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**FILED**

JUN 14 2017

BUREAU OF REAL ESTATE

By B. Nicholas

7  
8 BEFORE THE BUREAU OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of  
12 EL DORADO REALTY COMPANY, and  
13 ZACHARY PHILIP GOLDMAN,  
14 Respondents.

No. H- 3120 FR  
ACCUSATION

15 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the  
16 State of California, for Accusation against EL DORADO REALTY COMPANY (EDR) and  
17 ZACHARY PHILIP GOLDMAN (GOLDMAN), collectively RESPONDENTS, is informed  
18 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 EDR is presently licensed and/or has license rights by the Bureau of Real Estate  
24 (Bureau), under the California Business and Professions Code (Code) as a corporate real estate  
25 broker.

26 3

27 GOLDMAN is presently licensed by the Bureau as a real estate broker.

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2 At all times mentioned, GOLDMAN was the designated broker-officer of EDR.  
3 As the designated broker-officer, GOLDMAN was responsible, pursuant to Section 10159.2 of  
4 the Code, for the supervision of the activities of officers, agents, real estate licensees and  
5 employees of EDR for which a real estate license is required to ensure the compliance of the  
6 corporation with the Real Estate law and the Regulations.

7 5

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

16 FIRST CAUSE OF ACTION

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18 Complainant refers to Paragraphs 1 through 5, above, and incorporates the same,  
19 herein, by reference.

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21 Beginning on August 29, 2016, and continuing intermittently through December  
22 15, 2016, an audit was conducted at EDR's office located on 824 Munras Avenue, Monterey,  
23 California, where the auditor examined records for the period of January 1, 2015, through July  
24 31, 2016 (the audit period).

25 8

26 While acting as a real estate broker as described in Paragraph 5, above, and  
27 within the audit period, RESPONDENTS accepted or received funds in trust (trust funds) from

1 or on behalf of property owners, lessees and others in connection with property management  
2 activities, deposited or caused to be deposited those funds into bank accounts maintained by  
3 RESPONDENTS at 1<sup>st</sup> Capital Bank, 300 Bontifacio Place, Monterey, California as described  
4 below:

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BANK ACCOUNT #1	
6 Account No.:	XXXXXX2001
7 Entitled:	El Dorado Realty Company dba Goldman Realty Company

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BANK ACCOUNT #2	
10 Account No.:	XXXXXX2019
11 Entitled:	El Dorado Realty Company dba Goldman Realty Company

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

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

18 (a) RESPONDENTS failed to designate Bank Account #1 and Bank Account #2  
19 as trust accounts, in violation of Section 2832 of the Regulations and Section  
20 10145(a) of the Code;

21 (b) During an accountability performed on Bank Account #1, and as of July 29,  
22 2016, a shortage of \$7,182.44 was revealed, in violation of Section 10145 of the  
23 Code;

24 (c) During an accountability performed on Bank Account #2, and as of  
25 July 29, 2016, a shortage of \$10.00 was revealed, in violation of Section 10145  
26 of the Code;

- 1 (d) RESPONDENTS failed to obtain written permission from owners of trust  
2 funds in Bank Account #1 and Bank Account #2 to allow the balance to drop  
3 below accountability, in violation of Section 2832.1 of the Regulations;  
4 (e). RESPONDENTS failed to maintain correct control records for Bank Account  
5 #1 as required by Section 2831 of the Regulations;  
6 (f) RESPONDENTS failed to maintain correct separate beneficiary records for  
7 Bank Account #1 as required by Section 2831.1 of the Regulations;  
8 (g) RESPONDENTS failed to conduct monthly reconciliations of control records  
9 and separate beneficiary records for Bank Account #1 and Bank Account #2, as  
10 required by Section 2831.2 of the Regulations;  
11 (h) RESPONDENTS mixed trust funds with personal funds in Bank Account #1,  
12 violation of Section 10176(e) of the Code; and  
13 (i) RESPONDENTS conducted property management activities under the  
14 fictitious business names "Goldman Property Management" and "Goldman  
15 Realty Company" without obtaining a license from the Bureau in violation of  
16 Section 2731 of the Regulations and Section 10159.5 of the Code.

17 10

18 The acts and/or omissions described above constitute violations of Sections 2731  
19 (fictitious business name), 2831 (control records), 2831.1 (separate beneficiary records), 2831.2  
20 (monthly reconciliations), 2832 (trust fund designation) and 2832.1 (written permission balance  
21 below accountability) of the Regulations and of Sections 10145 (trust fund handling) and  
22 10176(e) (commingling) of the Code, and are grounds for discipline under Sections 10177(d)  
23 (willful disregard of real estate laws) and 10177(g) (negligence/incompetence licensee) of the  
24 Code.

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SECOND CAUSE OF ACTION

Complainant refers to Paragraphs 1 through 10, above, and incorporates the same herein.

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At all times herein above mentioned, GOLDMAN was responsible, as the supervising designated broker/officer for EDR, for the supervision and control of the activities conducted on behalf of EDR's business by its employees to ensure its compliance with the Real Estate Law and Regulations. GOLDMAN failed to exercise reasonable supervision and control over the property management activities of EDR. In particular, GOLDMAN permitted, ratified and/or caused the conduct described above to occur, and failed to take reasonable steps, including but not limited to, the handling of trust funds, supervision of employees, and the implementation of policies, rules, and systems to ensure the compliance of the business with the Real Estate Law and the Regulations.

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The above acts and/or omissions of GOLDMAN violate Section 2725 (broker supervision) of the Regulations and Section 10159.2 (responsibility/designated officer) of the Code and constitute grounds for disciplinary action under the provisions of Sections 10177(d), 10177(g) and 10177(h) (broker supervision) of the Code.

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Audit Costs


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

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Costs of Investigation and Enforcement

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.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other provisions of law.



BRENDA SMITH  
Supervising Special Investigator

Dated at Fresno, California,

this 9 day of June, 2017.