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**FILED**  
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DEPARTMENT OF REAL ESTATE  
By R. Mar

7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 ) NO. H-5758 SAC  
13 DENNIS MAX WERKING, )  
14 ) ACCUSATION  
Respondent. )  
15 )

16 The Complainant, TRICIA D. SOMMERS, in her official capacity as a Deputy Real  
17 Estate Commissioner of the State of California, for cause of Accusation against DENNIS MAX  
18 WERKING, (hereinafter "Respondent"), is informed and alleges as follows:

19 1

20 Respondent is presently licensed by the Department of Real Estate (hereinafter "the  
21 Department") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the  
22 Business and Professions Code (hereafter "the Code"), as a real estate broker.

23 2

24 At all times herein mentioned, Respondent conducted business under his own name,  
25 and the following fictitious business names registered with the Department: "American Home &  
26 Investments", "The Land Bank Realty Company", "Repo Realty" and "Veterans Realty."

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1 Respondent registered the fictitious business name "American Property Management" with the  
2 Department on February 28, 2011.

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4 Whenever reference is made in an allegation in this Accusation to an act or omission  
5 of Respondent, such allegation shall be deemed to mean that the employees, agents and real estate  
6 licensees employed by or associated with Respondent committed such act or omission while  
7 engaged in furtherance of the business or operations of Respondent and while acting within the  
8 course and scope of their authority and employment.

9 4

10 At all times relevant herein, Respondent engaged in the business of, acted in the  
11 capacity of, advertised, or assumed to act as a real estate broker within the State of California on  
12 behalf of others, for compensation or in expectation of compensation within the meaning of  
13 Section 10131(a) of the Code, including the operation and conduct of a real estate brokerage that  
14 included the sale or offer of sale, purchase or offer of purchase, solicitation of prospective sellers  
15 and purchasers of, solicitation or obtaining listings of, or negotiations of the purchase, sale or  
16 exchange of real property or a business opportunity; and Section 10131(b) of the Code, including  
17 the leasing or renting or offer to lease or rent, or placing for rent, or solicitation of listings of  
18 places for rent, or solicitation of prospective tenants, or negotiation of the sale, purchase or  
19 exchanges of leases on real property, or on a business opportunity, or collection of rents from real  
20 property, or improvements thereon, or from business opportunities.

21 FIRST CAUSE OF ACTION

22 Audit Period January 1, 2008 through March 30, 2011

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24 Each and every allegation in Paragraphs 1 through 4, inclusive, above, is  
25 incorporated by this reference as if fully set forth herein.

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Beginning on or about March 16, 2011, and continuing intermittently until May 19, 2011, an audit was conducted at Respondent's main office location at 3613 Marconi Avenue, Sacramento, California, wherein the Auditor examined Respondent's records for the period of January 1, 2008 through March 30, 2011 (hereinafter "the audit period").

While acting as a real estate broker as described in Paragraph 4, above, and within the audit period, Respondent accepted or received funds in trust (hereinafter "trust funds") from or on behalf of owners, tenants and others in connection with the rental or lease of residential property, for or in expectation of compensation, as alleged herein, and thereafter from time-to-time made disbursements of said trust funds.

The trust funds accepted or received by Respondent as described in Paragraph 7, above, were deposited or caused to be deposited by Respondent into a bank account which was maintained by Respondent for the handling of trust funds, and thereafter from time-to-time Respondent made disbursements of said trust funds, identified as follows:

TRUST ACCOUNT # 1	
Bank Name and Location:	Wells Fargo Bank, N.A., P.O. Box 6995, Portland, Oregon 97228-6995
Account No.:	Last 4 Digits: 1287
Entitled:	"Dennis Max Werking dba American Property Management Trust Account"
Signatories:	Dennis Max Werking (REB)
Withdrawal Requirements:	One signature.

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In the course of the activities described in Paragraph 4, above, and within the audit period, Respondent:

- (a) caused, suffered, or permitted the balance of funds in Trust Account #1 to be reduced to an amount which, as of February 28, 2011, was approximately \$313,268.17 less than the aggregate liability of Trust Account #1 to all owners of such funds, without the prior written consent of each and every owner of such funds, in violation of Section 10145 of the Code and Section 2832.1 of Title 10 of the California Code of Regulations (hereafter "the Regulations");
- (b) as of February 28, 2011, failed to reconcile the total of separate beneficiary records with a control record on at least a monthly basis for Trust Account #1, in violation of Section 10145 of the Code and Section 2831.2 of the Regulations; and
- (c) until February 28, 2011, used the fictitious business name "American Property Management" which was not registered with the Department, in violation of Section 10159.5 of the Code and Section 2731 of the Regulations;

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The acts and/or omissions of Respondent as alleged in Paragraph 9, above, constitute grounds for discipline of all licenses and license rights of Respondent pursuant to Sections 10177(d) and/or Section 10177(g) of the Code.

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The acts and/or omissions of Respondent as alleged in Paragraph 9, above, entitle the Department to reimbursement of the costs of its audit pursuant to Section 10148 (Reimbursement for Cost of Audit for Trust Fund Handling Violation) of the Code.

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1 SECOND CAUSE OF ACTION

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3 Each and every allegation in Paragraphs 1 through 11, inclusive, above, is  
4 incorporated by this reference as if fully set forth herein.

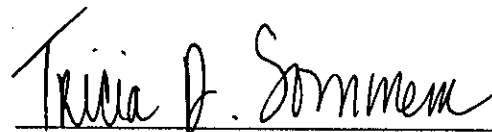
5 13

6 At all times mentioned herein, Respondent was required to exercise reasonable  
7 supervision and control over the activities of his employees, agents, licensees and others acting on  
8 his behalf pursuant to Section 10177(h) of the Code and Section 2725 of the Regulations.

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10 Respondent failed to exercise reasonable supervision over the acts and/or omissions  
11 of his employees, agents, licensees and others acting on his behalf in such a manner as to allow the  
12 acts and/or omissions as described in Paragraph 9, above, to occur, which constitutes cause for the  
13 suspension or revocation of the licenses and license rights of Respondent under Sections 10177(d)  
14 (Willful Disregard/Violation of Real Estate Law) and/or 10177(g) (Negligence/Incompetence in  
15 Performing Act Requiring License) of the Code, and Section 10177(h) (Failure to Exercise  
16 Reasonable Supervision) of the Code.

17 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of  
18 this Accusation and that upon proof thereof a decision be rendered imposing disciplinary action  
19 against all licenses and license rights of Respondent under the Real Estate Law (Part 1 of Division 4  
20 of the Business and Professions Code), and for such other and further relief as may be proper under  
21 other provisions of law.

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24 TRICIA D. SOMMERS  
25 Deputy Real Estate Commissioner

26 Dated at Sacramento, California,  
27 this 30th day of November, 2011.