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**FILED**

**JUL 27 2018**

DEPARTMENT OF REAL ESTATE

By *[Signature]*

8 **BEFORE THE DEPARTMENT OF REAL ESTATE**

9 **STATE OF CALIFORNIA**

10 \* \* \*

11 In the Matter of the Accusation of

12 **BEACHSIDE REALTY SD INC**

13 and

14 **STORMALEE GAIL ROGERS, individually**  
15 **and as designated officer of**  
16 **Beachside Realty SD Inc,**

17  
18 Respondents.

No. H-05010 SD

**ACCUSATION**

19 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the  
20 State of California, for cause of Accusation against BEACHSIDE REALTY SD INC and  
21 STORMALEE GAIL ROGERS, alleges as follows:

22 1.

23 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the  
24 State of California, makes this Accusation in her official capacity.

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2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

**DRE LICENSE HISTORY**

3.

**BEACHSIDE REALTY SD INC**

A. Respondent BEACHSIDE REALTY SD INC ("BRSDI") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a real estate broker (corporation), California Department of Real Estate ("DRE" or "Department") license ID 01921890.

B. BRSDI was originally licensed by the DRE on or about November 14, 2012.

C. According to DRE licensing records, the designated officer ("D.O.") of record for BRSDI is STORMALEE GAIL ROGERS until her officer expiration date of November 13, 2020.

D. BRSDI's DRE license will expire on November 13, 2020.

4.

**STORMALEE GAIL ROGERS**

A. Respondent STORMALEE GAIL ROGERS ("ROGERS") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a real estate broker ("REB"), DRE license ID 01322868.

B. ROGERS was originally licensed by the DRE as a RES on or about March 6, 2002, and as a REB on or about April 23, 2008.

1 C. According to DRE records to date, ROGERS has no branch offices and two (2)  
2 active DBAs under her DRE license: (1) Beachside Home Sales, Rentals & Vacation Rentals and  
3 (2) Beachside Realty, both active as of November 2, 2009.

4 D. ROGERS is the D.O. of record for BRSDI until her officer expiration date of  
5 November 13, 2020.

6 E. ROGERS' DRE license will expire on April 22, 2020.

7 **APPLICABLE SECTIONS OF THE REAL ESTATE LAW**

8 5.

9 **Trust Fund Handling –**

10 **Code Section 10145 and Regulations 2831, 2831.1, 2831.2, and 2832**

11 Pursuant to Code Section 10145 *Handling of Trust Funds*:

12 (a)(1): "A real estate broker who accepts funds belonging to others in connection  
13 with a transaction subject to this part shall deposit all those funds that are not immediately  
14 placed into a neutral escrow depository or into the hands of the broker's principal, into a trust  
15 fund account maintained by the broker in a bank or recognized depository in this state. All funds  
16 deposited by the broker in a trust account shall be maintained there until disbursed by the broker  
17 in accordance with instructions from the person entitled to the funds.

18 (2) Withdrawals may be made from a trust fund account of an individual broker  
19 only upon the signature of that broker, or in the case of a corporate broker, only upon the  
20 signature of an officer through whom the corporation is licensed pursuant to Section 10158 or  
21 10211, or one, or more, of the following persons if specifically authorized in writing by the  
22 individual broker or officer:

23 (A) A real estate salesperson licensed to the broker.

1 (B) Another broker acting pursuant to a written agreement with the  
2 individual broker that conforms to the requirements of this part and any regulations promulgated  
3 pursuant to this part.

4 (C) An unlicensed employee of the individual broker, if the broker has  
5 fidelity bond coverage equal to at least the maximum amount of the trust funds to which the  
6 unlicensed employee has access at any time. For purposes of this section, bonds providing  
7 coverage may be written with a deductible of up to 5 percent of the coverage amount. For bonds  
8 with a deductible, the employing broker shall have evidence of financial responsibility that is  
9 sufficient to protect members of the public against a loss subject to the deductible amount.

