

At all relevant times, Respondent engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate licensees within the State of California 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 or in expectation of compensation, Respondent leased or rented or offered to lease or rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

On or about January 27, 2021, the Department received a consumer complaint from property owner Carleton H. against Respondent prompting the Department's investigation. The complaint alleged that Respondent allowed a tenant to make late rent payments and/or partial payments. The complaint further alleged Respondent charged Carleton H. for maintenance and repairs on the property that resulted from damage caused by the tenant. Carleton H. complained to Respondent, but did not receive a response for two months to his complaint nor to his request for trust fund disbursements.

FIRST CAUSE OF ACTION
(Audit Violations)

Each and every allegation made in Paragraphs 1 through 5, inclusive, is incorporated by reference as if fully set forth herein.

On or about April 28, 2021, an audit was conducted of the real estate activities of Respondent located at 2930 G Street, Merced, CA 95340. The Department's auditor examined the business records of Respondent for the period of January 1, 2020 through February 28, 2021, ("audit period").

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While engaging in the real estate activities described in Paragraph 4 and within the audit period, Respondent 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: Farmers & Merchants Bank of Central CA
2936 G Street
Merced, CA 95340
Account No.: Last 4 Digits: 3201
Account Name: Steve Tinetti
DBA Tinetti Realty Group
Steve Tinetti TTEE Prop Mngmt Trust 1
Signatories: Steve Tinetti
Nancy Rogers
Danielle Ortega
Description: Handling of trust funds related to property management.

Trust Account #2:

Bank Name: Farmers & Merchants Bank of Central CA
2936 G Street
Merced, CA 95340
Account No.: Last 4 Digits: 4001
Account Name: Steve Tinetti
DBA Tinetti Realty Group
Steve Tinetti TTEE Prop Mngmt Trust 3
Signatories: Steve Tinetti
Nancy Rogers
Danielle Ortega
Description: Handling of trust funds related to property management.

Bank Account #1:

Bank Name: Farmers & Merchants Bank of Central CA
2936 G Street
Merced, CA 95340
Account No.: Last 4 Digits: 1601
Account Name: Steve Tinetti
DBA Tinetti Realty Group
Security Deposits Held
Signatories: Steve Tinetti
Nancy Rogers
Danielle Ortega
Description: Handling of trust funds related to property management.

In the course of the real estate activities described above in Paragraph 4, and during the audit period, the following violations were discovered:

(a) Bank Account #1, ending in 1601, was not designated as a trust account in the name of the broker or the broker’s DBA as a trustee, in violation of Section 10145 of the Code and Section 2832 of Chapter 6, Title 10, California Code of Regulations (“Regulations”);

(b) As of January 31, 2021, Bank Account #1, ending 1601, had a shortage of \$775 caused by a negative balance in one property account. Respondent provided no evidence that the owners of the trust funds in Bank Account #1 had given written consent to reduce the balance of the funds in the account to an amount less than the existing aggregate trust fund liability, in violation of Section 10145 of the Code and Section 2832.1 of the regulations; and

(c) Respondent was performing in-house maintenance and charging rates of \$50 per hour and mark-ups on materials purchased for in-house maintenance, in the amount of 1.25%, without disclosure to the owners, in violation of Section 10176(e) of the Code.

The acts and/or omissions of Respondent, as described above in the FIRST CAUSE OF ACTION, constitute grounds for discipline pursuant to Sections 10145, 10176(e), 10177(d), and 10177(g) of the Code, in conjunction with Sections 2731, 2831.1, 2831.2, 2832, and 2832.1 of the Regulations.

SECOND CAUSE OF ACTION
(Negligence)

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

On or about May 4, 2017, Respondent entered into a Residential Lease Agreement with tenant Mayra C. to rent the property owned by Carleton H. located at 720 W. 26th Street,

1 Merced, CA 95340. On or about September 1, 2018, Respondent increased Mayra C. rent from
2 \$775 to \$850 per month.

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5 Pursuant to Section 3, subsection B, of the Lease Agreement: "Rent is payable in
6 advance on the 1st day of each month, and is delinquent in the next day." Section 6, subsection A,
7 further provided: "If any installment of the rent due from Tenant is not received by Landlord within
8 4 calendar day of the date due, or if a check is returned, Tenant shall pay to Landlord and additional
9 10% of the Rent due as a Late Charge..."

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11 From January 2020 through August 2020, Respondent permitted Mayra C. to either
12 pay less than the contractual rent amount, and/or pay rent past the due date without penalty, and/or
13 split the payment of rent. This was done in violation of the Lease Agreement and without the
14 knowledge and/or consent of Carleton H. The subject rent payments were made as follows:

Month	Amount Paid	Management Fee	Owner Disbursement
January 2020	<ul style="list-style-type: none">01/05/20 → \$50002/13/20 → \$350	\$95 disbursed 01/08/20	\$855 disbursed 01/29/20
February 2020	<ul style="list-style-type: none">02/13/20 → \$50003/09/20 → \$350	\$85 disbursed 02/14/20	\$765 disbursed 02/26/20
March 2020	<ul style="list-style-type: none">03/09/20 → \$50004/20/20 → \$350	\$85 disbursed 03/13/20	\$765 disbursed 03/27/20
April 2020	<ul style="list-style-type: none">04/04/20 → \$50004/05/20 → \$350	\$85 disbursed 04/08/20	\$765 disbursed 04/28/20
May 2020	<ul style="list-style-type: none">05/05/20 → \$52006/06/20 → \$330	\$87 disbursed 05/08/20	\$783 disbursed 05/26/20
June 2020	<ul style="list-style-type: none">06/06/20 → \$54007/05/20 → \$310	\$87 disbursed 06/11/20	\$783 disbursed 06/29/20
July 2020	<ul style="list-style-type: none">07/05/20 → \$57008/05/20 → \$280	\$88 disbursed 07/07/20	\$792 disbursed 07/28/20
August 2020	<ul style="list-style-type: none">08/05/20 → \$600	\$88 disbursed 08/07/20	\$792 disbursed 08/28/20

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2 The acts and/or omissions of Respondent, as described above in the SECOND
3 CAUSE OF ACTION, constitute further grounds for discipline pursuant to Sections 10177(d) and
4 10177(g) of the Code.

5 THIRD CAUSE OF ACTION
6 **(Breach of Fiduciary Duties)**

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

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11 At all relevant times, while acting as a real estate agent, Respondent owed his clients
12 and/or beneficiaries those fiduciary duties that are inherit in a position of trust as created by the
13 agent/principal relationship, including, but not limited to the following duties: the duty of
14 reasonable care and skill, the duty of honesty, the duty of good faith and fair dealings, the duty of
15 loyalty, and duty of diligence.

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17 Respondent breached his fiduciary duties by engaging in the acts and/or omissions
18 described above in the FIRST and SECOND CAUSES OF ACTION.

19 AUDIT COSTS

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

24 COST OF INVESTIGATION AND ENFORCEMENT

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26 Section 10106 of the Code provides, in pertinent part, that in any order issued in
27 resolution of a disciplinary proceeding before the Department, the Commissioner may request the

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 Respondent under the Real Estate Law, for the cost of investigation and enforcement as
6 permitted by law, for the cost of the audit as permitted by law, and for such other and further relief
7 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 11 day of April, 2022

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15 DISCOVERY DEMAND

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