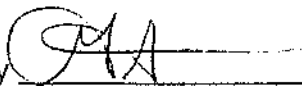


FILED

December 14, 2012

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DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	
12 PARADISE MOUNTAIN REAL ESTATE, INC.,)	NO. H-5929 SAC
13 and LEE ANN BRADY,)	<u>ACCUSATION</u>
14 Respondents.)	

15 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner
16 of the State of California, for Accusation against Respondents PARADISE MOUNTAIN REAL
17 ESTATE, INC. (PMRE) and LEE ANN BRADY (BRADY), collectively (Respondents), is
18 informed and alleges as follows:

19 1

20 The Complainant makes this Accusation against Respondent in her official
21 capacity.

22 2

23 PMRE is presently licensed and/or has license rights under the Real Estate Law,
24 Part 1 of Division 4 of the California Business and Professions Code (the Code) as a corporate
25 real estate broker dba The Real Estate Center.

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BRADY is presently licensed and/or has license rights under the Code as a real estate broker.

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At all times mentioned until herein, BRADY was the designated broker-officer of PMRE. As the designated brokers-officer, BRADY was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of officers, agents, real estate licensees and employees of PMRE for which a real estate license is required to ensure the compliance of the corporation with the Real Estate law and the Regulations.

At all times herein 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 Section 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. Respondents leased or rented or offered to lease or rent, or places for rent, or solicited listings of places for rent or solicited for prospective tenants, or negotiated the sale, purchase or exchange of leases on real property, or on a business opportunity, or collected rents from tenants.

FIRST CAUSE OF ACTION

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Beginning on July 12, 2012, and continuing intermittently through September 5, 2012, an audit was conducted at PMRE's main office located at 6201 Clark Road in Paradise, California 95969 and at the Department's main office located at 2201 Broadway, Sacramento, California 95818, where the auditor examined records for the period of July 1, 2009 through June 30, 2012, (the audit period).

6

While acting as a real estate broker as described in Paragraph 3, above, and within the audit period, PMRE accepted or received funds in trust (trust funds) from or on behalf of

1 property owners, lessees and others in connection with the property management activities,
2 deposited or caused to be deposited those funds into a bank account maintained by PMRE, at
3 Rabobank, N. A., 672 Pearson Road, Paradise, California 95969: a) Account No.
4 XXXXXXXXX9491, entitled "Paradise Mountain Real Estate, In. Property Management Active",
5 (Bank Account #1); and b) Account No. XXXXXX4009, entitled "Paradise Mountain Real Estate,
6 Inc. Property Management Trust", (Trust Account #1), and thereafter from time to time made
7 disbursement of said trust funds.

9 In the course of the activities described in Paragraph 3, above, in connection with
10 the collection and disbursement of trust funds, PMRE:

- 11 (a) Failed to designate Bank Account #1, as a trust account as required by
12 Section 2832 of Chapter 6, Title 10, California Code of Regulations
13 (Regulations);
- 14 (b) Allowed James Maloy, an unlicensed and unbonded individual to
15 withdraw funds from trust accounts, in violation of 2834 of the Regulations;
- 16 (c) An accountability was performed on Bank Account #1, and as of June 30,
17 2012 it revealed a shortage of \$806.59, in violation of Section 10145 of the Code;
- 18 (d) An accountability was performed on Trust Account #1, and as of June 30,
19 2012, it revealed a shortage of \$37.01, in violation of Section 10145 of the Code;
- 20 (e) Failed to maintain separate beneficiary records for Bank Account #1 as
21 required by Section 2831.1 of the Regulations;
- 22 (f) Failed to perform monthly reconciliations of the separate beneficiary
23 records and control records as required by Section 2831.2 of the Regulations and
- 24 (g) Failed to register the fictitious name "Paradise Mountain Property
25 Management" with the Department.

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2 The acts and/or omissions described above constitute violations of Sections 2832
3 and 2834 of the Regulations and of Section 10148 of the Code and are grounds for discipline
4 under Section 10177(d) of the Code.

5 SECOND CAUSE OF ACTION

7 Complainant refers to Paragraphs 1 through 7, above, and incorporates them
8 herein by reference.

10 At all times herein above mentioned, BRADY, was responsible as the supervising
11 designated broker/officer for PMRE, for the supervision and control of the activities conducted
12 on behalf of PMRE'S business by its employees to ensure its compliance with the Real Estate
13 Law and Regulations. BRADY failed to exercise reasonable supervision and control over the
14 property management activities of PMRE. In particular, BRADY permitted, ratified and/or
15 caused the conduct described above, to occur, and failed to take reasonable steps, including but
16 not limited to the handling of trust funds, supervision of employees, and the implementation of
17 policies, rules, and systems to ensure the compliance of the business with the Real Estate Law
18 and the Regulations.

20 The above acts and/or omissions of BRADY violate Section 10159.2
21 (Responsibility/Designated Officer) of the Code and Section 2725 (Broker Supervision) of the
22 Regulations and constituted grounds for disciplinary action under the provisions of Sections
23 10177(d) (Willful Disregard/Violation of Real Estate Law) and 10177(h) (Broker Supervision) of
24 the Code.

26 Section 10106 of the Code provides, in pertinent part, that in any order issued in
27 resolution of a disciplinary proceeding before the department, the commissioner may request the

1 administrative law judge to direct a licensee found to have committed a violation of this part to
2 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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

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11 TRICIA D. SOMMERS
12 Deputy Real Estate Commissioner

13 Dated at Sacramento, California,
14 this 24 day of December, 2012.
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