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FILED

DEC 28 2012

DEPARTMENT OF REAL ESTATE

By K. Contreras

9 BEFORE THE
10 DEPARTMENT OF REAL ESTATE
11 STATE OF CALIFORNIA

12 * * *

12 In the Matter of the Accusation of)
13)
13 WEBER HOME SERVICES INC, and) No. H-5936 SAC
14 NOEL LOUISE WEBER,)
14) ACCUSATION
15 Respondents.)
16)

17 The Complainant, TRICIA D. SOMMERS, in her official capacity as a Deputy
18 Real Estate Commissioner of the State of California, for cause of Accusation against
19 WEBER HOME SERVICES INC, and NOEL LOUISE WEBER (collectively referred to herein
20 as "Respondents"), is informed and alleges as follows:

21 1

22 Respondent WEBER HOME SERVICES INC (hereinafter "WHS") is presently
23 licensed by the Department of Real Estate (hereinafter the "Department") and/or has license
24 rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code
25 (hereinafter the "Code"), as a corporate real estate broker, acting by and through Respondent
26 NOEL LOUISE WEBER (hereinafter "WEBER") as its designated officer.

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As the designated officer/broker, WEBER 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 WHS for which a real estate license is required to ensure the compliance of the corporation with the Real Estate Law and Title 10 of the California Code of Regulations (hereinafter the "Regulations").

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

At all times mentioned herein, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker in 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, and for compensation or in expectation of compensation, Respondents leased or rented, or offered to lease or rent 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; and,

Section 10131.2 of the Code, including the claiming, demanding, charging, receiving, collecting or contracting for the collection of an advance fee in connection with any employment undertaken to promote the sale or lease of real property or of a business opportunity by advance fee listing, advertisement or other offering to sell, lease, exchange or rent property or a business opportunity, or to obtain a loan or loans thereon.

1 CAUSE OF ACTION

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

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6 Beginning on July 2, 2012 and continuing intermittently until September 21,
7 2012, an audit was conducted by the Department of Respondent's main office location at
8 13830 Ski View Loop in Truckee, California, wherein the auditor examined Respondent's
9 records for the period of July 1, 2011 through June 30, 2012 (hereinafter the "audit period").

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11 While acting as a real estate broker as described in Paragraph 4, and within the
12 audit period, Respondents accepted or received funds in trust (hereinafter "trust funds") from or
13 on behalf of lessees, tenants, prospective tenants, or from the negotiation of sale, purchase, or
14 exchange of leases on real property, or on a business opportunity, or from the collection of rents
15 from real property or improvements thereon, or from business opportunities, for or in expectation
16 of compensation, as alleged herein, and thereafter from time-to-time made disbursements of said
17 trust funds.

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19 In connection with the operation and conduct of the activities described in
20 Paragraph 7, and within the audit period, Respondents engaged in the business of claiming,
21 demanding, charging, receiving, collecting or contracting for the collection of advanced fees,
22 which constitute trust funds within the meaning of Sections 10026 and 10131.2 of the Code.

23 9

24 The trust funds accepted or received by Respondents as described in Paragraphs 7
25 and 8 were deposited or caused to be deposited by Respondents into two (2) bank accounts which
26 were maintained by Respondents for the handling of trust funds, and thereafter from time-to-time
27 Respondents made disbursements of said trust funds, identified as follows:

BANK ACCOUNT # 1	
Bank Name and Location:	Bank of America, 11265 Donner Pass Road, Truckee, California, 96161
Account No. (Last 4 Digits):	7596
Entitled:	"Weber Home Services, Inc dba: Mountain Home Properties"
Signatories:	Noel Louise Weber (DO)
Purpose:	Maintained for the receipt and disbursement of trust funds from property management activities. Deposits consisted of security deposit payments made by tenants. Disbursements from this account consisted of repair and maintenance bills and security deposit refunds to tenants.

