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FILED

JUN 13 2023

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 ACTION ONE PROPERTY MANAGEMENT,)
14 INC.;)

15 and)

16 JACKELINE P. PRICE, individually and as)
17 designated officer of Action One Property)
18 Management, Inc.,)

19 Respondents.)

No. H-3491 FR

ACCUSATION

20 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the
21 State of California, for cause of Accusation against ACTION ONE PROPERTY
22 MANAGEMENT, INC. and JACKELINE P. PRICE (collectively referred to as "Respondents"),
23 is informed and alleges as follows:

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

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1 PRELIMINARY ALLEGATIONS

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

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6 At all times mentioned, Respondent ACTION ONE PROPERTY
7 MANAGEMENT, INC. (ACTION) was and is licensed by the Department as a restricted real
8 estate broker corporation, License ID 01964597.

9 On or about October 29, 2014, ACTION was licensed by the Department as a
10 real estate broker corporation.

11 Effective April 19, 2017, in Case No. H-3028 FR before the Department, the Real
12 Estate Commissioner (Commissioner) issued an order revoking the real estate corporate license
13 of ACTION, granting the right to a restricted real estate corporate license upon terms and
14 conditions, for violation of Business and Professions Code (Code) Sections 10177(d) and
15 10176(e).

16 At all times mentioned beginning on or about September 26, 2016 and
17 continuing thereafter, JACKELINE P. PRICE (PRICE) was licensed by the Department as the
18 designated broker officer of ACTION. As said designated officer-broker, PRICE was
19 responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the
20 officers, agents, real estate licensees, and employees of ACTION for which a license is required.

21 Effective October 27, 2020, in Case No. H-3237 FR before the Department, the
22 Commissioner issued an order suspending the real estate corporate broker license of ACTION for
23 60-days stayed upon terms and conditions, for violation of Section 10177(d) of the Code.

24 Unless renewed, ACTION's restricted corporate broker license will expire April
25 18, 2025.

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At all times mentioned, real estate salesperson Mayra O. Martin (Martin) was the 100 percent shareholder and Chief Executive Officer of ACTION. ACTION was registered as a corporation (#C3220529) with the California Secretary of State on or about July 24, 2009.

At all times mentioned between November 2, 2020, and June 1, 2022, the corporate powers, rights and privileges of ACTION were forfeited pursuant to the provisions of the Revenue and Taxation Code.

At all times mentioned, Respondent PRICE was licensed by the Department individually as a real estate broker, License ID 01874865. PRICE was licensed as a real estate salesperson on December 7, 2009, and as a broker on August 29, 2016. Unless renewed, PRICE's broker license will expire August 28, 2024.

PRICE is licensed by the Department as the designated broker officer of Price Real Estate Corp and ACTION.

Effective October 27, 2020, in Case No. H-3237 FR before the Department, the Commissioner issued an order suspending the real estate corporate broker license of PRICE for 60-days stayed upon terms and conditions, for violation of Sections 10177(d) and 10177(h) of the Code.

At all times mentioned, Martin was licensed by the Department as a real estate salesperson, License ID 02067949. Martin was originally licensed as a real estate salesperson on August 29, 2018.

From December 5, 2018, through August 28, 2022, Martin's real estate salesperson license was affiliated under the brokerage of ACTION. From January 26, 2023, to present, Martin's real estate salesperson license was affiliated under the brokerage of PRICE.

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

AUDIT SC21-0046

On or about June 24, 2022, the Department completed its audit (SC21-0046) of the books and records of ACTION's property management activities described in Paragraph 9. The auditor herein examined the records for the period of January 1, 2021, through November 30, 2021.

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 Sections 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 and offered to lease or rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

As of the audit examination, Respondents managed 134 properties with 151 units and 40 owners. Respondents collected approximately \$1,822,596 in trust funds annually.

Respondents' property management services include, but not limited to, collecting rents and security deposits for real property and responsibility for repairs and maintenance. For such property management services, Respondents charged a management fee of 5 to 8 percent of collected rents or \$130 flat amount per unit per month.

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While acting as a real estate broker as described in Paragraph 9, Respondents 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 Respondents were deposited or caused to be deposited by Respondents into accounts which were maintained by Respondents for the handling of trust funds, and thereafter from time-to-time Respondents made disbursements of said trust funds, identified as follows:

TRUST ACCOUNT # 1	
Bank Name and Location:	WestAmerica Bank 1788 Mitchell Road, Suite 104 Ceres, CA 95307
Account No.:	XXX-XX859-1
Account Name:	Action One Property Management Inc. Common Client Trust Account
Purpose:	Trust Account #1 was maintained for the receipt and disbursement of trust funds from property management activities. Deposits consisted of rental payments made by tenants. Disbursements from this account consisted of repairs and maintenance bills, owner proceeds, and management fees.