10 Evidence of financial responsibility shall include one or more of the following:

11 (i) Separate fidelity bond coverage adequate to cover the amount  
12 of the fidelity bond deductible.

13 (ii) A cash deposit held in a separate account, apart from other  
14 funds of the broker, the broker's employees, or the broker's  
15 principals, in a bank or recognized depository in this state adequate  
16 to cover the amount of the fidelity bond deductible and held  
17 exclusively and solely for the purpose of paying the fidelity bond  
18 deductible amount.

19 (iii) Any other evidence of financial responsibility approved by the  
20 commissioner.

21 (3) An arrangement under which a person enumerated in subparagraph  
22 (A),(B), or (C) of paragraph (2) is authorized to make withdrawals from a trust fund account of a  
23 broker shall not relieve an individual broker, nor the broker-officer of a corporate broker  
24 licensee, from responsibility or liability as provided by law in handling trust funds in the  
25 broker's custody.

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(g) The broker shall maintain a separate record of the receipt and disposition of all funds described in subdivisions (a) and (b), including any interest earned on the funds..."

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6.

Pursuant to Regulation 2831 *Trust Fund Records To Be Maintained:*

"(a) Every broker shall keep a record of all trust funds received, including uncashed checks held pursuant to instructions of his or her principal. This record, including records maintained under an automated data processing system, shall set forth in chronological sequence the following information in columnar form:

- (1) Date trust funds received.
- (2) From whom trust funds received.
- (3) Amount received.
- (4) With respect to funds deposited in an account, date of said deposit.
- (5) With respect to trust funds previously deposited to an account, check number and date of related disbursement.
- (6) With respect to trust funds not deposited in an account, identity of other depository and date funds were forwarded.
- (7) Daily balance of said account.

(b) For each bank account which contains trust funds, a record of all trust funds received and disbursed shall be maintained in accordance with subdivision (a) or (c).

(c) Maintenance of journals of account cash receipts and disbursements, or similar records, or automated data processing systems, including computer systems and

1 electronic storage and manipulation of information and documents, in accordance with generally  
2 accepted accounting principles, shall constitute compliance with subdivision (a) provided that  
3 such journals, records, or systems contain the elements required by subdivision (a) and that such  
4 elements are maintained in a format that will readily enable tracing and reconciliation in  
5 accordance with Section 2831.2...”

6 ///

7 7.

8 Pursuant to Regulation 2831.1 *Separate Record for Each Beneficiary or*  
9 *Transaction:*

10 “(a) A broker shall keep a separate record for each beneficiary or transaction,  
11 accounting for all funds which have been deposited to the broker’s trust bank account and  
12 interest, if any, earned on the funds on deposit. The record shall include information sufficient  
13 to identify the transaction and the parties to the transaction. Each record shall set forth in  
14 chronological sequence the following information in columnar form:

15 (1) Date of deposit.

16 (2) Amount of deposit.

17 (3) Date of each related disbursement.

18 (4) Check number of each related disbursement.

19 (5) Amount of each related disbursement.

20 (6) If applicable, dates and amounts of interest earned and credited to the  
21 account.

22 (7) Balance after posting transactions on any date.

23 (b) Maintenance of trust ledgers of separate beneficiaries or transactions, or  
24 similar records, or automated data processing systems, including computer systems and  
25 electronic storage and manipulation of information and documents, in accordance with generally  
26

1 accepted accounting principles will constitute compliance with subdivision (a), provided that  
2 such ledgers, records, or systems contain the elements required by subdivision (a) and that such  
3 elements are maintained in a format that will readily enable tracing and reconciliation in  
4 accordance with Section 2831.2.”

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8 8.