BANK ACCOUNT # 2	
Bank Name and Location:	Bank of America, 11265 Donner Pass Road, Truckee, California, 96161
Account No. (Last 4 Digits):	7567
Entitled:	"Weber Home Services, Inc dba: Mountain Home Properties"
Signatories:	Noel Louise Weber (DO)
Purpose:	Maintained for the receipt and disbursement of trust funds from property management activities. Deposits consisted of rental payments made by tenants. Disbursements from this account consisted of owner proceeds and repair and maintenance bills. In addition, Bank Account #2 was used as the general business account for WHS and for "Weber Home Painting" which was also owned by WEBER and her husband, David Weber. Funds received in connection with "Weber Home Painting" were deposited into this account. Disbursements for both "Weber Home Painting" and WHS were paid out of this account.

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

(a) caused, suffered, or permitted the balance of trust funds in Bank Account #1 to be reduced to an amount which, as of June 30, 2012, was approximately \$1,551.41 less than

1 the aggregate liability of Bank Account #1 to all owners of such funds, without the prior written
2 consent of each and every owner of such funds, in violation of Section 10145(a) of the Code and
3 Section 2832.1 of the Regulations;

4 (b) caused, suffered or permitted funds received and held by Respondents in
5 Bank Account #2 in the form of rents collected and disbursed in connection with the property
6 management activities to be commingled with funds received as a general business account
7 owned by Respondent WEBER and WEBER'S husband and entitled "Weber Home Painting," in
8 violation of Section 10176(e) of the Code and Section 2835 of the Regulations, for transactions
9 including, but not limited to, the following:

"Weber Home Painting" Transactions	Date	Deposit	Disbursement
PAYOR: Dave C.	6/28/12	\$6,000.00	---
PAYOR: Trisha J.	6/25/12	\$2,635.00	---
PAYEE: Truckee Paint Mart	6/11/12	---	\$463.18
PAYEE: Truckee Paint Mart	5/30/12	---	\$226.71

15 (c) caused, suffered or permitted funds received and held by Respondents in
16 Bank Account #2 in the form of rents collected and disbursed in connection with the property
17 management activities to be commingled with Respondent's own money in the form of broker
18 funds in the amount of \$3,018.46, in violation of Section 10176(e) of the Code and Section 2835
19 of the Regulations;

20 (d) failed to properly designate Bank Accounts #1 and #2 as trust accounts in
21 the name of either WEBER or WHS, as trustee, in violation of Section 10145(a)(1) of the Code
22 and Section 2832 of the Regulations;

23 (e) failed to maintain complete and accurate records of all trust funds received
24 and disbursed (hereinafter referred to as the "control record") for Bank Accounts #1 and #2,
25 including, but not limited to information identifying the dates and check numbers of
26 disbursements and a running balance after the posting of transactions, in violation of Section
27 10145(g) of the Code and Section 2831 of the Regulations;

1 (f) failed to perform and maintain reconciliations of the total of separate
2 beneficiary records with a control record on at least a monthly basis for Bank Accounts #1 and
3 #2, in violation of Section 10145 of the Code and Section 2831.2 of the Regulations;

4 (g) claimed, demanded, charged, received, collected and/or contracted for
5 \$400.00 in advance fees, initially and on an annual basis, from each property owner in
6 connection with property management services, and failed to submit the advance fee agreements
7 and all materials used in obtaining the advance fee agreements to the Department prior to use,
8 without first obtaining a "No Objection Letter" as required by Section 10085 of the Code and
9 Section 2970 of the Regulations; and

10 (h) operated the real estate business under the fictitious business name of
11 "Mountain Home Properties" without obtaining a license bearing said fictitious business name in
12 violation of Section 2731 of the Regulations.

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14 The facts alleged in the present Cause of Action are grounds for the suspension
15 or revocation of Respondents' licenses and license rights under the following sections of the
16 Code and Regulations:

- 17 1) As to Paragraph 10(a), under Section 10145(a) of the Code and
18 Section 2832.1 of the Regulations;
- 19 2) As to Paragraph 10(b), under Section 10176(e) of the Code and
20 Section 2835 of the Regulations;
- 21 3) As to Paragraph 10(c), under Section 10176(e) of the Code and
22 Section 2835 of the Regulations;
- 23 4) As to Paragraph 10(d), under Section 10145(a)(1) of the Code and
24 Section 2832 of the Regulations;
- 25 5) As to Paragraph 10(e), under Section 10145(g) of the Code and
26 Section 2831 of the Regulations;

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