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DEPARTMENT OF REAL ESTATE
By *R. dea*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

11 In the Matter of the Accusation of:)
12 REALTY DIMENSIONS, INC.,) No. H-3289 FR
13 STEPHANIE DIANE MAZZA,)
14 MELODY JOY BLAIN-EILERS,) FIRST AMENDED
and MARTHA ELENA LUJAN-RUIZ,) ACCUSATION
15 Respondents.)
16 _____)

17 The Complainant, BRENDA SMITH, in her official capacity as a Supervising
18 Special Investigator of the State of California, Department of Real Estate ("Department"), brings
19 this First Amended Accusation against REALTY DIMENSIONS, INC. ("REALTY"),
20 STEPHANIE DIANE MAZZA ("MAZZA"), MELODY JOY BLAIN-EILERS ("BLAIN-
21 EILERS"), and MARTHA ELENA LUJAN-RUIZ ("LUJAN-RUIZ"), (collectively
22 "Respondents"), and is informed and alleges as follows:

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24 REALTY is presently licensed by the Department and/or has license rights under
25 the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code
26 ("Code") as a corporate real estate broker, License No. 02069818, whose license expires August
27 22, 2022. REALTY first became licensed with the Department on August 21, 2018.

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MAZZA is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code as a real estate broker, License No. 01971765, whose license expires on May 14, 2022.

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BLAIN-EILERS is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code as a restricted real estate broker, License No. 01089656, whose license expires January 12, 2022.

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On February 13, 2006, the Department revoked BLAIN-EILERS' license, with a right to a restricted license, pursuant to Department Case No. H-1806 FR.

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LUJAN-RUIZ is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code as a real estate salesperson, License No. 01727787, whose license expires May 15, 2022.

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Bakersfield Properties Attended, Inc. ("BPA") was licensed by the Department as a corporate real estate broker, whose license expired on July 20, 2018. BPA was a registered corporation with the California Secretary of State from 2006 through March 2018, when the corporation was dissolved by BLAIN-EILERS.

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At all relevant times, Realty Dimensions Property Management was a Department registered fictitious business name under BPA's corporate real estate broker license.

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At all relevant times, the business website used by Realty Dimensions Property Management was the same website used by REALTY.

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2 Complainant is informed, believes and thereon alleges that Realty Dimensions
3 Property Management was and is now the same entity as REALTY.

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5 Whenever reference is made in this Accusation to an acts or omissions of REALTY,
6 such allegations shall be deemed to mean that the employees, agents and real estate licensees
7 employed by or associated with REALTY committed such acts or omissions while engaged in
8 furtherance of the business or operations of REALTY and while acting within the course and scope
9 of their authority and/or employment.

10 11

11 At all relevant times, Respondents were engaged in the business of, acted in the
12 capacity of, advertised or assumed to act as real estate licensees within the State of California
13 within the meaning of Section 10131(b) of the Code including the operation and conduct of a
14 property management business with the public, wherein, on behalf of others, for compensation or
15 in expectation of compensation, Respondents leased or rented or offered to lease or rent, and
16 solicited for prospective tenants of real property or improvements thereon, and collected rents from
17 real property or improvements thereon.

18 FIRST CAUSE OF ACTION
19 (2018 Audit Violations as to BLAIN-EILERS)

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21 Each and every allegation made above in Paragraphs 1 through 11, inclusive, is
22 incorporated by reference as if fully set forth herein.

23 13

24 Beginning on July 10, 2018, and continuing through December 19, 2018, an audit
25 was conducted into the real estate business activities of BPA, located at 15619 Stephanie Street,
26 Bakersfield, CA 93314. Department auditor, Alvin Samareta, examined the business records of
27 BPA for the period of January 1, 2017, through February 28, 2018. ("2018 Audit Period")

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At all relevant times to the 2018 Audit Period, BLAIN-EILERS was the Designated Broker Officer (“DO”) of BPA.

