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FILED

NOV 21 2017

BUREAU OF REAL ESTATE

By H. Diaz

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
)
12)

13 SLOAN REALTY, INC., and DIANA F.)
RAINERI)

14 Respondents.)
)

No. H-3130 FR

ACCUSATION

15 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the
16 State of California, for cause of Accusation against SLOAN REALTY, INC. (SLOAN) and
17 DIANA F. RAINERI (RAINERI) (collectively "Respondents"), is informed and alleges as
18 follows:

19 PRELIMINARY ALLEGATIONS

20 1

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

23 2

24 Respondents are presently licensed and/or has license rights under the Real
25 Estate Law, Part 1 of Division 4 of the Business and Professions Code (Code).

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1 3

2 At all times mentioned, SLOAN was and is licensed by the State of California
3 Bureau of Real Estate (Bureau) as a real estate broker corporation.

4 4

5 During the period of June 13, 2016, through January 23, 2017, there was no
6 designated officer/broker affiliated with SLOAN. Prior to June 13, 2016, Charles Martin
7 Gragnani ("Gragnani"), licensed as a real estate broker, was the designated officer/broker for
8 SLOAN. Gragnani passed away on June 13, 2016. Beginning January 24, 2017, and continuing
9 thereafter, Christopher Lindemann (Lindemann), licensed as a real estate broker, was and is the
10 designated officer/broker for SLOAN.

11 5

12 At all times mentioned, RAINERI was and is licensed by the Bureau as a real
13 estate salesperson. At all times mentioned prior to June 13, 2016, RAINERI was licensed in the
14 employ of SLOAN. From June 13, 2016 through February 6, 2017 RAINERI did not have an
15 employing broker. Beginning February 7, 2017, RAINERI was employed by Lindemann. At no
16 time mentioned was RAINERI licensed as a real estate broker.

17 6

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

23 7

24 At all times mentioned, Respondents engaged in the business of, acted in the
25 capacity of, advertised, or assumed to act as real estate brokers in the State of California, within
26 the meaning of Section 10131(b) of the Code in the operation and conduct of a property
27 management business with the public wherein, on behalf of others, for compensation or in

1 expectation of compensation, Respondents leased or rented and offered to lease or rent, and
2 placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of
3 real property or improvements thereon, and collected rents from real property or improvements
4 thereon.

5 FIRST CAUSE OF ACTION

6 8

7 Each and every allegation in Paragraphs 1 through 7, inclusive, is incorporated by
8 this reference as if fully set forth herein.

9 9

10 On or about February 16, 2017, and continuing intermittently through
11 May 1, 2017, an audit was conducted of the records of SLOAN. The auditor herein examined the
12 records for the period of February 1, 2016, through January 31, 2017.

13 10

14 While acting as a real estate broker as described in Paragraph 7, SLOAN accepted
15 or received funds in trust (trust funds) from or on behalf of owners and tenants in connection
16 with the leasing, renting, and collection of rents on real property or improvements thereon, as
17 alleged herein, and thereafter from time to time made disbursements of said trust funds.

18 11

19 The trust funds accepted or received by SLOAN as described in Paragraph 10
20 were deposited or caused to be deposited by SLOAN into trust accounts which were maintained
21 by SLOAN for the handling of trust funds, and thereafter from time-to-time SLOAN made
22 disbursements of said trust funds, identified as follows:

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ACCOUNT # 1	
Bank Name and Location:	WestAmerica Bank 953 W. Pacheco Blvd. Los Banos, CA 93635
Account No.:	XXX-XX996-5
Entitled:	Sloan Realty Inc Property Management Account
ACCOUNT # 2	
Bank Name and Location:	WestAmerica Bank 953 W. Pacheco Blvd. Los Banos, CA 93635
Account No.:	XXX-XX013-5
Entitled:	Sloan Realty, Inc Client Trust Account

12

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

(a) caused, suffered, or permitted the balance of funds in Account #1 to be reduced to an amount which, as of January 31, 2017, was approximately \$1,312.72 less than the aggregate liability of Account #1 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 Respondent as trustee at a bank or other financial institution, in conformance with Section 10145 of the Code and Section 2832 of the Regulations;

(c) commingled with its own money or property, the money or property of others which was received or held by SLOAN in trust in violation of Section 10176(e) of the Code;

