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**FILED**

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**BUREAU OF REAL ESTATE**

By B dew

9 BEFORE THE  
10 BUREAU OF REAL ESTATE  
11 STATE OF CALIFORNIA

12 \* \* \*

13 In the Matter of the Accusation of )  
14 CASTLE & ASSOCIATE PROPERTY )  
15 MANAGEMENT, INC., a Corporation, ) NO. H-2981 FR  
16 CASTLE REAL ESTATE GROUP, ) ACCUSATION  
17 a Corporation, and )  
18 ADRIAN TOVAR CASTILLO, )  
19 Respondents. )

20 The Complainant, BRENDA SMITH, a Supervising Special Investigator of  
21 the State of California, for cause of Accusation in her official capacity against CASTLE &  
22 ASSOCIATE PROPERTY MANAGEMENT, INC. (herein "CASTLE, INC.") dba Castle  
23 Property Management (herein "CPM"), CASTLE REAL ESTATE GROUP (herein "CASTLE  
24 GROUP"), and ADRIAN TOVAR CASTILLO (herein "CASTILLO") (herein collectively  
25 "Respondents"), is informed and alleges as follows:

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27 At all times herein mentioned, Respondents were and/or are now licensed  
and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and  
Professions Code (herein "the Code").

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

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At all times herein mentioned, CASTLE GROUP was licensed by the Bureau as a corporate real estate broker by and through CASTILLO as designated officer-broker of CASTLE GROUP, to qualify said corporation and to act for said corporation as a real estate broker. CASTLE GROUP's license expired October 19, 2014.

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At all times herein mentioned, CASTILLO was and now is licensed or has license rights by the Bureau as a real estate broker individually and as designated officer-broker of CASTLE, INC. and CASTLE GROUP. As said designated officer-broker, CASTILLO 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 CASTLE, INC. and CASTLE GROUP, for which a license is required.

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At all times herein mentioned, Respondents CASTLE GROUP and CASTILLO engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate licensees for compensation or in expectation of compensation within the State of California within the meaning of Section 10131(a) of the Code, whereby Respondents sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, solicited or obtained listings of, or negotiated the purchase, sale or exchange of real property or a business opportunity.

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At all times herein mentioned, Respondents CASTLE, INC. and CASTILLO engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate

1 licensees within the State of California on behalf of others, for compensation or in expectation  
2 of compensation within the meaning of Section 10131(b) of the Code in the operations of a  
3 property management brokerage with the public wherein, on behalf of others, for compensation  
4 or in expectation of compensation, Respondents leased or rented and offered to lease or rent, and  
5 placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of real  
6 property or improvements thereon, and collected rents from real property or improvements thereon.

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8 In so acting as real estate brokers as described in Paragraph 6 above, Respondents  
9 CASTLE, INC. and CASTILLO accepted or received funds in trust (herein "trust funds") from  
10 or on behalf of owners, tenants, and others in connection with the leasing, renting, and collection  
11 of rents on real property or improvements thereon.

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13 The aforesaid trust funds accepted or received by Respondents CASTLE, INC.  
14 and CASTILLO were deposited or caused to be deposited by Respondents into one or more bank  
15 accounts (herein "trust fund accounts") maintained by Respondents for the handling of trust funds  
16 at the Modesto, California branches of the following banks:

17 Bank of Stockton:

- 18 (a) "Castle & Associate Property Mgmt Inc DBA Castle Property  
19 Management," account number xxxxxx2681 (herein "Bank Account #1");  
20 (b) "Castle & Associate Property Mgmt Inc DBA Castle Property Management  
21 Security Deposit Acct," account number xxxxxx2806 (herein "Bank  
22 Account #2");

23 Tri Counties Bank:

- 24 (c) "Castle & Associate Property Management Inc Management Account,"  
25 account number xxxxx6498 (herein "Bank Account #3"); and  
26 (d) "Castle & Associate Property Management Inc Security Deposit Account,"  
27 account number xxxxx5925 (herein "Bank Account #4").

