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8	BEFORE THE DEPARTMENT OF REAL ESTATE
.9	STATE OF CALIFORNIA
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11 12	In the Matter of the Accusation of)
12) No. H-4325 SD SPIRIT INTERNATIONAL, INC.,)
15	SALLY ANN RAYMOND, and) <u>ACCUSATION</u> MAXINE ROSE ANDERSON, `)
15) Respondents.)
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17	The Complainant, TRICIA D. SOMMERS, in her official capacity as a Deputy
18	Real Estate Commissioner of the State of California, for cause of Accusation against SPIRIT
19	INTERNATIONAL, INC., individually and doing business as "Exclusive Properties Intl." and
20	"Exclusive Properties La Jolla" ("SPIRIT"); SALLY ANN RAYMOND, individually and doing
21	business as "Advantage Lending Group" and "Sally Raymond-Real Estate" ("RAYMOND"); and
22	MAXINE ROSE ANDERSON ("ANDERSON"), (collectively "Respondents"), is informed and
23	alleges as follows:
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25	SPIRIT is presently licensed and/or has license rights under the Real Estate Law,
26	Part 1 of Division 4 of the Business and Professions Code ("the Code"), as a corporate real estate
27	broker.
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2	RAYMOND is presently licensed and/or has license rights under the Code as a
3	real estate broker, and is licensed by the Department as the designated broker/officer of SPIRIT.
4	As the designated broker/officer, RAYMOND was responsible, pursuant to Section 10159.2
5	(responsibility of corporate officer in charge) of the Code, for the supervision of the activities of
6	the officers, agents, real estate licensees, and employees of SPIRIT for which a real estate license
7	is required.
. 8	3
. 9	ANDERSON is presently licensed and/or has license rights under the Code as a
10	real estate salesperson. At all times relevant herein, ANDERSON was an employee of SPIRIT.
. 11	4
12	At no time has Boutique Rentals been licensed by the Department to conduct real
13	estate activities in the State of California.
14	5
15	At all times relevant, Respondents engaged in the business of, acted in the
16	capacity of, advertised, or assumed to act as a real estate broker within the State of California
17	within the meaning of Section 10131(b) of the Code (broker defined – property
18	management/collection of rent), including the operation and conduct of a property management
19	business with the public, wherein, on behalf of others, for compensation or in expectation of
20	compensation, Respondents leased or rented and offered to lease or rent, and solicited for
21	prospective tenants of real property or improvements thereon, and collected rents from real
22	property or improvements thereon.
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2	Whenever reference is made in an allegation in this Accusation to an act or	
3	omission of SPIRIT, such allegation shall be deemed to mean that the officers, directors,	
4	employees, agents, and real estate licensees employed by or associated with SPIRIT committed	ć
5	such act or omission while engaged in furtherance of the business or operations of SPIRIT and	
6	while acting within the course and scope of their corporate authority and employment.	
7	FIRST CAUSE OF ACTION	
8	7	
- 9	On or about May 3, 2011, an audit was conducted of SPIRIT at its main office	
10	located at 7880 Exchange Plaza, La Jolla, California, where the auditor examined the records for	•
11	the period of October 1, 2008, through March 31, 2011 ("the audit period").	
12	8	
13	While acting as a real estate broker as described in Paragraph 5, above, and within	
14	the audit period, SPIRIT accepted or received funds in trust ("trust funds") in the course of the	
15	property management activities described in Paragraph 5, above, and deposited or caused the	·
16	funds to be deposited into a bank accounts maintained by SPIRIT, including:	
17	Trust Account #1	
18	Wells Fargo Bank	
19	P.O. Box 6995 Portland, Oregon 97228-6995	
20	Account No.: XXXXX2456	
21		
22	Account Name: Spirit International Inc. dba Exclusive Properties Trust	
23	Signatories: Sally Ann Raymond, D.O.	
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1	Bank Account #1
2	Comerica Bank
3	1802 Garnet Avenue
4	San Diego, CA 92109-3352 Account No.: XXXXX1480
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6	Account Name: Maxine Rose Anderson
. 7	Signatories: Maxine Rose Anderson, RES
8	Thereafter, from time-to-time, Respondents made disbursements of said trust funds.
9	9,
. 10	In the course of the activities described in Paragraph 5, above, in connection with
. 11	the collection and disbursement of trust funds:
12	(a) ANDERSON accepted trust funds in the amount of \$5,200 on behalf of
13	SPIRIT and failed to deliver those funds to her broker or deposit the funds into a trust account in
14	the name of her broker. Such acts and/or omissions by ANDERSON violate Sections 10145
15	(trust fund handling) of the Code and Section 2832 (trust fund handling) of Title 10 of the
16	California Code of Regulations ("the Regulations").
17	(b) On or about May 19, 2009, ANDERSON deposited \$5,200 of trust funds
18	into Bank Account #1. Such acts and/or omissions by ANDERSON violate Section 10176(e)
19	(commingling) of the Code and Section 2835 (commingling) of the Regulations.
20	(c) SPIRIT failed to maintain a record of all trust funds deposited into and
21	disbursed from Bank Account #1. Such acts and/or omissions by SPIRIT violate Section 2831
22	(trust fund records) of the Regulations.
23	(d) SPIRIT failed to deposit trust funds it received from clients into a trust
24	account. Such acts and/or omissions by SPIRIT violate Section 10146 of the Code (deposit of
25	trust funds into trust account) of the Code
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2	The acts and/or omissions of SPIRIT and ANDERSON, as set forth in Paragraph 9,