9 Pursuant to Regulation 2831.2 *Trust Account Reconciliation*:

10 “The balance of all separate beneficiary or transaction records maintained  
11 pursuant to the provisions of Section 2831.1 must be reconciled with the record of all trust funds  
12 received and disbursed required by Section 2831, at least once a month, except in those months  
13 when the bank account did not have any activities. A record of the reconciliation must be  
14 maintained, and it must identify the bank account name and number, the date of the  
15 reconciliation, the account number or name of the principals or beneficiaries or transactions, and  
16 the trust fund liabilities of the broker to each of the principals, beneficiaries or transactions.”

17 9.

18 Pursuant to Regulation 2832 *Trust Account Withdrawals*:

19 “(a) Compliance with Section 10145 of the Code requires that the broker place  
20 funds accepted on behalf of another into the hands of the owner of the funds, into a neutral  
21 escrow depository or into a trust fund account in the name of the broker, or in a fictitious name  
22 if the broker is the holder of a license bearing such fictitious name, as trustee at a bank or other  
23 financial institution not later than three business days following receipt of the funds by the  
24 broker or by the broker's salesperson.

25 (b) Except as expressly provided by subdivision (d) of Section 10145 of the  
26 Code or by a regulation in this article, the account into which the trust funds are deposited shall

1 not be an interest-bearing account for which prior written notice can by law or regulation be  
2 required by the financial institution as a condition to the withdrawal of funds.

3 10.

4 Pursuant to Regulation 2832.1 *Trust Fund Handling for Multiple Beneficiaries*:

5 "The written consent of every principal who is an owner of the funds in the account shall be  
6 obtained by a real estate broker prior to each disbursement if such a disbursement will reduce the  
7 balance of the funds in the account to an amount less than the existing aggregate trust fund  
8 liability of the broker to all owners of the funds."

9 **Responsibility of Corporate Officer in Charge – Code Section 10159.2 and Regulation 2725**

10 11.

11 Pursuant to Code Section 10159.2 *Responsibility of Corporate Officer in Charge*:

12 "(a) The officer designed by a corporate broker license pursuant to Section 10211 shall be  
13 responsible for the supervision and control of the activities conducted on behalf of the  
14 corporation by its officers and employees as necessary to secure full compliance with the  
15 provisions of this division, including supervision of salespersons licensed to the corporation in  
16 the performance of acts for which a real estate license is required..."

17 12.

18 Pursuant to Regulation 2725 *Broker Supervision*:

19 "A broker shall exercise reasonable supervision over the activities of his or her  
20 salespersons. Reasonable supervision includes, as appropriate, the establishment of policies,  
21 rules, procedures and systems to review, oversee, inspect and manage:

- 22 a) Transactions requiring a real estate license.  
23 b) Documents which may have a material effect upon the rights or obligations of  
24 a party to the transaction.  
25 c) Filing, storage and maintenance of such documents.  
26



- d) The handling of trust funds.
- e) Advertising of any service for which a license is required.
- f) Familiarizing salespersons with the requirements of federal and state laws relating to the prohibition of discrimination.
- g) Regular and consistent reports of licensed activities of salespersons.

The form and extent of such policies, rules, procedures and systems shall take into consideration the number of salespersons employed and the number and location of branch offices.

A broker shall establish a system for monitoring compliance with such policies, rules, procedures and systems. A broker may use the services of brokers and salespersons to assist in administering the provisions of this section so long as the broker does not relinquish overall responsibility for supervision of the acts of salespersons licensed to the broker.”

**Grounds for Revocation or Suspension – Code Section 10176**

13.  
14.

Pursuant to Code Section 10176, “The commissioner may, upon his or her own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate licensee within this state, and he or she may temporarily suspend or permanently revoke a real estate license at any time where the licensee, while a real estate licensee, in performing or attempting to perform any of the acts within the scope of this chapter has been guilty of any of the following:

21 ...

(e) Commingling with his or her own money or property the money or other property of others which is received and held by him or her.

25 ...

1 (i) Any other conduct, whether of the same or a different character than specified  
2 in this section, which constitutes fraud or dishonest dealing...”

