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DEPARTMENT OF REAL ESTATE
By B. Nicholas

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of	)	No. H-3417 FR
	)	
ROSA R. FLORES, and CINDY L.	)	<u>ACCUSATION</u>
BREMER-BROOKS,	)	
	)	
Respondents.	)	

The Complainant, BRENDA SMITH, a Supervising Special Investigator of the State of California, for cause of Accusation against ROSA R. FLORES, and CINDY L. BREMER-BROOKS (collectively "Respondents"), is informed and alleges as follows:

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

2

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

LICENSE HISTORY

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At all times mentioned, ROSA R. FLORES (FLORES) was and is licensed by the Department as a real estate broker, License ID 01226559. FLORES was licensed by the

1 Department as a real estate salesperson on or about August 22, 1997, and as a real estate broker
2 on or about August 31, 2010. Unless renewed, FLORES' broker license will expire August 30,
3 2022.

4 At all times mentioned, FLORES was and is licensed to do business under the
5 fictitious business name "Ambassador Realty."

6 At all times mentioned, FLORES' main office address on file with the
7 Department is 20714 Troutdale Lane, Riverdale.

8 At all times after September 22, 2021, 718 11th Avenue, Suite D, Hanford, was
9 and is registered as a branch office.

10 At all times after January 12, 2022, 2133 High Street, Suite E, Selma, was and is
11 registered as a branch office.

12 At all times after August 16, 2021, 2133 High Street, Selma, was and is
13 registered as a branch office.

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15 At all times after May 5, 2020, CINDY L. BREMER-BROOKS (BREMER) was
16 and is licensed by the Department as a real estate salesperson, License ID 02115687. Unless
17 renewed, BREMER's salesperson license will expire May 4, 2024. At no time prior to May 5,
18 2020, was BREMER licensed in any capacity.

19 At all times after May 5, 2020, BREMER's real estate salesperson license was
20 affiliated under the brokerage of FLORES.

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22 At no time mentioned was "Shamrocks Tricare Inc." and/or "Shamrock Property
23 Leasing" licensed by the Department in any capacity.

24 AUDIT FR20-0029

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26 On or about July 16, 2021, the Department completed its audit (FR20-0029) of the
27 books and records of Respondents property management activities described in Paragraph 7. The

1 auditor herein examined the records for the period of December 1, 2019, through November 30,
2 2020.

3 7

4 At all times mentioned, Respondents engaged in the business of, acted in the
5 capacity of, advertised, or assumed to act as a real estate broker within the State of California
6 within the meaning of Sections 10131(b) of the Code, including the operation and conduct of a
7 property management business with the public wherein, on behalf of others, for compensation or
8 in expectation of compensation, Respondents leased or rented and offered to lease or rent, and
9 solicited for prospective tenants of real property or improvements thereon, and collected rents
10 from real property or improvements thereon.

11 As of the audit examination, Respondents managed forty-two (42) residential
12 properties for twenty-one (21) owners. Respondents collected approximately \$760,054 in trust
13 funds annually.

14 Respondents' property management services include, but not limited to, collecting
15 rents, paying expenses, and screening tenants. For such property management services,
16 Respondent charged a management fee of between 8 to 10 percent of collected rents.

17 8

18 While acting as a real estate broker as described in Paragraph 7, Respondents
19 accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in
20 connection with the leasing, renting, and collection of rents on real property or improvements
21 thereon, as alleged herein, and thereafter from time-to-time made disbursements of said trust
22 funds.

23 The trust funds accepted or received by Respondents were deposited or caused to
24 be deposited by Respondents into accounts which were maintained by Respondents for the
25 handling of trust funds, and thereafter from time-to-time Respondents made disbursements of
26 said trust funds.

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During the audit period, as described in Paragraph 6, Respondent maintained one bank account to hold trust funds.

ACCOUNT # 1	
Bank Name and Location:	Fast CU (Federal Credit Union)
Account No.:	XX7532
Account Name:	Shamrocks Tricare Inc.
Description:	Account #1 was used to maintain funds related to property management activities and paralegal services.

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In the course of the property management activities described in Paragraph 7, and during the audit examination period described in Paragraph 6, FLORES violated the Code and Regulations described below:

Trust Account Accountability and Balances

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Based on the records provided during the audit, a bank reconciliation for Account #1 was prepared for as of October 31, 2020.

Adjusted Bank Balance	\$4,892.38
Accountability	<u>\$7,591.15</u>
Trust Fund Shortage	<u>(\$2,698.77)</u>

A minimum shortage of \$2,698.77 was found in Account #1 as of October 31, 2022. The trust fund shortage was due to negative balances.

FLORES provided no evidence that the owners of the trust funds had given their written consent to allow FLORES to reduce the balance of the funds in Trust Account #1 to an amount less than the existing aggregate trust fund liabilities, in violation of Section 10145 of the Code and Section 2832.1 of Title 10, Chapter 6, California Code of Regulations (Regulations).

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Control Record

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FLORES failed to maintain an accurate written control record, for Account #1, of all trust funds received and disbursed, containing all information required by Section 2831 of the Regulations.

An examination of records provided revealed not all receipts and disbursements that cleared Account #1 per the bank statements were recorded in the accounting records that were provided. In addition, disbursements that were recorded did not match check numbers that cleared Account #1.

