

FILED

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BUREAU OF REAL ESTATE

By S. Black

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BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)	
)	NO. H-6232 SAC
13 MICHAEL PATRICK REILLY,)	
)	<u>ACCUSATION</u>
14 Respondent.)	
15 _____))	

16 The Complainant, TRICIA D. PARKHURST, in her official capacity as a Deputy
17 Real Estate Commissioner of the State of California, brings this Accusation against Respondent
18 MICHAEL PATRICK REILLY ("Respondent"), and is informed and alleges as follows:

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20 Respondent is presently licensed by the California Bureau¹ of Real Estate ("the
21 Bureau") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California
22 Business and Professions Code ("the Code"), as a real estate broker.

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24 At all times relevant herein, Respondent conducted real estate activity under his
25 individual broker license, and the fictitious business name "Green Isle Properties" registered with
26 the Bureau.

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¹ Effective July 1, 2013, the Department of Real Estate has become the Bureau of Real Estate pursuant to the Governor's Reorganization Plan of 2012.

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

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At all times relevant herein, Respondent 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 (Broker Defined – Property Management/Collection of Rent), 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 or 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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On or about March 12, 2014, and continuing intermittently through May 14, 2014, an audit was conducted of Respondent's business activities at his main office location at 6060 Sunrise Vista Dr., Ste. 1130, Citrus Heights, California, wherein the auditor examined Respondent's records for the period of March 1, 2013 through February 28, 2014 ("the audit period").

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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 ("trust funds") and deposited or caused the trust funds to be deposited into bank account(s) maintained by Respondent, and thereafter, from time-to-time, Respondent made disbursements of said trust funds, identified as follows:

Trust Account #1

Bank Name:	El Dorado Savings Bank
Account No.:	Last 4 Digits: 8900
Account Name:	"Green Isle Properties Inc. Trust Account"

1 Trust Account #2

2 Bank Name: El Dorado Savings Bank
3 Account No.: Last 4 Digits: 0211
4 Account Name: "Green Isle Properties Inc. General Trust Account"

5 Bank Account #2

6 Bank Name: El Dorado Savings Bank
7 Account No.: Last 4 Digits: 8918
8 Account Name: "Green Isle Properties Inc. General Account"

9 Bank Account #1

10 Bank Name: Chase Bank
11 Account No.: Last 4 Digits: 1928
12 Account Name: "Green Isle Properties Inc."

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14 In the course of the real estate broker activities described in paragraph 4, above, and
15 during the audit period, Respondent:

16 (a) caused, suffered, or permitted the combined balance of funds in Trust Account
17 #1, Bank Account #1, and Bank Account #2, to be reduced to an amount which, as of February 28,
18 2014 was approximately \$64,096.97 less than the aggregate combined liability of Trust Account #1,
19 Bank Account #1, and Bank Account #2 to all owners of such funds, without the prior written
20 consent of each and every owner of such funds, in violation of Section 10145 of the Code and
21 Section 2832.1 of Title 10 of the California Code of Regulations ("the Regulations"). The cause of
22 said trust fund shortage was attributed to negative account balances in the amount of \$9,923.54, a
23 bank account deficit in the amount of \$6,602.39, bank charges in the amount of \$1,276.00, and the
24 remaining \$54,173.43 could not be identified;

25 (b) as of February 28, 2014, failed to maintain a Record of Trust Funds Received
26 and Disbursed (control record) for Bank Account #1, in violation of Section 10145 of the Code and
27 Section 2831 of the Regulations;

(c) as of February 28, 2014, failed to maintain separate records for each
beneficiary or property of trust funds accepted or received for Trust Account #1, Bank Account #1,
and Bank Account #2, in violation of Section 10145(g) of the Code and Section 2831.1 of the
Regulations;

1 (d) failed to reconcile the total of the separate beneficiary/property records with
2 the records of all trust funds received and disbursed (control records) on at least a monthly basis for
3 Trust Account #1, Bank Account #1, and Bank Account #2, in violation of Section 2831.2 of the
4 Regulations;

5 (e) deposited trust funds into Trust Account #1, Bank Account #1 and Bank
6 Account #2, and failed to designate said accounts as a trust fund account in the name of Respondent
7 or his registered fictitious business name, as trustee, in violation of Section 10145 of the Code and
8 Section 2832 of the Regulations;

9 (f) caused, suffered or permitted money of others, trust funds, which was received
10 and held by Respondent in Bank Account #1 and Bank Account #2, to be commingled with
11 Respondent's own money, in violation of Section 10176(e) of the Code and Section 2835 of the
12 Regulations; and,

13 (g) conducted activities requiring a real estate license through unlicensed
14 corporation "Green Isle Properties Inc.", in violation of Section 10130 of the Code. Specifically,
15 Respondent entered into property management agreements listing "Green Isle Properties Inc." as
16 the real estate broker.

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18 The acts and/or omissions of Respondent as alleged in paragraph 7, above, constitute
19 grounds for the suspension or revocation of all licenses and license rights of Respondent pursuant to
20 the following provisions of the Code and Regulations:

21 (a) As to paragraph 7(a), under Section 10177(d) and/or 10177(g) of the
22 Code, in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

23 (b) As to paragraph 7(b), under Sections 10177(d) and/or 10177(g) of the
24 Code, in conjunction with Section 10145 of the Code and Section 2831 of the Regulations;

25 (c) As to paragraph 7(c), under Section 10177(d) and/or 10177(g) of the
26 Code, in conjunction with Section 10145(g) of the Code and Section 2831.1 of the
27 Regulations;

1 (d) As to paragraph 7(d), under Section 10177(d) and/or 10177(g) of the Code,
2 in conjunction with Section 2831.2 of the Regulations;

3 (e) As to paragraph 7(e), under Section 10177(d) and/or 10177(g) of the Code,
4 in conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

5 (f) As to paragraph 7(f), under Sections 10176(e), and 10177(d) and/or 10177(g)
6 of the Code, in conjunction with Section 2835 of the Regulations; and,

7 (g) As to paragraph 7(g), under Section 10177(d) and/or 10177(g) of the Code,
8 in conjunction with Section 10130 of the Code.

9 COST RECOVERY

10 Audit Costs

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

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

19 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
20 this Accusation and that upon proof thereof, a decision be rendered revoking all licenses and license
21 rights of Respondent under the Real Estate Law (Part I of Division 4 of the Business and
22 Professions Code), for the cost of investigation and enforcement as permitted by law, and for the
23 cost of the audit as permitted by law, and for such other and further relief as may be proper under
24 the provisions of law.

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26 Dated at Sacramento, California
27 this 2nd day of March, 2015


TRICIA D. PARKHURST
Deputy Real Estate Commissioner