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FILED

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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 RAUL JARA,) No. H-3472 FR
14) ACCUSATION
15 Respondent.)

16 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the
17 State of California, for cause of Accusation against RAUL JARA ("Respondent"), is informed
18 and alleges as follows:

19 1

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

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

25 LICENSE HISTORY

26 3

27 At all times mentioned, Respondent was and is licensed by the Department as a
real estate broker, License ID 01171994. Respondent was licensed by the Department as a real
estate salesperson on or about December 4, 1993, and as a real estate broker on or about

1 November 3, 1997. Unless renewed, Respondent's broker license will expire November 2,
2 2025.

3 Respondent was and is licensed to do business under the fictitious business name
4 "Tienken Realty."

5 AUDIT FR21-0064

6 4

7 On or about June 20, 2022, the Department completed its audit (FR21-0064) of
8 the books and records of Respondent's property management activities described in Paragraph 5.
9 The auditor herein examined the records for the period of October 1, 2020, through March 31,
10 2022.

11 5

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

19 As of the audit examination, Respondent managed approximately twelve (12)
20 one-to-four unit family residences, five (5) apartment complexes, and seven (7) commercial
21 complexes for thirteen(13) owners. Respondent collected approximately \$461,341.64 in trust
22 funds annually.

23 Respondent's property management services include, but not limited to, collecting
24 rents and security deposits; soliciting tenants; advertising properties; making mortgage, property
25 tax, and insurance payments; and responsibility for repairs and maintenance. For such property
26 management services, Respondent charged a management fee between 8 and 10 percent of
27 collected rents.

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, identified as follows:

TRUST ACCOUNT # 1	
Bank Name and Location:	Bank of Sierra 142 S. Mirage Avenue Lindsay, CA 93247
Account No.:	XXXXXX9770
Account Name:	Tienken Realty Trust Account
Signatories:	Raul Jara
Description:	Trust Account #1 was used to hold property owner funds for management of their properties.

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:

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Trust Account Accountability and Balances

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Based on the records provided during the audit, a bank reconciliation for Trust Account #1 was prepared for as of January 31, 2022. The adjusted bank balance of Trust Account #1 as of January 31, 2022, was compared to the beneficiaries' accountability for Trust Account #1 as of January 31, 2022.

Adjusted Bank Balance	(\$4,456.58)
Accountability	<u>\$14,940.66</u>
Trust Fund Shortage	<u>(\$10,484.08)</u>

As of January 31, 2022, Trust Account #1 contained a shortage in the amount of \$10,484.08. The cause of shortage was unidentified.

GROUND FOR DISCIPLINE

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

As to Paragraph 8, 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;

COST RECOVERY

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

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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

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
4 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
5 action against all licenses and license rights of Respondent under the Code, for the cost of
6 investigation and enforcement as permitted by law, for the cost of the audit, and for such other
7 and further relief as may be proper under other provisions of law.

8 
9 BREND A SMITH
10 Supervising Special Investigator

11 Dated at Fresno, California,
12 this 10 day of February, 2023
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21 DISCOVERY DEMAND
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23 Pursuant to Sections 11507.6, *et seq.* of the *Government Code*, the Department of
24 Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the
25 *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate
26 may result in the exclusion of witnesses and documents at the hearing or other sanctions that the
27 Office of Administrative Hearings deems appropriate.