TRUST ACCOUNT # 2	
Bank Name and Location:	WestAmerica Bank 1788 Mitchell Road, Suite 104 Ceres, CA 95307
Account No.:	XXX-XX965-6
Account Name:	Action One Property Management Inc. Common Client Trust Account
Purpose:	Trust Account #2 was maintained for the receipt and disbursement of trust funds from property management activities. Deposits consisted of rental payments made by tenants. Disbursements from this account consisted of repairs

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	and maintenance bills, owner proceeds, and management fees.
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TRUST ACCOUNT # 3	
Bank Name and Location:	WestAmerica Bank 1788 Mitchell Road, Suite 104 Ceres, CA 95307
Account No.:	XXX-XX858-3
Account Name:	Action One Property Management Inc. Common Client Trust Account
Purpose:	Trust Account #3 was maintained for the receipt and disbursement of trust funds from property management activities. Deposits consisted of rental payments made by tenants. Disbursements from this account consisted of repairs and maintenance bills, owner proceeds, and management fees.

TRUST ACCOUNT # 4	
Bank Name and Location:	WestAmerica Bank 1788 Mitchell Road, Suite 104 Ceres, CA 95307
Account No.:	XXX-XX962-3
Account Name:	Action One Property Management Inc. Common Client Trust Account
Purpose:	Trust Account #4 was maintained for the receipt and disbursement of trust funds from property management activities. Deposits consisted of rental payments made by tenants. Disbursements from this account consisted of repairs and maintenance bills, owner proceeds, and management fees.

TRUST ACCOUNT # 5	
Bank Name and Location:	WestAmerica Bank 1788 Mitchell Road, Suite 104 Ceres, CA 95307
Account No.:	XXX-XX958-1
Account Name:	Action One Property Management Inc. Common Client Trust Account
Purpose:	Trust Account #5 was maintained for the receipt and disbursement of trust funds from property management activities. Deposits consisted of rental payments made by tenants. Disbursements from this account consisted of repairs and maintenance bills, owner proceeds, and management fees.

In the course of the property management activities described in Paragraph 9, and during the audit examination period described in Paragraph 8, Respondents violated the Code and Regulations described below:

Trust Account Accountability and Balances

Based on the records provided during the audit, a bank reconciliation for Trust Account #1 was prepared for as of December 31, 2021. The adjusted bank balance of Trust Account #1 as of December 31, 2021, was compared to the beneficiaries' accountability for Trust Account #1 as of December 31, 2021.

Adjusted Bank Balance	\$3,336.08
Accountability	<u>\$3,689.02</u>
Trust Fund Shortage	<u>(\$352.94)</u>

A shortage of \$352.94 was found in Trust Account #1 as of December 31, 2021. The trust fund shortage was caused by identified negative property balances.

Respondents provided no evidence that the owners of the trust funds had given their written consent to allow Respondents 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).

Based on the records provided during the audit, a bank reconciliation for Trust Account #3 was prepared for as of December 31, 2021. The adjusted bank balance of Trust Account #3 as of December 31, 2021, was compared to the beneficiaries' accountability for Trust Account #3 as of December 31, 2021.

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Adjusted Bank Balance	\$2,015.47
Accountability	<u>\$2,027.47</u>
Trust Fund Shortage	<u>(\$12.00)</u>

A shortage of \$12.00 was found in Trust Account #3 as of December 31, 2021. The trust fund shortage was caused by identified negative property balances.

Respondents provided no evidence that the owners of the trust funds had given their written consent to allow Respondents to reduce the balance of the funds in Trust Account #3 to an amount less than the existing aggregate trust fund liabilities, in violation of Section 10145 of the Code and Section 2832.1 of the Regulations.

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Based on the records provided during the audit, a bank reconciliation for Trust Account #4 was prepared for as of December 31, 2021. The adjusted bank balance of Trust Account #4 as of December 31, 2021, was compared to the beneficiaries' accountability for Trust Account #1 as of December 31, 2021.

Adjusted Bank Balance	(\$12.00)
Accountability	<u>\$0.00</u>
Trust Fund Shortage	<u>(\$12.00)</u>

A shortage of \$12.00 was found in Trust Account #4 as of December 31, 2021. The trust fund shortage was caused by identified negative property balances.

Respondents provided no evidence that the owners of the trust funds had given their written consent to allow Respondents 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 the Regulations.

