

ADRIANA Z. BADILAS, Counsel (SBN 283331)
Department of Real Estate
P. O. Box 137007
Sacramento, CA 95813-7007
Fax: (916) 263-3767
Telephone: (916) 576-8700
-or- (916) 576-3785 (Direct)

FILED

FEB 21 2024

DEPARTMENT OF REAL ESTATE

By B. dew

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:	)	
	)	No. H-3521 FR
CARMEL COAST ESTATE, INC., and	)	
MARY JANE CAPUTO	)	<u>ACCUSATION</u>
	)	
Respondents.	)	
_____	)	

The Complainant, RUBEN CORONADO, in his official capacity as Supervising Special Investigator of the State of California, Department of Real Estate ("Department"), brings this Accusation against CARMEL COAST ESTATE, INC. ("CARMEL COAST") and MARY JANE CAPUTO ("CAPUTO"), (collectively "Respondents"), and is informed and alleges as follows:

1

CARMEL COAST is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code"), as a corporate real estate broker, License No. 02123847. CARMEL COAST first became licensed as a real estate broker on August 25, 2020.

///

///

2

CAPUTO is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code as a restricted real estate broker, License No. 01438868. CAPUTO first became licensed as a real estate broker on April 10, 2020.

3

At all relevant times, CAPUTO was the designated broker officer ("DO") for CARMEL COAST and was responsible for supervising the licensed activities of CARMEL COAST and its employees, agents, and associates.

4

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

5

At all relevant times herein, CARMEL COAST engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate licensees 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, CARMEL COAST leased or rented or 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.

6

On or about May 25, 2023, a follow-up audit was conducted into the real estate business activities of CARMEL COAST, located at 2960 Crescent Rd., Pebble Beach, CA 93953. The Department's auditor examined the business records of CARMEL COAST for the period of January 1, 2021, through December 31, 2022 ("audit period").

PRIOR DISCIPLINE
(As to CAPUTO)

7

Each and every allegation made above in Paragraphs 1 through 6, inclusive, is incorporated by reference as if fully set forth herein.

8

On or about September 14, 2020, the Department filed an Accusation, Hearing No. H-3330 FR, against the corporate real estate license of Coast Estate Property Management, Inc. ("Coast Estate") and CAPUTO pursuant to an audit that revealed multiple violations of Real Estate Law.

9

The Accusation alleged unlicensed activity on behalf Coast Estate and CAPUTO, as well as mishandling of trust funds, including a shortage of \$327,140.87.

10

At all relevant times to the H-3330 FR Accusation, CAPUTO was the Chief Executive Officer of Coast Estate.

11

In or around October 2022, the Department entered into a Stipulation and Agreement in Settlement and Order ("Stipulation") with CAPUTO and Coast Estate, which became effective April 17, 2023. Pursuant to the Stipulation, Coast Estate surrendered its license. CAPUTO's real estate broker license was revoked; provided, however, that CAPUTO could apply for a restricted real estate broker license for a period of three years.

FIRST CAUSE OF ACTION
(Audit Violations as to Respondents)

12

Each and every allegation made above in Paragraphs 1 through 11, inclusive, is incorporated by reference as if fully set forth herein.

///

While engaging in the real estate activities described above in Paragraph 5, and within the audit period, Respondents accepted or received funds in trust ("trust funds") and deposited or caused the trust funds to be deposited into the following accounts:

Bank Account #1

Bank Name: Wells Fargo Bank, N.A.
P.O. Box 6995, Portland, OR 97228-6995
Account Name: Carmel Coast Estate, Inc. Real Estate Trust
Account No.: Last 4 Digits: 0852
Signatories: Mary Jane Caputo (RRES)
Description: Handling of trust fund receipts and disbursements related to long-term rental activities.

Bank Account #2

Bank Name: Wells Fargo Bank, N.A.
P.O. Box 6995, Portland, OR R97228-6995
Bank Name: Carmel Coast Estate, Inc. Real Estate Trust
Account No.: Last 4 Digits: 0845
Mary Jane Caputo (RRES)
Joseph K. Sennish (Unlicensed/CFO)
Description: Handling of trust fund receipts and disbursements related to short-term rental activities.

