

FILED

July 18, 2012

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2 Department of Real Estate
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DEPARTMENT OF REAL ESTATE

By  _____

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6
7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

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11	In the Matter of the Accusation of)	
12)	NO. H-4382 SD
13	PROPERTY MANAGEMENT)	
14	CONSULTANTS, INC.,)	<u>ACCUSATION</u>
	Respondent.)	
)	

15 The Complainant, VERONICA KILPATRICK, a Deputy Real Estate
16 Commissioner of the State of California, for Accusation against Respondent PROPERTY
17 MANAGEMENT CONSULTANTS, INC. (PMC), is informed and alleges as follows:

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19 The Complainant makes this Accusation against Respondent in her official
20 capacity.

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

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26 At all times mentioned Richard Lee Grant was the designated officer of PMC.
27 Grant and was not licensed by the Department as a real estate salesperson or real estate broker.

At all times mentioned, PMC, engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(b) of the Code, including the operation and conduct of a property management business wherein Respondent leased, rented, or offered to lease or rent, solicited listings for lease or rent, collected rents from tenants or lessees, or performed other services for real property owners and tenants or lessees, all for or in expectation of compensation.

FIRST CAUSE OF ACTION

Beginning on February 6, 2012, and continuing intermittently through February 23, 2012, an audit was conducted at PMC's main office located at 3511 Camino Del Rio South, #206, in San Diego, California, where the auditor examined records for the period of January 1, 2002, through December 31, 2011, (the audit period).

While acting as a real estate broker as described in Paragraph 4, above, and within the audit period, PMC accepted or received funds in trust (trust funds) from or on behalf of property owners and tenants and others in connection with the property management activities, deposited or caused to be deposited those funds into a bank account maintained by PMC at Union Bank, HOA Banking Services-West 0180, PO Box 513840, Los Angeles, California, including:

- 1) Account No. XXXXXX3832, entitled "Rental Trust #2", signatories, Carol Schaub, RES, Susan Mahorney, unlicensed (u), Greg Grant (u), Kathleen L. Bartol (u), R. L. Grant, D.O. (Trust Account #1);
- 2) Account No. XXXXXX1457, entitled "Property Management Consultants", signatories, Hugh Maynard, RES, Marci Haywood (u), Jessica Senske (u), Marie Matos (u), R. L. Grant, D.O. (Trust Account #2);

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3) Account No. XXXXXX8473, entitled "Property Management Consultants In. Rental Trust #1-Security Deposits", signatories, Greg Grant (u), Hugh Maynard, RES, Bonnie Grant (u), R.L. Grant, D.O., Susan Mahorney (u) (Trust Account #3), and thereafter from time to time made disbursements of said trust funds.

In the course of the activities described in Paragraph 6, in connection with the collection and disbursement of trust funds, PMC:

- (a) Failed to designate Trust Account #1, as a trust account in the name of the corporate broker, as required by Section 2832 of Chapter 6, Title 10, California Code of Regulations (Regulations);
- (b) Allowed unlicensed unbounded individuals to withdraw trust funds as follows:
Trust Account #1-Suan Mahorney, Greg Grant and Kathleen L. Bartol;
Trust Account #2-Marci Haywood, Jessica Senske and Marie Matos;
Trust Account #3-Greg Grant, Bonnie Grant and Susan Mahorney,
In violation of Section 2834 of the Regulations;
- (c) Mixed broker funds with trust funds in Trust Account #2 in violation of Section 2835 of the Regulations and Section 10176(e) of the Code;
- (d) An accountability was performed on Trust Account #1 and as of November 30, 2011, a shortage of \$1,941.60 was revealed and on December 30, 2011, shortage of \$1,876.60 was revealed in violation of Section 10145 of the Code;
- (e) An accountability was performed on Trust Account #2 and as of December 30, 2011, a shortage of \$400.00 was revealed in violation of Section 10145 of the Code;

- 1 (f) Failed to properly maintain control records for Trust Account #1, Trust
2 Account #2 and Trust Account #3 as required by Section 2831 of the
3 Regulations;
- 4 (g) Failed to properly maintain separate beneficiary records for Trust Account
5 #1, Trust Account #2 and Trust Account #3 as required by Section 2831.1
6 of the Regulations;
- 7 (h) Failed to reconcile control records with separate beneficiary records as
8 required by Section 2831.2 of the Regulations;
- 9 (i) Failed to notify the Department of the employment of Hugh Maynard from
10 June 7, 2001, to February 1, 2012, as required by Section 2752 of the
11 Regulations and Section 10161.8 of the Code;
- 12 (j) Failed to notify the Department of the closure of a branch office in San
13 Marcos in a timely fashion as required by Section 2715 of the Regulations

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15 The acts and/or omissions of PMC as alleged above violate Sections 2715
16 (Branch Office), 2752 (Notice of Hiring Salesperson), 2831 (Control Records), 2831.1 (Separate
17 Beneficiary Records), 2831.2 (Monthly Reconciliations), 2832 (Trust Fund Designation), 2834
18 (Trust Account Signatories) and 2835 (Commingling) of the Regulations and of Sections 10145
19 (Trust Fund Handling), 10161.8 (Notice Hiring Salesperson) and 10176(e) (Commingling) and
20 are grounds for discipline under Section 10176(e), 10177(d) (Willful Disregard/Violation of
21 Real Estate Law) and 10177(g) (Negligence/Incompetence Real Estate Licensee) of the Code.

22 SECOND CAUSE OF ACTION

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24 Complainant refers to Paragraphs 1 through 8, above, and incorporates them
25 herein by reference.

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At no time within the last three years did the Department issue a real estate license to Mike Janssen either as a real estate broker or as a real estate salesperson.

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Within the three year period prior to the filing of this Accusation, Respondent PMC employed and compensated Janssen to perform the activities requiring a real estate license as alleged in Paragraph 4, above.

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Within the last three years before the filing of this Accusation, Janssen engaged in the business of, acted in the capacity of, advertised the capacity of the operation and conduct of a property management business wherein they leased, rented, or offered to lease or rent, solicited listings for lease or rent, collected rents from tenants or lessees, or performed other services for real property owners and tenants or lessees, all for or in expectation of compensation.

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The acts or omissions alleged in Paragraphs 11 and 12, above, constitute a violation of Sections 10130 (Licensed Activity) and 10137 (Hiring Unlicensed Persons) of the Code and are cause for the suspension or revocation of the licenses and license rights of Respondent PMC under Sections 10137, 10177(d) and 10177(g) 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.

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1 WHEREFORE, Complainant prays that a hearing be conducted on the
2 allegations of this Accusation and that upon proof thereof a decision be rendered imposing
3 disciplinary action against all licenses and license rights of Respondents under the Real Estate
4 Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further
5 relief as may be proper under other provisions of law.

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9 VERONICA KILPATRICK
Deputy Real Estate Commissioner

10 Dated at San Diego, California,
11 this 5 day of JULY, 2012.