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SUSPENDED CORPORATE STATUS

During the audit period, ACTION, while forfeited by the Secretary of State, in course of the real estate resale brokerage activities described in Paragraph 9, solicited prospective tenants for, negotiated rental agreements for and collected rents from real properties owned by another or others, for approximately 131 properties with 151 units and 40 owners, including but not limited to:

Property Management Agreements

Date	Property Owner	PROPERTY ADDRESS
1/19/2021	Diane T.	2729 Joy Ave., Ceres
2/11/2021	Raudel G.	2246 Lamber St., Modesto
3/1/2021	Deepak C.	133 Collage Ave., Modesto
3/2/2021	Alex P.	2616 Kay St., Ceres
7/28/2021	John A.	1532 W. Rosebourg Ave., Modesto
7/30/2021	Maria Dolores R.	4113 S. Carpenter Rd., Modesto
9/27/2021	Bob A. Alice T.	2833 Joy Ave., Ceres
10/30/2021	Ullises A.	2164 Huntington Dr., Los Banos
10/30/2021	Jessica R.	1022 Santa Barbara Ave., Los Banos
11/4/2021	Daoudi Investments LLC	416, 420, 424, 428, 432, 444 Vine Ave., Modesto
12/8/2021	Richard T.	1320 Bluejay Way., Modesto
12/11/2021	Jose S.	1195 Escalon Ave., Escalon
1/7/2022	Baltazar P.	2020 Mather Ave., Modesto

Residential Lease or Month-to-Month Agreements

Date	Tenant	PROPERTY ADDRESS
12/8/2020	Celso L.	1567 Wylma Way, Modesto
12/8/2020	Quinneka O.	400 Corson Ave. Unit A, Modesto
1/29/2021	Jenifer Adriana R. Cristian M.	400 Corson Ave. Unit C, Modesto
2/1/2021	Cindy N. Ramon E.	2729 Joy Avenue, Ceres
3/1/2021	Marco C.	2246 Lamber Street, Modesto
3/4/2021	Jose P. Rosario M.	1816 Manny Court, Ceres

1	3/9/2021	Raul J.	2616 Kay St., Ceres
2	5/1/2021	Daniel Z.	109 South Abbie Ave., Empire
3	9/10/2021	Maricruz S. Barbara A.	2817 Carol Ave., Modesto
4	10/1/2021	Abraham H.	2833 Joy Ave., Ceres
5	10/4/2021	Alejandro V.	2622 Roeding Rd. Apt B, Ceres
6	10/5/2021	Rosa M.	2200 San Lucas Ct. Apt. A, Modesto
7	11/19/2021	Jose L.	432 Vine St., Modesto
8	11/19/2021	Jacob B.	428 Vine St., Modesto
9	11/30/2021	Pablo C.	1532 W. Roseburg, Modesto
10	12/15/2021	Sandra C.	5349 Jeppson Drive, Salida
11	12/15/2021	Ethan S.	1320 Bluejay Way, Modesto
12	1/3/2022	Robert F.	1195 Escalon Ave., Escalon
13	1/8/2022	Marcos Del P. Heidy M.	2020 Mather Dr., Modesto
14	2/2/2022	Efren M. Giovanni M.	1022 Santa Barbara Ave., Los Banos
15	2/22/2022	Annabelle W.	5030 Rohde Rd. Apt 4, Ceres
16	4/1/2022	Jessica P. Federique T.	2622 Roeding Rd., Apt. M, Ceres
17	4/1/2022	Wilfrido M.	2622 Roeding Rd., Apt. N, Ceres
18	4/21/2022	Irene A. Jesus G.	5030 Rohde Rd., Apt. 7, Ceres
19	4/21/2022	Jose Luis A. Naydeline M.	5030 Rohde Rd., Apt. 4, Ceres
20	4/25/2022	Yesica V.	2055 Richard Way, Apt. 1, Ceres

FAILURE TO SUPERVISE

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Respondent PRICE failed to exercise reasonable supervision over the acts of
ACTION in such a manner as to allow the acts and events described above to occur.

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The acts and/or omissions of PRICE as described in Paragraph 16, constitutes
failure on the part of PRICE, as designated broker-officer for ACTION, to exercise reasonable
supervision and control over the licensed activities of ACTION as required by Section 10159.2
of the Code and Section 2725 of the Regulations.

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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 Respondent under the Code, for the cost of
4 investigation and enforcement as permitted by law, and for such other and further relief as may
5 be proper under the provisions of law.

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9 BREND A SMITH
 Supervising Special Investigator

10 Dated at Fresno, California,
11 this 30 day of May, 2023

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13 DISCOVERY DEMAND

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