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FILED

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BUREAU OF REAL ESTATE
By B. Nicholas

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:)
12) No. H-6560 SAC
13 TIMOTHY FRANCIS WESELY and)
14 CARLA EILENE MORGAN,)
15 Respondents.) FIRST AMENDED ACCUSATION

16 The Complainant, TRICIA D. PARKHURST, in her official capacity as a
17 Supervising Special Investigator of the State of California, Bureau of Real Estate ("Bureau"), brings
18 this Accusation against TIMOTHY FRANCIS WESELY ("WESELY") and CARLA EILENE
19 MORGAN ("MORGAN") (collectively "Respondents"), and is informed and alleges as follows:

20 1

21 WESELY is presently licensed by the Bureau and/or has license rights under the
22 Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code"), as
23 a real estate broker.

24 2

25 MORGAN is presently licensed by the Bureau and/or has license rights under the
26 Real Estate Law, Part 1 of Division 4 of the Code, as a real estate broker. MORGAN became
27 licensed as a broker on or about December 29, 2016.

1 3

2 From August 16, 1988, to December 28, 2016, MORGAN was licensed as a real
3 estate salesperson.

4 4

5 JULIE MERRIAM ("MERRIAM") is presently licensed by the Bureau and/or has
6 license rights under the Real Estate Law, Part 1 of Division 4 of the Code, as a real estate
7 salesperson.

8 5

9 From November 2, 2015, until December 28, 2016, WESELY was the employing
10 broker for MORGAN.

11 6

12 From November 2, 2015, until January 2, 2017, WESELY was the employing
13 broker for MERRIAM.

14 7

15 On or about October 7, 2015, MORGAN started doing business as CYA Property
16 Management, LLC ("CYA"). MORGAN was the sole owner of CYA.

17 8

18 MORGAN hired MERRIAM to work for CYA and compensated MERRIAM
19 through the Company Operating Account. WESELY had no involvement with the Company
20 Operating Account.

21 9

22 From on or about October 7, 2015, to May 22, 2017, CYA was not registered with
23 the Bureau as a fictitious business name.

24 10

25 At all times relevant herein, Respondents engaged in the business of, acted in the
26 capacity of, advertised or assumed to act as real estate licensees within the State of California within
27 the meaning of Section 10131(b) of the Code including the operation and conduct of a property

1 management business with the public, wherein, on behalf of others, for compensation or in
2 expectation of compensation, Respondents leased or rented or offered to lease or rent, and solicited
3 for prospective tenants of real property or improvements thereon, and collected rents from real
4 property or improvements thereon.

5 11

6 Beginning on or about June 1, 2016, and continuing through July 18, 2016, an audit
7 was conducted of the real estate business activities of CYA, located at 4444 Manzanita Ave. Ste. 1,
8 Carmichael, CA 95608. The auditor examined the business records of CYA for the period of April
9 1, 2015, through April 30, 2016, ("the audit period").

10 12

11 While acting as real estate licensees as described in Paragraph 10, above, and within
12 the audit period, Respondents accepted or received funds in trust ("trust funds") and deposited or
13 caused the trust funds to be deposited into a trust account maintained as follows:

14 Trust Account #1

15 Bank Name: Wells Fargo
7225 Fair Oaks, Blvd., Carmichael, CA 95608
16 Account Name: CYA Property Management, LLC
Real Estate Trust
17 Account No.: Last 4 Digits: 9304
18 Signatories: Carla Morgan (RES)
19 Description: Handling of Trust Funds

20 13

21 In the course of the real estate broker activities described in Paragraph 10, above,
22 and during the audit period, it was discovered:

23 (a) WESELY had not established adequate policies, rules, procedures, and
24 systems to review, oversee, and inspect handling of trust funds as required by Section 2725, Title 10,
25 California Code of the Regulations ("Regulations");

26 (b) WESELY did not register CYA as a fictitious business name with the Bureau
27 as required under Section 10159.5 of the Code, in conjunction with Section 2731 of the
Regulations;

1 (c) WESELY was not a signatory on the bank signature card for Trust Account
2 #1 as required by Section 10145 of the Code, in conjunction with Section 2832 of the Regulations;

3 (d) From December 29, 2016, through May 22, 2017, MORGAN did not register
4 CYA as a fictitious business name with the Bureau as required under Section 10159.5 of the Code,
5 in conjunction with Section 2731 of the Regulations;

6 (e) MORGAN, while working as a real estate salesperson, unlawfully
7 compensated MERRIAM, a real estate salesperson, in violation of Section 10137 of the Code; and

8 (f) From December 29, 2016, through May 22, 2017, MORGAN failed to apply
9 for and procure an additional license for each branch office maintained by her, as required by
10 Section 10163 of the Code.

GROUNDS FOR DISCIPLINE

14

13 The acts and/or omissions of WESELY, as described above in Paragraph 13(a)
14 through 13(c), constitute violations of Sections 10145, 10159.5, 10177(d), and 10177(g) of the
15 Code, in conjunction with Sections 2831 and 2832 of the Regulations.

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17 The acts and/or omissions of MORGAN, as described above in Paragraph 13(d)
18 through 13(f), constitute violations of Sections 10137, 10159.5, 10163, 10177(d), and 10177(g) of
19 the Code, in conjunction with Section 2731 of the Regulations.

AUDIT COSTS

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22 The acts and/or omissions of Respondents as alleged above, entitle the Bureau to
23 reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund
24 violations) of the Code.

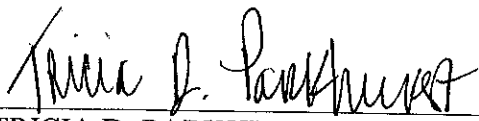
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1 COST OF INVESTIGATION AND ENFORCEMENT

2 17

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

7 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
8 this Accusation and that upon proof thereof, a decision be rendered revoking all licenses and license
9 rights of Respondent under the Real Estate Law, for the cost of investigation and enforcement as
10 permitted by law, for the cost of the audit as permitted by law, and for such other and further relief
11 as may be proper under other provisions of law.

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15 TRICIA D. PARKHURST
16 Supervising Special Investigator
17

18 Dated at Sacramento, California,
19 this 28th day of August, 2017.
20

21 DISCOVERY DEMAND

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