3 **Further Grounds for Disciplinary Action – Code Section 10177**

4 14.

5 Pursuant to Code Section 10177, “The commissioner may suspend or revoke the  
6 license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny  
7 the issuance of a license to an applicant, who has done any of the following:

8 ...

9 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing  
10 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and  
11 regulations of the commissioner for the administration and enforcement of the Real Estate Law  
12 and Chapter 1 (commencing with Section 11000) of Part 2.”

13 ...

14 (g) Demonstrated negligence or incompetence in performing an act for which he  
15 or she is required to hold a license.

16 (h) As a broker licensee, failed to exercise reasonable supervision over the  
17 activities of his or her salespersons, or, as the officer designated by a corporate broker licensee,  
18 failed to exercise reasonable supervision and control of the activities of the corporation for  
19 which a real estate license is required.

20 ...

21 (j) Engaged in any other conduct, whether of the same or a different character  
22 than specified in this section, that constitutes fraud or dishonest dealing...”

23 **DRE AUDIT OF BRSDI's PROPERTY MANAGEMENT ACTIVITIES (SD 160048)**

24 15.

25 On October 27, 2017, the DRE completed an audit examination of the books and  
26

1 records of BRSDI pertaining to its property management activities (SD 160048) described in  
2 Paragraph 16, below, which require a real estate license. The audit examination covered a period  
3 of time beginning on January 1, 2016 and ending on June 30, 2017 (“audit examination period”  
4 or “audit period”), and was performed during the period August 11, 2017 through September 29,  
5 2017 (“audit field work period”). The final report of October 27, 2017 revealed violations of  
6 the Code and the Regulations as set forth in the following paragraphs, and more fully discussed  
7 in the Audit Report SD 160048 and the exhibits and work papers attached to said report.

8 16.

9 BRSDI’s Business Activities & Corporate Structure

10 A. At all times mentioned in San Diego County, California, BRSDI acted as a  
11 REB, and ordered, caused, authorized or participated in licensed activities within the meaning of  
12 Code Section 10131(b), wherein BRSDI engaged in property management activities, and leased  
13 or rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or  
14 solicited for prospective tenants, or negotiated the sale, purchase or exchanges of leases on real  
15 property, or collected rent from real property, or improvements thereon (“property  
16 management”).

17 B. According to ROGERS, during the audit period, BRSDI provided property  
18 management services for both long-term permanent rental properties and long-term (more than  
19 thirty (30) days) and short-term (thirty (30) days or less) vacation rental properties.

20 C. According to ROGERS, BRSDI managed about eighteen (18) long-term rental  
21 properties for about fourteen (14) owners.

22 D. According to ROGERS, BRSDI managed about three (3) long-term vacation  
23 rental properties for three (3) owners and twelve (12) short-term vacation properties for about  
24 nine (9) owners.

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17.

At the time of the audit examination, according to ROGERS, she was the Chief Executive Officer, Chief Financial Officer, Secretary and one-hundred percent (100%) owner of BRSDI.

18.

According to ROGERS, during the audit period, BRSDI closed about nine (9) real estate sales transactions and did not collect any Earnest Money Deposits ("EMDs"). During the audit period, BRSDI did not maintain a trust account and did not maintain a columnar record of trust funds received not placed in broker's trust account in connection with the sales activity. EMDs were held and delivered directly to escrow by the buyers in connection with the sales activity.

19.

Bank Accounts

According to ROGERS, BRSDI maintained four (4) bank accounts that handled trust funds in connection with its property management activities during the audit period: BRSDI maintained B/A 4 for handling the receipts and disbursements of trust funds in connection with the property management services for only short-term vacation rental properties.

