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FILED

MAY 16 2019

DEPARTMENT OF REAL ESTATE
By B. Nicholas

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of)
12)
13 ACTION ONE PROPERTY MANAGEMENT,) No. H-3237 FR
14 INC. and JACKELINE P. PRICE,)
Respondents.) ACCUSATION

15 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the
16 State of California, for cause of Accusation against ACTION ONE PROPERTY
17 MANAGEMENT, INC. and JACKELINE P. PRICE (Respondents), is informed and alleges as
18 follows:

PRELIMINARY ALLEGATIONS

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

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

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At all times mentioned, ACTION ONE PROPERTY MANAGEMENT, INC. (ACTION) was and is licensed by the State of California Department of Real Estate (Department) as a restricted real estate broker corporation.

At all times mentioned, Respondent JACKELINE P. PRICE (PRICE) was and is licensed by the Department individually as a real estate broker, and as the designated broker officer of ACTION. As said designated officer-broker, PRICE 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 ACTION for which a license is required.

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

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1 FIRST CAUSE OF ACTION

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

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6 On or about March 28, 2018, an audit was conducted of the records of ACTION.
7 The auditor herein examined the records for the period of June 1, 2017, through February 28,
8 2018.

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

15 10

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

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ACCOUNT # 1	
21 Bank Name and Location:	US Bank 22 1120 11 th Street 23 Modesto, CA 95354 24
25 Account No.:	X XXX XXXX 8120
26 Entitled:	Action One Property Management, Inc.

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	Client Account
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ACCOUNT # 2	
Bank Name and Location:	US Bank 1120 11 th Street Modesto, CA 95354
Account No.:	X XXX XXXX 6225
Entitled:	Action One Property Management, Inc.

ACCOUNT # 3	
Bank Name and Location:	US Bank 1120 11 th Street Modesto, CA 95354
Account No.:	X XXX XXXX 9080
Entitled:	Action One Property Management, Inc. ITF Ignacio Motta

ACCOUNT # 4	
Bank Name and Location:	US Bank 1120 11 th Street Modesto, CA 95354
Account No.:	X XXX XXXX 9148
Entitled:	Action One Property Management, Inc. ITF Andry Tran

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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 Account #1 to be reduced to an amount which, as of February 28, 2018, was approximately \$6,458.44 less than the aggregate liability of 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) Caused, suffered, or permitted the balance of funds in Account #3 to be reduced to an amount which, as of February 28, 2018, was approximately \$335.57 less than the aggregate liability of Account #3 to all owners of such funds in violation of Section 10145 of the Code and Section 2832.1 of the Regulations.

(c) 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 Title 10 of the California Code of Regulations (Regulations);

(d) failed to keep accurate separate records for each beneficiary or transaction, accounting therein for all funds which were deposited into Account #'s 1, 2, 3, and 4, containing all of the information required by Section 2831.1 of the Regulations;

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

(f) failed to reconcile, for Account #'s 2 and 4, 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 each account as required by Section 2831.2 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 Paragraphs 11(a) and (b), under Section 10177(d) of the Code in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

As to Paragraphs 11(c), under Section 10177(d) of the Code in conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

As to Paragraph 11(d), under Section 10177(d) of the Code in conjunction with Section 2831.1 of the Regulations;

As to Paragraph 11(e), under Section 10177(d) of the Code in conjunction with Section 2831 of the Regulations; and

As to Paragraph 11(f), under Section 10177(d) of the Code in conjunction with Section 2831.2 of the Regulations.

SECOND CAUSE OF ACTION

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

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

The acts and/or omissions of PRICE described in Paragraph 14 constitute failure on the part of PRICE, as designated broker-officer for ACTION, to exercise reasonable supervision and control over the licensed activities of ACTION as required by Section 10159.2 of the Code.

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

COST RECOVERY

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

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Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, 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.

PRIOR DISCIPLINARY ACTION

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Effective April 19, 2017, in Case No. H-3028 FR before the Department, the Real Estate Commissioner revoked the real estate broker license of Respondent ACTION, for violation of Sections 10177(d) and 10176(e) of the Code, but granted the right to a restricted real estate corporate license, on terms, conditions, and restrictions set forth in the Order.

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 Respondent under the Code, for the cost of

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1 investigation and enforcement as permitted by law, and for such other and further relief as may
2 be proper under the provisions of law.

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5 BREND A SMITH
6 Supervising Special Investigator

7 Dated at Fresno, California,

8 this 10 day of May, 2019

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10 DISCOVERY DEMAND

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