

FILED

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BUREAU OF REAL ESTATE

By AL Salorio

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BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

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|                                        |   |                            |
|----------------------------------------|---|----------------------------|
| In the Matter of the Accusation of     | ) | No. H-03091 FR             |
|                                        | ) |                            |
| ATCO PROPERTY MANAGEMENT, INC.;        | ) | <u>A C C U S A T I O N</u> |
| and SAM D. CAUSEY, individually and as | ) |                            |
| designated officer of ATCO Property    | ) |                            |
| Management, Inc.,                      | ) |                            |
|                                        | ) |                            |
| Respondents.                           | ) |                            |

The Complainant, Brenda Smith, a Supervising Special Investigator of the State of California, acting in her official capacity, for cause of Accusation against ATCO PROPERTY MANAGEMENT, INC. ("APMI") and SAM D. CAUSEY ("CAUSEY"), individually and as designated officer of ATCO Property Management, Inc., 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.

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2.

- 1 -

In the Matter of the Accusation of ATCO PROPERTY MANAGEMENT, INC. and SAM D. CAUSEY

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

4 3.

5 A. ATCO PROPERTY MANAGEMENT, INC.: Respondent APMI is  
6 presently licensed and/or has license rights issued by the Bureau of Real Estate as a real estate  
7 corporate broker (license no. 01430796). APMI was originally licensed as a corporate real  
8 estate broker on May 1, 2004. From on or about May 31, 2011 to the present, CAUSEY has  
9 been the designated officer of APML. Lawton Darren Powers ("Powers") (license no.  
10 00879204), who has a restricted real estate broker license, owns APMI and is a broker-  
11 associate of APML.

12 B. SAM D. CAUSEY: Respondent CAUSEY is presently licensed and/or  
13 has license rights issued by the Bureau of Real Estate as a real estate broker (license no.  
14 01196715). On December 8, 2005, CAUSEY was originally licensed as a real estate broker.  
15 From on or about May 15, 1995 to November 15, 1996, CAUSEY had a conditional  
16 salesperson license. From on or about May 10, 1999 to May 14, 1999 and on or about March  
17 8, 2001 to December 7, 2005, CAUSEY was licensed or had license rights issued by the  
18 Bureau of Real Estate as a real estate salesperson.

19 4.

20 Whenever reference is made in an allegation in this Accusation to an act or  
21 omission of "Respondents," such allegation shall be deemed to mean that the officers,  
22 directors, employees, agents, and real estate licensees employed by or associated with  
23 Respondents committed such act or omission while engaged in the furtherance of the business  
24 or operations of Respondents and while acting within the course and scope of their corporate  
25 authority and employment, including, but not limited to, APMI, CAUSEY, and Powers.

26 5.

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

6  
7 FIRST CAUSE OF ACCUSATION

8 (Trust Fund Audit)

9 6.

10 On or about November 29, 2016, the Bureau of Real Estate completed a  
11 property management audit examination of the books and records of APMI to determine  
12 whether APMI handled and accounted for trust funds and conducted its real estate activities in  
13 accordance with the Real Estate Law and Regulations. The audit examination covered a period  
14 of time beginning on March 1, 2015 and ended on March 31, 2016. The audit examination  
15 revealed violations of the Code and the Regulations set forth in the following paragraphs, and  
16 more fully discussed in Audit Report FR15-0031 and the exhibits and work papers attached to  
17 said audit report.

18  
19 Bank Accounts/Trust Accounts

20 7.

21 At all times mentioned, in connection with the activities described in Paragraph  
22 5, above, APMI accepted or received funds including funds in trust ("trust funds") from or on  
23 behalf of actual or prospective parties, such as owners of real property, involved in property  
24 management services, and thereafter made deposits and/or disbursements of such funds. From  
25 time to time herein mentioned, during the audit period, said trust funds were deposited and/or  
26 maintained by APMI in the bank account as follows:

1 "ATCO Property Management, Inc.  
Trust Account"

2 \*\*\*\*\*6535

3 Bank of America

4 P.O. Box 25118

5 Tampa, FL 33622

(T/A #1)

6 "Tenant Deposit (Management Held)

(T/A #2)

7 Unknown

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, Respondents APMI and CAUSEY acted in  
11 violation of the Code and the Regulations as set forth below:

12 (a)(1) Permitted, allowed, or caused the disbursement of trust funds from the  
13 trust account T/A #1 where the disbursement of funds reduced the total of aggregate funds in  
14 T/A #1, to an amount which, on March 31, 2016, was at least \$70,174.27 less than the existing  
15 aggregate trust fund liability to every principal who was an owner of said funds, without first  
16 obtaining the prior written consent of the owners of said funds, in violation of Code section  
17 10145 and Regulations section 2832.1.

18 (b) Failure to reconcile the balance of all separate beneficiary records at  
19 least once a month with the record of all trust funds received and disbursed for T/A #1, in  
20 violation of Code section 10145 and Regulations section 2831.2.

9.

