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1	ADRIANA Z. BADILAS, Counsel (SBN 283331)		
2	Bureau of Real Estate DEC 08 2017 P. O. Box 137007 BUREAU OF REAL ESTATE		
3	Sacramento, CA 95813-7007 Butter		
4	Telephone: (916) 263-8672		
5	-or- (916) 263-8675 (Direct)		
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8	BEFORE THE BUREAU OF REAL ESTATE		
9	STATE OF CALIFORNIA		
10	* * *		
11	In the Matter of the Accusation of:) No. H-3140 FR		
12	LAWRENCE CECIL RUMBECK, and)		
13	BP REALTY, INC.,) <u>ACCUSATION</u>)		
14			
15	Respondents.		
16			
17	The Complainant, BRENDA SMITH, in her official capacity as a Supervising		
18	Special Investigator of the State of California, Bureau of Real Estate ("Bureau"), brings this		
19	Accusation against LAWRENCE CECIL RUMBECK ("RUMBECK") and BP REALTY, INC.		
20	("BPRI"), (collectively "Respondents"), and is informed and alleges as follows:		
21	1		
22	BPRI is presently licensed by the Bureau and/or has license rights under the Real		
23	Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code"), as a		
24	corporate real estate broker.		
25	2		
26	RUMBECK is presently licensed by the Bureau and/or has license rights under the		
27	Code.		
	899D (C.L. 1933)		

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1 3 2 Starting on or about November 27, 2013, RUMBECK became the designated 3 officer for BPRI and has been the designated officer thereafter. 4 4 5 At all times relevant herein, Respondents engaged in the business of, acted in the 6 capacity of, advertised or assumed to act as real estate licensees within the State of California within 7 the meaning of Section 10131(b) of the Code including the operation and conduct of a property 8 management business with the public, wherein, on behalf of others, for compensation or in 9 expectation of compensation, Respondents leased or rented or offered to lease or rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real 10 11 property or improvements thereon. 12 5 13 Whenever reference is made in this Accusation to an act or omission of BPRI, such allegation shall be deemed to mean that the employees, agents and real estate licensees employed 14 15 by or associated with BPRI committed such act or omission while engaged in furtherance of the 16 business or operations of BPRI and while acting within the course and scope of their authority and 17 employment. 18 6 19 Beginning on or about October 17, 2016, and continuing intermittently through 20 January 11, 2017, an audit was conducted of the real estate business activities of BPRI, located at 21 1505 Geer Rd., Turlock, CA 95380. The auditor examined the business records of BPRI for the 22 period of September 1, 2015, through September 30, 2016, ("the audit period"). 23 7 24 While engaging in the real estate activities described in Paragraph 4, above, and 25 within the audit period, Respondents accepted or received funds in trust ("trust funds") and 26 deposited or caused the trust funds to be deposited into accounts maintained as follows: 27 ///

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1	Trust Account #1		
2	Bank Name:	WestAmerica Bank	
3		2891 Geer Rd., Turlock, CA	
4	Account Name:	BP Realty Inc DBA Landlord's Property Management CO.	
5		Common Client Trust Account	
6	Account No.:	Last 4 Digits: 8454	
7	Description:	Handle property management activities, including deposit	
8		rents and owners' contributions, and disbursements.	
9			
10			
11	Trust Account #2		
12	Bank Name:	Oak Valley Community Bank	
13		2001 Geer Rd., Turlock, CA	
14	Account No.:	Last 4 Digits: 2880	
15		8	
16	In the course of the real estate activities described in Paragraph 4, above, and during		
17	the audit period, it was discovered:		
18	(a) As of September 30, 2016, Trust Account #1 contained a shortage of		
19	\$13,114.43 and Trust Account #2 contained a shortage of \$2,513.68, in violation of Section 10145		
20	of the Code;		
21	(b) Respondents failed to obtain written permission from owners of trust funds in		
22	Trust Account #1 and Trust Account #2 to allow the balance to drop below accountability, in		
23	violation of Section 2832.1, Title 10, of the California Code of Regulations ("Regulations");		
24	(c) Respondents failed to maintain monthly reconciliations of the separate		
25	beneficiary records and control records for Trust Account #1 and Trust Account #2, in violation of		
26	Sections 2831 and 2831.2 of the Regulations;		
27	(d) Respondents used Landlord's Property Management Co., a fictitious business		

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name, without first registering the fictitious business name with the Bureau, in violation of Section 2 10159.5 of the Code, and Section 2731 of the Regulations; and

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RUMBECK, as designated officer, failed to exercise reasonable supervision (e) over the handling of trust funds by BPRI, in violation of Section 10159.2 of the Code, and Section 2725 of the Regulations.

GROUNDS FOR DISCIPLINE

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The acts and/or omissions of Respondents, as described above in Paragraph 8(a) through 8(d), constitute violations of Sections 10145 (trust fund handling) and 10177(d) (willfully disregarding of violating real estate law) of the Code, in conjunction with Sections 2731 (using an unregistered fictitious business name), 2831.2 (trust account reconciliation), and 2832.1 (trust account accountability and balance) of the Regulations.

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14 The acts and/or omissions of RUMBECK, as described above in Paragraph 8(e), 15 further constitute violations of Section 10159.2 (broker supervision) of the Code, in conjunction 16 with Sections 2725 (broker supervision) of the Regulations.

AUDIT COSTS

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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 violations) of the Code.

COST OF INVESTIGATION AND ENFORCEMENT

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24 Section 10106 of the Code provides, in pertinent part, that in any order issued in 25 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 26 27 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 revoking all licenses and license rights of Respondents under the Real Estate Law, for the cost of investigation and enforcement as permitted by law, for the cost of the audit as permitted by law, and for such other and further relief as may be proper under other provisions of law.

BRENDA SMITH Supervising Special Investigator

9 Dated at Fresno, California,

this 5 day of December, 2017.

DISCOVERY DEMAND

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