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**FILED**

MAR 18 2016

BUREAU OF REAL ESTATE  
By B. Nicholas

8 BEFORE THE BURUEA OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of: )  
12 ) NO. H- 11957 SF  
13 SAM'S DOGHOUSE, INC. and )  
14 MIKE NELSON ROWLAND, ) ACCUSATION  
15 Respondents. )

16 The Complainant, ROBIN S. TANNER, acting in her official capacity as a  
17 Supervising Special Investigator of the State of California, for cause of Accusation against  
18 Respondents SAM'S DOGHOUSE, INC. (herein "SAM'S DOGHOUSE") and MIKE NELSON  
19 ROWLAND (herein "ROWLAND") are informed and alleges as follows:

20 1.

21 SAM'S DOGHOUSE is presently licensed by the Bureau of Real Estate (herein  
22 "the Bureau") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the  
23 Business and Professions Code (herein "the Code") as a corporate real estate broker, and at all  
24 times relevant herein was acting by and through ROWLAND as its designated broker officer.

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2.

At all times herein mentioned, ROWLAND was licensed and/or had license rights under the Real Estate Law, Part 1 of Division 4 of the Code (herein “the Real Estate Law”) as an individual real estate broker and as the designated broker officer of SAM’S DOGHOUSE.

3.

At all times relevant herein, ROWLAND was licensed by the Bureau as the designated broker officer of SAM’S DOGHOUSE, and in that capacity was responsible, pursuant to section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of SAM’S DOGHOUSE for which a real estate license is required.

4.

At all relevant times herein mentioned, Melanie Ann Johnson was licensed and/or had license rights under the Real Estate Law as a real estate salesperson. From May 27, 2014, to October 7, 2014, Melanie Ann Johnson was licensed under Diablo Realty.

5.

Whenever reference is made in an allegation in this Accusation to an act or omission of SAM’S DOGHOUSE, such allegation shall be deemed to mean that the employees, agents and real estate licensees employed by or associated with SAM’S DOGHOUSE committed such act or omission while engaged in furtherance of the business or operations of SAM’S DOGHOUSE and while acting within the course and scope of their authority and employment.

6.

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the State of California on behalf of others, for compensation or in expectation of compensation within the meaning of:

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- 1 (a) section 10131(a) of the Code, including the operation and conduct of a real estate  
2 brokerage that included the sale or offer of sale, purchase or offer of purchase,  
3 solicitation of prospective sellers and purchasers of, solicitation or obtaining  
4 listings of, or negotiations of the purchase, sale or exchange of real property or a  
5 business opportunity;
- 6 (b) section 10131(b) of the Code, including the operation and conduct of a property  
7 management business with the public wherein, on behalf of others, for  
8 compensation, leased or rented or offered to lease or rent, or placed for rent, or  
9 solicited listings of places for rent, or solicited for prospective tenants, or  
10 negotiated for sale, purchase or exchanges of leases on real property, or on a  
11 business opportunity, or collected rent from real property, or improvements  
12 thereon, or from business opportunities; and
- 13 (c) section 10131(d) of the Code in the operation of a mortgage loan brokerage,  
14 wherein Respondents solicited borrowers or lenders for or negotiated loans or  
15 collected payments or performed services for borrowers or lenders or note owners  
16 in connection with loans secured directly or collaterally by liens on real property  
17 or on a business opportunity, and wherein Respondents arranged, negotiated,  
18 processed, and consummated such loans.

19 AUDIT VIOLATIONS

20 (As to Respondent SAM'S DOGHOUSE)

21 7.

22 Each and every allegation contained above in Paragraphs 1 through 6, inclusive,  
23 is incorporated by this reference as if fully set forth herein.

24 8.

25 On or about September 9, 2014, the Bureau conducted an audit at SAM'S  
26 DOGHOUSE'S main office located at 3575 San Pablo Dam Rd., El Sobrante, CA 94803, where

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1 the auditor examined records for the period of September 1, 2013, to August 31, 2014 (herein  
2 “the audit period”).