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At all relevant times to the 2018 Audit Period, BPA was doing business under the fictitious business name of Realty Dimensions Property Management, an entity who, at that time, did not hold a real estate license with the Department.

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While engaging in the real estate activities described above in Paragraph 11, and within the 2018 Audit Period, BLAIN-EILERS accepted or received funds in trust (“trust funds”) and deposited or caused the trust funds to be deposited into the following accounts:

Bank Account #1

Bank Name: Union Bank
5400 Stockdale Highway
Bakersfield, CA 93309
Account Name: Bakersfield Properties Attended, Inc.
Account No.: Last 4 Digits: 9674
Signatories: Melody Joy Blain-Eilers (REB)
Stephanie Mazza (RES)
Description: Deposits and disbursements related to the properties managed by BPA. Deposits consisted of rents and any property management related fees. Disbursements were made for repairs, maintenance, management fees, and owner proceeds.

Bank Account #2

Bank Name: Union Bank
5400 Stockdale Highway
Bakersfield, CA 93309
Account Name: Bakersfield Properties Attended, Inc.
Account No.: Last 4 Digits: 4409
Signatories: Melody Joy Blain-Eilers (REB)
Stephanie Mazza (RES)
Description: Handling security deposits for properties managed by BPA.

17

In the course of the real estate activities described above in Paragraph 11, and during the 2018 Audit Period, the following was discovered:

1 a. As of December 29, 2017, Bank Account #1 contained a shortage in the
2 amount of \$929.91. There was no prior written consent from the owners of the trust funds in Bank
3 Account #1 so as to allow the balance of the funds to drop below the accountability of the account,
4 in violation of Section 10145 of the Code and Section 2832.1 of Chapter 6, Title 10, California
5 Code of Regulations ("Regulations");

6 b. As of December 29, 2017, Bank Account #1 contained unidentified and/or
7 unaccounted for funds in the amount of \$7,169.59, in violation of Section 10145 of the Code and
8 Sections 2831.1 and 2831.2 of the Regulations;

9 c. As of December 29, 2017, Bank Account #2 contained unidentified and/or
10 unaccounted for funds in the amount of \$15,039.38, in violation of Section 10145 of the Code and
11 Sections 2831.1 and 2831.2 of the Regulations;

12 d. As of December 29, 2017, BLAIN-EILERS failed to designate Bank Account
13 #1 and Bank Account #2 as trust accounts in the broker's name as trustee, in violations of Section
14 10145 of the Code and Section 2832 of the Regulations; and

15 e. During the 2018 Audit Period, BLAIN-EILER failed to maintain control
16 records for Bank Account #2, in violation of Section 10145 of the Code and Section 2831 of the
17 Regulations.

18 **SECOND CAUSE OF ACTION**
19 **(Failure to Supervise as to BLAIN-EILERS)**

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21 Each and every allegation in Paragraphs 1 through 17, inclusive, is incorporated by
22 this reference as if fully set forth herein.

23 19

24 As the DO for BPA, BLAIN-EILERS was responsible for the supervision and
25 control over the activities conducted on behalf of BPA by the corporation's officers, employees and
26 agents, as necessary to ensure full compliance with all provisions of the Real Estate Law, including

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1 the supervision of all salespersons licensed under the corporation in the performance of acts for
2 which a real estate license is required.

3 20

4 BLAIN-EILERS failed to exercise reasonable supervision and control over the
5 activities of BPA. In particular, BLAIN-EILERS permitted, ratified and/or caused the conduct
6 described above to occur, and failed to take reasonable steps, including but not limited to,
7 supervision of employees and agents, and the implementation of policies, rules and systems to
8 ensure the compliance of the business with the Real Estate Law and the Regulations.

9 **THIRD CAUSE OF ACTION**
10 **(Breach of Fiduciary Duties as to BLAIN-EILERS)**

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12 Each and every allegation in Paragraphs 1 through 20, inclusive, is incorporated by
13 reference as if fully set forth herein.