3	above, were done with the awareness and approval of RAYMOND.
4	11
5	The acts and/or omissions as set forth in Paragraphs 9 and 10, above, violate
6	Sections 10145, 10146, and 10176(e) of the Code, and Sections 2831, 2832 and 2835 of the
7	Regulations, and are grounds for discipline under Sections 10177(d) (willful disregard or
8	violation of real estate law) and/or 10177(g) (negligence or incompetence) of the Code. In
9	addition, the Department is entitled to reimbursement for the costs of its audit pursuant to
10	Section 10148(b) (cost of audit in final decision following disciplinary hearing) of the Code.
11	SECOND CAUSE OF ACTION
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13	On or about April 21, 2009, ANDERSON, while licensed as a salesperson for a
14	while representing SPIRIT, entered into a lease agreement with tenants for Lee S.'s real proper
15	located at 719 Nantasket, San Diego, California.
16	13
17	On or about April 22, 2009, Lee S. signed a property management agreement
18	retaining Exclusive Properties/Boutique Rentals and ANDERSON to provide property
19	management services for the Nantasket property.
20	14
21	On or about May 4, 2009, ANDERSON obtained the tenants' signatures on leas
22	agreement forms provided by Lee S. and collected \$5,200 from the tenants of the Nantasket
23	property. ANDERSON failed to give those funds to SPIRIT or RAYMOND. Instead,
24	ANDERSON deposited the \$5,200 into Bank Account #1, a non-trust account.
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2	On or about May 16, 2009, ANDERSON sent a check for \$2365 to Lee S. along
3	with a letter indicating she was keeping \$2835 of the \$5,200 for her commission on the
4	Nantasket property lease agreement.
5	16
6	The acts and/or omissions of ANDERSON, as set forth in Paragraphs 12 through
7	15, above, were done with the awareness and approval of RAYMOND.
8	17
9	The acts and/or omissions of ANDERSON as set forth in Paragraphs 12 through
10	16, above, violate Sections 10137 (employment or acceptance of compensation from someone
11	other than employing broker), 10145, 10146, and 10176(e) of the Code, and Section 2832 of the
12	Regulations, and are grounds for discipline under Sections 10177(d) and/or 10177(g) of the
13	Code.
14	THIRD CAUSE OF ACTION
15	18
16	After collecting \$5,200 from the tenants residing in the Nantasket property, as
17	discussed in the Second Cause of Action, above, SPIRIT and ANDERSON retained \$2,835 of
18	those funds as an advance for property management services that commenced on September 1,
19	2009.
20	19
21	SPIRIT and RAYMOND failed to submit the advance fee materials used in its
22	property management activities to the Department for review and approval prior to their use.
23	20
24	The acts and/or omissions as set forth in Paragraphs 18 and 19, above, were done
25	with the awareness and approval of RAYMOND.
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2	The acts and/or omissions of SPIRIT and RAYMOND as alleged in Paragraphs
3	18 through 20, above, violate Section 10085 (advance fee agreements and materials) of the Code,
4	and Section 2970 (advance fee materials) of the Regulations, and are grounds for discipline under
5	Sections 10177(d) (willful disregard or violation of real estate law) and/or 10177(g) (negligence
6	or incompetence) of the Code.
7	FOURTH CAUSE OF ACTION
8	22
9	ANDERSON, while licensed in the employ of and acting as a representative of
10	SPIRIT, used the fictitious business name of "Boutique Rentals" in conducting real estate
. 11	activities without first obtaining a license bearing that fictitious business name from the
12	Department.
13	23
14	The acts and/or omissions of ANDERSON, as set forth in Paragraph 22, above,
15	were done with the awareness and approval of RAYMOND.
16	24
17	The acts and/or omissions of ANDERSON as alleged in Paragraph 22 and 23,
18	above, violate Section 10159.5 (fictitious business name) of the Code and Section 2731 (use of
19	false or fictitious business name) of the Regulations, are grounds for the suspension or revocation
20	of Respondents' licenses and license rights under Sections 10177(d) and/or 10177(g) of the
21	Code.
22	FIFTH CAUSE OF ACTION
23	25
24	As the designated broker officer for SPIRIT, RAYMOND was responsible for the
25	supervision and control of the activities conducted on behalf of SPIRIT by its officers and
26	employees. RAYMOND failed to exercise reasonable supervision and control over the property
27	management activities of SPIRIT. In particular, RAYMOND permitted, ratified and/or caused
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the conduct described in the First through Fourth Causes of Action, above, to occur, and failed to
take reasonable steps, including, but not limited to, the handling of trust funds, supervision of
employees and the implementation of policies, rules, procedures and systems to ensure the
compliance of the corporation with the Real Estate Law and the Regulations.

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The acts and/or omissions as set forth in Paragraph 25, above, violate Section 10159.2 of the Code and Section 2725 (broker supervision) of the Regulations, and are grounds for disciplinary action under Sections 10177(d) and/or 10177(g), and 10177(h) (reasonable broker supervision) of the Code.

COST RECOVERY

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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
 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, and for such other
and further relief as may be proper under the provisions of law.

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TRICIA D. SOMMERS Deputy Real Estate Commissioner

22 23Dated at Sacramento, California, 24 This 25 26

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