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DEPARTMENT OF REAL ESTATE

By H. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
)  
12 STOKLEY PROPERTIES, INC., ) NO. H-11527 SF  
a Corporation, and )  
13 JOSEPH FRANCIS STOKLEY, JR., ) ACCUSATION  
)  
14 Respondents. )

15 The Complainant, ROBIN S. TANNER, a Deputy Real Estate Commissioner  
16 of the State of California, makes this Accusation in her official capacity for cause of Accusation  
17 against STOKLEY PROPERTIES, INC. (herein "SPI") and JOSEPH FRANCIS STOKLEY, JR.  
18 (herein "STOKLEY") (collectively "Respondents"), and is informed and alleges as follows:

19 1

20 At all times herein mentioned, Respondents were and now are licensed and/or  
21 have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and  
22 Professions Code) (herein "the Code").

23 2

24 At all times herein mentioned, SPI was and now is licensed by the State of  
25 California Department of Real Estate (herein "the Department") as a corporate real estate broker  
26 by and through STOKLEY as designated officer-broker of SPI to qualify said corporation and to  
27 act for said corporation as a real estate broker.

1  
2 At all times herein mentioned, STOKLEY was and now is licensed by the  
3 Department as a real estate broker, individually and as designated officer-broker of SPI. As said  
4 designated officer-broker, STOKLEY was at all times mentioned herein responsible pursuant to  
5 Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate  
6 licensees, and employees of SPI for which a license is required.

7  
8 Whenever reference is made in an allegation in this Accusation to an act or  
9 omission of SPI, such allegation shall be deemed to mean that the officers, directors, employees,  
10 agents and/or real estate licensees employed by or associated with SPI committed such act or  
11 omission while engaged in the furtherance of the business or operations of such corporate  
12 respondent and while acting within the course and scope of their authority and employment.

13  
14 At all times herein mentioned, Respondents engaged in the business of, acted  
15 in the capacity of, advertised, or assumed to act as real estate brokers for compensation or in  
16 the expectation of compensation within the State of California within the meaning of Section  
17 10131(b) of the Code, including the operation and conduct of a property management  
18 business with the public wherein, on behalf of others, Respondents leased or rented or offered  
19 to lease or rent, or placed for rent, or solicited listings or places for rent, or solicited for  
20 prospective tenants, or negotiated the sale, purchase or exchanges of leases on real property  
21 or on a business opportunity, or collected rents from real property, or improvements thereon,  
22 or from business opportunities.

23  
24 In so acting as real estate brokers as described in Paragraph 5, above, Respondents  
25 accepted or received funds in trust (herein "trust funds") from or on behalf of tenants, owners,  
26 and others in connection with real estate leasing, renting, and collection of rents on real property  
27 or improvements thereon, and thereafter from time to time made disbursements of said funds.

1  
2 The aforesaid trust funds accepted or received by Respondents were deposited or  
3 caused to be deposited by Respondents into one or more bank accounts (herein "trust fund  
4 accounts") maintained by Respondents for the handling of trust funds at the Walnut Creek,  
5 California branch of First Republic Bank, "Stokley Properties, Inc.," account #xxx-xxxx-1403  
6 (herein "Bank Account #1").

7  
8 Between about December 1, 2010 and March 31, 2012, in connection with the  
9 property management business and trust fund handling activities described in Paragraphs 6 and 7,  
10 above, Respondent SPI:

- 11 (a) caused, suffered or permitted the balance of funds in SPI Bank Account #1  
12 to be reduced to an amount, which as of March 31, 2012, was approximately  
13 \$1,919.37 less than the aggregate liability of SPI to all owners of such funds,  
14 without the prior written consent of the owners of such funds, in violation of  
15 Section 2832.1 of Chapter 6, Title 10, California Code of Regulations  
16 (herein "the Regulations");
- 17 (b) failed to place trust funds entrusted to SPI into the hands of a principal on  
18 whose behalf the funds were received, into a neutral escrow depository, or  
19 into a trust fund account in the name of SPI as trustee at a bank or other  
20 financial institution for Bank Account #1, in violation of Section 10145 of  
21 the Code and Section 2832 of the Regulations;
- 22 (c) failed to keep a columnar record in chronological sequence of all trust funds  
23 received and disbursed from Bank Account #1 containing all the information  
24 required by Section 2831 of the Regulations;
- 25 (d) failed to keep a separate record for each beneficiary or transaction for Bank  
26 Account #1 containing all the information required by Section 2831.1 of the  
27 Regulations;

