

FILED

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DEPT. OF REAL ESTATE

By 

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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	No. H-05291 SD
)	
12	TENANT PLANET INC; and)	
	DAVID MICHAEL THOMAS,)	
13	individually and as designated officer)	<u>ACCUSATION</u>
	of Tenant Planet Inc,)	
14)	
	Respondents.)	
15)	
16)	

17 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
18 State of California, acting in her official capacity, for cause of Accusation against TENANT
19 PLANET INC. ("TPI") and DAVID MICHAEL THOMAS ("THOMAS"), individually and as
20 designated officer of Tenant Planet Inc, is informed and alleges as follows:

21 1.

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

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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 unless otherwise specified.

(License History: TPI and THOMAS)

3.

a. TPI is presently licensed by the Department Real Estate as a real estate corporation (license no. 02009983). TPI was originally licensed on or about June 15, 2016, and has been so licensed since then. At no time has TPI had a fictitious business name registered with the Department of Real Estate. From on or about June 15, 2016 through the present, TPI's designated officer has been THOMAS.

b. THOMAS is presently licensed and/or issued by the Department of Real Estate as a real estate broker (license no. 01936100). THOMAS had been licensed as a real estate broker from on or about February 23, 2016 to February 22, 2020, and from July 21, 2020 through the present. Prior to being licensed as a real estate broker, THOMAS was licensed as a real estate salesperson from on or about November 22, 2013 to February 22, 2016. At no time has THOMAS had a fictitious business name registered with the Department of Real Estate. THOMAS is TPI's chief executive officer ("CEO") and chief financial officer ("CFO").

4.

Whenever acts referred to below are attributed to TPI and/or THOMAS, those acts are alleged to have been done by TPI and/or THOMAS, acting by itself/himself/themselves, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators.

5.

1 At all times mentioned, in the County of San Diego, TPI and THOMAS were
2 engaged in the business of a real estate broker conducting licensed activities within the
3 meaning of Code section 10131(b) (“[l]eases or rents or offers to lease or rent, or places for
4 rent, or solicits listings of places for rent, or solicits for prospective tenants, or negotiates the
5 sale, purchase, or exchanges of leases on real property, or on a business opportunity, or collects
6 rents from real property, or improvements thereon, or from business opportunities”).

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8 (Property Management Audit)

9 6.

10 On or about March 30, 2022, the Department of Real Estate completed an audit
11 examination of the books and records of TPI to determine whether TPI and THOMAS handled
12 and accounted for trust funds and conducted their real estate activities in accordance with
13 the Real Estate Law and Regulations. The audit examination covered a period of time
14 beginning on September 1, 2020 and ending on August 31, 2021. The audit examination
15 revealed violations of the Code and the Regulations set forth in the following paragraphs, and
16 more fully discussed in Audit Report SD210010 and the exhibits and work papers attached to
17 said audit report.

18
19 Trust Account

20 7.

21 At all times mentioned, in connection with the activities described in Paragraph
22 5, above, TPI and THOMAS accepted or received funds including funds in trust (“trust funds”)
23 from or on behalf of actual or prospective parties, such as owners of real property, and
24 thereafter made deposits and/or disbursements of such funds. From time to time herein
25 mentioned, during the audit period, said trust funds were deposited and/or maintained by TPI
26 and THOMAS in the trust account as follows:

1 “Tenant Planet Inc, As Trustee
Client Trust Account”
2 *****7556
3 Enterprise Bank & Trust Company
22 West 35th St., #102
4 National City, CA 91950

TA 1

5 Prior to February 12, 2021, Enterprise Bank & Trust Company’s name was Seacoast
6 Commerce Bank.

7 8.

