGMAN-CHRISTIAN, there was no
22 written authorization by **WPMI** for **WAGMAN-CHRISTIAN** to be a signatory on T/A 1, B/A
23 2, B/A 3, and B/A 4, in violation of **Code Section 10145 and Regulation 2834.**

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1 **J. Retention of Records**

2 WPMI failed to make available for the audit information pertaining to
3 B/A 2, specifically with respect to the \$130,000 opening deposit to B/A 2 on February 27, 2013,
4 the failure of which is in violation of Code Section 10148.

5 **K. Responsibility of Corporate Officer-- Failure to Supervise (MEDOFF)**

6 The acts and/or omissions of Respondent MEDOFF, as described in Paragraphs
7 11A. through 11J., above, demonstrate a failure to adequately supervise the property
8 management activities of WPMI and WAGMAN-CHRISTIAN to secure WPMI and
9 WAGMAN-CHRISTIAN's full compliance with the provisions of the Real Estate Law.
10 Respondent MEDOFF failed to establish policies, rules, procedures and systems to review,
11 oversee, inspect and manage WPMI, WPMI's salesperson WAGMAN-CHRISTIAN, and their
12 handling of trust funds. Although WPMI and WAGMAN-CHRISTIAN conduct licensed
13 activities in San Diego, California, MEDOFF resides in Reno, Nevada. MEDOFF did not visit
14 San Diego during the sixteen (16)-month audit examination period. When the BRE auditor
15 notified MEDOFF of the BRE's intent to audit WPMI's books and records, MEDOFF responded
16 that an appointment could be arranged with WAGMAN-CHRISTIAN, and that WAGMAN-
17 CHRISTIAN would provide WPMI's information, books and records for examination.
18 Additionally, prior to the August 5, 2014 field examination, MEDOFF stated to the BRE auditor
19 that he had a chance to speak with WAGMAN-CHRISTIAN, and he admitted that the BRE
20 auditor would find misappropriations, which were unbeknownst to him, caused by general office
21 expenses paid from the trust account, which WAGMAN-CHRISTIAN intended to reimburse.
22 According to the Broker-Salesperson Agreement, "All property management transactions will
23 remain the sole responsibility of Winston Property Management, along with all rights pertaining
24 thereto." MEDOFF's acts and/or failures to act to supervise and control the activities conducted
25 by WPMI and WAGMAN-CHRISTIAN constitute grounds for the suspension or revocation of
26

1 the licenses and license rights of Respondent **MEDOFF** under the provisions of **Code Sections**
2 **10159.2 and 10177(h) and Regulation 2725.**

3 ADDITIONAL GROUNDS FOR DISCIPLINE

4 (Unlicensed Fictitious Business Names, Non-Disclosure of Licensed Status, and
5 Substantial Misrepresentation)

6 12.

7 WAGMAN-CHRISTIAN advertises her real estate services on the internet at:
8 <http://www.zillow.com/profile/SDAREA> (hereinafter “the Zillow page”);
9 <http://www.facebook.com/pages/American-Real-Estate-Agents/316179016?ref=photo>
10 (hereinafter “the Facebook page”); <https://twitter.com/SDArea> (hereinafter “the Twitter page”);
11 and on two websites bearing “.org” web addresses, <http://www.americanrealestateagents.org>
12 (hereinafter “the AREA website”) and www.sdarea.org (hereinafter “the SDAREA website”).

13 A. Included on a June 1, 2015 printout of the Zillow page is WAGMAN-
14 CHRISTIAN’s BRE license number and the dba American Real Estate Agents; not included on
15 the Zillow page is WAGMAN-CHRISTIAN’s broker of record, WPMI or WPMI’s designated
16 officer MEDOFF.

17 B. Included on a June 1, 2015 printout of the Facebook page is the dba American
18 Real Estate Agents and a link to the AREA website”); not included on the Facebook page are
19 WAGMAN-CHRISTIAN’s BRE license number and WAGMAN-CHRISTIAN’s broker of
20 record, WPMI or WPMI’s designated officer MEDOFF.

