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DEPARTMENT OF REAL ESTATE
By *R. Mar*

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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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12 In the Matter of the Accusation of)
13 KISMIT THERESA CYRIACKS-VELLA) No. H-4459 SD
14 and PAUL ROBERT VELLA,) ACCUSATION
15 Respondents.)
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17 The Complainant, VERONICA KILPATRICK, in her official capacity as a
18 Deputy Real Estate Commissioner of the State of California, for cause of Accusation against
19 KISMIT THERESA CYRIACKS-VELLA ("CYRIACKS-VELLA") and PAUL ROBERT
20 VELLA ("VELLA"), (collectively "Respondents"), is informed and alleges as follows:

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22 At all times relevant, CYRIACKS-VELLA was licensed and/or had license rights
23 under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code ("the
24 Code"), as a real estate salesperson licensed in the employ of Ocean Pacific Realty, Inc., the
25 corporate real estate broker license of Steven Michael Springer ("Springer").

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At all times relevant, VELLA, was licensed and/or had license rights under the Code as a real estate salesperson licensed in the employ of Ocean Pacific Realty, Inc., the corporate real estate broker license of Springer.

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At all times relevant, Springer was licensed and/or had license rights under the Code as a real estate broker, individually and as the designated broker/officer of Ocean Pacific Realty, Inc.

FIRST CAUSE OF ACTION

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During the period of approximately October 8, 2010, through June 1, 2011, Respondents collected rental receipts and security deposits for multiple real property rentals, including, but not limited to, the following real properties:

<u>Complainant</u>	<u>Amount Paid/Due</u>	<u>Date Paid</u>	<u>Property</u>
Harold L.	\$ 6,283.33	10/08/10	801 Ash Street, #1503, San Diego
Boris I.	\$ 5,400.00	12/01/10	655 Columbia Street, #106, San Diego
Annie O.	\$ 3,500.00	01/13/11	445 Island, #514, San Diego
Jim P.	\$ 5,154.00	01/21/11	510 1 st Avenue, #1301, San Diego
Andrew G.	\$ 2,600.00	01/31/11	330 J Street, #603, San Diego
Nicole B	\$ 2,750.00	03/12/11	650 Columbia Street, #106, San Diego
Todd B.	\$10,200.00	03/29/11	375 7 th Avenue, #1507, San Diego
Heather P.	\$ 1,525.00	04/02/11	650 Columbia Street/425 Beech, #1352, San Diego
Edna P. and Bruce S.	\$ 6,075.00	04/26/11 and 06/01/11	445 Island Avenue, #614, San Diego
Kim G.	\$ 7,200.00	05/20/11	1050 J Street, #215, San Diego

1 After collecting those rent and security deposit payments, Respondents failed to
2 remit the funds collected to the properties' owners. Respondents also failed to return security
3 deposits to the tenants when they vacated the properties they were renting. Instead, Respondents
4 cashed the rental and security deposit checks or deposited them into VELLA's personal checking
5 account. While conducting those property management activities, Respondents used the business
6 name "Ocean Pacific Property".

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8 The acts and/or omissions by Respondents as set forth in Paragraph 4, above,
9 were done without the knowledge or authorization of Springer.

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11 The acts and/or omissions of Respondents described in Paragraphs 4 and 5, above,
12 violate Sections 10130 (broker license requirement), 10131(b) (broker defined - property
13 management), 10176(e) (commingling) and 10176(i) (fraud or dishonest dealing) of the Code,
14 and Section 2835 (commingling) of Title 10, California Code of Regulations.

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16 The acts and/or omissions of Respondents described in Paragraphs 4 and 5, above,
17 are grounds for the revocation or suspension of Respondents' license and/or license rights under
18 Sections 10176(a) (misrepresentation), 10176(g) (taking secret or undisclosed compensation),
19 10176(i), and 10177(d) (willful disregard/violation of real estate law) and/or 10177(g)
20 (negligence) of the Code.

21 COST RECOVERY

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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.

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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 Code, for the
4 reasonable cost of investigation and prosecution of this case, including agency attorney's fees,
5 and for such other and further relief as may be proper under other provisions of law.

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8 VERONICA KILPATRICK
9 Deputy Real Estate Commissioner

10 Dated at San Diego, California,
11 this 12 day of February, 2013.
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