Bank Account 1 ("B/A 1")

\* Account Name: BEACHSIDE REALTY SD INC

\* Bank: JPMorgan Chase Bank, 801 Mission Ave., Oceanside, CA 92054

\* Account No. #####0190

\* Signatories: ROGERS (1 signature required)

B/A 1 for multiple beneficiaries was maintained for handling the receipts and disbursements of trust funds (rents and security deposits) in connection with BRSDI's property management services for long-term permanent rental properties and long- and short-term vacation rental properties during the audit period. B/A 1 was also maintained for the receipts and disbursements of funds in connection with BRSDI's general business activity and was also

1 used to pay for ROGERS' personal and financial obligations. All trust funds collected in B/A 1  
2 and B/A 2 (below) were mixed together.

3 Bank Account 2 ("B/A 2")

4 \* Account Name: BEACHSIDE REALTY SD INC

5 \* Bank: JPMorgan Chase Bank, 801 Mission Ave., Oceanside, CA 92054

6 \* Account No. #####1010

7 \* Signatories: ROGERS (1 signature required)

8 B/A 2 for multiple beneficiaries was maintained for handling the receipts and  
9 disbursements of trust funds (security deposits) in connection with BRSDI's property  
10 management services for long-term permanent rental properties and long- and short-term  
11 vacation rental properties during the audit period. All trust funds collected in B/A 1 and B/A 2  
12 were mixed together.

13 Bank Account 3 ("B/A 3")

14 \* Account Name: BEACHSIDE REALTY SD INC

15 \* Bank: JPMorgan Chase Bank, 801 Mission Ave., Oceanside, CA 92054

16 \* Account No. #####5573

17 \* Signatories: ROGERS (1 signature required)

18 B/A 3 for a single beneficiary was maintained for handling the receipts and  
19 disbursements of trust funds (rents) in connection with BRSDI's property management services  
20 for one (1) long-term permanent rental property consisting of fourteen (14) units during the audit  
21 period. (B/A 3 was opened on May 2, 2017, and closed on August 7, 2017.)

22 Bank Account 4 ("B/A 4")

23 \* Account Name: BEACHSIDE REALTY SD INC

24 \* Bank: JPMorgan Chase Bank, 801 Mission Ave., Oceanside, CA 92054

25 \* Account No. #####9053

26 \* Signatories: ROGERS, Provo (1 signature required)

27 B/A 4 for multiple beneficiaries was maintained for handling the receipts and  
disbursements of trust funds (rents and security deposits) in connection with BRSDI's property  
management services for only short-term vacation rental properties during the audit period.  
(B/A 4 was opened on May 25, 2017.)

1                   The DRE Auditor prepared the combined bank reconciliation for B/A 1 and B/A  
2 2 in connection with the property management activities for the long-term permanent rental  
3 properties and the long- and short-term vacation rental properties, with the cutoff date of June  
4 30, 2017. The combined minimum accountability of B/A 1 and B/A 2 was determined based on  
5 the limited reconstruction of separate records for the period April 2017 to June 2017 and the  
6 reservations reports of trust funds held by BRSDI prior to April 2017 provided by ROGERS and  
7 BRSDI's unlicensed office assistant. The combined adjusted bank balance was compared to the  
8 combined minimum accountability.

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1 **AUDIT FINDINGS: VIOLATIONS OF THE REAL ESTATE LAW**

2 20.

3 In the course of its property management activities, and during the audit  
4 examination period described in Paragraph 15, BRSDI violated the Code and the Regulations, as  
5 described below:

6 21.

7 **Trust Fund Handling for Multiple Beneficiaries**

8 **(Code Section 10145 and Regulation 2832.1)**

9 Based on the limited records provided and the reconstruction of the separate  
10 records provided for the period April 2017 to June 2017 and the reservations reports of trust  
11 funds held by BRSDI prior to April 2017, the auditor found that:

12 A. As of June 30, 2017, B/A 1 and B/A 2 had a combined minimum shortage of  
13 ~~<\$74,867.42>~~ caused by:

- 14 1) Minimum negative balance of property accounts < \$ 32,821.43 >  
15 2) Combined minimum conversion of trust funds < \$ 33,380.66 >  
16 3) Combined minimum unidentified shortage < \$ 9,665.33 >

17 *Total trust fund shortage in B/A 1 & B/A 2, 12/30/16 < \$ 74,867.42>*

18 B. In or about September 2017 and October 2017, after the audit cutoff date,  
19 ROGERS made two (2) deposits from BRSDI's general business account ending -6262 into B/A  
20 1 totaling \$75,000 to cure the minimum combined trust fund shortage.

