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BUREAU OF REAL ESTATE

By B. dew

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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
W P WESSON & CO INC. and) NO. H-2994 FR
WALTER PERRIN WESSON, III,)
) ACCUSATION
)
)
Respondents.)

The Complainant, BRENDA SMITH, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity against W P WESSON & CO INC. (herein "WESSON INC") dba "Bella Real Estate" (herein "BELLA") and WALTER PERRIN WESSON, III (herein "WESSON"), (herein collectively "Respondents"), and is informed and alleges as follows:

1

At all times herein mentioned, Respondents were and now are 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").

2

At all times herein mentioned, WESSON INC was and now is licensed by the State of California Bureau of Real Estate (herein "the Bureau") as a corporate real estate broker

1 by and through WESSON as designated officer-broker of WESSON INC to qualify said
2 corporation and to act for said corporation as a real estate broker.

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4 At all times herein mentioned, WESSON was and now is licensed by the Bureau
5 as designated officer-broker of WESSON INC. As said designated officer-broker, WESSON
6 was at all times mentioned herein responsible pursuant to Section 10159.2 of the Code for the
7 supervision of the activities of the officers, agents, real estate licensees, and employees of
8 WESSON INC for which a license is required.

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10 Whenever reference is made in an allegation in this Accusation to an act or
11 omission of WESSON INC, such allegation shall be deemed to mean that the officers, directors,
12 employees, agents and/or real estate licensees employed by or associated with WESSON INC
13 committed such act or omission while engaged in the furtherance of the business or operations
14 of such corporate respondent and while acting within the course and scope of their authority and
15 employment.

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17 At all times herein mentioned, Respondents engaged in the business of, acted in
18 the capacity of, advertised, or assumed to act as real estate brokers for compensation or in the
19 expectation of compensation within the State of California within the meaning of Section
20 10131(b) of the Code, including the operation and conduct of a property management business
21 with the public wherein, on behalf of others, Respondents leased or rented or offered to lease or
22 rent, or placed for rent, or solicited listings or places for rent, or solicited for prospective
23 tenants, or negotiated the sale, purchase or exchanges of leases on real property or on a business
24 opportunity, or collected rents from real property, or improvements thereon, or from business
25 opportunities.

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In so acting as real estate brokers as described in Paragraph 5, above, Respondents accepted or received funds in trust (herein "trust funds") from or on behalf of tenants, owners, and others in connection with real estate leasing, renting, and collection of rents on real property or improvements thereon, and thereafter from time to time made disbursements of said funds.

The aforesaid trust funds accepted or received by Respondents were deposited or caused to be deposited by Respondents into one or more bank accounts (herein "trust fund accounts") maintained by Respondents for the handling of trust funds at the Modesto, California, branches of 1) Westamerica Bank and 2) Bank of the West, under account names:

- (a) "Bella Real Estate Inc. Common Client Trust Account," account number xxx-xx545-3 (herein "Trust Account #1"), at Westamerica Bank;
- (b) "Cere Villa," account number xxx-xx0692 (herein "Bank Account #2"), at Bank of the West; and
- (c) "Standiford Terrace Apt," account number xxx-xx0476 (herein "Bank Account #3"), at Bank of the West.

Between about February 17, 2015, and about March 4, 2015, an audit was conducted of the records of WESSON INC in connection with the activities described in Paragraphs 5 through 7, above. The auditor herein examined the records for the period between about February 1, 2013, to about March 16, 2015, and found Respondents:

- (a) caused, suffered or permitted the balances of funds in WESSON INC Trust Account #1 and Bank Account #2 to be reduced to amounts, which as of December 31, 2014, were approximately \$1,648.57 and \$733.34, respectively, that were less than the aggregate liability of WESSON INC to all owners of such funds, without the prior written consent of the owners of

1 such funds, in violation of Section 2832.1 of Chapter 6, Title 10, California
2 Code of Regulations (herein "the Regulations");

- 3 (b) failed to place trust funds entrusted to WESSON INC into the hands of a
4 principal on whose behalf the funds were received, into a neutral escrow
5 depository, or into a trust fund account in the name of WESSON INC as
6 trustee at a bank or other financial institution for Bank Accounts #2 and #3,
7 in violation of Section 10145 of the Code and Section 2832 of the
8 Regulations;
- 9 (c) failed to keep a separate record of the receipt and disposition of all trust
10 funds deposited into Trust Account #1, in that Trust Account #1 contained
11 unidentified and/or unaccounted for funds of at least \$733.91, in violation
12 of Section 10145(g) of the Code and Section 2831.1 of the Regulations;
- 13 (d) failed to reconcile at least once a month, the balance of all separate
14 beneficiary or transaction records with Trust Account #1, in violation of
15 Section 2831.2 of the Regulations;
- 16 (e) authorized Corina L-T, Andrew and Annie L, unlicensed persons without
17 fidelity bond coverage, to make withdrawals from Trust Account #1 and
18 Bank Accounts #2 and #3, in violation of Section 2834 of the Regulations;
- 19 (f) failed to obtain a real estate license bearing the fictitious business name
20 "Bella Real Estate" while conducting activities for which a license was
21 required under said fictitious business name, in violation of Section
22 10159.5 of the Code and Section 2731 of the Regulations;
- 23 (g) failed to obtain a branch office license from the Bureau while conducting
24 property management services from the location at 610 13th Street,
25 Modesto, CA, in violation of Section 10163 of the Code; and
- 26 (h) willfully caused, suffered and permitted WESSON INC to perform licensed
27 activities during the time WESSON INC was not in good standing with the

1 office of the California Secretary of State, in violation of Section 2742(c)
2 of the Regulations.

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

- 7 (a) as to Paragraph 8(a) and WESSON INC under Section 2832.1 of the
8 Regulations in conjunction with Section 10177(d) of the Code;
9 (b) as to Paragraph 8(b) and WESSON INC under Section 10145 of the Code
10 and Section 2832 of the Regulations in conjunction with Section 10177(d)
11 of the Code;
12 (c) as to Paragraph 8(c) and WESSON INC under Section 10145(g) of the
13 Code and Section 2831.1 of the Regulations in conjunction with Section
14 10177(d) of the Code;
15 (d) as to Paragraph 8(d) and WESSON INC under Section 2831.2 of the
16 Regulations in conjunction with Section 10177(d) of the Code;
17 (e) as to Paragraph 8(e) and WESSON INC under Section 2834 of the
18 Regulations in conjunction with Section 10177(d) of the Code;
19 (f) as to Paragraph 8(f) and WESSON INC under Section 10159.5 of the Code
20 and Section 2731 of the Regulations in conjunction with Section 10177(d)
21 of the Code;
22 (g) as to Paragraph 8(g) and WESSON INC under Sections 10163 of the Code
23 in conjunction with Section 10177(d) of the Code; and
24 (h) as to Paragraph 8(h) and WESSON INC under Section 2742(c) of the
25 Regulations in conjunction with Section 10177(d) of the Code.

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1 COST RECOVERY

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3 Audit Costs

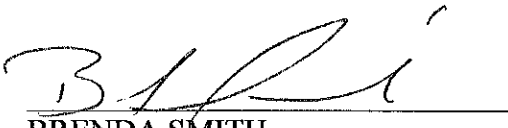
4 The acts and/or omissions of Respondents as alleged above entitle the Bureau to
5 reimbursement of the costs of its audit pursuant to Section 10148(b) of the Code.
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8 Investigation and Enforcement Costs

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

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

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20 BREND A SMITH
21 Supervising Special Investigator
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23 Dated at Fresno, California

24 this 17 day of February, 2016.
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