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FILED

DEC 09 2016

BUREAU OF REAL ESTATE

By *[Signature]*

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of	)	No. H-03010 FR
	)	
STACEY ANN HAVENER,	)	FIRST AMENDED
	)	ACCUSATION
Respondent.	)	
	)	

This First Amended Accusation amends the Accusation filed on April 26, 2016. The Complainant, Brenda Smith, a Supervising Special Investigator of the State of California, acting in her official capacity, for cause of Accusation against STACEY ANN HAVENER aka Stacey Ann Havener-Hudson aka Stacey Ann Hudson DBA All Seasons Real Estate ("HAVENER"), is informed and alleges as follows:

1.

The Complainant, Brenda Smith, acting in her official capacity as Supervising Special Investigator of the State of California, makes this Accusation.

2.

All references to the "Code" are to the California Business and Professions Code, and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations unless otherwise specified.

1 3.

2 HAVENER is presently licensed and/or had license rights issued by the Bureau
3 of Real Estate as a real estate broker (license no. 01303680). HAVENER was originally
4 licensed as a real estate broker on or about February 9, 2005. Previously, she had a real estate
5 salesperson license from January 30, 2001 to January 29, 2005. From on or about February 9,
6 2005 to August 4, 2014, HAVENER had the DBA of MNS Investments. From on or about
7 August 5, 2014 through the present, HAVENER had and continues to have the DBA of All
8 Seasons Real Estate. HAVENER has not had any other licensed DBAs with the Bureau of Real
9 Estate.

10 4.

11 From December 18, 2013 through the present, Milton Lance Hudson
12 ("Hudson"), HAVENER's husband, was not, and still is not, licensed by the Bureau in any
13 capacity. From August 1991 to December 18, 2013, Hudson was a real estate broker (license
14 no. 01116933). On November 25, 2013, the Real Estate Commissioner issued an Order
15 Accepting Voluntary Surrender of Real Estate License, in case no. H-02790 FR, that became
16 effective December 18, 2013, and was made in connection with an audit investigation of
17 Hudson's property management activities. As more fully set forth in the Second Amended
18 Accusation in that case, Hudson allegedly had multiple violations of Real Estate Law and
19 Regulations in his property management business, including, but not limited to, causing a trust
20 fund shortage of \$19,180.16 without the owners' written consent, making misrepresentations,
21 commingling trust funds, and using the unlicensed DBA of All Seasons Property Management.
22 From August 23, 1991 to May 15, 2008, Hudson had the licensed DBA of American Financial
23 of California. From May 16, 2008 to December 18, 2013, Hudson had the licensed DBA of All
24 Season's Realty.

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1 5.

2 At all times mentioned, in the County of Kern and County of Ventura,
3 HAVENER and Hudson engaged in the business of a real estate broker conducting licensed
4 activities within the meaning of Code section 10131(b). HAVENER and Hudson engaged in
5 operating a real property management company by leasing, renting, and/or offering to rent,
6 placing for rent, soliciting for prospective tenants, and/or collecting rents from real property.

7
8 FIRST CAUSE OF ACCUSATION

9 (Trust Fund Audit)

10 6.

11 On or about June 11, 2015, the Bureau of Real Estate completed a property
12 management audit examination of the books and records of HAVENER limited to determine
13 whether HAVENER handled and accounted for trust funds and conducted her real estate
14 activities in accordance with the Real Estate Law and Regulations. The audit examination
15 covered a period of time beginning on January 1, 2014 and ended on March 1, 2015. The audit
16 examination revealed violations of the Code and the Regulations set forth in the following
17 paragraphs, and more fully discussed in Audit Report FR130024 and the exhibits and work
18 papers attached to said audit report.

19
20 Bank Account and Trust Accounts

21 7.

22 At all times mentioned, in connection with the activities described in Paragraph
23 4, above, HAVENER accepted or received funds including funds in trust ("trust funds") from
24 or on behalf of actual or prospective parties, such as owners of real property, involved in
25 property management services, and thereafter made deposits and/or disbursements of such
26 funds. From time to time herein mentioned, during the audit period, said trust funds were

1 deposited and/or maintained by HAVENER in the bank account as follows:

2 "Base Camp LLC DBA All Seasons Property Management DBA All Seasons Realty"
3 *****2561

4 Union Bank

5 P.O. Box 512380

6 Los Angeles, CA 90051

(B/A #1)

7 **On or about May 9, 2013, HAVENER opened this bank account as the sole signatory.**

8 8.