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15 At all relevant times herein, while acting as real estate agents, BLAIN-EILER owed
16 the principals fiduciary duties, including, but not limited to the following: duty of reasonable care and
17 skill; duty of good faith; duty of loyalty; and duty of diligence.

18 23

19 BLIAN-EILER breached her fiduciary duties by engaging in the acts and/or omissions
20 described above in the FIRST and SECOND CAUSES OF ACTION.

21 **FOURTH CAUSE OF ACTION**
22 **(Unlicensed Activity as to REALTY and/or MAZZA and/or LUJAN-RUIZ)**

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24 Each and every allegation made above in Paragraphs 1 through 23, inclusive, is
25 incorporated by reference as if fully set forth herein.

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2 From June 1, 2018, through August 20, 2018, REALTY was conducting property
3 management activities, as described above in Paragraph 6, without first obtaining a corporate real
4 estate license from the Department. During this time, and in expectation of compensation, MAZZA
5 and/or LUJAN-RUIZ, while acting as agents for and/or on behalf of REALTY, collected rent
6 deposits from tenants and entered into residential lease agreements.

7 26

8 From September 17, 2018, through February 28, 2019, REALTY conducted property
9 management activities on behalf of others, and in expectation of compensation, without registering
10 a DO with the Department.

11 **FIFTH CAUSE OF ACTION**
12 **(2019 Audit Violations as to MAZZA and REALTY)**

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14 Each and every allegation made above in Paragraphs 1 through 26, inclusive, is
15 incorporated by reference as if fully set forth herein.

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17 Beginning on March 5, 2019, and continuing through July 1, 2019, an audit was
18 conducted into the real estate business activities of REALTY, located at 218 South H Street,
19 Bakersfield, CA 93304. Auditor Samareta, examined the business records of REALTY for the
20 period of June 1, 2018, through February 28, 2019. ("2019 Audit Period")

21 29

22 From on or about August 21, 2018, through on or about September 16, 2018,
23 MAZZA was the DO of REALTY.

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25 From September 17, 2018, through May 16, 2019, REALTY did not have a DO
26 registered with the Department.

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While engaging in the real estate activities described above in Paragraph 11, and within the 2019 Audit Period, MAZZA and REALTY accepted or received funds in trust (“trust funds”) and deposited or caused the trust funds to be deposited into the following accounts:

Trust Account #1

Bank Name: Chase Bank
 1515 7th Street
 Bakersfield, CA 93301
 Account Name: Realty Dimensions, Inc.
 Trust Account #1
 Account No.: Last 4 Digits: 7782
 Signatories: Marti Lujan-Ruiz (RES)
 Description: Deposits and disbursements related to the properties managed by REALTY. Deposits consisted of rents and any property management related fees. Disbursements were made for repairs, maintenance, management fees, and owner proceeds.

Trust Account #2

Bank Name: Chase Bank
 1515 7th Street
 Bakersfield, CA 93301
 Account Name: Realty Dimensions, Inc.
 Trust SDA
 Account No.: Last 4 Digits: 7766
 Signatories: Marti Lujan-Ruiz (RES)
 Description: Handling security deposits for properties managed by REALTY.

In the course of the real estate activities described above in Paragraph 6, and during the 2019 Audit Period, the following was discovered:

- a. As of September 16, 2018, Trust Account #1 had a shortage of \$21,507.42. There was no prior written consent from the owners of the trust funds in Trust Account #1 so as to allow the balance of the funds to drop below the accountability of the account, in violation of Section 10145 of the Code and Section 2832.1 of Chapter 6, Title 10, California Code of Regulations (“Regulations”);

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1 b. As of January 31, 2019, Trust Account #1 had a shortage of \$51,519.44.
2 There was no prior written consent from the owners of the trust funds in Trust Account #1 so as to
3 allow the balance of the funds to drop below the accountability of the account, in violation of
4 Section 10145 of the Code and Section 2832.1 of the Regulations;

