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**FILED**

MAY 11 2018

BUREAU OF REAL ESTATE

By B. Nicholas

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of

RENTAL MANAGEMENT INC., and  
JERRY DALE SHEWEY,

Respondents.

CalBre No. H-3172 FR

ACCUSATION

The Complainant, BRENDA SMITH, a Supervising Special Investigator of the State of California, for cause of Accusation against RENTAL MANAGEMENT INC., and JERRY DALE SHEWEY (collectively "Respondents"), are informed and allege as follows:

PRELIMINARY ALLEGATIONS

1

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

2

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

3

At all times mentioned, Respondent RENTAL MANAGEMENT INC. (RMI) was and is licensed by the State of California Bureau of Real Estate (Bureau) as a real estate broker corporation.

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

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

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.

#### FIRST CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 6, inclusive, is incorporated by this reference as if fully set forth herein.

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On or about July 20, 2017, and continuing intermittently through October 11, 2017, an audit was conducted of the records of RMI. The auditor herein examined the records for the period of July 1, 2016, through June 30, 2017.

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

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

BANK ACCOUNT # 1	
Bank Name and Location:	WestAmerica Bank 490 W. Olive Avenue Merced, CA 95348
Account No.:	XXX-XX801-5
Entitled:	Rental Management Inc. (Owners Account)
TRUST ACCOUNT # 1	
Bank Name and Location:	WestAmerica Bank 490 W. Olive Avenue Merced, CA 95348
Account No.:	XXX-XX953-2
Entitled:	Rental Management Inc. Deposit Trust

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

(a) caused, suffered, or permitted the balance of funds in Bank Account #1 to be reduced to an amount which, as of June 30, 2017, was approximately \$61,684.03 less than the aggregate liability of 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) commingled with its own money or property, the money or property of others which was received or held by Respondents in trust in violation of Section 10176(e) of the Code;

(c) failed to keep accurate separate records for each beneficiary or transaction, accounting therein for all funds which were deposited into Bank Account #1 and Trust Account #1, containing all of the information required by Section 2831.1 of the Regulations;

(d) failed to maintain an accurate columnar record in a 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;

(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 Bank Account #1 and Trust Account #1, as required by Section 2831.2 of the Regulations;

(f) failed to deposit trust funds into one or more trust funds accounts in the name of RMI as the trustee at a bank or other financial institution, in conformance with Section 10145 of the Code and Section 2832 of the Regulations; and

(g) caused, permitted, and/or allowed, the possible withdrawal of trust funds from Bank Account # 1 and Trust Account #1 by a person, Vicki G. Shewey, who was not licensed to the broker and not covered by a fidelity bond in violation of Section 2834 of the Regulations.

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

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

As to Paragraph 11(b), under Section 10176(e).

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

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

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

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

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

#### SECOND CAUSE OF ACTION

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

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

The acts and/or omissions of SHEWEY as described in Paragraph 14, constitutes failure on the part of SHEWEY, as designated broker-officer for RMI, to exercise reasonable

1 supervision and control over the licensed activities of RMI as required by Section 10159.2 of the  
2 Code and Section 2725 of the Regulations.

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

8 COST RECOVERY

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

13 18

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

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

24   
25 BREND A SMITH  
26 Supervising Special Investigator

27 Dated at Fresno, California,

this 25 day of April, 2018

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