21 C. As of June 30, 2017, B/A 3 had a shortage of <\$121.52> caused by bank  
22 charges totaling \$121.52.

23 D. There was no evidence provided that the trust fund owners had given BRSDI  
24 and/or ROGERS their written consent to allow BRSDI and/or ROGERS to reduce the combined  
25

1 balance of funds in B/A 1 and B/A 2 to an amount less than the aggregate trust fund liabilities of  
2 BRSDI to all owners of the funds, in violation of **Code Section 10145 and Regulation 2832.1.**

3 E. There was no evidence provided that the trust fund owners had given BRSDI  
4 and/or ROGERS their written consent to allow BRSDI and/or ROGERS to reduce the balance of  
5 funds in B/A 3 to an amount less than the aggregate trust fund liabilities of BRSDI to all owners  
6 of the funds, in violation of **Code Section 10145 and Regulation 2832.1.**

7 F. A bank reconciliation was not performed for B/A 4.

8 22.

9 **Trust Fund Handling – Trust Fund Records To Be Maintained**

10 **(Code Section 10145 and Regulation 2831)**

11 A. During the audit period, BRSDI failed to maintain accurate and complete  
12 records of all trust funds received and disbursed (“control record”) for B/A 1 and B/A 2, which  
13 were used for handling the receipts and disbursements of trust funds in connection with BRSDI’s  
14 property management activities in connection with the long-term permanent rental properties and  
15 the long-term vacation rental properties, in violation of **Code Section 10145 and Regulation**  
16 **2831.** The DRE Auditor found that: said control records were maintained in a format that would  
17 not readily enable tracing and reconciliation in accordance with Regulation 2831.2 (several  
18 receipts and disbursements were recorded on said control records without being tied or linked to  
19 a specific owner or property (unclassified)); said control records were missing information  
20 regarding from whom the trust funds were received; and BRSDI did not account for/ record its  
21 management fees on said control records.

22 B. During the audit period, BRSDI failed to maintain accurate and complete  
23 records of all trust funds received and disbursed (“control record”) for B/A 3, which were used  
24 for handling the receipts and disbursements of trust funds in connection with BRSDI’s property  
25 management activities in connection with one (1) long-term permanent rental property, in  
26



1 violation of **Code Section 10145 and Regulation 2831**. The DRE Auditor found that said  
2 control records were missing information regarding from whom the trust funds were received.

3 23.

4 **Trust Fund Handling – Separate Record For Each Beneficiary or Transaction**

5 **(Code Section 10145 and Regulation 2831.1)**

6 During the audit period, BRSDI failed to maintain accurate and complete separate  
7 records for B/A 1 and B/A 2, which were used for handling the receipts and disbursements of  
8 trust funds in connection with the property management activities, in violation of **Code Section**  
9 **10145 and Regulation 2831.1**. The DRE Auditor found that: said separate records were  
10 maintained in a format that would not readily enable tracing and reconciliation in accordance  
11 with Regulation 2831.2 (several receipts and disbursements were recorded as unclassified, or not  
12 allocated to and/or recorded on the owner/property separate ledgers) and that BRSDI did not  
13 account for/ record its management fees on said control records.

14 24.

