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FILED

DEC 29 2022

DEPARTMENT OF REAL ESTATE
By B. Nicholas

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 SHELLEY DEANN MEDEIROS,) No. H-3452 FR
14 Respondent.) ACCUSATION

15 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the
16 State of California, for cause of Accusation against SHELLEY DEANN MEDEIROS
(Respondent), is informed and alleges as follows:

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

20 2

21 Respondent is presently licensed and/or has license rights under the Real Estate
22 Law, Part 1 of Division 4 of the Business and Professions Code (Code).

23 LICENSE HISTORY

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25 At all times mentioned, Respondent was and is licensed by the Department as a
26 real estate broker, License ID 01910782. Respondent was licensed by the Department as a real

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1 estate broker on or about February 27, 2012. Unless renewed, Respondent's broker license will
2 expire February 26, 2024.

3 Beginning on or about June 21, 2013, Respondent was and is licensed to do
4 business under the fictitious business names "Medeiros Real Estate."

5 Beginning on or about February 19, 2019, Respondent was and is licensed to do
6 business under the fictitious business names "Preferred Realty Group."

7 AUDIT SC21-0024

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9 On or about November 18, 2022, the Department completed its audit (SC21-0024)
10 of the books and records of Respondent's property management activities described in Paragraph
11 5. The auditor herein examined the records for the period of November 1, 2019, through August
12 31, 2021.

13 5

14 At all times mentioned, Respondent engaged in the business of, acted in the
15 capacity of, advertised, or assumed to act as a real estate broker within the State of California
16 within the meaning of Sections 10131(b) of the Code, including the operation and conduct of a
17 property management business with the public wherein, on behalf of others, for compensation or
18 in expectation of compensation, Respondent leased or rented and offered to lease or rent, and
19 solicited for prospective tenants of real property or improvements thereon, and collected rents
20 from real property or improvements thereon.

21 As of the audit examination, Respondent managed one one-to-four family
22 residences and one commercial complex with four units for two owners. Respondent collected
23 approximately \$82,405 in trust funds annually.

24 Respondent's property management services include, but not limited to, collecting
25 rents, paying expenses, and screening tenants. For such property management services,
26 Respondent charged a management fee of approximately 10 percent of collected rents.

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While acting as a real estate broker as described in Paragraph 5, Respondent accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in connection with the leasing, renting, and collection of rents on real property or improvements thereon, as alleged herein, and thereafter from time to time made disbursements of said trust funds.

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

During the audit period, as described in Paragraph 5, Respondent maintained two (2) bank accounts to hold trust funds, identified as follows:

ACCOUNT # 1	
Bank Name and Location:	US Bank 1120 11 th Street Modesto, CA 95354
Account No.:	XXXXXXXXX5200
Account Name:	Gary Curtis DBA 1226 Preferred Property Management & PRG Development, Inc.
Description:	Account #1 was a business checking account. Account #1 was used to hold property owner funds for management of their properties. Deposits consisted of rents and disbursements consisted of transfers to Account #2.

ACCOUNT # 2	
Bank Name and Location:	US Bank

	1120 11 th Street Modesto, CA 95354
Account No.:	XXXXXXXXX5333
Account Name:	Gary Curtis DBA 1226 Preferred Property Management & PRG Development, Inc.
Description:	Account #2 was a business checking account. Account #2 was primarily used for deposits and disbursements related to Medeiros' business activities and personal transactions. In addition, Account #2 was also used to hold property owner funds for management of their properties. Deposits consisted of business/personal transactions and rents transferred from Account #1 as well as rents collected from tenants. Disbursements consisted of payments for business/personal expenses and expenses related to the properties managed and remittances to owners.

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In the course of the property management activities described in Paragraph 5, and during the audit examination period described in Paragraph 4, Respondent 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 combined bank reconciliation for Account #1 and Account #2 was prepared for as of July 31, 2021. The combined adjusted bank balance of Account #1 and Account #2 as of July 31, 2021, was compared to the combined beneficiaries' accountability for Account #1 and Account #2 as of July 31, 2021.

