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**FILED**

JUN 27 2016

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 ACW ENTERPRISES and )  
13 ERIK IBARRA, )  
14 Respondents. )

NO. H- 11980 SF

ACCUSATION

15  
16 The Complainant, ROBIN S. TANNER, a Supervising Special Investigator of  
17 the State of California, makes this Accusation in her official capacity against ACW  
18 ENTERPRISES ("ACW"), also doing business as "Accountable Property Management," and  
19 ERIK IBARRA ("IBARRA"), (collectively "Respondents"), and is informed and alleges as  
20 follows:

21 1

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) ("Code").

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At all times herein mentioned, ACW was and now is licensed by the State of California Bureau of Real Estate ("Bureau") as a corporate real estate broker, by and through IBARRA as designated officer-broker of ACW, to qualify said corporation and to act for said corporation as a real estate broker.

At all times herein mentioned, IBARRA was and now is licensed by the Bureau as the designated officer-broker of ACW. As said designated officer-broker, IBARRA was at all times mentioned herein 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 ACW for which a license is required.

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

FIRST CAUSE OF ACTION

As Against All Respondents

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 wherein, on behalf of others, for compensation or in expectation of compensation within the State of California, within the meaning of Section 10131(b) of the Code, including the operation and conduct of a property management business with the public wherein Respondents leased or rented or offered to lease or rent, or placed for rent, or solicited listings or places for rent, or solicited

1 for prospective tenants, or negotiated the sale, purchase, or exchange of leases on real  
2 property or on a business opportunity, or collected rents from real property, or improvements  
3 thereon, or from business opportunities.

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5 In so acting as real estate brokers as described in Paragraph 5, above,  
6 Respondents accepted or received funds in trust ("trust funds") from or on behalf of tenants,  
7 owners, and others in connection with renting and the collection of rents on real property or  
8 improvements thereon, and thereafter from time-to-time made disbursements of said funds.

9 7

10 The aforesaid trust funds accepted or received by Respondents were deposited  
11 or caused to be deposited by Respondents into one or more bank accounts ("trust fund  
12 accounts") maintained by Respondents for the handling of trust funds at the following  
13 financial institutions:

- 14 a) Wells Fargo Bank, Alameda, CA 94501, account number xxxxxx4649  
15 ("Trust Account #1"); and,  
16 b) Wells Fargo Bank, Alameda, CA 94501, account number xxxxxx9464  
17 ("Trust Account #2).

18 8

19 Between about May 6, 2015, and about May 29, 2015, an audit was conducted  
20 of the records of Respondents in connection with the activities described in Paragraphs 5, 6,  
21 and 7, above. The auditor herein examined the records for the period between about  
22 September 18, 2014, and about April 30, 2015, and found Respondents:

- 23 a) caused, suffered, or permitted the balance of funds in Trust Account #1  
24 to be reduced to an amount, which as of April 30, 2015, was approximately \$6,791.77 less  
25 than the aggregate liability of ACW to all owners of such funds, without the prior written  
26 consent of the owners of such funds, in violation of Section 10145 of the Code and Section  
27 2832.1 of Chapter 6, Title 10, of the California Code of Regulations ("Regulations");

1 b) caused, suffered, or permitted the balance of funds in Trust Account #2  
2 to be reduced to an amount, which as of April 30, 2015, was approximately \$2,600.00 less  
3 than the aggregate liability of ACW to all owners of such funds, without the prior written  
4 consent of the owners of such funds, in violation of Section 10145 of the Code and Section  
5 2832.1 of the Regulations;

6 c) failed to place trust funds entrusted to Respondent into the hands of a  
7 principal on whose behalf the funds were received, into a neutral escrow depository, or into a  
8 trust fund account in the name of Respondents as trustees at a bank or other financial  
9 institution, in that trust funds were deposited into Trust Account #1 and Trust Account #2, in  
10 violation of Section 10145 of the Code and Section 2832 the Regulations;

11 d) failed to maintain and/or keep accurate and complete separate records  
12 for each beneficiary or property of trust funds accepted or received and disbursed in violation  
13 of Section 10145(g) of the Code and Section 2831.1 of the Regulations;

14 e) failed to reconcile the total of the separate beneficiary/property records  
15 with the records of all trust funds received and disbursed on at least a monthly basis in  
16 violation of Section 2831.2 of the Regulations; and,

17 f) failed to disclose license identification numbers on their website,  
18 <http://www.accountablepm.com>, in violation of Section 10140.6(b) of the Code and Section  
19 2773 of the Regulations.

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21 The acts and/or omissions of Respondents as alleged at Paragraph 8, above,  
22 constitute grounds for the suspension or revocation of all licenses and license rights of  
23 Respondents pursuant to the following provisions of the Code and Regulations:

24 As to Paragraph 8(a), under Section 10145 of the Code in conjunction  
25 with Section 2832.1 of the Regulations;

26 As to Paragraph 8(b), under Section 10145 of the Code in conjunction  
27 with Section 2832.1 of the Regulations;

1 As to Paragraph 8(c), under Section 10145 of the Code in conjunction  
2 with Section 2832 of the Regulations;

3 As to Paragraph 8(d), under Section 10145(g) of the Code in  
4 conjunction with Section 2831.1 of the Regulations;

5 As to Paragraph 8(e), under Section 2831.2 of the Regulations; and,

6 As to Paragraph 8(f), under Section 10140.6(b) of the Code in  
7 conjunction with Section 2773 of the Regulations.

8 SECOND CAUSE OF ACTION

9 As Against Respondent IBARRA

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11 Each and every allegation contained in Paragraphs 1 through 9, inclusive, is  
12 incorporated by this reference as if fully set forth herein.

13 11

14 Respondent IBARRA failed to exercise reasonable supervision over the acts of  
15 ACW in such a manner as to allow the acts and events described above to occur.

16 12

17 The acts and/or omissions of IBARRA described in Paragraph 11, above,  
18 constitute failure on the part of IBARRA, as designated broker-officer for ACW, to exercise  
19 reasonable supervision and control over the licensed activities of ACW as required by  
20 Section 10159.2 of the Code and Section 2725 of the Regulations.

21 13

22 The facts described above as to the Second Cause of Action constitute cause  
23 for the suspension or revocation of the licenses and license rights of Respondent IBARRA  
24 under Section 10177(g) of the Code, Section 10177(h) of the Code, and/or Section 10177(d)  
25 of the Code in conjunction with Section 10159.2 of the Code and Section 2725 of the  
26 Regulations.

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1 COST RECOVERY

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3 Audit Costs

4 The acts and/or omissions of Respondents as alleged above entitle the Bureau  
5 to reimbursement of the costs of its audit pursuant to Section 10148(b) of the Code.

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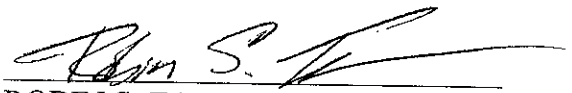
7 Investigation and Enforcement Costs

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

13 WHEREFORE, Complainant prays that a hearing be conducted on the  
14 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing  
15 disciplinary action against all licenses and license rights of Respondent under the Real Estate  
16 Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of the  
17 investigation and enforcement as permitted by law, for the cost of the audit as permitted by  
18 law, and for such other and further relief as may be proper under other applicable provisions  
19 of law.

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21  
22 Dated at Oakland, California

23 this 28<sup>th</sup> day of June, 2016.

  
ROBIN S. TANNER  
Supervising Special Investigator