5 c. As of September 16, 2018, Trust Account #2 had a shortage of \$1,027.75.
6 There was no prior written consent from the owners of the trust funds in Trust Account #1 so as to
7 allow the balance of the funds to drop below the accountability of the account, in violation of
8 Section 10145 of the Code and Section 2832.1 of the Regulations;

9 d. As of January 31, 2019, Trust Account #2 had a shortage of \$1,127.75. There
10 was no prior written consent from the owners of the trust funds in Trust Account #1 so as to allow
11 the balance of the funds to drop below the accountability of the account, in violation of Section
12 10145 of the Code and Section 2832.1 of the Regulations; and

13 e. During the 2019 Audit Period, REALTY did not deposit trust funds to Trust
14 Account #1 within three (3) business days after the date of receipt, in violation of Section 10145 of
15 the Code and Section 2832 of the Regulations.

16 SIXTH CAUSE OF ACTION
17 (Failure to Supervise as to MAZZA)

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19 Each and every allegation in Paragraphs 1 through 32, inclusive, is incorporated by
20 this reference as if fully set forth herein.

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22 As the DO for REALTY from August 21, 2018, until September 16, 2018, MAZZA
23 was responsible for the supervision and control over the activities conducted on behalf of REALTY
24 by the corporation's officers, employees and agents, as necessary to ensure full compliance with all
25 provisions of the Real Estate Law, including the supervision of all salespersons licensed under the
26 corporation in the performance of acts for which a real estate license is required.

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2 MAZZA failed to exercise reasonable supervision and control over the activities of
3 REALTY. In particular, MAZZA permitted, ratified and/or caused the conduct described above in
4 the FIFTH CAUSE OF ACTION to occur, and failed to take reasonable steps, including but not
5 limited to, supervision of employees and agents, and the implementation of policies, rules and
6 systems to ensure the compliance of the business with the Real Estate Law and the Regulations.

7 SEVENTH CAUSE OF ACTION
8 **(Breach of Fiduciary Duties as to MAZZA)**

10 Each and every allegation in Paragraphs 1 through 35, inclusive, is incorporated by
11 reference as if fully set forth herein.

13 At all relevant times herein, while acting as real estate agents, MAZZA owed the
14 principals fiduciary duties, including, but not limited to the following: duty of reasonable care and
15 skill; duty of good faith; duty of loyalty; and duty of diligence.

17 MAZZA breached her fiduciary duties by engaging in the acts and/or omissions
18 described above in the FIFTH and SIXTH CAUSES OF ACTION.

19 GROUND FOR DISCIPLINE

21 Each and every allegation in Paragraphs 1 through 38, inclusive, is incorporated by
22 this reference as if fully set forth herein.

24 The acts and/or omissions of BLAIN-EILER as alleged above in the FIRST CAUSE
25 OF ACTION constitute grounds for the suspension or revocation of all licenses and license rights of
26 BLAIN-EILER pursuant to the following provisions:

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

3 As to Paragraph 17(b), under Sections 10145, 10177(d) and 10177(g) of the Code,
4 in conjunction with Sections 2831.1 and 2831.2 of the Regulations;

5 As to Paragraph 17(c), under Sections 10145, 10177(d) and 10177(g) of the Code,
6 in conjunction with Sections 2831.1 and 2831.2 of the Regulations;

7 As to Paragraph 17(d), under Sections 10145, 10177(d) and 10177(g) of the Code,
8 in conjunction with Sections 2832 of the Regulations; and

9 As to Paragraph 17(e), under Sections 10145, 10177(d) and 10177(g) of the Code,
10 in conjunction with Section 2831 of the Regulations.

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12 The acts and/or omissions of BLAIN-EILER as alleged above in the SECOND
13 CAUSE OF ACTION further constitute grounds for the suspension or revocation of the license and
14 license rights of BLAIN-EILER under Sections 10159.2, 10177(d), 10177(g) and 10177(h) of the
15 Code, in conjunction with Section 2725 of the Regulations.

