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FILED

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BUREAU OF REAL ESTATE

By *Angela Herrera*

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-04690 SD

12) A C C U S A T I O N
13)

14 SIMCAL PROPERTIES, INC.;

15 and JAMES WILSON ROWE

16 individually and as

17 designated officer of

18 Simcal Properties, Inc.,

19 Respondents,

20 The Complainant, Veronica Kilpatrick, a Deputy Real
21 Estate Commissioner of the State of California, for cause of
22 accusation against SIMCAL PROPERTIES, INC., and JAMES WILSON ROWE
23 individually and as designated officer of Simcal Properties,
24 Inc., alleges as follows:

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1 1. The Complainant, Veronica Kilpatrick, acting in her
2 official capacity as a Deputy Real Estate Commissioner of the
3 State of California, makes this Accusation against SIMCAL
4 PROPERTIES, INC., and JAMES WILSON ROWE.

5 2. SIMCAL PROPERTIES, INC., and JAMES WILSON ROWE
6 individually and as designated officer of Simcal Properties, Inc.
7 (hereinafter referred to as "Respondents") are presently licensed
8 and/or have license rights under the Real Estate Law (Part 1 of
9 Division 4 of the Business and Professions Code, hereinafter
10 Code).

11 3. At all times herein mentioned, Respondents SIMCAL
12 PROPERTIES, INC., and JAMES WILSON ROWE were licensed as a real
13 estate brokers. Respondent ROWE was the designated officer and
14 pursuant to Code Section 10159.2 was responsible for the
15 supervision and control of the activities conducted on behalf of
16 the corporation by its officers and employees as necessary to
17 secure full compliance with the provisions of the real estate law
18 including supervision of salespersons licensed to the corporation
19 in the performance of acts for which a real estate license is
20 required.

21 4. At all times material herein, Respondents engaged
22 in the business of, acted in the capacity of, advertised or
23 assumed to act as real estate brokers in the State of California
24 within the meaning of Section 10131(b) of the Code including
25 soliciting owners and renters, negotiating the lease and rental
26 of real property, and collecting rents from real property.

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1 5. On or about September 30, 2014, the Bureau
2 completed an examination of Respondent SIMCAL PROPERTIES, INC.'s
3 books and records, pertaining to the activities described in
4 Paragraph 4 above, covering a period from January 1, 2012,
5 through March 31, 2014, which examination revealed violations of
6 the Code and of Title 10, Chapter 6, California Code of
7 Regulations (hereinafter Regulations) as set forth below.

8 6. The examination described in Paragraph 5, above,
9 determined that, in connection with the activities described in
10 Paragraph 4 above, Respondents accepted or received funds,
11 including funds in trust (hereinafter "trust funds") from or on
12 behalf of principals, and thereafter made deposit or disbursement
13 of such funds.

14 7. In the course of activities described in Paragraphs
15 4 through 6 and during the examination period described in
16 Paragraph 5, Respondents SIMCAL PROPERTIES, INC., and JAMES
17 WILSON ROWE acted in violation of the Code and the Regulations as
18 follows, and as more specifically set forth in Audit Report No.
19 SD 130019 and related exhibits:

20 a. Violated Code Section 10145 and Regulation 2832.1
21 by maintaining as of March 31, 2014 a trust account shortage of
22 \$7,328.02.

23 b. Violated Code Section 10145 and Regulation 2832 by
24 collecting trust funds in the form of rent receipts and failing
25 to place said funds into a trust account within three business
26 days following receipt of funds.

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1 c. Violated Code Section 10145 and Regulation 2831 by
2 failing to maintain a control record that was accurate and
3 complete for each trust account.

4 d. Violated Code Section 10145 and Regulation 2831.1
5 by failing to maintain separate records for each beneficiary or
6 property.

7 e. Violated Code Section 10145 and Regulation 2831.2
8 by not maintaining complete and accurate monthly reconciliations
9 of all the separate records to the control record.

10 f. Violated Code Section 10148 by failing to provide
11 books, records and documents requested by the bureau for
12 examination and review.

13
14 8. The conduct, acts and/or omissions of Respondents
15 SIMCAL PROPERTIES, INC., and JAMES WILSON ROWE, as alleged above,
16 subjects their real estate licenses and license rights to
17 suspension or revocation pursuant to Sections 10177(d) and
18 10177(g) of the Code.

19 FAILURE TO SUPERVISE

20 9. The conduct, acts and/or omissions of Respondent
21 ROWE, in failing to ensure full compliance with the Real Estate
22 Law is in violation of Code Section 10159.2 and subjects his real
23 estate licenses and license rights to suspension or revocation
24 pursuant to Sections 10177(d), 10177(g), and 10177(h) of the
25 Code.

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27 The Accusation of Simcal Properties, Inc.

1 COST RECOVERY

2 Code Section 10106 provides, in pertinent part, that in
3 any order issued in resolution of a disciplinary proceeding
4 before the bureau, the commissioner may request the
5 administrative law judge to direct a licensee found to have
6 committed a violation of this part to pay a sum not to exceed the
7 reasonable costs of the investigation and enforcement of the
8 case.

9 WHEREFORE, Complainant prays that a hearing be
10 conducted on the allegations of this Accusation and that upon
11 proof thereof, a decision be rendered imposing disciplinary
12 action against all licenses and license rights of Respondents
13 SIMCAL PROPERTIES, INC., and JAMES WILSON ROWE individually and
14 as designated officer of Simcal Properties, Inc. under the Real
15 Estate Law (Part 1 of Division 4 of the Business and Professions
16 Code), for the cost of investigation and enforcement as permitted
17 by law, and for such other and further relief as may be proper
18 under other applicable provisions of law.

19 Dated at San Diego, California

20 this 28 day of January, 2015.

21
22 Veronica Kilpatrick
23 VERONICA KILPATRICK
Deputy Real Estate Commissioner

24 cc: Simcal Properties, Inc.
25 James Wilson Rowe
26 Veronica Kilpatrick
Sacto.

27 Accusation of Simcal Properties, Inc.