21 C. Included on a June 1, 2015 printout of the Twitter page is the dba American
22 Real Estate Agents and a link to the SDAREA website; not included on the Twitter page are
23 WAGMAN-CHRISTIAN’s BRE license number and WAGMAN-CHRISTIAN’s broker of
24 record, WPMI or WPMI’s designated officer MEDOFF.

1 D. Included on a January 27, 2016 printout of the SDAREA website is
2 WAGMAN-CHRISTIAN's BRE license number. Also included on the January 26, 2016
3 printout of the SDAREA website is a pictorial depiction next to WAGMAN-CHRISTIAN's
4 name, alongside the identifier "Broker/Owner."

5 E. Respondent **WAGMAN-CHRISTIAN** used unlicensed fictitious business
6 names American Real Estate Agents, AREA, and SDAREA in connection with her real estate
7 activities without first obtaining a licensing from the Bureau bearing such fictitious business
8 name, in violation of **Code Section 10159.5 and Regulation 2731.**

9 F. Respondent **WAGMAN-CHRISTIAN** advertised her real estate services on
10 the internet on the social media sites Facebook.com and Twitter.com and did not disclose her
11 licensed status, that is, her BRE license identification number, in violation of **Code Section**
12 **10140.6 and Regulation 2773.**

13 G. On the internet, on the SDAREA website, **WAGMAN-CHRISTIAN** willfully
14 used her own name and associated it with the term "broker/owner" when she was not licensed as
15 a broker, in violation of Code Sections **10130 and 10139.**

16 H. On the internet, on the SDAREA website **WAGMAN-CHRISTIAN** willfully
17 used her own name and associated it with the term "broker/owner" when she was not licensed as
18 a broker, a substantial misrepresentation of her BRE license status, in violation of **Code Sections**
19 **10176 (a) and 10177(c).**

20 (Negligence, Willful Disregard of the Real Estate Law)

21 13.

22 The overall conduct of Respondents, as described above in Paragraphs 11 and 12,
23 is violative of the Real Estate Law and constitutes cause for the suspension or revocation of the
24 real estate licenses and license rights of **WPMI, MEDOFF** and **WAGMAN-CHRISTIAN**
25 under the provisions of **Code Sections 10177(g)** for negligence and **10177(d)** for willful
26

27 CalBRE Accusation – Winston Property Management., Inc. et al.

1 disregard of the Real Estate Law.

2 COSTS

3 14.

4 **Code Section 10106** provides, in pertinent part, that in any order issued in
5 resolution of a disciplinary proceeding before the Bureau of Real Estate, the Commissioner may
6 request the administrative law judge to direct a licensee found to have committed a violation of
7 this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of
8 the case.

9 15.

10 **Code Section 10148(b)** provides, in pertinent part, the Commissioner shall charge
11 a real estate broker for the cost of any audit, if the Commissioner has found in a final decision
12 following a disciplinary hearing that the broker has violated Code section 10145 or a regulation
13 or rule of the Commissioner interpreting said section.

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against the license and license rights of Respondents **WINSTON PROPERTY**
4 **MANAGEMENT, INC., STEVEN BARRY MEDOFF, and ANDREA WAGMAN-**
5 **CHRISTIAN** under the Real Estate Law (Part 1 of vision 4 of the Business and Professions
6 Code), for the cost of investigation and enforcement as permitted by law, and for such other and
7 further relief as may be proper under other provisions of law, and for costs of audit.
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9 Dated at San Diego, California

10 this 29th day of January, 2016.
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12 
13 Veronica Kilpatrick
14 Deputy Real Estate Commissioner
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22 cc: Winston Property Management, Inc.
23 Steven Barry Medoff
24 Andrea Wagman-Christian
25 Sacto.
26 Audits – Jennifer Borromeo
27