Separate Records

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FLORES failed to maintain accurate separate records for each beneficiary or transaction, accounting therein for all funds which were deposited into Account #1 containing all of the information required by Section 2831.1 of the Regulations.

A total balance of unidentified and/or unaccounted for funds in the amount of \$6,486.15 was maintained in Account #1.

Trust Account Reconciliation

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FLORES failed to reconcile 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 Account #1 as required by Section 2831.2 of the Regulations.

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1 Trust Account Designation

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3 During the audit period, Account #1, an account used to hold trust funds, was not
4 designated as trust accounts in the name of the broker or the broker's fictitious business name as
5 trustee, in violation of Section 10145 of the Code and Section 2832 of the Regulations.

6 The account was titled "Shamrocks Tricare Inc."

7 Unlicensed Fictitious Business Name

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9 FLORES failed to obtain a real estate license bearing the fictitious business name
10 "Shamrock Property Leasing," while conducting activities for which a license was required, in
11 violation of Section 10159.5 of the Code and Section 2731 of the Regulations.

12 Property management services were being performed under the fictitious business
13 name of "Shamrock Property Leasing."

14 Unlicensed Branch Office

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16 FLORES failed to register the branch offices located at 117 North Irwin Street,
17 Hanford, and/or 385 North 11th Avenue, Hanford, with the Department, in violation of Section
18 10163 of the Code.

19 Failure to Supervise

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21 At all times mentioned, FLORES was required to exercise reasonable supervision
22 and control over the activities of FLORES' employees, agents, and others acting on FLORES'
23 behalf pursuant to Section 2725 of the Regulations.

24 FLORES failed to adequately supervise the property management activities that
25 were being performed by BREMER during the audit period. In addition, FLORES was not listed
26 as an authorized signatory on Account #1.

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FLORES acknowledged to the auditor that she was not involved in the property management business during the audit period. BREMER provided that she had conducted property management under the assumption she did not need to be supervised because she was a paralegal and she thought it was exempted.

FLORES failed to exercise reasonable supervision over the acts and/or omissions of FLORES' employees, agents and others acting on FLORES' behalf.

UNLICENSED ACTIVITY

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Prior to May 5, 2020, BREMER, while unlicensed, using the fictitious business names Shamrocks Tricare Inc. and/or Shamrock Property Leasing, solicited prospective tenants for, negotiated rental agreements for and collected rents from real properties owned by another or others.

BREMER negotiated property managements with the property owners for the management of the properties, including but not limited to the following:

<u>PROPERTY OWNER</u>	<u>PROPERTY LOCATION(S)</u>
Judith P.	450-452 North Sixth Street, Coalinga
Richard C.	1890 North 11 th Avenue, Hanford
Leonard & Colette F.	1751 Easy Street, Hanford
Jamal E.	240 E. Hanford/Armona Road, Unit A-E, Hanford
Armona Central Assembly of God	14215-14235 Assembly of God Church
Regina S.	1407 Kaweah Street, Hanford
Valerie W.	316 E. Spruce Avenue, Lemoore
Stacey Alisa M.	2636 Wood Avenue, Riverdale
Black Oak LLC	3324 10 ½ Avenue, Laton
Pipner Irrevocable Trust	1229 N. 11 th Avenue 13030 Kansas Avenue

	13016 Kansas Avenue
	13060 Kansas Avenue
	1119 N. 11 th Avenue
Gracey & Alisa M.	2613 Terry Drive, Riverdale
Alan J.	1310 North Normade Street, Apt. A & B, Hanford

BREMER admitted that she had conducted property management under the assumption she did not need to be supervised because she was a paralegal and she thought it was exempted.

BREMER engaged in the business and acted in the capacity of a real estate broker within the State of California as defined by Section 10131(b) of the Code.

GROUND FOR DISCIPLINE

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The acts and/or omissions of FLORES as alleged above constitute grounds for the suspension or revocation of all licenses and license rights of FLORES, pursuant to the following provisions of the Code and Regulations:

As to Paragraph 10, under Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

As to Paragraph 11, under Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2831 of the Regulations;

As to Paragraph 12, under Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2831.1 of the Regulations;

As to Paragraph 13, under Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 2831.2 of the Regulations;

As to Paragraph 14, under Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

As to Paragraph 15, under Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 10159.7 of the Code and Section 2731 of the Regulations;

1 As to Paragraph 16, under Sections 10177(d) and/or 10177(g) of the Code in
2 conjunction with Section 10163 of the Code and Section 2715 of the Regulations; and

3 As to Paragraph 17, under Sections 10177(d), 10177(g), and/or 10177(h) of the
4 Code, in conjunction with Section 2725 of the Regulations.

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6 The acts and/or omissions of BREMER as alleged in Paragraph 18 constitute
7 grounds for the suspension or revocation of all licenses and license rights of BREMER, under
8 Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 10130 of the Code.

9 COST RECOVERY

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11 The acts and/or omissions of FLORES as alleged above, entitle the Department to
12 reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund
13 handling violation) of the Code.

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15 Section 10106 of the Code provides, in pertinent part, that in any order issued in
16 resolution of a disciplinary proceeding before the Department, the Commissioner may request the
17 Administrative Law Judge to direct a licensee found to have committed a violation of this part to
18 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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

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8 BREND A SMITH
Supervising Special Investigator

9 Dated at Fresno, California,
10 this 16 day of June, 2022

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17 DISCOVERY DEMAND

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