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FILED

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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 DOUGLAS GERRY MATTHEWS and
13 JOHN RYAN MLOTKOWSKI,
14 Respondents.

No. H-3110 FR

ACCUSATION

15 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the
16 State of California, for Accusation against Respondents DOUGLAS GERRY MATTHEWS
17 (MATTHEWS) and JOHN RYAN MLOTKOWSKI (MLOTKOWSKI), sometimes collectively
18 referred to as Respondents, is informed and alleges as follows:

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20 The Complainant makes this Accusation against Respondents in her official
21 capacity.

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23 MATTHEWS is presently licensed and/or has license rights under the Real
24 Estate Law, Part 1 of Division 4 of the California Business and Professions Code (Code), by the
25 Bureau of Real Estate (Bureau) as a real estate broker doing business as JRM Property
26 Management.

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2 MLOTKOWSKI is presently licensed and/or has license rights under the Code as
3 a real estate salesperson.

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

14 FIRST CAUSE OF ACTION

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16 Complainant refers to Paragraphs 1 through 4, above, and incorporates the same.

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18 Beginning on November 17, 2016, and continuing intermittently through
19 December 28, 2016, an audit was conducted at MATTHEWS' main office located at 1704 E.
20 Bullard Ave. Fresno, California, and at the Bureau's district office located at 2550 Mariposa
21 Mall, Fresno, California, where the auditor examined records for the period of November 1,
22 2015, through October 31, 2016 (the audit period).

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24 While acting as a real estate broker as described in Paragraph 4, above, and
25 within the audit period, MATTHEWS accepted or received funds in trust (trust funds) from or
26 on behalf of property owners, lessees and others in connection with property management
27 activities, and deposited or caused to be deposited those funds into bank accounts maintained by

MATTHEWS, at Tri Counties Bank, 7020 N. Marks Ave., Suite 101, Fresno, California 93710,
as described below:

BANK ACCOUNT #1	
Account No.:	XXXX1443
Entitled:	John Ryan Mlotkowski Property Management
BANK ACCOUNT #2	
Account No.:	XXXX9205
Entitled:	John Ryan Mlotkowski Property Management
BANK ACCOUNT #3	
Account No.:	XXXX9187
Entitled:	John Ryan Mlotkowski Property Management

and thereafter from time-to-time made disbursement of said trust funds.

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In the course of the activities described in Paragraph 4, in connection with the collection and disbursement of trust funds, it was determined that:

(a) Respondents failed to designate Bank Account #1, Bank Account #2 and Bank Account #3 as trust accounts as required by Section 2832 of the Regulations and Section 10145 of the Code;

(b) An accountability was performed on Bank Account #2 and as of October 31, 2016, a shortage of \$1,018.00 was revealed, in violation of Section 10145 of the Code;

(c) An accountability was performed on Bank Account #3 and as of October 31, 2016, a shortage of \$15,384.71 was revealed, in violation of Section 10145 of the Code;

(d) Respondents failed to obtain written permission from owners of trust funds in Bank Account #2 and Bank Account #3, to allow the balance to drop below accountability, in violation of Section 2832.1 of the Regulations;

1 (e) Respondents failed to maintain separate beneficiary records for Bank
2 Account #1 as required by Section 2831.1 of the Regulations;

3 (f) Respondents failed to perform monthly reconciliations of the separate
4 beneficiary records and control records for Bank Account #1, as required by Section 2831.2 of
5 the Regulations;

6 (g) MLOTKOWSKI made four (4) withdrawals for the personal use of
7 MLOTKOWSKI and/or his wife, and failed to record these transactions in the control records or
8 separate beneficiary records, in violation of Sections 2831 and 2831.1 of the Regulations;

9 (h) MLOTKOWSKI used an unregistered dba, JRM Property Management,
10 in violation of Section 2731 of the Regulations;

11 (i) MATTHEWS failed to maintain salesperson agreements as required by
12 Section 2726 of the Regulations; and

13 (j) MATTHEWS failed to disclose his ownership of a business,
14 "Apartment Maintenance Group", that provided maintenance and repairs on properties that he
15 managed, in violation of Sections 10176 (a) and 10176 (i) of the Code.

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17 The acts and/or omissions described above constitute violations of Sections 2726
18 (salesperson agreement), 2731 (register fictitious business name), 2831 (control records), 2831.1
19 (separate beneficiary records), 2831.2 (monthly reconciliations), and 2832.1 (written permission
20 balance below accountability) of the Regulations and of Sections 10145 (trust fund handling),
21 10176(a) (substantial misrepresentation), and 10176(i) (other conduct: fraud/dishonest dealing)
22 of the Code, and are grounds for discipline under Sections 10176(a), 10176(i), 10177(d) (willful
23 disregard of real estate laws), and 10177(g) (negligence/incompetence licensee) of the Code.

24 SECOND CAUSE OF ACTION

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26 Complainant refers to Paragraphs 1 through 9, above, and incorporates the same,
27 herein, by reference.

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4 The audit described above, in Paragraph 9 (e), revealed that MLOTKOWSKI
5 withdrew trust funds for his personal use as set forth below:

Date	Check Number	Amount
9/18/15	4048	\$5,000.00
9/30/15	4049	\$5,000.00
12/31/15	4063	\$5,000.00
4/20/16	4085	\$2,000.00
TOTAL WITHDRAWALS		\$17,000.00
	Deposits	\$1,800.00
NET UNPAID		\$15,200.00

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15 The acts and/or omissions described above constitute violations of Section 10176
16 (i) of the Code, and are grounds for discipline under Sections 10176(i), 10177(d) (willful
17 disregard of real estate laws), and 10177(g) (negligence/incompetence licensee) of the Code.

18 THIRD CAUSE OF ACTION

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20 Complainant refers to Paragraphs 1 through 12, above, and incorporates them
21 herein by reference.

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23 At all times herein above mentioned, MATTHEWS was responsible, as the
24 supervising broker/officer for MLOTKOWSKI, for the supervision and control of the activities
25 conducted on behalf of MATTHEWS' business by its employees to ensure its compliance with
26 the Real Estate Law and Regulations. MATTHEWS failed to exercise reasonable supervision
27 and control over the property management activities of MLOTKOWSKI. In particular,

1 MATTHEWS permitted, ratified and/or caused the conduct described above to occur, and failed
2 to take reasonable steps, including but not limited to, the handling of trust funds, supervision of
3 employees, and the implementation of policies, rules, and systems to ensure the compliance of
4 the business with the Real Estate Law and the Regulations.

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6 The above acts and/or omissions of MATTHEWS violate Section 2725 (broker
7 supervision) of the Regulations and constitute grounds for disciplinary action under the
8 provisions of Sections 10177(d), 10177(g) and 10177(h) (broker supervision) of the Code.

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10 Audit Costs

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

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15 Costs of Investigation and Enforcement

16 Section 10106 of the Code provides, in pertinent part, that in any order issued in
17 resolution of a disciplinary proceeding before the Bureau, the commissioner may request the
18 administrative law judge to direct a licensee found to have committed a violation of this part to
19 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 of this
2 Accusation and that upon proof thereof a decision be rendered imposing disciplinary action
3 against all licenses and license rights of Respondents under the Real Estate Law, and for such
4 other and further relief as may be proper under other provisions of law.

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7 BREND A SMITH

8 Supervising Special Investigator

9 Dated at Fresno, California,

10 this 7 day of July, 2017.
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