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BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	
	)	No. H-3460 FR
ATELLA PROPERTIES, INC.	)	
and JEREMY DAVID JENNINGS	)	<u>ACCUSATION</u>
Respondents.	)	
	)	

The Complainant, BRENDA SMITH, acting in her official capacity as a Supervising Special Investigator of the State of California, for this Accusation against ATELLA PROPERTIES, INC. ("ATELLA") and JEREMY DAVID JENNINGS ("JENNINGS"), sometimes collectively referred to as Respondents, is informed and alleges as follows:

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

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JENNINGS is presently licensed and/or has license rights under the Code as a real estate broker.

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At all times mentioned, JENNINGS was the designated broker-officer of ATELLA. As the designated broker-officer, JENNINGS 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 ATELLA for which a real estate license is required to ensure the compliance of the corporation with the Real Estate Law and the Regulations.

At all times 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 real property, or improvements thereon, or from business opportunities.

Whenever reference is made in an allegation in this Accusation to an act or omission of ATELLA, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with ATELLA committed such acts or omissions while engaged in furtherance of the business or operation of ATELLA and while acting within the course and scope of their corporate authority and employment.

On or about January 28, 2022, the Department completed its audit (FR21-0040) of the books and records of ATELLA's property management activities described above in Paragraph 4. The auditor examined property management records for the period of June 1, 2020, through November 30, 2021 ("the audit period").

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1 FIRST CAUSE OF ACTION

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3 Complainant refers to Paragraphs 1 through 6, above, and incorporates the same,  
4 herein.

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6 While acting as a real estate broker as described in Paragraph 4, above, and within  
7 the audit period, Respondents accepted or received funds in trust ("trust funds") from or on  
8 behalf of property owners, lessees and others in connection with property management activities,  
9 and deposited or caused to be deposited those funds into bank accounts maintained by  
10 Respondents at Citizen's Business Bank, 701 West Main Street, Visalia, CA 93291, as described  
11 below:

12 TRUST ACCOUNT #1 ("T/A1")	
13 Account No.:	XXXXXXXXX1628
14 Entitled:	Atella Properties, Inc. General Broker Trust Account
15 TRUST ACCOUNT #2 ("T/A2")	
16 Account No.:	XXXXXXXXX1660
17 Entitled:	Atella Properties, Inc. Security Dep Broker Trust Account

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

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20 In the course of the activities described in Paragraph 4, in connection with the  
21 collection and disbursement of trust funds, it was determined that:

- 22 (a) An accountability was performed on account T/A1, and as of October  
23 31, 2021, a shortage of \$9,755.62 was revealed in violation of Section  
24 10145(a) (handling of trust funds) of the Code;  
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1 (b) An accountability was performed on account T/A2, and as of October  
2 31, 2021, a shortage of \$3,560.87 was revealed in violation of Section  
3 10145(a) of the Code;

4 (c) Respondents failed to obtain written permission from owners of trust  
5 funds in account T/A1 and T/A2, to allow the balances to drop below  
6 accountability, in violation of Section 2832.1 (trust fund handling for  
7 multiple beneficiaries) of Title 10, Chapter 6, California Code of  
8 Regulations ("Regulations").

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10 The act and/or omissions described above constitute violations of Section  
11 2832.1 of the Regulations and Section 10145 of the Code, and are grounds for discipline  
12 under the aforementioned Section and/or Sections 10177(d) (willful disregard of real  
13 estate laws) and 10177(g) (negligence/incompetence licensee) of the Code.

14 SECOND CAUSE OF ACTION

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16 Complainant refers to Paragraphs 1 through 10, above, and incorporates the  
17 same, herein.

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19 At all times mentioned above, JENNINGS was responsible, as the supervising  
20 designated broker/officer for ATELLA, for the supervision and control of the activities  
21 conducted on behalf of ATELLA's business by its employees to ensure its compliance with the  
22 Real Estate Law and Regulations. JENNINGS failed to exercise reasonable supervision and  
23 control over the property management activities of ATELLA. In particular, JENNINGS  
24 permitted, ratified and/or caused the conduct described above to occur, and failed to take  
25 reasonable steps, including but not limited to, the handling of trust funds, supervision of  
26 employees, and the implementation of policies, rules, and systems to ensure the compliance of  
27 the business with the Real Estate Law and the Regulations.

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The above acts and/or omissions of JENNINGS violate Section 2725 (broker supervision) of the Regulations and Section 10159.2 (responsibility/designated officer) of the Code and constitute grounds for disciplinary action under the provisions of Sections 10177(d), 10177(g) and 10177(h) (broker supervision) of the Code.

COSTS OF INVESTIGATION AND ENFORCEMENT

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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.

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

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 Real Estate Law, for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other provisions of law.



BRENDA SMITH

Supervising Special Investigator

Dated at Fresno, California,

this 9 day of September 2022.

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