

FILED

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BUREAU OF REAL ESTATE

By W. Deloid

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9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

11	In the Matter of the Accusation of)	No. H- 04854 SD
12)	
13)	<u>A C C U S A T I O N</u>
14)	
14	PALOMAR PROPERTY)	
15	MANAGEMENT, INC.;)	
15	and MICHAEL E. WINTER)	
16	individually and as)	
16	designated officer of)	
17	Palomar Property)	
17	Management, Inc.,)	
18)	
19	Respondents,)	
20)	
20)	

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22 The Complainant, Veronica Kilpatrick, a Supervising
23 Special Investigator of the State of California, for cause of
24 accusation against PALOMAR PROPERTY MANAGEMENT, INC., and MICHAEL
25 E. WINTER individually and as designated officer of Palomar
26 Property Management, Inc., alleges as follows:
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1 1. The Complainant, Veronica Kilpatrick, acting in her
2 official capacity as a Supervising Special Investigator of the
3 State of California, makes this Accusation against PALOMAR
4 PROPERTY MANAGEMENT, INC., and MICHAEL E. WINTER.

5 2. PALOMAR PROPERTY MANAGEMENT, INC., and MICHAEL E.
6 WINTER individually and as designated officer of Palomar Property
7 Management, Inc. (hereinafter referred to as "Respondents") are
8 presently licensed and/or have license rights under the Real
9 Estate Law (Part 1 of Division 4 of the Business and Professions
10 Code, hereinafter Code).

11 3. At all times herein mentioned, Respondents PALOMAR
12 PROPERTY MANAGEMENT, INC., and MICHAEL E. WINTER were licensed as
13 real estate brokers. Respondent WINTER was the designated
14 officer and pursuant to Code Section 10159.2 was responsible for
15 the supervision and control of the activities conducted on behalf
16 of 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.

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1 4. At all times material herein, Respondents engaged
2 in the business of, acted in the capacity of, advertised or
3 assumed to act as real estate brokers in the State of California
4 within the meaning of Section 10131(b) of the Code including
5 soliciting owners and renters, negotiating the rental of real
6 property, and collecting rents from real property.

7 5. On or about August 5, 2016, the Bureau completed an
8 examination of Respondent PALOMAR PROPERTY MANAGEMENT, INC.'s
9 books and records, pertaining to the activities described in
10 Paragraph 4 above, covering a period from July 1, 2015, through
11 June 30, 2016, which examination revealed violations of the Code
12 and of Title 10, Chapter 6, California Code of Regulations
13 (hereinafter Regulations) as set forth below.

14 6. The examination described in Paragraph 5, above,
15 determined that, in connection with the activities described in
16 Paragraph 4 above, Respondents accepted or received funds,
17 including funds in trust (hereinafter "trust funds") from or on
18 behalf of principals, and thereafter made deposit or disbursement
19 of such funds.

20 7. In the course of activities described in Paragraphs
21 4 through 6 and during the examination period described in
22 Paragraph 5, Respondents PALOMAR PROPERTY MANAGEMENT, INC., and
23 MICHAEL E. WINTER acted in violation of the Code and the
24 Regulations as follows, and as more specifically set forth in
25 Audit Report No. SD 150050 and related exhibits.

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1 1) Violated Code Section 10145 and Regulation 2832.1
2 by maintaining as of June 30, 2016 a trust account shortage of
3 \$12,638.98.

4 2) Violated Code Section 2831 by failing to maintain
5 an accurate control record.

6 3) Violated Code Section 10145 and Regulation 2831.1
7 by failing to maintain accurate and complete separate records for
8 each beneficiary or property.

9 4) Violated Code Section 10145 and Regulation 2831.2
10 by not maintaining complete and accurate monthly reconciliations
11 of all the separate records to the control record.

12 5) Violated Code Section 10145 and Regulation 2832 by
13 not designating the bank trust account as a trust account.

14 6) Violated Regulation 2834 by allowing unlicensed and
15 unbonded trust account signatories.

16 7) Violated Code Section 10176(g) by maintaining an
17 earnings credit relationship with the bank which was not
18 disclosed to the owners of the trust funds.


19 8) Violated Regulation 2731 by conducting real estate
20 activities using unlicensed fictitious names Palomar Property
21 Management and Palomar Property Management & Realty.

22 8. The conduct, acts and/or omissions of Respondents
23 PALOMAR PROPERTY MANAGEMENT, INC., and MICHAEL E. WINTER subject
24 their license rights to suspension or revocation pursuant to
25 Sections 10177(d) and 10177(g) of the Code.
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondents
5 PALOMAR PROPERTY MANAGEMENT, INC., and MICHAEL E. WINTER
6 individually and as designated officer of Palomar Property
7 Management, Inc. under the Real Estate Law (Part 1 of Division 4
8 of the Business and Professions Code), for the cost of
9 investigation and enforcement as permitted by law, and for such
10 other and further relief as may be proper under other applicable
11 provisions of law.

12 Dated at San Diego, California
13 this 10 day of November, 2016.

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16 _____
17 VERONICA KILPATRICK
18 Supervising Special Investigator
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23 cc: Palomar Property Management, Inc.
24 Michael E. Winter
25 Veronica Kilpatrick
26 Sacto.
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