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FILED

MAR 20 2017

BUREAU OF REAL ESTATE
By B. Nicholas

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 SOLDAVI REALTY, INC., and ARMANDO)
13 DIAZ,)
14 Respondents.)

CalBre No. H-3094 FR
ACCUSATION

15 The Complainant, THOMAS D. CAMERON, a Supervising Auditor of the State
16 of California, for cause of Accusation against SOLDAVI REALTY, INC., and ARMANDO
17 DIAZ (collectively "Respondents"), are informed and allege as follows:

18 PRELIMINARY ALLEGATIONS

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20 The Complainant, THOMAS D. CAMERON, a Supervising Auditor of the State
21 of California, makes this Accusation in his official capacity.

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23 Respondents are presently licensed and/or have 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, Respondent SOLDAVI REALTY, INC. (SOLDAVI) was and is licensed by the State of California Bureau of Real Estate (Bureau) as a real estate broker corporation.

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At all times mentioned, Respondent ARMANDO DIAZ (DIAZ) was and is licensed by the Bureau individually as a real estate broker, and as the designated broker officer of SOLDAVI. As said designated broker officer, DIAZ was 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 SOLDAVI for which a license is required.

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Whenever reference is made in an allegation in this Accusation to an act or omission of SOLDAVI, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with SOLDAVI committed such acts or omissions while engaged in furtherance of the business or operation of SOLDAVI and while acting within the course and scope of their corporate authority and employment.

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At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers in the State of California, within the meaning of Section 10131(b) of the Code in 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 placed for rent, and solicited listings of places for 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 On or about December 12, 2016, and continuing intermittently through
7 January 27, 2017, an audit was conducted of the records of SOLDAVI. The auditor herein
8 examined the records for the period of December 1, 2015, through November 30, 2016.

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

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16 The trust funds accepted or received by Respondents as described in Paragraph 9
17 were deposited or caused to be deposited by Respondents into trust accounts which were
18 maintained by Respondents for the handling of trust funds, and thereafter from time-to-time
19 Respondents made disbursements of said trust funds, identified as follows:

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21 TRUST ACCOUNT # 1	
22 Bank Name and Location:	Wells Fargo 3538 G Street 23 Merced, CA 95340
24 Account No.:	XXXXXX2677
25 Entitled:	Soldavi Realty Inc Trustee – Real Estate Trust Account

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BANK ACCOUNT # 1	
Bank Name and Location:	Wells Fargo 3538 G Street Merced, CA 95340
Account No.:	XXXXXX8556
Entitled:	Soldavi Realty Inc

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

- (a) caused, suffered, or permitted the combined balance of funds in Trust Account #1 and Bank Account #1 to be reduced to an amount which, as of November 24, 2016, was approximately \$6,598.22 less than the combined aggregate liability of Trust Account #1 and Bank Account #1 to all owners of such funds in violation of Section 10145 of the Code and Section 2832.1 of Title 10 of the California Code of Regulations (Regulations);
- (b) failed to deposit trust funds into one or more trust funds accounts in the name of SOLDAVI as trustee at a bank or other financial institution, in conformance with Section 10145 of the Code and Section 2832 of the Regulations;
- (c) failed to maintain an accurate columnar record in chronological sequence of all trust funds received and disbursed from Bank Account #1 containing all required information, in violation of Section 2831 of the Regulations;
- (d) failed to keep accurate separate records for each beneficiary or transaction, accounting therein for all funds which were deposited into Trust Account # 1 and Bank Account #1, containing all of the information required by Section 2831.1 of the Regulations; and
- (e) 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 Trust Account #1 and Bank Account #1, as required by Section 2831.2 of the Regulations;

1 (f) failed to place trust funds received into the hands of the principal, into a
2 neutral escrow depository, or into a trust fund account within three days of receipt, in violation of
3 Section 2832 of the Regulations; and

4 (g) converted approximately \$1,969.38 of trust funds from Trust Account #1
5 and Bank Account #1 to Respondent's own use and benefit or to purposes not authorized by the
6 rightful owners of said funds.

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8 The facts alleged in the First Cause of Action are grounds for the suspension or
9 revocation of Respondents' licenses and license rights under the following Sections of the Code
10 and Regulations:

11 As to Paragraph 11(a), under Section 10177(d) and/or 10177(g) of the Code in
12 conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

13 As to Paragraphs 11(b) and 11(f), under Sections 10177(d) and/or 10177(g) of
14 the Code in conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

15 As to Paragraph 11(c), under Sections 10177(d) and/or 10177(g) of the Code in
16 conjunction with Section 10145 of the Code and Section 2831 of the Regulations;

17 As to Paragraph 11(d), under Sections 10177(d) and/or 10177(g) of the Code in
18 conjunction with Section 10145 of the Code and Section 2831.1 of the Regulations; and

19 As to Paragraph 11(e), under Sections 10177(d) and/or 10177(g) of the Code in
20 conjunction with Section 10145 of the Code and Section 2831.2 of the Regulations; and

21 As to Paragraph 11(g), under Sections 10176(i) and 10177(g) of the Code

22 SECOND CAUSE OF ACTION

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24 Each and every allegation in Paragraphs 1 through 12, inclusive, is incorporated
25 by this reference as if fully set forth herein.

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Respondent DIAZ failed to exercise reasonable supervision over the acts of SOLDAVI in such a manner as to allow the acts and events described above to occur.

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The acts and/or omissions of DIAZ as described in Paragraph 14, constitutes failure on the part of DIAZ, as designated broker-officer for SOLDAVI, to exercise reasonable supervision and control over the licensed activities of SOLDAVI as required by Section 10159.2 of the Code and Section 2725 of the Regulations.

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The facts described above as to the Second Cause of Action constitute cause for the suspension or revocation of the licenses and license rights of Respondent DIAZ under Section 10177(g) and/or Section 10177(h) of the Code, and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

COST RECOVERY

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The acts and/or omissions of Respondents as alleged above, entitle the Bureau to reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund handling violation) of the Code.

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

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing discipline on all
3 licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the
4 Business and Professions Code), for the cost of the investigation and enforcement of this case as
5 permitted by law, for the cost of the Bureau's audit as permitted by law, and for such other and
6 further relief as may be proper under the provisions of law.

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10 THOMAS D. CAMERON
11 Supervising Auditor

12 Dated at Sacramento, California,
13 this 8th day of March, 2017

14 DISCOVERY DEMAND

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