

**FILED**

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November 5, 2012

DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )

MICHELLE SYLVIA DEBACH and )  
PLACER PROPERTY MANAGEMENT, INC., )

Respondents. )

No. H-5905 SAC

ACCUSATION

The Complainant, TRICIA SOMMERS, a Deputy Real Estate Commissioner of  
the State of California, for cause of Accusation against MICHELLE SYLVIA DEBACH, and  
PLACER PROPERTY MANAGEMENT, INC. (Respondents), is informed and alleges as  
follows:

PRELIMINARY ALLEGATIONS

1

The Complainant, TRICIA SOMMERS, a Deputy Real Estate Commissioner of  
the State of California, makes this Accusation in her official capacity.

2

Respondents are presently licensed and/or have license rights under the Real  
Estate Law, Part 1 of Division 4 of the Business and Professions Code (Code).

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At all times mentioned after January 26, 2012, Respondent PLACER PROPERTY MANAGEMENT, INC. (PPMI) was and is licensed by the State of California Department of Real Estate (Department) as a real estate broker corporation. At no time prior to January 26, 2012, was PPMI licensed by the Department.

At all times mentioned, Respondent MICHELLE SYLVIA DEBACH (DEBACH) was and is licensed by the Department individually as a real estate broker. At all times mentioned, after January 26, 2012, DEBACH was and is licensed by the Department as the designated broker officer of PPMI. As said designated officer-broker, DEBACH was responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees, and employees of PPMI for which a license is required.

Whenever reference is made in an allegation in this Accusation to an act or omission of PPMI, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with PPMI committed such acts or omissions while engaged in furtherance of the business or operation of PPMI and while acting within the course and scope of their corporate authority and employment.

At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Sections 10131(b) of the Code, including the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondent leased or rented and offered to lease or rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

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2 Beginning on or about January 19, 2012, and continuing intermittently through  
3 March 6, 2012, an audit was conducted of the records of DEBACH. The auditor herein  
4 examined the records for the period of January 1, 2011, through December 31, 2011.

5 FIRST CAUSE OF ACTION

6 8

7 Each and every allegation in Paragraphs 1 through 7, inclusive, is incorporated by  
8 this reference as if fully set forth herein.

9 9

10 Beginning about January 2010 and continuing thereafter, Respondents willfully  
11 caused, suffered, permitted, and/or disregarded the real estate law by allowing PPMI to perform  
12 the acts and conduct the real estate activities described in Paragraph 6, including but not limited  
13 to the activities described in Paragraph 10, below.

14 10

15 On or about September 20, 2011, in the course of the employment and activities  
16 described in Paragraph 9, DEBACH, on behalf of PPMI, solicited prospective property owners  
17 and tenants via a website, www.placerpropertymanagement.com, and in the 2011-12 Valley  
18 Yellow Pages.

19 11

20 In acting as described above, Respondents willfully caused, suffered, and/or  
21 permitted PPMI to willfully disregard Section 10130 of the Code.

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23 The facts alleged in the First Cause of Accusation are grounds for the suspension  
24 or revocation of Respondents' licenses and license rights pursuant to Section 10130 of the Code  
25 in conjunction with Section 10177(d) 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 12, inclusive, are incorporated  
4 by this reference as if fully set forth herein.

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6 While acting as a real estate broker as described in Paragraph 6, DEBACH  
7 accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in  
8 connection with the leasing, renting, and collection of rents on real property or improvements  
9 thereon, as alleged herein, and thereafter from time to time made disbursements of said trust  
10 funds.

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12 The trust funds accepted or received by DEBACH as described in Paragraph 14  
13 were deposited or caused to be deposited by DEBACH into trust accounts which were  
14 maintained by DEBACH for the handling of trust funds, and thereafter from time-to-time  
15 Respondents made disbursements of said trust funds, identified as follows:

| ACCOUNT # 1             |                                                                           |
|-------------------------|---------------------------------------------------------------------------|
| Bank Name and Location: | Bank of Sacramento<br>1750 Howe Avenue, Suite 100<br>Sacramento, CA 95825 |
| Account No.:            | XXXXXXX4620                                                               |
| Entitled:               | Placer Property Management Inc. Trust Account                             |
| ACCOUNT # 2             |                                                                           |
| Bank Name and Location: | Bank of Sacramento<br>1750 Howe Avenue, Suite 100<br>Sacramento, CA 95825 |
| Account No.:            | XXXXXXX2697                                                               |
| Entitled:               | Placer Property Management Inc. Trust Account Acquisition                 |

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In the course of the activities described in Paragraph 6, DEBACH:

(a) caused, suffered, or permitted the balance of funds in Account #1 to be reduced to an amount which, as of December 31, 2011, was approximately \$3,465.76 less than the aggregate liability of 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 (Regulations);

(b) caused, permitted, and/or allowed, the possible withdrawal of trust funds from Account #1 and #2 by a person who was not licensed by the Department and not covered by a fidelity bond in violation of Section 2834 of the Regulations.

The facts alleged in the Second Cause of Action are grounds for the suspension or revocation of Respondent's licenses and license rights under the following sections of the Code and Regulations:

(1) As to Paragraph 16(a), under Section 10177(d) of the Code in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations; and

(2) As to Paragraph 16(b), under Section 10177(d) of the Code in conjunction with Section 2834 of the Regulations.

COST RECOVERY

The acts and/or omissions of Respondents as alleged above, entitle the Department to reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund handling violation) of the Code.

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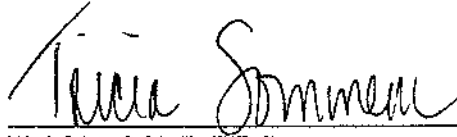
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Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, the Commissioner may request the Administrative Law Judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents under the Code, for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under the provisions of law.

  
TRICIA SOMMERS  
Deputy Real Estate Commissioner

Dated at Sacramento, California,  
this 20<sup>th</sup> day of October, 2012

#### DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate may result in the exclusion of witnesses and documents at the hearing or other sanctions that the Office of Administrative Hearings deems appropriate.