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DEC 20 2017
BUREAU OF REAL ESTATE
By RE Olson

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 BRICK ROAD REAL ESTATE, INC.)
13 and JAVIER CORTEZ,)
14 Respondents.)

No. H-12162 SF
ACCUSATION

15 The Complainant, ROBIN S. TANNER, acting in her official capacity as a
16 Supervising Special Investigator of the State of California, for cause of Accusation against
17 Respondents BRICK ROAD REAL ESTATE, INC. (BRRE) and JAVIER CORTEZ
18 (CORTEZ), sometimes collectively referred to as Respondents, is informed and alleges as
19 follows:

20 1

21 Respondents are presently licensed and/or have license rights under the Real
22 Estate Law, Part 1 of Division 4 of the Business and Professions Code (Code).

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24 At all times mentioned, BRRE was and is licensed by the State of California
25 Bureau of Real Estate (Bureau) as a real estate broker corporation.

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At all times mentioned herein, CORTEZ was and is licensed by the Bureau individually as a real estate broker, and as the designated broker officer of BRRE. As the designated broker officer, CORTEZ was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of officers, agents, real estate licensees and employees of BRRE for which a real estate license is required to ensure the compliance of the corporation with the Real Estate Law and Regulations.

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

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 within the meaning of Section 10131(b) of the Code, including the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents leased or rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or negotiated the sale, purchase or exchanges of leases on real property, or on a business opportunity, or collected rents from real property, or improvements thereon, or from business opportunities.

FIRST CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 5, inclusive, is incorporated by this reference as if fully set forth herein.

On or about July 12, 2016, and continuing intermittently through July 29, 2016, an audit was conducted at BRRE's office located at 1817 Del Rio Dr, Lafayette, California, where the auditor examined records for the period of January 1, 2015, through May 31, 2016 (the audit period).

While acting as a real estate broker as described in Paragraph 5, above, and within the audit period, Respondents accepted or received funds in trust (trust funds) from or on behalf of property owners, lessees and others in connection with property management activities, and deposited or caused to be deposited those funds into bank accounts maintained by Respondents, at the following financial institutions, including but not limited to the following:

BANK ACCOUNT #1	
Bank:	First Republic Bank, 111 Pine Street, San Francisco, CA 94111
Account No.:	XXXXXXXXXX0701
Entitled:	JAVIER CORTEZ (JAVIER CORTEZ, BROKER)

BANK ACCOUNT #2	
Bank:	Chase Bank, P.O. Box 659754, San Antonio, TX 78265-9754
Account No.:	XXXXXX9939
Entitled:	BRICK ROAD REAL ESTATE, INC.

and thereafter from time-to-time made disbursement of said trust funds.

In the course of the activities described in Paragraph 5, in connection with the collection and disbursement of trust funds, it was determined that:

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1 (a) Respondents failed to designate Bank Account #1 and Bank Account #2 as a
2 trust fund account as required by Section 10145 of the Code and Section 2832 of
3 the California Code of Regulations;

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5 (b) caused, suffered or permitted funds of others which were received and
6 held by Respondents to be commingled with broker funds in Bank
7 Accounts #1 and #2, in violation of Section 10176 (e) of the Code;

8
9 (c) failed to maintain an accurate columnar record in chronological sequence of
10 all trust funds received and disbursed (Control Record), containing all required
11 information, for Bank Accounts #1 and #2, in violation of Section 2831 of the
12 Regulations;

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14 (d) failed to maintain accurate separate records for each beneficiary of trust funds
15 accepted or received and disbursed for Bank Accounts #1 and #2, in violation of
16 Section 10145 (g) and 2831.1 of the Regulations;

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18 (e) failed to reconcile at least once a month, the balance of all separate
19 beneficiary or transaction records for Bank Account #1 and #2, in violation of
20 Section 2831.2 of the Regulations; and

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22 (f) failed to disclose its license number on the corporation website as required by
23 Section 10140.6 (b) and Section 2773 of the Regulations.

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25 The acts and/or omissions described above constitute violations of Sections 2773
26 (Disclosure of License Identification Number), 2831 (Control Records), 2831.1 (Separate
27 Beneficiary Records), 2831.2 (Trust Fund Reconciliation), 2832 (Bank Account Not Properly

1 Designated as Trust Account), of the Regulations and of Sections 10140.6 (b) (Disclosure of
2 License Identification Number in Advertising), 10145 (Trust Fund Handling), 10176 (e)
3 (Commingling) and are grounds for discipline under Sections 10177(d) (Willful Disregard of
4 Real Estate Laws) and/or 10177(g) (Negligence/Incompetence Licensee) of the Code.

5 SECOND CAUSE OF ACTION

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7 Each and every allegation in Paragraphs 1 through 10, inclusive, is incorporated
8 by this reference as if fully set forth herein.

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10 Respondent CORTEZ failed to exercise reasonable supervision and control over
11 the property management activities of BRRE. In particular, CORTEZ permitted, ratified and/or
12 caused the conduct described above to occur, and failed to take reasonable steps, including but
13 not limited to, the handling of trust funds, supervision of employees, and the implementation of
14 policies, rules and systems to ensure the compliance of the business with the Real Estate Law
15 and the Regulations.

16 13

17 The above acts and/or omissions of CORTEZ violate Section 2725 (Broker
18 Supervision) of the Regulations and Section 10159.2 (Responsibility/Designated Officer) of the
19 Code and constitute grounds for disciplinary action under the provisions of Sections 10177(d),
20 10177(g) and/or 10177(h) (Broker Supervision) of the Code.

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22 Audit Costs

23 The acts and/or omissions of Respondents, as alleged above, entitle the Bureau to
24 reimbursement of the costs of its audits pursuant to Section 10148(b) (Audit Costs for Trust
25 Fund Handling Violations) of the Code.

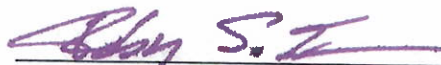
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Costs of Investigation and Enforcement

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 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, for the cost of the investigation and enforcement as permitted by law, for the cost of the audit as permitted by law, and for such other and further relief as may be proper under other provisions of law.



ROBIN S. TANNER
Supervising Special Investigator

Dated at Oakland, California,
this 18th day of December, 2017.