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FILED

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DEPARTMENT OF REAL ESTATE
By B. Nicholas

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 O'HANKS MANAGEMENT, INC., and CATHIE)
13 O'HANKS,)
14 Respondents.)

No. H-12438 SF

ACCUSATION

15 The Complainant, ROBIN S. TANNER, a Supervising Special Investigator of the
16 State of California, for cause of Accusation against O'HANKS MANAGEMENT, INC., and
17 CATHIE O'HANKS (collectively "Respondents"), are informed and allege as follows:

18 PRELIMINARY ALLEGATIONS

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20 The Complainant, ROBIN S. TANNER, a Supervising Special Investigator of
21 the State of California, makes this Accusation in her official capacity.

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

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At all times mentioned, Respondent O'HANKS MANAGEMENT, INC. (OHMI) was and is licensed by the State of California Department of Real Estate (Department) as a real estate broker corporation. At all times mentioned, CATHIE O'HANKS (O'HANKS) was the 100 percent shareholder and Chief Executive Officer of OHMI.

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From on or about August 1, 2006, to present, the corporate powers, rights and privileges of OHMI were forfeited pursuant to the provisions of the Revenue and Taxation Code.

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At all times mentioned, Respondent O'HANKS was and is licensed by the Department individually as a real estate broker, and as the designated broker officer of OHMI. As said designated broker officer, O'HANKS 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 OHMI for which a license is required.

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

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At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers in the State of California, within the meaning of Section 10131(b) of the Code in 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 and offered to lease or rent, and placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of

1 real property or improvements thereon, and collected rents from real property or improvements
2 thereon.

3 FIRST CAUSE OF ACTION

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

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8 On or about March 21, 2019, through March 22, 2019, an audit was conducted of
9 the records of OHMI. The auditor herein examined the records for the period of March 1, 2018,
10 through February 28, 2019

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12 While acting as a real estate broker as described in Paragraph 6, Respondents
13 accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in
14 connection with the leasing, renting, and collection of rents on real property or improvements
15 thereon, as alleged herein, and thereafter from time-to-time made disbursements of said trust
16 funds.

17 11

18 The trust funds accepted or received by Respondents as described in Paragraph 9
19 were deposited or caused to be deposited by Respondents into trust accounts which were
20 maintained by Respondents for the handling of trust funds, and thereafter from time-to-time
21 Respondents made disbursements of said trust funds, identified as follows:

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ACCOUNT # 1	
23 Bank Name and Location:	Bank of the West
24	11100 San Pablo Avenue
25	El Cerrito, CA 94530
26	
27	

Account No.:	000008733
Entitled:	O'HANKS Management - Trustee

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In the course of the activities described in Paragraph 6, Respondents:

(a) caused, suffered, or permitted the balance of funds in Account #1 to be reduced to an amount which, as of February 28, 2019, was approximately \$71,495.98 less than the aggregate liability of Account #1 to all owners of such funds in violation of Section 10145 of the Code;

(b) converted and/or commingled said trust funds to Respondents own use and benefit or to purposes not authorized by the rightful owners of said funds. The amount of said commingled and converted trust funds is unknown but well known to Respondents and is not less than \$18,000;

(c) failed to maintain an accurate columnar record in chronological sequence of all trust funds received and disbursed from Account #1 containing all required information, in violation of Section 2831 of Title 10 of the California Code of Regulations (Regulations);

(d) failed to keep accurate separate records for each beneficiary or transaction, accounting therein for all funds which were deposited into Account #1 containing all of the information required by Section 2831.1 of the Regulations;

(e) failed to reconcile the balance of separate beneficiary or transaction records with the control record of trust funds received and disbursed at least once a month, and/or failed to maintain a record of such reconciliations for Account #1 as required by Section 2831.2 of the Regulations;

(f) failed to deposit trust funds in to Account #1 not later than three business days following receipt of the funds, as required by Section 2832 of the Regulations; and

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1 (g) failed to disclose license identification numbers on their website,
2 www.ohanksmanagement.com, in violation of Section 10140.6(b) of the Code and
3 Section 2773 of the Regulations.

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5 The facts alleged in the First Cause of Action are grounds for the suspension or
6 revocation of Respondents' licenses and license rights under the following Sections of the Code
7 and Regulations:

8 As to Paragraph 11(a), under Sections 10177(d) and/or 10177(g) of the Code in
9 conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

10 As to Paragraph 11(b), under Sections 10176(i) and/or 10176(e) of the Code;

11 As to Paragraph 11(c), under Sections 10177(d) and/or 10177(g) of the Code in
12 conjunction with Section 10145 of the Code and Section 2831 of the Regulations;

13 As to Paragraph 11(d), under Sections 10177(d) and/or 10177(g) of the Code in
14 conjunction with Section 10145 of the Code and Section 2831.1 of the Regulations;

15 As to Paragraph 11(e), under Sections 10177(d) and/or 10177(g) of the Code in
16 conjunction with Section 10145 of the Code and Section 2831.2 of the Regulations;

17 As to Paragraph 11(f), under Sections 10177(d) and/or 10177(g) of the Code in
18 conjunction with Section 2832 of the Regulations; and

19 As to Paragraph 11(g), under Sections 10177(d) and/or 10177(g) of the Code in
20 conjunction with Section 10140.6(b) of the Code and Section 2773 of the Regulations.

21 SECOND CAUSE OF ACTION

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23 Each and every allegation in Paragraphs 1 through 12, inclusive, above are
24 incorporated by this reference as if fully set forth herein.

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26 Within the last three years, OHMI, while forfeited by the Secretary of State, in course of
27 the real estate resale brokerage activities described in Paragraph 7, solicited prospective tenants

1 for, negotiated rental agreements for and collected rents from real properties owned by another
2 or others, including but not limited to 43 residential properties for 39 owners.

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4 The facts alleged in the Second Cause of Action are grounds for the suspension or
5 revocation of the licenses of OHMI under Section 2742(c) of the Regulations in conjunction with
6 10177(d) of the Code.

7 THIRD CAUSE OF ACTION

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9 Each and every allegation in Paragraphs 1 through 15, inclusive, is incorporated
10 by this reference as if fully set forth herein.

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12 Respondent O'HANKS failed to exercise reasonable supervision over the acts of
13 OHMI in such a manner as to allow the acts and events described above to occur.

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15 The acts and/or omissions of O'HANKS as described in Paragraph 17, constitutes
16 failure on the part of O'HANKS, as designated broker-officer for OHMI, to exercise reasonable
17 supervision and control over the licensed activities of OHMI as required by Section 10159.2 of
18 the Code and Section 2725 of the Regulations.

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20 The facts described above as to the Third Cause of Action constitute cause for the
21 suspension or revocation of the licenses and license rights of Respondent O'HANKS under
22 Section 10177(g) and/or Section 10177(h) of the Code, and Section 10159.2 of the Code in
23 conjunction with Section 10177(d) of the Code.

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1 COST RECOVERY

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3 The acts and/or omissions of Respondents as alleged above, entitle the
4 Department to reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs
5 for trust fund handling violation) of the Code.

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

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

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20 ROBIN S. TANNER
21 Supervising Special Investigator

22 Dated at Oakland, California,

23 this 18th day of March, 2020

DISCOVERY DEMAND

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