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FILED

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DEPARTMENT OF REAL ESTATE

By X. Krapp

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:	)	NO. H-3290 FR
	)	
HIGHWAY ONE RENTALS INC.	)	
and ANDREW VINCENT LILLEY,	)	<u>ACCUSATION</u>
	)	
Respondents.	)	
	)	

The Complainant, BRENDA SMITH, in her official capacity as a Supervising Special Investigator of the State of California, for cause of Accusation against HIGHWAY ONE RENTALS INC. ("HIGHWAY ONE"), and ANDREW VINCENT LILLEY ("LILLEY") (collectively referred to as "Respondents"), is informed and alleges as follows:

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Respondent HIGHWAY ONE is presently licensed by the California Department of Real Estate ("the Department") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("the Code"), as a corporate real estate broker.

2

LILLEY is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code ("the Real Estate Law") as an individual real estate broker and, at all relevant times, was the designated broker officer of HIGHWAY ONE.

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

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as a corporate real estate broker within the State of California on behalf of others, for compensation or in expectation of compensation within the meaning of Section 10131(b) of the Code, including the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation, leased or rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenant, or negotiated for sale, purchase or exchanges of leases on real property, or on a business opportunity, or collected rent from real property, or improvements thereon, or from business opportunities.

COUNT ONE

AUDIT VIOLATIONS

(As to Respondents HIGHWAY ONE and LILLEY)

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

Beginning on or about February 26, 2018, and continuing intermittently through August 30, 2018, the Department conducted an audit of the books and records related to the real estate activities of Respondents at the main office of HIGHWAY ONE located at 148 N. Ocean Avenue, Cayucos, CA 93430. The auditor examined records for the period of February 1, 2017, to January 31, 2018 ("audit period").

While acting as real estate brokers as described above in paragraph 4, and within the audit period, Respondents accepted or received funds in trust ("trust funds") and deposited or caused the trust funds to be deposited into a bank account maintained by Respondents, and thereafter, from time-to-time, Respondents made disbursements of said trust funds, identified as follows:

Trust Account #1

Bank Name:	Rabobank
Account No.:	Last 4 Digits: xxxxxx3911
Account Name:	Highway One Rentals, Inc. Trust Account Trust Account Full Time Rentals
Signatories:	Andrew Lilley (REB) Nadine Lilley (RES) Michele Lilley (REB)
Purpose:	Used to hold rents and security deposits, and for payment of owners' proceeds, management fees, and expenses related to properties managed by HIGHWAY ONE.

In the course of the real estate broker activities described above in paragraph 4, and during the audit period, Respondents:

(a) caused, suffered, or permitted the balance of funds in Trust Account #1 to be reduced to an amount which, as of December 26, 2017, was approximately \$32,601.28 less than the aggregate liability of Trust Account #1 to all owners of such funds, without the prior written consent of each and every owner of such funds, in violation of Section 10145 of the Code and Section 2832.1 of Chapter 6, Title 10, California Code of Regulations ("the Regulations");

(b) failed to reconcile at least once per month, the balance of all separate beneficiary or transaction records to the balance of the control records for Trust Account #1, in violation of Section 10145 of the Code, and Section 2831.2 of the Regulations;

(c) failed to maintain complete and accurate records of all trust funds received and disbursed (control record) for Trust Account #1, in violation of Section 10145 of the Code and Section 2831 of the Regulations;

1 (d) failed to maintain and/or keep accurate and complete separate records for
2 each beneficiary or property of trust funds accepted or received in Trust Account #1, in violation of
3 Section 10145(g) of the Code and Section 2831.1 of the Regulations;

4 (e) caused or permitted funds of others which were received and held in Trust
5 Account #1 to be commingled with Respondents' own money, in violation of Section 10176(e) of
6 the Code; and

7 (f) allowed real estate salesperson Michele Anne Lilley to serve as a
8 signatory for Trust Account #1 when Michele Anne Lilley was not licensed under Respondent, in
9 violation of Section 10145 of the Code and Section 2834 of the Regulations.

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11 The acts and/or omissions of Respondents as alleged above in paragraph 8, constitute
12 grounds for the suspension or revocation of all licenses and license rights of Respondents pursuant
13 to the following provisions of the Code and Regulations:

14 As to Paragraph 8(a), under Section 10177(d) and/or 10177(g) of the Code, in
15 conjunction with Sections 10145 of the Code, and Section 2832.1 of the Regulations;

16 As to Paragraph 8(b), under Section 10177(d) and/or 10177(g) of the Code, in
17 conjunction with Sections 10145 of the Code, and Section 2831.2 of the Regulations;

18 As to Paragraph 8(c), under Section 10177(d) and/or 10177(g) of the Code, in
19 conjunction with Section 10145 of the Code, and Section 2831 of the Regulations;

20 As to Paragraph 8(d), under Section 10177(d) and/or 10177(g) of the Code, in
21 conjunction with Section 10145(g) of the Code, and Section 2831.1 of the Regulations;

22 As to Paragraph 8(e), under Section 10177(d) and/or 10177(g) of the Code, in
23 conjunction with Section 10176(e) of the Code; and

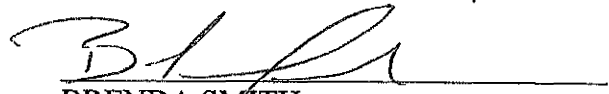
24 As to Paragraph 8(f), under Section 10177(d) and/or 10177(g) of the Code, in
25 conjunction with Section 10145 of the Code, and Section 2834 of the Regulations.

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1 Administrative Law Judge to direct a licensee found to have committed a violation of this part to
2 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

3 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
4 this Accusation and that upon proof thereof, a decision be rendered revoking all licenses and license
5 rights of all Respondents named herein under the Real Estate Law, for the cost of investigation and
6 enforcement as permitted by law, for the cost of the audit as permitted by law, and for such other
7 and further relief as may be proper under other provisions of law.

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10 BREND A SMITH
11 Supervising Special Investigator

12 Dated at Fresno, California,

13 this 2 day of January, ²⁰²⁰~~2019~~
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15 DISCOVERY DEMAND

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