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**FILED**

FEB 16 2022

DEPARTMENT OF REAL ESTATE  
By *J. Targant*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

12 SEASIDE REAL ESTATE, INC., )  
13 and MARISSA NICOLE HUDSON, )

14 Respondents. )

No. H-3428 FR

ACCUSATION

15 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the  
16 State of California, for Accusation against Respondent SEASIDE REAL ESTATE, INC. (SRE)  
17 and MARISSA NICOLE HUDSON (MARISSA H.), collectively, Respondents, is informed and  
18 alleges as follows:

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

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23 At all times herein mentioned, SRE was and is presently licensed and/or has  
24 license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and  
25 Professions Code (the Code) by the Department of Real Estate (the Department) as a corporate  
26 real estate broker.

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At all times herein mentioned, MARISSA H. was and is presently licensed as a real estate broker.

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At all times mentioned herein, MARISSA H. was the designated broker-officer of SRE. As the designated broker-officer, MARISSA H. was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of officers, agents, real estate licensees and employees of SRE for which a real estate license is required to ensure the compliance of the corporation with the Real Estate law and the Regulations.

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At all times herein mentioned, RESPONDENTS engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker 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. RESPONDENTS leased or rented, or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or negotiated the sale, purchase or exchange of leases on real property, or on a business opportunity, or collected rents from tenants.

FIRST CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 5, above, and incorporates the same herein, by reference.

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On or about April 4, 2017, Adam S. entered a property management agreement with RESPONDENTS and Donald Hudson, the then-designated officer of SRE, whose real

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1 estate license was surrendered on August 9, 2018, to manage that certain real property  
2 commonly known as 1155 Monterey Ave., Units A, B and C, Morro Bay, California (Monterey  
3 Property).

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5 Respondents collected rents as following in 2019 as set forth below, and failed to  
6 disburse those funds to Adam S., the owner of the Monterey Property:

| 7 Unit:   | Month    | Amount of Rent |
|-----------|----------|----------------|
| 8 A       | February | \$2,700        |
| 9 A       | March    | \$2,700        |
| 10 B      | February | \$2,100        |
| 11 B      | March    | \$2,100        |
| 12 C      | February | \$2,100        |
| 13 C      | March    | \$2,100        |
| 14 Total: |          | \$13,800       |

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16 Because Respondents failed to disburse any of the February or March 2019 rents  
17 to Adam S., instead converting the funds to their own accounts, Adam S. terminated the  
18 property management agreement with Respondents on March 15, 2019.

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20 After the termination of the property management agreement for the Monterey  
21 Property, Adam S. requested the return of security deposits, as set forth below:

22 Unit A-\$3,200, Unit B-\$2,600 and Unit C-\$2,600; a total of \$8,400.

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24 As of the filing of this Accusation Respondents have failed to disburse any of the  
25 funds described, in Paragraphs 8 and 10, above, to Adam S.

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The acts and/or omissions described above constitute violations of Sections 10176(e) (commingling) and 10176(i) (conduct: fraud/dishonest dealing) of the Code and are grounds for discipline under Sections 10176 (e), 10176(i), 10177(d) (willful disregard of real estate laws), and/or 10177(g) (negligence/incompetence licensee) of the Code.

SECOND CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 12, above, and incorporates the same, herein, by reference.

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Beginning on August 20, 2021, and continuing intermittently through November 24, 2021, an audit was conducted at the Department's main office located at 2550 Mariposa Mall, Fresno, CA 93721, where the auditor examined records for the period of April 1, 2020, through July 31, 2021 (the audit period).

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While acting as a real estate broker as described in Paragraph 3, above, and within the audit period, RESPONDENTS accepted or received funds in trust (trust funds) from or on behalf of property owners, lessees and others in connection with property management activities, deposited or caused to be deposited those funds into bank accounts maintained by RESPONDENTS, at Premier Valley Bank, 1245 Spring Street, CA 93446, as described below:

| BANK ACCOUNT #1 |   |
|-----------------|---|
| Account No.:    | XXXXXXX3452   |
| Entitled:       | Seaside Real Estate, Inc. DBA Seaside Real Estate DBA Seaside Real Estate & Prop Mgmt |

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) RESPONDENTS failed to designate Bank Account #1 as a trust account as required by Section 2832 of Chapter 6, Title 10, California Code of Regulations (Regulations);
- (b) The auditor could not conduct an accountability on Bank Account #1, because RESPONDENTS did not maintain control records, separate beneficiary records, and did not perform monthly reconciliations, in violation of Section 10145 of the Code;
- (c) RESPONDENTS failed to maintain control records for Bank Account #1, as required by Section 2831 of the Regulations;
- (d) RESPONDENTS failed to maintain separate beneficiary records for Bank Account #1 as required by Section 2831.1 of the Regulations;
- (e) RESPONDENTS failed to perform monthly reconciliations of the separate beneficiary records and control records for Bank Account #1, as required by Section 2831.2 of the Regulations; and
- (f) RESPONDENTS failed to maintain real estate records, including trust fund records, as required by Section 10148 of the Code.

The acts and/or omissions described above constitute violations of Sections 2831 (control records), 2831.1 (separate beneficiary records), 2831.2 (monthly reconciliations), and 2832 (trust fund designation) of the Regulations, and of Section 10145 (trust fund handling) and 10148 of the Code and are grounds for discipline under Sections 10177(d) (willful disregard of real estate laws) and/or 10177(g) (negligence/incompetence licensee) of the Code.

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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.

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 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 Accusation and, that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Code, for the cost of the investigation and enforcement of the case as permitted by law, for the cost of the Department's audit as permitted by law, 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 11 day of February, 2022.

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DISCOVERY DEMAND

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