In the course of the real estate activities described above in Paragraph 5, and during the audit period, the following was discovered:

a. Bank Account #1 and Bank Account # 2 were bank accounts used to hold trust funds. Neither account was designated as a trust account in the name of the corporation as trustee, in violation of Section 10145 of the Code and Section 2832 of Chapter 6, Title 10, California Code of Regulations ("Regulations");

b. Respondents failed to maintain accurate control records for Bank Account #1 and Bank Account #2, in violation of Section 10145 of the Code and Section 2831 of the Regulations;

///

///

1 c. Respondents failed to maintain accurate separate records for Bank Account
2 #1 and Bank Account #2, in violation of Section 10145 of the Code and Section 2831.1 of the
3 Regulations;

4 d. As of December 31, 2022, the bank account reconciliation performed by
5 Respondents for Bank Account #1 and Bank Account #2 were inaccurate. A review of both
6 accounts revealed that there were nineteen (19) uncleared deposits in Bank Account #1 and forty-
7 one (41) uncleared deposits in Bank Account #2, dating from May 1, 2021, through October 1,
8 2022, in violation of Sections 10145 of the Code, in conjunction with Section 2831.2 of the
9 Regulations;

10 e. During the audit period, Respondents failed to maintain a fidelity
11 bond/insurance coverage for Joseph Sennish when he was an unlicensed authorized signer on Bank
12 Account #2, in violation of Section 10145 of the Code and Section 2834 of the Regulations;

13 f. Trust funds collected in the form of rent were deposited into Caputo's
14 personal bank account. In at least two instances, rent amounts totaling \$8,491 and \$7,016 were
15 collected through Venmo and deposited into CAPUTO's personal bank account before being
16 transferred into Bank Account #1, in violation of Sections 10145 and 10176(e) of the Code and
17 Sections 2832 and 2835 of the Regulations;

18 g. Respondents failed to disburse approximately \$95,510.26 of their earned fees
19 within twenty-five (25) days after they were earned from Bank Account #1, in violation of Sections
20 10145 and 10176(e) of the Code and Sections 2832 and 2835 of the Regulations; and

21 h. CAPUTO failed to exercise appropriate supervision over the activities of
22 CARMEL COAST and its employees, agents, and/or its licensees so as to allow the above-
23 referenced violations to occur.

24 15

25 The acts and/or omissions of CARMEL COAST and CAPUTO as alleged in the
26 FIRST CAUSE constitute grounds for the suspension or revocation of all licenses and license rights
27 of CARMEL COAST and CAPUTO pursuant to the following provisions:

1 As to Paragraph 14(a), under Sections 10145, 10177(d) and/or 10177(g) of the
2 Code, in conjunction with Section 2832 of the Regulations;

3 As to Paragraph 14(b), under Sections 10145, 10177(d), and/or 10177(g) of the
4 Code, in conjunction with Section 2831 of the Regulations;

5 As to Paragraph 14(c), under Sections 10145, 10177(d) and/or 10177(g) of the
6 Code, in conjunction with Section 2831.1 of the Regulations;

7 As to Paragraph 14(d), under Sections 10145, 10177(d), and/or 10177(g) of the
8 Code, in conjunction with Section 2831.2 of the Regulations;

9 As to Paragraph 14(e), under Sections 10145, 10177(d) and 10177(g) of the Code,
10 in conjunction with Section 2834 of the Regulations;

11 As to Paragraph 14(f), under Sections 10145, 10176(e), 10177(d) and 10177(g) of
12 the Code, in conjunction with Sections 2832 and 2835 of the Regulations;

13 As to Paragraph 14(g), under Sections 10145, 10176(e), 10177(d) and 10177(g) of
14 the Code, in conjunction with Sections 2832 and 2835 of the Regulations; and

15 As to Paragraph 14(h), under Sections 10177(g) and 10177(h) of the Code, in
16 conjunction with Section 2725 of the Regulations.

17 **COST RECOVERY**

18 16

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

22 17

23 Section 10106 of the Code provides, in pertinent part, that in any order issued in
24 resolution of a disciplinary proceeding before the Department, the Commissioner may request the
25 Administrative Law Judge to direct a licensee found to have committed a violation of this part to
26 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

27 ///

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
2 this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
3 against all licenses and license rights of Respondents under the Code, for the cost of investigation
4 and enforcement as permitted by law, for the cost of the audit, and for such other and further relief
5 as may be proper under other provisions of law.

6
7
8 
9 RUBEN CORONADO
Supervising Special Investigator

10 Dated at Fresno, California,
11 this 13th day of February, 2024.

12
13 DISCOVERY DEMAND

14 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the
15 Department of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth
16 in the *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.