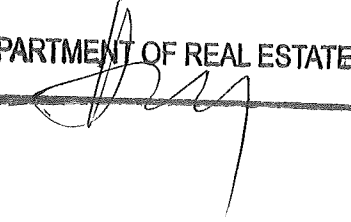


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2 Department of Real Estate  
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**FILED**

FEB 27 2014

DEPARTMENT OF REAL ESTATE  
BY: 

7  
8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

\*\*\*

10 In the Matter of the Accusation of ) No. H- 39336 LA  
11 )  
12 FRANK H. WHITEHEAD III, ) ACCUSATION  
13 doing business as South Bay )  
14 Management Services, )  
15 Respondent, )

16 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State  
17 of California acting in her official capacity, for cause of Accusation against FRANK H.  
18 WHITEHEAD III, doing business as South Bay Management Services, is informed and alleges as  
19 follows:

20  
21 1.

22 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State  
23 of California, makes this Accusation in her official capacity.

24 2.

25 All references to the "Code" are to the California Business and Professions Code  
26 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.  
27



1 WHITEHEAD's brokerage is engaged in property management activity under the  
2 licensed fictitious name "South Bay Management Services." (South Bay). South Bay manages  
3 72 residential properties for 57 owners and collects rents and security deposits, pays expenses  
4 and screens tenants. South Bay collects approximately \$80,000 a month in rent from tenants,  
5 which is deposited into South Bay's 57 bank accounts. The total annual funds collected  
6 approximate \$960,000.00. South Bay charged a management fee of 7% of the rents collected.  
7

8 FIRST CAUSE OF ACCUSATION  
9 (Audit Examination)

10 5.

11 On January 22, 2013 the Department completed an audit examination of the books  
12 and records of WHITEHEAD pertaining to the residential resale and property management  
13 activities of his brokerage described in Paragraph 3, which require a real estate license. The audit  
14 examination covered a period of time beginning on August 1, 2009 and ending on July 31, 2012.  
15 The audit examination revealed violations of the Code and the Regulations as set forth below,  
16 and more fully discussed in Audit Report LA 120059 and the exhibits and work papers attached.  
17

18 Bank Account

19 6.

20 At all times mentioned, in connection with the activities described in Paragraph 4,  
21 above, WHITEHEAD accepted or received funds including funds in trust (hereinafter "trust  
22 funds") from or on behalf of actual or prospective parties to transactions handled by  
23 WHITEHEAD including property owners and tenants. WHITEHEAD maintained fifty-seven  
24 bank accounts of which the following five bank accounts were scheduled for WHITEHEAD's  
25 property management brokerage:  
26  
27

1 1. BA 1

2 Account Name: Owen Enterprises LLC  
3 c/o S Bay Management Services

4 Account No.: \*\*\*\*\*66454

5 Bank Name: Bank of America

6 Bank Address: P.O. Box 25118  
7 Tampa, FL 33622-5118

8

9 2. BA 2

10 Account Name: Hendrix Apartments  
11 c/o S Bay Management

12 Account No.: \*\*\*\*\*46476

13 Bank Name: Bank of America

14 Bank Address: P.O. Box 25118  
15 Tampa, FL 33622-5118

16

17 3. BA 3

18 Account Name: Donald M.  
19 c/o S Bay Management

20 Account No.: \*\*\*\*\*04157

21 Bank Name: Citizens Business Bank

22 Bank Address: P.O. Box 3938  
23 Ontario,, CA 91761

24 ///

25 ///

26 ///

27

1 4. BA 4

2 Account Name: Theodore K.W.  
3 DbA San Remo Apartments

4 Account No.: \*\*\*\*\*03817

5 Bank Name: Wells Fargo Bank

6 Bank Address: P.O. Box 6995  
7 Portland, OR 97228-6995

8  
9 5. BA 5

10 Account Name: John M.  
11 Paul M.  
12 c/o S Bay Management

13 Account No.: \*\*\*\*\*04521

14 Bank Name: Citizens Business Bank

15 Bank Address: P.O. Box 3938  
16 Ontario,, CA 91761

17 Violations of the Real Estate Law

18 7.