3 9.

4 While doing business within the audit period, SAM’S DOGHOUSE accepted or  
5 received funds in trust (trust funds) from or on behalf of lenders, investors, borrowers and others  
6 in connection with the mortgage loan brokerage activities and deposited or caused to be  
7 deposited those funds into bank accounts maintained by SAM’S DOGHOUSE, including:

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TRUST ACCOUNT # 1	
9 Bank Name and Location:	Bank of America, 3939 San Pablo Dam Road, El Sobrante, CA 94803
10 Account No.:	XXXXX-X2509
11 Entitled:	Sam’s Doghouse, Inc., dba Windermere Rowland Realty Trust Account
12 Signatories:	Mike N. Rowland (REB) and Melanie Ann Johnson (RES)
13 No. of Signatures Required:	One

14 From time to time, SAM’S DOGHOUSE made collections to and disbursement from said trust  
15 funds.

16 10.

17 In the course of the activities described above in Paragraph 6, in connection with  
18 the collection and disbursement of trust funds, SAM’S DOGHOUSE:

- 19 (a) failed to maintain a control record for Trust Account #1 in violation of  
20 section 10145 of the Code and section 2831 of the Regulations;
- 21 (b) failed to maintain accurate separate beneficiary records for Trust Account #1  
22 in that the statements did not identify: (1) the dates when trust funds were  
23 received and disbursed; (2) check numbers; and (3) the daily running balance,  
24 all of which violate section 10145 of the Code and section 2831.1 of the  
25 Regulations;
- 26 (c) failed to reconcile at least once a month, the balance of all separate  
27 beneficiary or transaction records with the balance of the control records for

1 Trust Account #1 in violation section 10145 of the Code and section 2831.2  
2 of the Regulations; and

3 (d) allowed Melanie Ann Johnson, a real estate licensee who was not licensed  
4 under SAM'S DOGHOUSE from May 27, 2014, to October 7, 2014, and not  
5 covered under a fidelity bond during said period of time, as required, to serve  
6 as a signor on Trust Account #1 from May 27, 2014 to October 7, 2014, in  
7 violation of section 10145 of the Code and section 2834 of the Regulations.

8 11.

9 The facts alleged above in Paragraph 10 are grounds for the suspension or  
10 revocation of the licenses and license rights of SAM'S DOGHOUSE under the following  
11 provisions of the Code and/or the Regulations:

12 (a) as to Paragraph 10(a) under Section 10145 of the Code and  
13 2831 of the Regulations, in conjunction with Section  
14 10177(d) of the Code;

15 (b) as to Paragraph 10(b) under Section 10145 of the Code and  
16 Section 2831.1 of the Regulations, in conjunction with  
17 Section 10177(d) of the Code;

18 (c) as to Paragraph 10(c) under Section 10145 of the Code and  
19 Section 2831.2 of the Regulations, in conjunction with  
20 Section 10177(d) of the Code; and

21 (d) as to Paragraph 10(d) under Section 2834 of the Regulations,  
22 in conjunction with Section 10177(d) of the Code.

23 12.

24 The acts and/or omissions of SAM'S DOGHOUSE, as alleged above in  
25 Paragraphs 10 through 11, entitle the Bureau to reimbursement of the costs of its audit pursuant  
26 to section 10148 of the Code.

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1 COST RECOVERY

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  
8 of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary  
9 action against all licenses and license rights of all Respondents named herein under the Real  
10 Estate Law, for costs of the investigation, audit and enforcement as permitted by law, and for  
11 such other and further relief as may be proper under other provisions of law.

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14 ROBIN S. TANNER  
Supervising Special Investigator

15 Dated at Oakland, California,  
16 this 17<sup>th</sup> day of March, 2016.

17 DISCOVERY DEMAND

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