21 The conduct of Respondents APMI and CAUSEY described in Paragraph 8,  
22 above, violated the Code and the Regulations as set forth below:

23 PARAGRAPH

PROVISIONS VIOLATED

24 8(a) Code section 10145 and Regulations section 2832.1

25 8(b) Code section 10145 and Regulations section 2831.2

1 The foregoing violations constitute cause for discipline of the real estate license and license  
2 rights of APMI and CAUSEY under the provisions of Code sections 10177(d), 10177(g),  
3 and/or 10177(j).

4  
5 SECOND CAUSE OF ACCUSATION

6 (Failure to Produce Documents)

7 10.

8 From on or about June 23, 2016 to November 29, 2016, Bureau of Real Estate  
9 auditor Karan Dogra ("Dogra") conducted the audit, described above. In response,  
10 Respondents produced some documents to Dogra, but failed to produce all the documents  
11 pertaining to the bank account/trust account called "Tenant Deposit (Management Held),"  
12 including, but not limited to, bank records, checks, and receipts.

13 11.

14 Based on the foregoing, Respondents APMI and CAUSEY failed to retain for  
15 three (3) years a copy of all documents in connection with any transactions for which a real  
16 estate broker license is required, in violation of Code section 10148.

17  
18 THIRD CAUSE OF ACCUSATION

19 (Prior Real Estate License Discipline)

20 12.

21 On or about December 29, 2014, the Bureau of Real Estate, in the Matter of the  
22 Accusation of ATCO PROPERTY MANAGEMENT, INC. and SAM D. CAUSEY,  
23 individually and as designated officer of ATCO Property Management, Inc., BRE case no. H-  
24 02845 FR and OAH case no. 2013120390, filed a Decision adopting the Stipulation and  
25 Agreement, thereby suspending the licenses and license rights of APMI and CAUSEY for a  
26 period of sixty (60) days with this suspension stayed pursuant to certain terms and conditions,  
27

1 including, but not limited, to the obeying of all laws, rules, and regulations governing the  
2 rights, duties, and responsibilities of real estate licensees in the State of California. The  
3 Accusation filed therein on or about November 22, 2013 was based, in part, on the following:

- 4 • Trust account shortages of \$70,534.68 on September 30, 2012, \$71,086.29  
5 on October 31, 2012, and \$78,776.24 on November 30, 2012 without  
6 obtaining written consent of the owners of the trust fund, in violation of  
7 Code section 10145 and Regulations section 2832.1, and
- 8 • Failure to reconcile the balance of all separate beneficiary records with the  
9 record of all trust funds received and disbursed, in violation of Code section  
10 10145 and Regulations section 2831.2

11 13.

12 The disciplinary action and Respondents' conduct as alleged in Paragraph 12,  
13 above, constitute cause for discipline of the real estate license and license rights of APMI and  
14 CAUSEY under the provisions of Code sections 10177(d), 10177(f), and/or 10177(g).

15  
16 FOURTH CAUSE OF ACCUSATION

17 (Supervision and Compliance)

18 14.

19 The overall conduct of Respondent CAUSEY constitutes a failure on said  
20 CAUSEY's part, as officer designated by a corporate broker licensee, to exercise the  
21 reasonable supervision and control over the licensed activities of APMI and APMI  
22 owner/broker-associate Powers, who wrote disbursed most, if not all, of the funds from T/A #1,  
23 as required by Code sections 10159.2, and to keep APMI in compliance with the Real Estate  
24 Law.

25 ///

26 ///

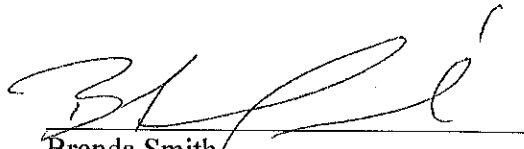
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2 15.

3 APMI and CAUSEY's conduct as alleged in Paragraphs 3-14, above, is cause  
4 for discipline of the real estate license and real estate license rights of Respondent CAUSEY  
5 pursuant to Code sections 10177(d), 10177(g), and 10177(h) and Regulations section 2725.

6 WHEREFORE, Complainant prays that a hearing be conducted on the  
7 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing  
8 disciplinary action against the license and license rights of Respondents ATCO PROPERTY  
9 MANAGEMENT, INC. and SAM D. CAUSEY, individually and as designated officer of  
10 ATCO Property Management, Inc., under the Real Estate Law (Part 1 of Division 4 of the  
11 California Business and Professions Code), for the cost of investigation and enforcement  
12 pursuant to Code section 10106 and as permitted by law, and for such other and further relief as  
13 may be proper under other applicable provisions of law, including, but not limited to, costs of  
14 audit pursuant to Code section 10148(b).

15 Dated at Fresno, California: February 6, 2017.

16  
17   
18 Brenda Smith  
19 Supervising Special Investigator

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21  
22  
23  
24 cc: ATCO Property Management, Inc.  
25 Sam D. Causey  
26 Brenda Smith  
27 Sacto  
Enforcement  
Audits – Karan Dogra