8 In the course of activities described in Paragraphs 5 and 7, above, and during the
9 audit examination period in Paragraph 6, above, Respondents TPI and THOMAS acted in
10 violation of the Code and the Regulations as set forth below:

11 (a) Permitted, allowed, or caused the disbursement of trust funds from the trust
12 account TA 1 where the disbursement of funds reduced the total of aggregate funds in TA 1, to
13 an amount which, on August 31, 2021, was a minimum shortage of \$33,216.95 without first
14 obtaining the prior written consent of the owners of said funds, in violation of Code section
15 10145 and Regulations section 2832.1. In other words, there was \$33,216.95 less than the
16 existing aggregate trust fund liability to every principal who was an owner of said funds. This
17 \$33,216.95 shortage consisted of \$32,160.68 in negative balances and \$1,056.27 in
18 unauthorized electronic disbursements due to fraudulent activity.¹

19 (b) Failed to maintain an accurate and complete control record of all trust funds
20 received, deposited, and disbursed for TA 1, in violation of Code section 10145 and
21 Regulations section 2831.

22 (c) Failed to maintain an accurate and complete separate record for each
23 beneficiary or transaction, thereby failing to account for all trust funds received, deposited, and
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26 ¹ The fraudulent disbursements of \$1,056.27 total were reversed and refunded by the bank on
27 or about September 20, 2021 and October 15, 2021, respectively.

1 disbursed from TA 1, in violation of Code section 10145 and Regulations section 2831.1.
2 Specifically, at least 108 deposits totaling \$35,070.52 dated between August 25, 2020 and
3 August 25, 2021 were recorded but not deposited into TA 1, and TPI and THOMAS failed to
4 maintain a separate record for the unidentified/unaccounted for funds of \$565 in TA 1 as of
5 August 31, 2021.

6 (d) Failed to perform and maintain an accurate monthly reconciliation of the
7 balance of all separate beneficiary or transaction records (separate records) to the balance of the
8 record of all trust funds received and disbursed (control record) for TA 1, in violation of Code
9 section 10145 and Regulations section 2831.2.

10 (e) Failed to place trust funds into TA 1 or a neutral escrow depository no later
11 than three (3) business days following receipt of the trust funds by the broker or broker's
12 salesperson, in violation of Code section 10145 and Regulations section 2832.

13 (f) Failed to state a definite, specified date of final and complete termination in
14 the property management agreements between TPI and property owners, in violation of Code
15 section 10176(f).

16 (g) The overall conduct of THOMAS constitutes a failure on THOMAS's part,
17 as officer designated by a corporate broker licensee, to exercise the reasonable supervision and
18 control over the licensed activities of TPI as required by Code section 10159.2 and Regulations
19 section 2725.

20 9.

21 The conduct of Respondents TPI and THOMAS described in Paragraph 8,
22 above, violated the Code and the Regulations as set forth below:

23 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
24 8(a)	Code section 10145 and Regulations section 2832.1
25 8(b)	Code section 10145 and Regulations section 2831
26 8(c)	Code section 10145 and Regulations section 2831.1

1 8(d) Code section 10145 and Regulations section 2831.2

2 8(e) Code section 10145 and Regulations section 2832

3 8(f) Code section 10176(f)

4 8(g) Code section 10159.2 and Regulations section 2725

5 The foregoing violations constitute cause for discipline of the real estate license and license
6 rights of Respondents TPI and THOMAS under the provisions of Code sections 10176(f),
7 10177(d), 10177(g), 10177(h), and 10176(i)/10177(j).

8

9 (COSTS)

10 10.

11 Code section 10106 provides, in pertinent part, that in any order issued in
12 resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner
13 may request the administrative law judge to direct a licensee found to have committed a
14 violation of this part to pay a sum not to exceed the reasonable costs of investigation and
15 enforcement of the case.

16 11.

17 Code section 10148(b) provides, in pertinent part, that the Commissioner shall
18 charge a real estate broker for the cost of any audit, if the Commissioner has found in a final
19 decision following a disciplinary hearing that the broker has violated Code section 10145 or a
20 regulation or rule of the Commissioner interpreting said section.

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