15 **Trust Fund Handling – Trust Account Reconciliation**

16 **(Code Section 10145 and Regulation 2831.2)**

17 During the audit period, BRSDI failed to perform and maintain a monthly  
18 reconciliation comparing the balance of all the separate beneficiary or transaction records  
19 (separate records) to the balance of the record of all trust funds received and disbursed (control  
20 record) for B/A 1 and B/A 2 in connection with its property management activities, in violation  
21 of **Code Section 10145 and Regulation 2831.2**.

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25.

**Trust Fund Handling**

**(Code Section 10145 and Regulation 2832)**

A. According to the bank signature cards maintained at JP Morgan Chase Bank for B/A 1 and B/A 2, which were used for handling the receipts and disbursements in connection with BRSDI's property management activities for long-term permanent rental properties and long-term vacation rental properties, the bank accounts B/A 1 and B/A 2 were not designated as trust accounts, in violation of **Code Section 10145 and Regulation 2832**.

B. According to the bank signature card maintained at JP Morgan Chase Bank for B/A 3, which was used for handling the receipts and disbursements in connection with BRSDI's property management activities for one (1) long-term permanent rental property, the bank account B/A 3 was not designated as a trust account, in violation of **Code Section 10145 and Regulation 2832**

26.

**Conversion of Trust Funds/ Fraud/ Dishonest Dealing/ Unauthorized Disbursements/**

**Mishandling of Trust Funds**

**(Code Sections 10145, 10176(i), and 10177(j))**

As of June 30, 2017, there was a combined minimum conversion of trust funds/ unauthorized disbursements from B/A 1 and B/A 2 totaling <\$33,380.66>. Said funds were over-disbursed from B/A 1 and B/A 2 to ROGERS during the period from April 2017 to June 2017, in violation of **Code Sections 10145, 10176(i), and 10177(j)**. Said unauthorized disbursements caused part of the combined minimum shortage in B/A 1 and B/A 2 as of the audit cutoff date of June 30, 2017.

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27.

**Commingling/ Mishandling of Trust Funds/**

**(Code Sections 10145 and 10176(e))**

ROGERS commingled trust funds with BRSDI's general funds by depositing trust funds and the company's general funds into the same bank account, B/A 1, in violation of **Code Sections 10145 and 10176(e)**. According to ROGERS, B/A 1 was maintained for: handling the receipts and disbursements of trust funds in connection with BRSDI's property management activities; handling the receipts and disbursement of funds in connection with BRSDI's general business activity; and paying for ROGERS' personal and financial obligations.

28.

**Responsibility of Corporate Officer in Charge/Broker Supervision**

**(Code Sections 10159.2 and 10177(h) and Regulation 2725)**

The acts and/or omissions of ROGERS, as the D.O. of BRSDI during the audit period, demonstrate a failure to adequately supervise the property management activities of BRSDI and its salespersons and its employees to ensure compliance with the Real Estate Law and Regulations. The acts and/or failures to act constitute grounds for the suspension or revocation of the license and license rights of Respondent ROGERS under the provisions of **Code Sections 10159.2 and 10177(h) and Regulation 2725**.

**Additional Violations of the Real Estate Law**

29.

The overall conduct of Respondents BRSDI and ROGERS is violative of the Real Estate Law and constitutes cause for the suspension or revocation of their real estate licenses and license rights under the provisions of **Code Section 10177(d)** for willful disregard of the Real Estate Law and **Code Section 10177(g)** for negligence.

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
3 action against the licenses and license rights of Respondents BEACHSIDE REALTY SD INC  
4 and STORMALEE GAIL ROGERS under the Real Estate Law, for the cost of investigation and  
5 enforcement as permitted by law, for such other and further relief as may be proper under other  
6 provisions of law, and for costs of audit.

7 Dated at San Diego, California

8 this 20 day of July, 2018.

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10   
11 Veronica Kilpatrick  
12 Supervising Special Investigator

13  
14  
15 cc: BEACHSIDE REALTY SD INC  
16 STORMALEE GAIL ROGERS  
17 Enforcement - V. Kilpatrick  
18 Audits - Z. Wanis  
19 Sacto.