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2 Between about March 10, 2015 and about March 16, 2015, an audit was  
3 conducted of the records of Respondents CASTLE, INC. and CASTILLO in connection with the  
4 activities described in Paragraphs 6 through 8, above. The auditor herein examined the records  
5 for the period between about March 1, 2013 and about February 28, 2015, and found Respondents:

6 (a) caused, suffered or permitted the balance of funds in Bank Accounts #1  
7 and #2, combined, to be reduced to amounts less than the liability of Respondents resulting in  
8 a trust fund shortage of about \$29,994.62 on about January 31, 2015, in violation of Sections  
9 10145 and 10176(i) of the Code and Section 2832.1 of Chapter 6, Title 10, California Code  
10 of Regulations (herein "the Regulations");

11 (b) failed to place trust funds entrusted to Respondents into the hands of a  
12 principal on whose behalf the funds were received, into a neutral escrow depository, or into a  
13 trust fund account in the name of either of Respondents as trustees at a bank or other financial  
14 institution, in that Respondents placed such funds in Bank Accounts #1 through #4, in violation  
15 of Section 10145 of the Code and Section 2832 of the Regulations;

16 (c) failed to maintain accurate an columnar record in chronological sequence  
17 of all trust funds received and disbursed from Bank Accounts #1 through #4 containing all  
18 required information, in violation of Section 2831 of the Regulations;

19 (d) failed to keep a separate record for each beneficiary or transaction for  
20 Bank Accounts #1 through #4 containing all required information, in violation of Section  
21 10145 of the Code and Section 2831.1 of the Regulations;

22 (e) failed to reconcile at least once a month, the balance of all separate  
23 beneficiary or transaction records with Bank Accounts #1 through #4, in violation of Section  
24 2831.2 of the Regulations; and

25 (f) authorized Cindy F., Dennis L. and Neftali A, salespersons not licensed  
26 under either CASTLE, INC. or CASTILLO's real estate licenses to make withdrawals from  
27 Bank Accounts #1 through #4, in violation of Section 2834 of the Regulations.

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Beginning about February 28, 2013, CASTILLO willfully caused, suffered and permitted CASTLE GROUP to engage in the business of a corporate real estate broker in connection with the real estate transactions listed below during the time CASTLE GROUP's corporate status was not in good standing with the office of the California Secretary of State, in violation of Section 2742(c) the Regulations:

<u>Date:</u>	<u>Property Address:</u>
2/28/13	Vintage Drive, Turlock, CA
5/16/14	Apache Lane, Modesto, CA

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At all times mentioned herein, CASTILLO failed to exercise reasonable supervision over the acts of CASTLE, INC. and CASTLE GROUP, and their agents and employees in such a manner as to allow the acts and omissions on the part of CASTLE, INC. and CASTLE GROUP, described above, to occur, in violation of Sections 10177(h) and (g) and 10159.2 of the Code.

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The facts alleged above are grounds for the suspension or revocation of the licenses and license rights of Respondents under the following provisions of the Code and/or the Regulations:

- (a) as to Paragraph 9(a) and CASTLE, INC. and CASTILLO, under Sections 10145 and 10176(i) of the Code and Section 2832.1 of the Regulations in conjunction with Section 10177(d) of the Code;
- (b) as to Paragraph 9(b) and CASTLE, INC. and CASTILLO, under Section 10145 of the Code and Section 2832 of the Regulations in conjunction with Section 10177(d) of the Code;
- (c) as to Paragraph 9(c) and CASTLE, INC. and CASTILLO, under Section 2831 of the Regulations in conjunction with Section 10177(d) of the Code;

- 1 (d) as to Paragraph 9(d) and CASTLE, INC. and CASTILLO, under Section  
2 10145 of the code and Section 2831.1 of the Regulations in conjunction  
3 with Section 10177(d) of the Code;
- 4 (e) as to Paragraph 9(e) and CASTLE, INC. and CASTILLO, under Section  
5 2831.2 of the Regulations in conjunction with Section 10177(d) of the  
6 Code;
- 7 (f) as to Paragraph 9(f) and CASTLE, INC. and CASTILLO, under Section  
8 2834 of the Regulations in conjunction with Section 10177(d) of the  
9 Code;
- 10 (g) as to Paragraph 10 and CASTLE GROUP and CASTILLO, under  
11 Section 2742(c) of the regulations in conjunction with Section 10177(d)  
12 of the Code; and
- 13 (h) as to Paragraph 11 and CASTILLO, under Sections 10177(h) and (g) and  
14 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

15 COST RECOVERY

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17 Audit Costs

18 The acts and/or omissions of Respondents as alleged above in Paragraph 9(a)-(f),  
19 above, entitle the Bureau to reimbursement of the costs of its audit pursuant to Section 10148(b)  
20 of the Code.


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22 Investigation and Enforcement Costs

23 Section 10106 of the Code provides, in pertinent part, that in any order issued in  
24 resolution of a disciplinary proceeding before the Bureau, the Real Estate Commissioner may  
25 request the Administrative Law Judge to direct a licensee found to have committed a violation of  
26 this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of  
27 the case.

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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 (Part 1 of Division 4 of the Business and Professions Code), for the cost of the audit, investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other applicable provisions of law.

  
BREND A SMITH  
Supervising Special Investigator

Dated at Fresno, California  
this 4 day of January, 2016.