

FILED

OCT 17 2017

BUREAU OF REAL ESTATE

By H. Diaz

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8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:

12 SEAN MICHAEL SULLIVAN,

13 Respondent.

) No. H-12144 SF

) ACCUSATION

14 The Complainant, ROBIN S. TANNER, a Supervising Special Investigator of the
15 State of California, for cause of Accusation against SEAN MICHAEL SULLIVAN
16 ("Respondent"), is informed and alleges as follows:

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18 Respondent is presently licensed and/or has license rights as a real estate
19 salesperson under the Real Estate Law, Part 1 of Division 4 of the Business and Professions
20 Code ("Code").

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22 At all relevant times herein, Respondent was employed by real estate broker
23 GREGORY RANDALL FLOWERS ("Flowers").

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25 At all relevant times herein, Flowers was doing business under the fictitious
26 business names: Authentic Property Management and Authentic Real Estate (collectively
27 "APM").

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On or about August 22, 2016, the Bureau received a complaint from Emilie Lemaire ("Lemaire") against the real estate licenses of Respondent and APM.

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On or about August 12, 2016, the property located at 231 Evergreen St., Santa Cruz, CA 95060 ("Subject Property"), was listed for rent through the Facebook group "Santa Cruz Conscious Community" by Noah Noetik ("Noetik"). The Subject Property was advertised as a three-bedroom house, available starting September 1, 2016, for \$3,100 a month, plus \$1,200 deposit and utilities.

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At all relevant times herein, the Subject Property was owned by Sibley Verbeck Simon ("Simon") and/or Pheasant Acres, LLC, and was managed by Respondent who was working under Flowers and APM.

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On or about August 12, 2016, Lemaire spoke to Noetik about renting the Subject Property. Noetik instructed Lemaire to contact Respondent, who managed the Subject Property.

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On or about August 16, 2016, Respondent represented to Lemaire that the Subject Property was a single-family home, sitting on two acres.

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On or about August 17, 2016, Lemaire met Respondent at the Subject Property. Respondent represented to Lemaire that rent was \$3,500, instead of \$3,100 as previously mentioned, and that utilities were not included in the rent.

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On or about August 17, 2016, Lemaire gave Respondent two checks totaling \$7,000. One check was for \$3,500 and covered the first month's rent. The second check was for \$3,500 and covered the deposit.

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On or about August 17, 2016, Lemaire signed a Residential Lease Agreement (“RLA”), wherein she agreed to rent the Subject Property for twelve months, commencing on September 1, 2016. The RLA named Pheasant Acres, LLC, Sibley Verbeck Simon, Nina K. Simon as the landlords; Lemaire as the tenant; and Respondent and APM as the real estate brokers.

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On or about August 17, 2016, after the RLA was signed by all parties, Lemaire discovered two Notices of Violation (“NOVs”) from the City of Santa Cruz pertaining to the Subject Property. The NOVs were stamped June 1, 2016, and were discovered by Lemaire inside the main house of the Subject Property.

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On or about August 17, 2016, Respondent represented to Lemaire that the NOVs did not concern the main house; rather, they concerned the three units located on the Subject Property. This was the first time Respondent disclosed to Lemaire that there were three other units on the Subject Property. When Lemaire inquired if anyone was living in those units, Respondent represented that Lemaire would be the only tenant on the Subject Property.

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On or about August 19, 2016, Lemaire and her friend “Giovanni” visited the Subject Property and found that two of the three units, which were previously described as vacant by Respondent, had been occupied by tenants for more than five years, and the third unit was in the process of being rented.

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On or about August 19, 2016, Lemaire spoke to Sara, who was living in a converted garage on the Subject Property.

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On or about August 21, 2016, Lemaire learned that all three unit located on the Subject Property, and the converted garage, were on the same utilities account as the main house.

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On or about August 21, 2016, Respondent represented to Lemaire that he was receiving a flat utilities fee of \$200 from the three units located on the Subject Property.

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On or about August 21, 2016, Lemaire discovered a "homeless camp" on the Subject Property. The "homeless camp" was located a few feet from what would have been Lemaire's bedroom window. Lemaire also found an axe, knife, blankets, and candles on the Subject Property.

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On or about August 21 2016, Lemaire emailed the City of Santa Cruz to file a grievance against Respondent and to inquire about the NOV's found at the Subject Property.

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On or about August 22, 2016, the Assistant Planning Director for the City of Santa Cruz confirmed that the NOV's were issued for two of the units, and the converted garage, located on the Subject Property.

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On or about August 22, 2016, Lemaire contacted Simon requesting a cancellation of the RLA and a refund of the two checks.

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On or about August 23, 2016, Lemaire and Simon signed a Cancellation of Contract and Release of Deposit. The \$7,000 was subsequently returned to Lemaire.

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On or about August 25, 2017, Flowers signed a Declaration wherein he represented that Respondent was managing the Subject Property without his knowledge or consent.

LICENSED ACTIVITY

At all times mentioned herein, Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the meaning of Section 10131(b) of the Code, in that Respondent performed licensed activities in the State of California for or in expectation of compensation, including leasing or renting or offering to lease or rent, or soliciting listings of places for rent, or soliciting for perspective tenants, or negotiating the sale, purchase or exchange of leases on real property, or on a business opportunity, or collecting rent from real property, or improvements thereon, or from business opportunities.

ALLEGATIONS

Respondent intentionally, and/or negligently, misrepresented to Lemaire that Lemaire would be the only tenant on the Subject Property. Respondent knew or should have known that the misrepresentation was false at the time it was made. Respondent knew Lemaire would rely on the misrepresentation, and Lemaire did, in fact, rely on the misrepresentation.

Respondent intentionally, and/or negligently, concealed from Lemaire that the Subject Property consisted of the main house and three additional units, which were being rented. Lemaire had no knowledge of this fact until after she signed the RLA on August 17, 2016. But for Respondent's omission, Lemaire would not have agreed to sign the RLA.

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Respondent intentionally, and/or negligently, concealed from Lemaire that Sara was living in a converted garage on the Subject Property. Lemaire had no knowledge of this fact until after she signed the RLA on August 17, 2016. But for Respondent's omission, Lemaire would not have agreed to sign the RLA.

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Respondent intentionally, and/or negligently, concealed from Lemaire that the three units and the garage located on the Subject Property were on the same utilities account as the main house that Lemaire agreed to rent. Lemaire had no knowledge of this fact until after she signed the RLA on August 17, 2016. But for Respondent's omission, Lemaire would not have agreed to sign the RLA.

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Respondent intentionally, and/or negligently, concealed from Lemaire that homeless people were staying on the Subject Property. Lemaire had no knowledge of this fact until after she signed the RLA on August 17, 2016. But for Respondent's omission, Lemaire would not have agreed to sign the RLA.

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Respondent intentionally, and/or negligently, concealed from Lemaire that two of the units, and the converted garage, located on the Subject Property were in violation of, at least one, City of Santa Cruz building statute and/or regulation. Lemaire had no knowledge of this fact until after she signed the RLA on August 17, 2016. But for Respondent's omission, Lemaire would not have agreed to sign the RLA.

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Respondent conducted unlicensed real estate activity by engaging in property management activities without the knowledge or consent of his employing broker.

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1 Division 4 of the Business and Professions Code), for the cost of the investigation and
2 enforcement of this case as permitted by law, and for such other and further relief as may be
3 proper under the provisions of law.
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7 ROBIN S. TANNER
Supervising Special Investigator

8 Dated at Oakland, California,
9 this 13th day of October, 2017

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11 DISCOVERY DEMAND

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