9 In the course of activities described in Paragraphs 5 and 7, above, and during the
10 audit examination period in Paragraph 6, above, Respondent HAVENER acted in violation of
11 the Code and the Regulations as set forth below:

12 (a) Permitted, allowed, and/or caused the disbursement of trust funds from
13 B/A #1 where the disbursement of funds reduced the total amount of aggregate funds to the
14 amount of \$20,941.47 on December 31, 2014, \$19,317.92 on January 31, 2015, and \$24,812.58
15 on February 28, 2015 less than the existing aggregate trust fund liability of Respondent to every
16 principal who was the owner of said funds without first obtaining prior written consent of the
17 owners of said funds, in violation of Code section 10145 and Regulations sections 2831,
18 2831.1, and 2832.1.

19 (b) Deposited trust funds in B/A #1, which was not designated as a trust
20 account, in violation of Code section 10145(a) and Regulations section 2832.

21 (c) Failed to maintain a control record in the form of a columnar record in
22 chronological order of all trust funds received, deposited, and disbursed, in violation of Code
23 section 10145 and Regulations section 2831.

24 (d) Failed to maintain an accurate and complete separate record for each
25 beneficiary or transaction, thereby failing to account for all trust funds received, deposited, and
26 disbursed from B/A #1, in violation of Code section 10145 and Regulations section 2831.1.

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1 (e) Failed to perform a monthly reconciliation of the balance of all separate
2 beneficiary or transaction records maintained pursuant to Regulations section 2831.1 with the
3 record of all trust funds received and disbursed by B/A #1, in violation of Code section 10145
4 and Regulations section 2831.2.

5 (f) Commingled trust funds with other monies in B/A #1, in violation of
6 Code section 10176(e).

7 (g) **Approximately ninety (90) checks bounced due to insufficient funds**
8 **during the audit examination period of January 1, 2014 to March 1, 2015, in violation of**
9 **Code section 10145 and Regulations section 2832.1.**

10 9.

11 The conduct of Respondent HAVENER described in Paragraph 8, above,
12 violated the Code and the Regulations as set forth below:

13 PARAGRAPH

PROVISIONS VIOLATED

14 8(a) Code section 10145 and Regulations sections 2831, 2831.1, and
15 2832.1

16 8(b) Code section 10145(a) and Regulations section 2832

17 8(c) Code section 10145 and Regulations section 2831

18 8(d) Code section 10145 and Regulations section 2831.1

19 8(e) Code section 10145 and Regulations section 2831.2

20 8(f) Code section 10176(e)

21 **8(g) Code section 10145 and Regulations section 2832.1**

22 The foregoing violations constitute cause for discipline of the real estate license and license
23 rights of Respondent HAVENER under the provisions of Code sections 10176(e), 10177(d),
24 10177(g), 10177(h), and/or 10177(j).

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1 October 14, 2013: check #1292

2 December 10, 2013: check #1373

3 January 15, 2014: check #1402

4 February 17, 2014: check #1442

5 March 10, 2014: check #1478

6 15.

7 **HAVENER issued several checks that bounced due to insufficient funds.**

8 **These checks include, but are not limited to,** check #1442 issued on or about February 17,
9 2014 and check #1478 issued on or about March 10, 2014.

10 16.

11 In or about February 2014, Hudson, under the employment of HAVENER issued
12 an IRS form 1099-MISC for the Highland Property that errantly included the rent received in
13 January 2014 for the month of January 2014 as part of the Karrie and Eugene D.'s rental
14 income in 2013. The IRS form 1099-MISC stated the rental income in 2013 was \$3,814.06
15 when in fact it was \$2,869.06.

16 17.

17 In or about March 2014, Karrie and Eugene D. fired HAVENER and Hudson as
18 their property managers, but HAVENER and Hudson failed to return the tenants' security
19 deposit and other fees, **including the money they collected to pay for the water bills but**
20 **they failed to pay,** which totaled \$3,304.44.