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1	Adjusted Bank Balance	\$1,479.54
2	Accountability	<u>\$2,680.00</u>
3	Trust Fund Shortage	<u>(\$1,200.46)</u>

4 A combined shortage of \$1,200.46 was found in Account #1 and Account #2 as of
5 July 31, 2021. The cause of the shortage was unidentified.

6 Respondent provided no evidence that the owners of the trust funds had given
7 their written consent to allow Respondents to reduce the balance of the funds in Account #1 and
8 Account #2 to an amount less than the existing aggregate trust fund liabilities, in violation of
9 Section 10145 of the Code and Section 2832.1 of the Regulations.

10 Trust Account Designation

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12 During the audit period, Account #1 and Account #2, accounts used to hold trust
13 funds, was not designated as trust accounts in the name of the broker or the broker’s fictitious
14 business name as trustee, in violation of Section 10145 of the Code and Section 2832 of the
15 Regulations. The accounts were titled “Gary Curtis DBA 1226 Preferred Property Management
16 & PRG Development, Inc.”

17 Control Record

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19 Respondent failed to maintain an accurate written control record, for Account #1,
20 Account #2, and/or Account #3, of all trust funds received and disbursed, containing all
21 information required by Section 2831 of the Regulations.

22 Separate Records

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24 Respondent failed to maintain accurate separate records for each beneficiary or
25 transaction, accounting therein for all funds which were deposited into Account #1 and Account
26 #2 containing all of the information required by Section 2831.1 of the Regulations.

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1 Trust Account Reconciliation

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3 Respondent failed to reconcile the balance of separate beneficiary or transaction
4 records with the control record of trust funds received and disbursed at least once a month, and/or
5 failed to maintain a record of such reconciliations for Account #1, and/or Account #2 as required
6 by Section 2831.2 of the Regulations.

7 Commingling

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9 Respondent commingled with its own money or property, the money or property
10 of others which was received or held by Respondent in trust in violation of Section 10176(e) of
11 the Code. Transfers from Account #1 to Account #2 during the audit period resulted in non-trust
12 funds being mixed with trust funds in Account #2.

13 Failure to Supervise

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15 At all times mentioned, Respondent was required to exercise reasonable
16 supervision and control over the activities of Respondent's employees, agents, and others acting
17 on Respondent's behalf pursuant to Section 2725 of the Regulations.

18 GROUND FOR DISCIPLINE

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

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

25 As to Paragraph 9, under Sections 10177(d) and/or 10177(g) of the Code in
26 conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

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1 As to Paragraph 10, under Sections 10177(d) and/or 10177(g) of the Code in
2 conjunction with Section 10145 of the Code and Section 2831 of the Regulations;

3 As to Paragraph 11, under Sections 10177(d) and/or 10177(g) of the Code in
4 conjunction with Section 10145 of the Code and Section 2831.1 of the Regulations;

5 As to Paragraph 12, under Sections 10177(d) and/or 10177(g) of the Code in
6 conjunction with Section 10145 of the Code and Section 2831.2 of the Regulations;

7 As to Paragraph 13, under Sections 10176(e) of the Code;

8 As to Paragraph 14, under Sections 10177(d), 10177(g), and/or 10177(h) of the
9 Code, in conjunction with Section 2725 of the Regulations.

10 COST RECOVERY

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

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16 Section 10106 of the Code provides, in pertinent part, that in any order issued in
17 resolution of a disciplinary proceeding before the Department, the Commissioner may request the
18 Administrative Law Judge to direct a licensee found to have committed a violation of this part to
19 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
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 Respondent under the Code, for the
4 cost of investigation and enforcement as permitted by law, for the cost of the audit, and for such
5 other and further relief as may be proper under other provisions of law.

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7 BREANDA SMITH
8 Supervising Special Investigator

9 Dated at Fresno, California,
10 this 15 day of December, 2022

11 DISCOVERY DEMAND

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