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FILED

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DEPARTMENT OF REAL ESTATE  
By B. Nicholas

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of: )  
12 ) No. H-3552 FR  
WESTHILL REAL ESTATE PROPERTIES, INC. )  
13 and ANTHONY MARTINEZ JR., ) ACCUSATION  
14 Respondents. )

15 The Complainant, RUBEN CORONADO, acting in his official capacity as a  
16 Supervising Special Investigator of the State of California, for this Accusation against  
17 WESTHILL REAL ESTATE PROPERTIES, INC. ("WESTHILL") and ANTHONY  
18 MARTINEZ JR. ("MARTINEZ"), sometimes collectively referred to as Respondents, is  
19 informed and alleges as follows:

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

24 2

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

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At all times mentioned, MARTINEZ was the designated broker-officer of WESTHILL. As the designated broker-officer, MARTINEZ 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 WESTHILL 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 acts referred to below are attributed to Respondents, those acts are alleged to have been done by Respondents, acting by themselves, or by and/or through one or more known or unknown agents, associates, and/or co-conspirators.

On or about November 21, 2023, the Department completed its audit (FR220059) of the books and records of WESTHILL's property management activities described above in Paragraph 4. The auditor examined property management records for the period of June 1, 2022, through July 31, 2023 ("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 WestAmerica Bank, 953 E. Pacheco Blvd, Los Banos, CA, as described below:

11 TRUST ACCOUNT #1 ("T/A1")	
12 Account No.:	XXXXXX7899
13 Entitled:	Westhill Real Estate Properties Inc Common Client Trust Account 14 (Property Management Account)
15 TRUST ACCOUNT #2 ("T/A2")	
16 Account No.:	XXXXXX7832
17 Entitled:	Westhill Real Estate Properties, Inc. Common Client Trust Account 18 (Security Deposit Account)

19 And thereafter from time to time made disbursements of said trust funds.  
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21 9

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

24 (a) An accountability was performed on account T/A1, and as of July 31,

25 2023, a shortage of \$2,271.50 was revealed in violation of Section

26 10145(a) (handling of trust funds) of the Code;

27 (b) Respondents failed to obtain written permission from the owners of the

1 trust funds in account T/A1, to allow the balances to drop below  
2 accountability, in violation of Section 2832.1 (trust fund handling for  
3 multiple beneficiaries) of Title 10, Chapter 6, California Code of  
4 Regulations (“Regulations”); and

5 (c) Respondents failed to accurately reconcile the balance of all separate  
6 beneficiary records with the record of all trust funds received and  
7 disbursements for T/A1 and T/A2 in violation of Section 10145(a) of  
8 the Code and Section 2831.2 (trust account reconciliation) of the  
9 Regulations.

10 10

11 The acts and/or omissions described above constitute violations of  
12 Sections 2831.2 and 2832.1 of the Regulations and Section 10145 of the Code, and are  
13 grounds for discipline under the aforementioned Section and/or Sections 10177(d)  
14 (willful disregard of real estate laws) and 10177(g) (negligence/incompetence licensee) of  
15 the Code.

16 SECOND CAUSE OF ACTION

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18 Complainant refers to Paragraphs 1 through 10, above, and incorporates the  
19 same, herein.

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21 At all times mentioned herein, Respondents employed Ruvicela Nunez  
22 (“Nunez”) as a Property Manager Senior Assistant. At no time has Nunez held a real estate  
23 license.

24 13

25 In or around May 2022, Nunez met with Rosalba G. to negotiate property  
26 management services for Rosalba G.’s property located at 168 5th Street, Gustine, CA 95322

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1 (“5th Street”). Rosalba G. signed a Property Management Agreement and retained Respondents  
2 and Nunez to manage 5th Street.

3 14

4 In or around September 2022, Nunez met with Rosalba G. to negotiate property  
5 management services for Rosalba G.’s property located at 1548 P Street, Newman, CA 95360  
6 (“P Street”). Rosalba G. signed a Property Management Agreement and retained Respondents  
7 and Nunez to manage 5th Street.

8 15

9 Respondents employed Nunez to perform licensed activity when Nunez did not  
10 have a California real estate license in violation of Section 10130 of the Code.

11 16

12 The acts and/or omissions as described above constitute grounds for the  
13 suspension or revocation of the license and license rights of Respondents pursuant to Sections  
14 10137 (unlawful compensation), 10177(d) and/or 10177(g) of the Code.

15 THIRD CAUSE OF ACTION

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

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20 On or about September 24, 2022, Respondents received a rental application from  
21 Jesus N. and Jessica C. (“Tenants”) for P Street. The rental application did not contain social  
22 security numbers, a credit report, or income verification. Despite the missing information,  
23 Respondents approved the rental application and allowed the Tenants to occupy P Street.

24 19

25 The Tenants failed to pay rent and on or about November 28, 2022, Respondents  
26 served the Tenants with a Notice to Pay Rent or Quit. On or about December 7, 2022,  
27 Respondents served the Tenants with a second Notice to Pay Rent or Quit.

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2 On or about December 28, 2022, the Tenants were evicted from P Street.

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4 The acts and/or omissions as described above constitute grounds for the  
5 suspension or revocation of the license and license rights of Respondents pursuant to Sections  
6 10177(d) and/or 10177(g) of the Code.

7 FOURTH CAUSE OF ACTION

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9 At times mentioned above, MARTINEZ was responsible, as the supervising  
10 designated broker/officer for WESTHILL, for the supervision and control of the activities  
11 conducted on behalf of WESTHILL's business by its employees to ensure its compliance with  
12 the Real Estate Law and Regulations. MARTINEZ failed to exercise reasonable supervision  
13 and control over the property management activities of WESTHILL. In particular, MARTINEZ  
14 permitted, ratified and/or caused the conduct described above to occur, and failed to take  
15 reasonable steps, including but not limited to, the handling of trust funds, supervision of  
16 employees, and the implementation of policies, rules, and systems to ensure the compliance of  
17 the business with the Real Estate Law and the Regulations.

18 23

19 The above acts and/or omissions of MARTINEZ violate Section 2725 (broker  
20 supervision) of the Regulations and Section 10159.2 (responsibility/designated officer) of the  
21 Code and constitute grounds for disciplinary action under the provisions of Sections 10177(d),  
22 10177(g) and 10177(h) (broker supervision) of the Code.

23 COSTS OF INVESTIGATION AND ENFORCEMENT

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25 Section 10106 of the Code provides, in pertinent part, that in any order issued in  
26 resolution of a disciplinary proceeding before the Department, the Commissioner may request  
27 the Administrative Law Judge to direct a licensee found to have committed a violation of this

1 part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the  
2 case.

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

6 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
7 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
8 action against all licenses and license rights of Respondent under the Real Estate Law, for the  
9 cost of investigation and enforcement as permitted by law, and for such other and further relief  
10 as may be proper under other provisions of law.

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12   
13 RUBEN CORONADO  
14 Supervising Special Investigator

15 Dated at Fresno, California,  
16 this 29<sup>th</sup> day of July, 2024.  
17

18 DISCOVERY DEMAND  
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20 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the  
21 Department hereby makes demand for discovery pursuant to the guidelines set forth in the  
22 *Administrative Procedure Act*. Failure to provide Discovery to the Department may result in the  
23 exclusion of witnesses and documents at the hearing or other sanctions that the Office of  
24 Administrative Hearings deems appropriate.  
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