21 18.

22 The conduct of HAVENER described in paragraphs 10 through 17, above,
23 constitutes violations of Code sections 10137 (employ or compensate an unlicensed person to
24 perform acts which require a real estate license), 10145 (trust fund handling), 10176(a) (making
25 substantial misrepresentations), **10177(d) (willful disregard or violation of Real Estate Law),**
26 **10177(g) (negligence or incompetence), 10177(h) (failure to exercise reasonable supervision),**
27

1 **and 10177(j) (fraud or dishonest dealing), and Regulations section 2731 (use of an**
2 **unlicensed fictitious business name).**

3
4 THIRD CAUSE OF ACCUSATION

5 (Pomona Trail Property – 612 Pomona Trail, Frazier Park, CA 93225)

6 19.

7 Complainant re-alleges paragraphs 3 through 18, above, and incorporates them
8 herein.

9 20.

10 On or about April 20, 2004, Jennings Real Estate entered into a Property
11 Management Agreement with Mountainside Disposal, the owner of 612 Pomona Trail, Frazier
12 Park, CA 93225 ("Pomona Trail Property"), through Ray S. for said property. Pursuant to this
13 Property Management Agreement, security deposits were to be placed in a trust account.

14 21.

15 In 2008, Hudson DBA All Season's Realty bought out Jennings Real Estate,
16 including the Property Management Agreement pertaining to the Pomona Trail Property.

17 22.

18 When or soon after Hudson no longer had a real estate license and licensing
19 rights on December 18, 2013, the property management contract for the Pomona Trail Property
20 was transferred to HAVENER.

21 23.

22 **HAVENER DBA All Seasons Property Management, which was and is an**
23 **unlicensed DBA, issued several checks to Mountainside Disposal for its draw from B/A #1,**
24 **which was not a trust account, and these checks bounced due to insufficient funds. These**
25 **checks include, but are not limited to, check #1405 issued on or about January 15, 2014 and**
26 **check #1527 issued on or about April 2, 2014.**

1 24.

2 In or about May 2014, Hudson, under the direction of HAVENER, negotiated
3 between Mountainside Disposal and the then-tenant of the Pomona Trail Property regarding
4 how much of the security deposit should be refunded back to the then-tenants. Hudson also
5 handled the security deposit funds in this transaction.

6 25.

7 The conduct of HAVENER described in paragraphs 19 through 24 above,
8 constitutes violations of Code sections 10137 (employ or compensate an unlicensed person to
9 perform acts which require a real estate license), 10145 (trust fund handling), 10176(a) (making
10 substantial misrepresentations), 10177(d) (willful disregard or violation of Real Estate Law),
11 10177(g) (negligence or incompetence), 10177(h) (failure to exercise reasonable supervision),
12 **and 10177(j) (fraud or dishonest dealing)**, and Regulations section 2731 (use of an
13 unlicensed fictitious business name).

14
15 FOURTH CAUSE OF ACCUSATION

16 (Lion Property – 1013 Lion Court, Frazier Park, CA 93225)

17 26.

18 Complainant re-alleges paragraphs 3 through 25, above, and incorporates them
19 herein.

20 27.

21 On or about October 9, 2013, Hudson DBA All Seasons Realty entered into a
22 rental agreement with David and Jackie I. for 1013 Lion Court, Frazier Park, CA 93225 (“Lion
23 Property”). Pursuant to this rental agreement, David and Jackie I. paid \$1,500 and were to pay
24 \$375 more for a total of \$1,875 for the security deposit, which was to be held in a trust account.

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1 28.

2 When or soon after Hudson no longer had a real estate license and licensing
3 rights on December 18, 2013, HAVENER took over Hudson's rental agreement for the Lion
4 Property.

5 29.

6 On or about July 15, 2014, HAVENER DBA All Seasons Property Management,
7 which was and is not a licensed DBA, issued check #1602 in the amount of \$1,875 to David
8 and Jackie I. to refund their security deposit. The check was from B/A #1, which was not a
9 trust account. Soon after, this check bounced due to insufficient funds.

