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FILED

MAR 08 2017

BUREAU OF REAL ESTATE

By B. Nicholas

9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)

No. H- 3081 FR

13 DIEDRE MARIE THOMAS, and)

14 WILLIAM ROBERT ENDSLEY,)

ACCUSATION

Respondents.)

15 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the
16 State of California, for cause of Accusation DIEDRE MARIE THOMAS, and WILLIAM
17 ROBERT ENDSLEY (Respondents), is informed and alleges as follows:

18 PRELIMINARY ALLEGATIONS

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

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23 Respondents are presently licensed and/or has 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, DIEDRE MARIE THOMAS (THOMAS) was and is licensed by the Bureau as a real estate salesperson. Beginning on or about June 12, 1996, and continuing through July 26, 2010, THOMAS' salesperson license was affiliated under the brokerage of WILLIAM ROBERT ENDSLEY (ENDSLEY). Beginning on or about July 27, 2010, and continuing through October 4, 2015, THOMAS' salesperson license was affiliated under the broker of Premier Valley Inc., a California Corporation (Premier). Beginning on or about October 13, 2015, and continuing through May 4, 2016, THOMAS' salesperson license was affiliated under the brokerage of ENDSLEY. Beginning on about May 5, 2016 through present, THOMAS' salesperson license has no broker affiliation. At no time mentioned herein was THOMAS licensed by the Bureau as a real estate broker.

At all times mentioned, ENDSLEY was and is licensed by the Bureau as a real estate broker.

At all times mentioned, ENDSLEY conducted real estate activity under his individual broker license and the fictitious business name "Sequoia Property Management" (Sequoia), registered with the Bureau.

At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Sections 10131(b) of the Code, including 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 solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

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1 FIRST CAUSE OF ACTION

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

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6 Beginning on or about July 27, 2010, and continuing through October 4, 2015,
7 THOMAS, on behalf of Sequoia, without the knowledge, consent, or supervision of Premier, in
8 course of the property management brokerage activities described in Paragraph 6, solicited
9 prospective tenants for, negotiated rental agreements for and collected rents from real properties
10 owned by another or others, including but not limited to the following:

11

<u>PROPERTY OWNER</u>	<u>PROPERTY LOCATION</u>
Kenneth S. and Joe S.	1316 Cooper Avenue, Turlock
Barbara A. and Evelyn J.	1542 Lander Avenue, Turlock
Emanuel C.	755 Birchwood, Turlock
Val. K.	701 Meadow Lark Drive, Turlock
Val. K.	1145 Countryside Drive, Turlock
Juliana M.	7420 Bramble Lane, Hughson

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17 By the commission of the acts alleged in Paragraph 8, THOMAS engaged in the
18 business and acted in the capacity of a real estate broker within the State of California as defined
19 by Section 10131(b) of the Code.

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21 The facts alleged in the First Cause of Accusation are grounds for the suspension
22 or revocation of Respondents licenses and license rights pursuant to Sections 10130 and 10137
23 of the Code in conjunction with Section 10177(d) of the Code.

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

On or about October 5, 2015, and continuing intermittently through December 30, 2015, an audit was conducted of the records of THOMAS. The auditor herein examined the records for the period of June 1, 2013, through September 30, 2015.

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

The trust funds accepted or received by THOMAS as described in Paragraph 13 were deposited or caused to be deposited by THOMAS into a trust account which was maintained by THOMAS for the handling of trust funds, and thereafter from time-to-time THOMAS made disbursements of said trust funds, identified as follows:

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

(a) collected rents from tenants and failed to deliver the rent collected to her employing broker, into the custody of the broker's principal, to a neutral escrow depository, or deposit the rents collected into a trust fund account in the name of the broker as trustee in violation of Section 10145(c) of the Code and Section 2832 of the Title 10 of the California Code of Regulations (Regulations);

(b) caused, suffered, or permitted the balance of funds in Account #1 to be reduced to an amount which, as of July 31, 2015, was approximately \$190,834.83 less than the aggregate liability of Account #1 to all owners of such funds in violation of Section 10145 of the Code and Section 2832.1 of the Regulations;

(c) failed to deposit trust funds into one or more trust funds accounts in the name of the broker as trustee at a bank or other financial institution, in conformance with Section 10145 of the Code and Section 2832 of the Regulations;

(d) 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 each account as required by Section 2831.2 of the Regulations; and

(e) converted approximately \$30,000 of trust funds to THOMAS' own use and benefit or to purposes not authorized by the rightful owners of said funds.

The facts alleged in the Second Cause of Action are grounds for the suspension or revocation of Respondent's licenses and license rights under the following sections of the Code and Regulations:

As to Paragraph 15(a), under Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145(c) of the Code and Section 2832 of the Regulations;

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1 As to Paragraph 15(b), under Sections 10177(d) and/or 10177(g) of the Code in
2 conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

3 As to Paragraph 15(c), under Sections 10177(d) and/or 10177(g) of the Code in
4 conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

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

7 As to Paragraph 15(e), under Sections 10176(i), 10177(j), and/or 10177(g) of the
8 Code.

9 THIRD CAUSE OF ACTION

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11 Each and every allegation in Paragraphs 1 through 16, inclusive, above, are
12 incorporated by this reference as if fully set forth herein.

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14 At all times relevant, ENDSLEY was required to exercise reasonable supervision
15 and control over the activities of Sequoia's employees, agents, and others acting on Sequoia's
16 behalf.

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18 ENDSLEY failed to exercise reasonable supervision over the acts and/or
19 omissions of Sequoia's employees, agents and others acting on Sequoia's behalf in
20 such a manner as to allow the acts and/or omissions as described in Paragraph 18, above, to
21 occur, which constitutes cause for the suspension or revocation of the licenses and license rights
22 of ENDSLEY pursuant to Sections 10177(g) and/or 10177(h) of the Code.

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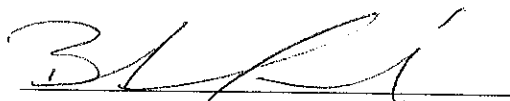
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1 COST RECOVERY

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

7 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
8 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
9 action against all licenses and license rights of Respondents under the Code, for the cost of
10 investigation and enforcement as permitted by law, and for such other and further relief as may
11 be proper under the provisions of law.

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13 BRENDA SMITH
14 Supervising Special Investigator

15 Dated at Fresno, California,
16 this 6 day of March, 2017

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18 DISCOVERY DEMAND

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