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17 The acts and/or omissions of BLAIN-EILER as alleged above in the THIRD
18 CAUSE OF ACTION further constitute grounds for the suspension or revocation of the license and
19 license rights of BLAIN-EILER under Sections 10177(d) and 10177(g) of the Code.

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21 The acts and/or omissions of REALTY, MAZZA, and LUJAN-RUIZ as alleged
22 above in the FOURTH CAUSE OF ACTION constitute grounds for the suspension or revocation of
23 the license and license rights of REALTY, MAZZA, and LUJAN-RUIZ under Sections 10130,
24 10177(d) and 10177(g) of the Code.

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The acts and/or omissions of REALTY and MAZZA as alleged above in the FIFTH CAUSE OF ACTION further constitute grounds for the suspension or revocation of the license and license rights of REALTY and MAZZA pursuant to the following provisions:

As to Paragraph 32(a), under Sections 10145, 10177(d) and 10177(g) of the Code, in conjunction with Section 2832.1 of the Regulations;

As to Paragraph 32(b), under Sections 10145, 10177(d) and 10177(g) of the Code, in conjunction with Section 2832.1 of the Regulations;

As to Paragraph 32(c), under Sections 10145, 10177(d) and 10177(g) of the Code, in conjunction with Sections 2832.1 of the Regulations;

As to Paragraph 32(d), under Sections 10145, 10177(d) and 10177(g) of the Code, in conjunction with Sections 2832.1 of the Regulations; and

As to Paragraph 32(e), under Sections 10145, 10177(d) and 10177(g) of the Code, in conjunction with Section 2832 of the Regulations.

The acts and/or omissions of MAZZA as alleged above in the SIXTH CAUSE OF ACTION further constitute grounds for the suspension or revocation of the license and license rights of MAZZA under Sections 10159.5, 10177(d), 10177(g) and 10177(h) of the Code, in conjunction with Section 2725 of the Regulations.

The acts and/or omissions of MAZZA as alleged above in the SEVENTH CAUSE OF ACTION further constitute grounds for the suspension or revocation of the license and license rights of MAZZA under Sections 10177(d) and 10177(g) of the Code.

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1 MATTERS IN AGGRAVATION
2 **(Prior Real Estate Law Violations as to BLAIN-EILER)**

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4 On or about June 30, 2005, the Department filed an Accusation, DRE Case No. H-
5 1806 FR, against the real estate broker license of BLAIN-EILER. The Accusation alleged violations
6 of Real Estate Law discovered by the Department during an audit conducted in August 2004.

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8 On November 22, 2005, DRE Case No. H-1806 FR was heard by Administrative
9 Law Judge ("ALJ") Robert Walker in Fresno, CA.

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11 On January 5, 2006, ALJ Walker issued a Proposed Decision wherein he revoked
12 BLAIN-EILERS' real estate broker license, but that BLAIN-EILER would be issued a restricted a
13 restricted real estate broker license if she complied with the conditions set forth in the Proposed
14 Decision. Pursuant to the findings made in the Proposed Decision, BLIAN-EILER violated the
15 following provisions of Real Estate Law: 10145, 10176(e), 10146(g) and 10176(i) of the Cod, in
16 conjunction with Section 2832.1 of the Regulations.

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18 On February 9, 2006, the Real Estate Commissioner adopted the Proposed Decision
19 of ALJ Walker, which became effective on February 13, 2006.

20 COST RECOVERY

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22 Each and every allegation made above in Paragraphs 1 through 50, inclusive, is
23 incorporated by reference as if fully set forth herein.

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25 The acts and/or omissions of Respondents as alleged above entitle the Department to
26 reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund
27 handling violation) 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.

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


BREND A SMITH
Supervising Special Investigator

Dated at Fresno, California,
this 26 day of March, 2021.

DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department 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 Department 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.