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FEB 20 2014

BUREAU OF REAL ESTATE

By K. Contreras

7  
8 BEFORE THE  
9 BUREAU OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

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

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

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

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26 At all times herein mentioned, SPI was and now is licensed by the State of  
27 California Bureau of Real Estate (herein "the Bureau") as a corporate real estate broker by and

1 through STOKLEY as designated officer-broker of SPI to qualify said corporation and to act for  
2 said corporation as a real estate broker.

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5 At all times herein mentioned, STOKLEY was and now is licensed by the Bureau  
6 as a real estate broker, individually and as designated officer-broker of SPI. As said designated  
7 officer-broker, STOKLEY was at all times mentioned herein responsible pursuant to Section  
8 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate  
9 licensees, and employees of SPI for which a license is required.

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

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

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In so acting as real estate brokers as described in Paragraph 5, above, Respondents  
accepted or received funds in trust (herein "trust funds") from or on behalf of tenants, owners,

1 and others in connection with real estate leasing, renting, and collection of rents on real  
2 property or improvements thereon, and thereafter from time to time made disbursements of said  
3 funds.

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

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11 Between about December 1, 2010 and March 31, 2012, , in connection with the  
12 property management business and trust fund handling activities described in Paragraphs 6 and 7,  
13 above, Respondents:

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

- 1 (d) failed to keep a separate record for each beneficiary or transaction for Bank  
2 Account #1 containing all the information required by Section 2831.1 of the  
3 Regulations;
- 4 (e) failed to reconcile at least once a month, the balance of all separate  
5 beneficiary or transaction records with Bank Account #1, as required by  
6 Section 2831.2 of the Regulations;
- 7 (f) caused, suffered or permitted funds of others which was received and held by  
8 SPI in Bank Account #1 to be commingled with SPI's own money, in  
9 violation of Section 10176(e) of the Code and Section 2835 of the Regulations;
- 10 (g) failed to disclose to beneficiaries regarding compensation received from  
11 vendor discounts, in violation of Section 10176(g) of the Code;
- 12 (h) authorized Joseph and Agnes S., unlicensed persons without fidelity bond  
13 coverage, to make withdrawals from Bank Account #1, in violation of  
14 Section 2834 of the Regulations; and
- 15 (i) failed to maintain broker-salesperson agreements with Lyn H. and Peter R.,  
16 containing material aspects of the relationship between the parties,  
17 specifically, supervision of licensed activities, in violation of Section 2726  
18 of the Regulations.

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

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

- 1 (a) as to Paragraph 8(a) under Section 2832.1 of the Regulations in conjunction  
2 with Section 10177(d) of the Code;
- 3 (b) as to Paragraph 8(b) under Section 10145 of the Code and Section 2832 of  
4 the Regulations in conjunction with Section 10177(d) of the Code;
- 5 (c) as to Paragraph 8(c) under Section 2831 of the Regulations in conjunction  
6 with Section 10177(d) of the Code;
- 7 (d) as to Paragraph 8(d) under Section 2831.1 of the Regulations in conjunction  
8 with Section 10177(d) of the Code;
- 9 (e) as to Paragraph 8(e) under Section 2831.2 of the Regulations in conjunction  
10 with Section 10177(d) of the Code;
- 11 (f) as to Paragraph 8(f) under Section 10176(e) of the Code and Section 2835 of  
12 the Regulations in conjunction with Section 10177(d) of the Code;
- 13 (g) as to Paragraph 8(g) under Sections 10176(g) of the Code in conjunction  
14 with Section 10177(d) of the Code;
- 15 (h) as to Paragraph 8(h) under Section 2834 of the Regulations in conjunction  
16 with Section 10177(d) of the Code;
- 17 (i) as to Paragraph 8(i) under Section 2726 of the Regulations in conjunction  
18 with Section 10177(d) of the Code;
- 19 (j) as to Paragraph 9 and STOKLEY under Sections 10177(g) and (h) and  
20 10159.2 of the Code and Section 2725 of the Regulations in conjunction  
21 with Section 10177(d) 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 Bureau to  
26 reimbursement of the costs of its audit pursuant to Section 10148(b) of the Code.  
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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 Bureau, 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 First Amended 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 14<sup>th</sup> day of February, 2014.