- 1 (e) failed to reconcile at least once a month, the balance of all separate  
2 beneficiary or transaction records with Bank Account #1, as required by  
3 Section 2831.2 of the Regulations;
- 4 (f) caused, suffered or permitted funds of others which were received and held  
5 by SPI in Bank Account #1 to be commingled with SPI's own money, in  
6 violation of Section 10176(e) of the Code and Section 2835 of the  
7 Regulations;
- 8 (g) failed to disclose to beneficiaries regarding compensation received from  
9 vendor discounts, in violation of Section 10176(g) of the Code;
- 10 (h) authorized Joseph and Agnes S., unlicensed persons without fidelity bond  
11 coverage, to make withdrawals from Bank Account #1, in violation of  
12 Section 2834 of the Regulations; and
- 13 (i) failed to maintain broker-salesperson agreements with Lyn H. and Peter R.,  
14 containing material aspects of the relationship between the parties,  
15 specifically, supervision of licensed activities, in violation of Section 2726  
16 of the Regulations.

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18 At all times mentioned herein, STOKLEY failed to exercise reasonable  
19 supervision over the acts of SPI and its agents and employees in such a manner as to allow the  
20 acts and omissions on the part of SPI, described above, to occur in violation of Sections 10159.2  
21 and 10177(g) and (h) of the Code and Section 2725 of the Regulations.

22 10

23 The facts alleged above are grounds for the suspension or revocation of the  
24 licenses and license rights of Respondents under the following provisions of the Code and/or the  
25 Regulations:

- 26 (a) as to Paragraph 8(a) and SPI under Section 2832.1 of the Regulations  
27 in conjunction with Section 10177(d) of the Code;

- 1 (b) as to Paragraph 8(b) and SPI under Section 10145 of the Code and  
2 Section 2832 of the Regulations in conjunction with Section  
3 10177(d) of the Code;
- 4 (c) as to Paragraph 8(c) and SPI under Section 2831 of the Regulations  
5 in conjunction with Section 10177(d) of the Code;
- 6 (d) as to Paragraph 8(d) and SPI under Section 2831.1 of the  
7 Regulations in conjunction with Section 10177(d) of the Code;
- 8 (e) as to Paragraph 8(e) and SPI under Section 2831.2 of the Regulations  
9 in conjunction with Section 10177(d) of the Code;
- 10 (f) as to Paragraph 8(f) and SPI under Section 10176(e) of the Code and  
11 Section 2835 of the Regulations in conjunction with Section  
12 10177(d) of the Code;
- 13 (g) as to Paragraph 8(g) and SPI under Sections 10176(g) of the Code in  
14 conjunction with Section 10177(d) of the Code;
- 15 (h) as to Paragraph 8(h) and SPI under Section 2834 of the Regulations  
16 in conjunction with Section 10177(d) of the Code;
- 17 (i) as to Paragraph 8(i) and SPI under Section 2726 of the Regulations  
18 in conjunction with Section 10177(d) of the Code;
- 19 (j) as to Paragraph 9 and STOKLEY under Sections 10177(g) and (h)  
20 and 10159.2 of the Code and Section 2725 of the Regulations in  
21 conjunction with Section 10177(d) of the Code.

22 COST RECOVERY

23 11

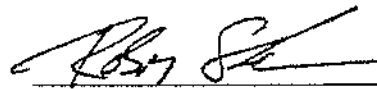
24 Audit Costs

25 The acts and/or omissions of Respondents as alleged above entitle the Department  
26 to reimbursement of the costs of its audit pursuant to Section 10148(b) of the Code.  
27

Investigation and Enforcement Costs

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, the 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 Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of the investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other applicable provisions of law.



ROBIN S. TANNER  
Deputy Real Estate Commissioner

Dated at Oakland, California  
this 22<sup>nd</sup> day of February, 2013.