10 30.

11 On or about July 17, 2014, Hudson, as a representative of HAVENER, requested
12 David and Jackie I. to delay depositing check #1602 because he had to first transfer funds to
13 that account.

14 31.

15 On or soon after July 22, 2014, David and Jackie I. re-deposited check #1602 in
16 reliance of Hudson's assurance that there were now sufficient funds in the bank account, but
17 check #1602 bounced a second time due to insufficient funds.

18 32.

19 In late July 2014, David and Jackie I. requested Hudson and HAVENER return
20 their deposit in cash. Hudson met David and Jackie I., and gave them \$1,675 in cash, which
21 was \$200 less than security deposit and did not include bank fees for bounced checks, which
22 Hudson stated he would pay.

23 33.

24 The conduct of HAVENER described in paragraphs 28 through 32 above,
25 constitutes violations of Code sections 10137 (employ or compensate an unlicensed person to
26 perform acts which require a real estate license), 10145 (trust fund handling), 10176(a) (making
27

1 substantial misrepresentations), 10177(d) (willful disregard or violation of Real Estate Law),
2 10177(g) (negligence or incompetence), 10177(h) (failure to exercise reasonable supervision),
3 **and 10177(j) (fraud or dishonest dealing)**, and Regulations section 2731 (use of an
4 unlicensed fictitious business name).

5
6 FIFTH CAUSE OF ACCUSATION

7 (Lockwood Valley Property – 17478 Lockwood Valley Road, Frazier Park, CA 93225)

8 34.

9 Complainant re-alleges paragraphs 3 through 33, above, and incorporates them
10 herein.

11 35.

12 On or about September 4, 2014, HAVENER changed her main office address on
13 record with the Bureau of Real Estate from 16225 Askin Drive, Pine Mountain Club, CA 93222
14 to 16311 Askin Drive, Pine Mountain Club, CA 93222. To date, HAVENER's main office
15 address on record with the Bureau of Real Estate remains 16311 Askin Drive, Pine Mountain
16 Club, CA 93222.

17 36.

18 On or about April 27, 2015, HAVENER DBA All Seasons Property
19 Management entered into a Holding Deposit Agreement and Receipt with Romuls G. and Terre
20 A. for 17478 Lockwood Valley Road, Frazier Park, CA 93225 ("Lockwood Valley Property"),
21 and Romuls G. and Terre A. paid \$800.00 to HAVENER DBA All Seasons Property
22 Management, an unlicensed DBA.

23 37.

24 On or about April 27, 2015, Romuls G. and Terre A. paid \$800.00 in cash to
25 HAVENER. HAVENER gave them a receipt from "All Seasons Realty" with the address, "620
26 Monterey Trail, Frazier Park, CA 93225," which is an address that HAVENER has never had
27

1 on record with the Bureau of Real Estate as a main office address, branch address, or mailing
2 address.

3 38.

4 On or about April 27, 2015, HAVENER DBA All Seasons Property
5 Management provided Romuls G. and Terre A. with a business card stating her name was
6 "Stacey Havener-Hudson."

7 39.

8 On or about April 30, 2015, HAVENER and Hudson facilitated the rental
9 agreement between Henrick T., the owner of the Lockwood Valley Property, and Romuls G.
10 and Terre A. for said property. Pursuant to this rental agreement, the rent was and is \$800 per
11 month from May 1, 2015 to April 30, 2016, and the security deposit was \$800.00.

12 40.

13 From on or about May 1, 2015 and onward, HAVENER informed Romuls G.
14 and/or Terre A. that Hudson was in charge of all of the rental properties, and told them to direct
15 all of their concerns and inquiries to Hudson. This included, but was not limited, employing
16 and directing Hudson to (1) demand, negotiate, and collect rent and security deposits, (2)
17 negotiate with Romuls G. and Terre A. regarding Henrick T. allegedly breaking the rental
18 agreement by entering the property and taking their belongings, and (3) filing unlawful
19 detainers on behalf of Henrick T. **Under HAVENER's direction, Hudson collected rent**
20 **from Romuls G. and/or Terre A. approximately fifteen (15) times in the time period of**
21 **May 2015 to December 2015, inclusive. Terre A. paid rent with cash and also checks**
22 **made out to All Seasons Real Estate and/or All Seasons Realty that were deposited into a**
23 **bank account that was not designated a trust account. These checks include, but are not**
24 **limited to, a \$600 check dated July 1, 2015, a \$200 check dated July 1, 2015, a \$400 check**
25 **dated August 15, 2015, a \$200 check dated October 7, 2015, and a \$200 check dated**
26 **October 28, 2015.**

1 41.

