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FILED

FEB 13 2024

DEPARTMENT OF REAL ESTATE

By

B. Nicholas

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

MANZANITA PROPERTY
MANAGEMENT, INC.;

and

DAWN B. PENTONEY, individually and as
designated officer of Manzanita Property
Management, Inc.,

Respondents.

No. H-3531 FR

ACCUSATION

The Complainant, RUBEN CORONADO, a Supervising Special Investigator of
the State of California, for cause of Accusation against MANZANITA PROPERTY
MANAGEMENT, INC. and DAWN B. PENTONEY (collectively referred to as
"Respondents"), is informed and alleges as follows:

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The Complainant, RUBEN CORONADO, a Supervising Special Investigator of
the State of California, makes this Accusation in his official capacity.

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

At all times mentioned, Respondent MANZANITA PROPERTY MANAGEMENT, INC. (MPMI) was and is licensed by the Department as a restricted real estate broker corporation, License ID 01180540.

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1 Effective May 16, 2017, in Case No. H-3029 FR before the Department, the
2 Commissioner issued an order revoking the real estate broker license of PENTONEY, granting
3 the right to a restricted real estate broker license upon terms and conditions, for violation of Code
4 Section 10177(d).

5 Unless renewed, PENTONEY's restricted broker license will expire May 15,
6 2025.

7 PENTONEY is licensed by the Department as the designated broker officer of
8 MPMI.

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

15 AUDIT FR22-0050

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17 On or about June 29, 2023, the Department completed its audit (FR22-0050) of
18 the books and records of MPMI's property management activities described in Paragraph 7. The
19 auditor herein examined the records for the period of November 1, 2021, through April 30, 2023.

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21 At all times mentioned, Respondents engaged in the business of, acted in the
22 capacity of, advertised, or assumed to act as a real estate broker within the State of California
23 within the meaning of Sections 10131(b) of the Code, including the operation and conduct of a
24 property management business with the public wherein, on behalf of others, for compensation or
25 in expectation of compensation, Respondents leased or rented and offered to lease or rent, and
26 solicited for prospective tenants of real property or improvements thereon, and collected rents
27 from real property or improvements thereon.

1 As of the audit examination, Respondents managed 167 one-to-four-unit family
2 residences with 280 units and 9 apartment complexes with 110 units for 182 owners.

3 Respondents collected approximately \$7,080,000 in trust funds annually.

4 Respondents' property management services include, but were not limited to,
5 collecting rents and security deposits for real property and responsibility for repairs and
6 maintenance. For such property management services, Respondents charged a management fee
7 of 5 to 10 percent of collected rents and a lease execution fee between \$200 to \$500.

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9 While acting as a real estate broker as described in Paragraph 7, Respondents
10 accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in
11 connection with the leasing, renting, and collection of rents on real property or improvements
12 thereon, as alleged herein, and thereafter from time-to-time made disbursements of said trust
13 funds.

14 The trust funds accepted or received by Respondents were deposited or caused to
15 be deposited by Respondents into accounts which were maintained by Respondents for the
16 handling of trust funds, and thereafter from time-to-time Respondents made disbursements of
17 said trust funds, identified as follows:

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TRUST ACCOUNT # 1	
Bank Name and Location:	Pacific Premier Bank 545 12 th Street Paso Robles, CA 93446
Account No.:	XXXXXX0086
Account Name:	Manzanita Property Management Inc. Trust Account
Purpose:	Trust Account #1 was maintained for the receipt and disbursement of trust funds from property management activities.

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In the course of the property management activities described in Paragraph 7, and during the audit examination period described in Paragraph 6, Respondents 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 bank reconciliation for Trust Account #1 was prepared as of February 28, 2023. The adjusted bank balance of Trust Account #1 as of February 28, 2023, was compared to the beneficiaries' accountability for Trust Account #1 as of February 28, 2023.

Adjusted Bank Balance	\$418,983.87
Accountability	<u>\$433,163.00</u>
Trust Fund Shortage	<u>(\$14,179.13)</u>

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1 A shortage of \$14,179.13 was found in Trust Account #1 as of February 28, 2023.
2 Of the total shortage, \$1,450.75 was caused by negative balances in five property accounts and
3 the remaining shortage of \$12,728.38 was unidentified.

4 Respondents provided no evidence that the owners of the trust funds had given
5 their written consent to allow Respondents to reduce the balance of the funds in Trust Account
6 #1 to an amount less than the existing aggregate trust fund liabilities, in violation of Section
7 10145 of the Code and Section 2832.1 of Title 10, Chapter 6, California Code of Regulations
8 (Regulations).

9 FAILURE TO SUPERVISE

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11 Respondent PENTONEY failed to exercise reasonable supervision over the acts
12 of MPMI. PENTONEY permitted, ratified and/or caused the conduct described above, to occur,
13 and failed to take reasonable steps, including but not limited to the handling of trust funds,
14 supervision of employees, and the implementation of policies, rules, procedures, and systems to
15 ensure the compliance of the corporation with the Real Estate Law and the Regulations.

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17 The acts and/or omissions of PENTONEY as described in Paragraph 11,
18 constitute failure on the part of PENTONEY, as designated broker-officer for MPMI, to exercise
19 reasonable supervision and control over the licensed activities of MPMI as required by Section
20 10159.2 of the Code and Section 2725 of the Regulations.

21 GROUND FOR DISCIPLINE

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

26 As to Paragraph 10, under Sections 10177(d) and/or 10177(g) of the Code in
27 conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations.

The acts and/or omissions of PENTONEY as alleged in Paragraphs 11 and 12 constitute grounds for the suspension or revocation of all licenses and license rights of PENTONEY under Sections 10177(g) and/or 10177(h) of the Code, and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

COST RECOVERY

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.

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.

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 Respondents under the Code, for the cost of investigation and enforcement as permitted by law, for the costs of the audit, and for such other and further relief as may be proper under the provisions of law.


RUBEN CORONADO
Supervising Special Investigator

Dated at Fresno, California,
this 22nd day of January, 2024

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DISCOVERY DEMAND

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