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FILED

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DEPARTMENT OF REAL ESTATE
By *J. Taggart*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of

12 OMID DARAGAH,)

13 Respondent.)

No. H- 3411 FR

ACCUSATION

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15 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the
16 State of California, for Accusation against Respondent OMID DARAGAH (DARAGAH),
17 sometimes referred to as Respondent, is informed and alleges as follows:

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19 The Complainant makes this Accusation against Respondent in her official
20 capacity.

21 2

22 DARAGAH is presently licensed and/or has license rights under the Real Estate
23 Law, Part 1 of Division 4 of the California Business and Professions Code (Code), by the
24 Department as a real estate broker.

25 3

26 At all times herein mentioned, Respondent engaged in the business of, acted in
27 the capacity of, advertised, or assumed to act as real estate brokers within the State of California

1 within the meaning of Section 10131(b) of the Code, including the operation and conduct of a
2 property management business with the public wherein, on behalf of others, for compensation or
3 in expectation of compensation, Respondent leased or rented or offered to lease or rent, or
4 placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or
5 negotiated the sale, purchase or exchanges of leases on real property, or on a business
6 opportunity, or collected rents from real property, or improvements thereon, or from business
7 opportunities.

8 FIRST CAUSE OF ACTION

9 4

10 Complainant refers to Paragraphs 1 through 3, above, and incorporates the same,
11 herein by reference.

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13 Beginning on August 6, 2020, and continuing intermittently through January 22,
14 2021, an audit was conducted at DARAGAH's office located at 5405 Stockdale Hwy, St. 106,
15 Bakersfield, California, and at the Department's district office located at 2550 Mariposa Mall,
16 St. 3070, Fresno, California, where the auditor examined records for the period of July 1, 2019,
17 through June 30, 2020 (the audit period).

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19 While acting as a real estate broker as described in Paragraph 3, above, and
20 within the audit period, DARAGAH accepted or received funds in trust (trust funds) from or on
21 behalf of property owners, lessees and others in connection with property management
22 activities, and deposited or caused to be deposited those funds into bank accounts maintained by
23 DARAGAH, at Union Bank, 5400 Stockdale Hwy, Bakersfield, California, as described below:

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27 ///

TRUST ACCOUNT #1	
Account No.:	XXXXXXX8581
Entitled:	Omid Daragahi Bakersfield Property Management Trust Account
BANK ACCOUNT #1	
Account No.:	XXXXXXX8654
Entitled:	Omid Daragahi DBA Bakersfield Property Management

and thereafter from time-to-time made disbursement of said trust funds.

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In the course of the activities described in Paragraph 3, in connection with the collection and disbursement of trust funds, it was determined that:

- (a) Respondent failed to designate Bank Account #1 as a trust account in violation of Section 2832 of the Regulations and Section 10145 of the Code;
- (b) An accountability was performed on Trust Account #1 and Bank Account #1, and as of June 30, 2020, a combined shortage of \$11,534.67 was revealed in violation of Section 10145 of the Code;
- (c) Respondent failed to obtain written permission from owners of trust funds in Trust Account #1 and Bank Account #1 to allow the balance to drop below accountability, in violation of Section 2832.1 of the Regulations;
- (d) Respondent failed to maintain accurate records of all funds received and disbursed for Bank Account # and Trust Account #1, as required by Section 2831 of the Regulations;
- (e) Respondent failed to maintain accurate separate beneficiary records for Bank Account #1 and Trust Account #1, as required by Section 2831.1 of the Regulations; and

1 (f) Respondent failed to perform monthly reconciliations of the
2 separate beneficiary records and control records for Bank Account
3 #1 and Trust Account #1, as required by Section 2831.2 of the
4 Regulations.

5 8

6 The acts and/or omissions described above constitute violations of Sections 2831
7 (control records), 2831.1 (separate beneficiary records), 2831.2 (monthly reconciliations) and
8 2832.1 (written permission balance below accountability) of the Regulations and of Section
9 10145 (trust fund handling) of the Code and are grounds for discipline under Section 10177(d)
10 (willful disregard of real estate laws) and 10177(g) (negligence/incompetence licensee) of the
11 Code.

12 SECOND CAUSE OF ACTION

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14 Complainant refers to Paragraphs 1 through 8, above, and incorporates them
15 herein by reference.

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17 On or about April 26, 2019, Ramin G., owner of that certain real property
18 commonly known as 3005 La Costa, Bakersfield, California, (La Costa Property), entered into a
19 property management agreement with DARAGAH.

20 11

21 The La Costa Property consisted of four (4) units, two (2) of which were in
22 eviction status at the time DARAGAH began to manage the property. After the eviction of
23 tenants in Units B and D, DARAGAH learned that they were in need of repair and had a
24 handyman begin repair work on Units B and D.

25 12

26 On or about October 14, 2019, Ramin G. asked DARAGAH to deduct the costs
27 of the repairs from the rent.

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On or about February 3, 2020, Ramin G. emailed DARAGAH and asked him to deposit rents into his account, rather than deduct repairs costs first. DARAGAH, failed to do so because he stated that he feared that Ramin would not reimburse him for repair work that already been done.

14

Despite being told by Ramin G. to deposit rents without making deductions for repairs in February and instructing him to stop repairs on or about in or around February 2020, DARAGAH continued to have repairs done and deduct the costs from rent.

15

Despite Ramin G. asking DARAGAH to provide monthly accountings of rents and repairs, DARAGAH failed to in a timely fashion.

16

The above acts and/or omissions of DARAGAH of the Code and constitute grounds for disciplinary action under the provisions of Sections 10177(d) (violate real estate law) and 10177(g) (negligence) of the Code.

17

Audit Costs

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

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Costs of Investigation and Enforcement

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 art to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

1 WHEREFORE, Complainant prays that a hearing be conducted on the
2 allegations of this Accusation and that upon proof thereof a decision be rendered imposing
3 disciplinary action against all licenses and license rights of Respondents under the Real Estate
4 Law, and for such other and further relief as may be proper under other provisions of law.
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7 
8 BREND A SMITH
Supervising Special Investigator

9 Dated at Fresno, California,
10 this 30 day of November, 2021.
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12 DISCOVERY DEMAND

13 The Department of Real Estate hereby requests discovery pursuant to Section
14 11507.6 of the California Government Code. Failure to provide discovery to the Department
15 may result in the exclusion of witnesses and/or documents at the hearing, and other sanctions as
16 the Administrative Law Judge deems appropriate.
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