2 The conduct of HAVENER described in paragraphs 35 through 40 above,
3 constitutes violations of Code sections 10137 (employ or compensate an unlicensed person to
4 perform acts which require a real estate license), **10145 (trust fund handling)**, 10162 (failure
5 to maintain business address on record), 10163 (failure to procure license for branch office),
6 10176(a) (making substantial misrepresentations), 10177(d) (willful disregard or violation of
7 Real Estate Law), 10177(g) (negligence or incompetence), 10177(h) (failure to exercise
8 reasonable supervision), **and 10177(j) (fraud or dishonest dealing)**, and Regulations section
9 2731 (use of an unlicensed fictitious business name and use of a false name).

10
11 SIXTH CAUSE OF ACCUSATION

12 (Lack of Broker-Salespersons Relationship Agreements)

13 42.

14 On or about September 3, 2013, HAVENER became the sponsoring broker of
15 salesperson Katy Marie Cruse ("Cruse"), license no. 01819661. Cruse's previous sponsoring
16 broker was Hudson. However, HAVENER and Cruse did not have a Broker-Salesperson
17 Relationship Agreement until on or about May 1, 2014, in violation of Code sections 10177(g)
18 (negligence or incompetence) and 10177(h) (failure to exercise reasonable supervision) and
19 Regulations section 2726 (broker-salesperson agreement).

20 43.

21 On or about January 29, 2014, HAVENER became the sponsoring broker of
22 salesperson Carole Anne Swanston ("Swanston"), license no. 01241300. Swanston's previous
23 sponsoring broker was Hudson. However, HAVENER and Swanston did not have a Broker-
24 Salesperson Relationship agreement until on or about May 1, 2014, in violation of Code
25 sections 10177(d) (willful disregard or violation of Real Estate Law), 10177(g) (negligence or
26
27

1 incompetence) and 10177(h) (failure to exercise reasonable supervision) and Regulations
2 section 2726 (broker-salesperson agreement).

3
4 SEVENTH CAUSE OF ACCUSATION

5 (Willful Disregard and Violation, Negligence, and Failure to Exercise Reasonable Supervision)

6 44.

7 Complainant re-alleges paragraphs 3 through 43, above, and incorporates them
8 herein.

9 45.

10 The overall conduct of HAVENER constitutes willful disregard and violation of
11 Real Estate Law, negligence, and failure to exercise reasonable supervision, and is cause for
12 discipline of the real estate license and license rights of HAVENER pursuant to Code sections
13 10177(d), 10177(g), and 10177(h).

14
15 (COSTS)

16 46.

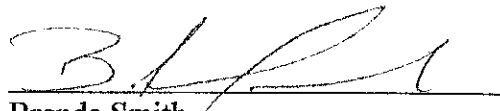
17 Code section 10106 provides, in pertinent part, that in any order issued in
18 resolution of a disciplinary proceeding before the Bureau of Real Estate, the Commissioner may
19 request the administrative law judge to direct a licensee found to have committed a violation of
20 this part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the
21 case.

22 47.

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

1 WHEREFORE, Complainant prays that a hearing be conducted on the
2 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
3 disciplinary action against the license and license rights of STACEY ANN HAVENER under
4 the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code), for
5 the cost of investigation and enforcement pursuant to Code section 10106 and as permitted by
6 law, and for such other and further relief as may be proper under other applicable provisions of
7 law, including costs of audit pursuant to Code section 10148(b).

8 Dated at Fresno, California: December 8, 2016.

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11 Brenda Smith
12 Supervising Special Investigator
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24 cc: STACEY ANN HAVENER
25 Brenda Smith
26 Sacto
27 Enforcement
Audits – Diana Brewster