(d) caused, permitted, and/or allowed, the possible withdrawal of trust funds from Accounts # 1 and 2 by a person, Stephen Sloan, who was not licensed to the broker and not covered by a fidelity bond in violation of Section 2834 of the Regulations and Section 10145 of the Code;

1 (e) failed to maintain an accurate written control record, for Accounts #1 and
2 2 of all trust funds received and disbursed, containing all information required by Section 2831
3 of the Regulations;

4 (f) failed to keep accurate separate records for each beneficiary or transaction,
5 accounting therein for all funds which were deposited into Accounts # 1 and 2, containing all of
6 the information required by Section 2831.1 of the Regulations and Section 10145(g) of the Code;

7 (g) failed to reconcile, for Accounts # 1 and 2, the balance of separate
8 beneficiary or transaction records with the control record of trust funds received and disbursed at
9 least once a month, and/or failed to maintain a record of such reconciliations for each account as
10 required by Section 2831.2 of the Regulations; and

11 (h) failed to obtain written agreements with real estate salesperson
12 RAINERI, in violation of Section 2726 of the Regulations.

13 13

14 The facts alleged in the First Cause of Action are grounds for the suspension or
15 revocation of SLOAN's licenses and license rights under the following sections of the Code and
16 Regulations:

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

19 As to Paragraph 11(b), under Section 10177(d) and/or 10177(g) of the Code in
20 conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

21 As to Paragraph 11(c), under Section 10176(e) of the Code;

22 As to Paragraph 11(d), under Sections 10177(d) and/or 10177(g) of the Code in
23 conjunction with Section 2834 of the Regulations and Section 10145 of the Code;

24 As to Paragraph 11(e), under Sections 10177(d) and/or 10177(g) of the Code in
25 conjunction with Section 2831 of the Regulations;

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

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

3 As to Paragraph 11(h), under Sections 10177(d) and/or 10177(g) of the Code in
4 conjunction with Section 2726 of the Regulations.

5 SECOND CAUSE OF ACTION

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7 Each and every allegation in Paragraphs 1 through 13, inclusive, above, are
8 incorporated by this reference as if fully set forth herein.

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10 During the period from June 13, 2016, through January 23, 2017, there was no
11 designated officer/broker affiliated with Respondent. However, Respondents continued to
12 perform activities requiring a real estate license while SLOAN's corporate real estate broker
13 license was in a non-working status, and RAINERI had no employing broker. Specifically,
14 Respondents negotiated and entered into approximately twelve lease agreements and related
15 "Notice of Change in Terms of Tenancy", including but not limited to the following:

16

Date	Activity	Property
6/24/16	Notice of Change in Terms of Tenancy	749 Savignon Blanc, Los Banos
6/21/16	Notice of Change in Terms of Tenancy	831 Amelia, Los Banos
6/21/16	Notice of Change in Terms of Tenancy	1763 Fir, Los Banos
6/21/16	Notice of Change in Terms of Tenancy	1843 Sonoma, Los Banos
6/22/16	Residential Lease	366 Honeybell, Los Banos
6/28/16	Notice of Change in Terms of Tenancy	495 Winemaker, Los Banos
8/1/16	Notice of Change in Terms of Tenancy	1373 Chamberlain, Los Banos
8/9/16	Notice of Change in Terms of Tenancy	720 Elmwood, Los Banos
9/7/16	Notice of Change in Terms of Tenancy	1430 San Rafael, Los Banos
10/27/16	Residential Lease	749 Waterford, Los Banos
11/28/16	Residential Lease	752 Sprig, Los Banos
12/19/16	Residential Lease	718 Cabernet, Los Banos

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25 16

26 The acts and/or omissions of Respondents as set forth in Paragraph 14, above, violate
27 Section 2740 of the Regulations and Section 10130 of the Code, and are grounds for the

1 discipline of Respondents' license and license rights under Sections 10177(d) and/or 10177(g)
2 of the Code.

3 COST RECOVERY

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5 The acts and/or omissions of SLOAN as alleged above, entitle the Bureau to
6 reimbursement of the costs of its audit pursuant to Section 10148(b) of the Code.

7 18

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

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

17 
18 BREND A SMITH
19 Supervising Special Investigator

20 Dated at Fresno, California,
21 this 16 day of November, 2017

22
23 DISCOVERY DEMAND

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