19 In the course of activities described in Paragraphs 4 and 6, above, and during the  
20 audit examination period described in Paragraph 5, Respondent WHITEHEAD acted in violation  
21 of the Code and the Regulations in that WHITEHEAD:

22 (a)(1) Permitted, allowed or caused a discrepancy of \$2,000 to exist as of July 31,  
23 2012, in violation of Code Section 10145 and Regulation 2832.1. The discrepancy was caused  
24 by a deposit made but unreconciled for a period of two to four years;

25 (a)(2) Permitted, allowed or caused a discrepancy of \$1,892.37 to exist as of July  
26 31, 2012, in violation of Code Section 10145 and Regulation 2832.1. The discrepancy was  
27

1 caused by an overdrawn balance in Theodore K. W's property account, in violation of Code  
2 Section 10145 and Regulation 2832.1;

3 (b) BA 1 – BA 5 were not in the name of the broker as trustee at a bank or other  
4 financial institution, nor designated as a trust accounts, in violation of Code Section 10145 and  
5 Regulation 2832(a);

6 (c) Permitted unlicensed and unbonded employee Vickie Lowery McIntosh to be  
7 an authorized signatory on BA 2; and unlicensed and unbonded property owners Michael O.,  
8 Marjorie/David O., Toni/Bill H., Donald/Carole M., and Theodore/Kim W., to be authorized  
9 signatories on BA1 – BA 5, in violation of Code Section 10145 and Regulation 2834;

10 (d) Failed to maintain a control record through the instrumentality of a daily  
11 journal kept in chronological order for each beneficiary or transaction, thereby failing to account  
12 for trust funds collected in the form of rents and security deposits, in violation of Code Section  
13 10145 and Regulation 2831;

14 (e) Used the fictitious names "S Bay Management Service," "South Bay Mgmt  
15 Services" and "S Bay Management" to conduct licensed activities, without holding a license  
16 bearing said fictitious names, in violation of Code Section 10159.5 and Regulation 2731; and

17 (f) Failed to adequately supervise and control the property management brokerage  
18 activities conducted under WHITEHEAD's real estate broker license by his licensee, salesperson  
19 Mary E. Colin and other employees including Vicky Lowery McIntosh and Lisa Marie Jimenez.  
20 Additionally, WHITEHEAD had no system in place for regularly monitoring his compliance  
21 with the Real Estate Law especially in regard to establishing, systems, policies and procedures to  
22 review trust fund handling, and to keep WHITEHEAD, an out-of-state broker, in compliance  
23 with the Real Estate Law, in violation of Code Sections 10159.2, 10177(h) and Regulation 2725.  
24  
25  
26  
27







13.

Code Section 10148(b) provides, in pertinent part the Commissioner shall charge a real estate broker for the cost of any audit, if the Commissioner has found in a final decision following a disciplinary hearing that the broker has violated Code section 10145 or a regulation or rule of the commissioner interpreting said section.

PRIOR DEPARTMENT ACTION

14.

On November 22, 2011, in Case No. H-37693 LA, a First Amended Accusation was filed against Respondent FRANK H. WHITEHEAD III, inter alia, dba Blue Light Investments which resulted in discipline effective August 15, 2012, including a stayed suspension for two years on terms and conditions including successful completion of the Professional Responsibility Examination, and restitution to certain individuals for violations of Section 10137, 10148, and 10177(g) of the California Business and Professions Code.

PRIOR DEPARTMENT ACTION

15.

On November 22, 2011, in Case No. H-37693 LA, an ORDER TO DESIST AND REFRAIN was filed against Respondent FRANK H. WHITEHEAD III dba Blue Light Investments under Section 10086 of the California Business and Professions Code ("Code") (Engaging in Prohibited Activity, Order to Desist and Refrain) for violations of Code Sections 10085.6, 10137, and 10146 and Sections 2970 and 2972 of Title 10, Chapter 6; California Code of Regulations.

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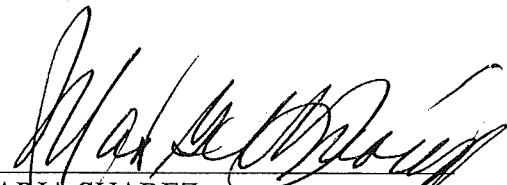
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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of  
2 this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
3 action against the license and license rights of Respondent FRANK H. WHITEHEAD III, under  
4 the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such  
5 other and further relief as may be proper under other applicable provisions of law including, but  
6 not limited to restitution, proper accounting and reconciliation of all bank accounts, costs of  
7 audit, investigation and as pursuant to applicable provisions of the California Administrative  
8 Procedure Act.  
9

10 Dated at Los Angeles, California

11  
12 this

7 January 2014. 

13  
14 MARIA SUAREZ  
Deputy Real Estate Commissioner

15  
16  
17  
18  
19  
20  
21  
22  
23  
24 cc: Frank H. Whitehead III  
Maria Suarez  
25 Audits – Darryl M. Thomas  
26 Sacto  
27