

1 MARY F. CLARKE, Counsel (SBN 186744)
2 Bureau of Real Estate
3 P.O. Box 137007
4 Sacramento, CA 95813-7007

5 Telephone: (916) 263-8672
6 (916) 263-7303 (Direct)
7 (916) 263-3767 (Fax)

FILED

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BUREAU OF REAL ESTATE

By *K. Contreras*

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the First Amended Accusation of)
12 MICHAEL STEPHEN THOMAS, and)
13 KEELY ANN STEWART,)
14 Respondents.)

NO. H-6242 SAC

FIRST AMENDED
ACCUSATION

15 The Complainant, TRICIA PARKHURST, a Supervising Special Investigator
16 of the State of California, makes this First Amended Accusation in her official capacity against
17 MICHAEL STEPHEN THOMAS (herein "THOMAS") dba Tahoe Rental Connection (herein
18 "TRC") and KEELY ANN STEWART (herein "STEWART") (collectively herein
19 "Respondents"), is informed and alleges as follows:

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21 At all times herein mentioned, Respondents were and now are licensed and/or
22 have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and
23 Professions Code) (herein "the Code").

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25 At all times herein mentioned, THOMAS was and now is licensed by the State of
26 California Bureau of Real Estate (herein "the Bureau") as a real estate broker with a Mortgage
27 Loan Originator License Endorsement.

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At all times herein mentioned, STEWART was licensed by the Bureau as a real estate salesperson in the employ of THOMAS.

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At all times herein mentioned THOMAS, acting through TRC, engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker wherein, on behalf of others, for compensation or in expectation of compensation within the State of California within the meaning of Section 10131(b) of the Code, including the operation of a property management business with the public wherein THOMAS, through TRC, leased or rented or offered to lease or rent, or placed for rent, or solicited listings or places for rent, or solicited for prospective tenants, or negotiated the sale, purchase or exchanges of leases on real property or on a business opportunity, or collected rents from real property, or improvements thereon, or from business opportunities.

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In so acting as a real estate broker as described in Paragraph 3, above, THOMAS, acting through TRC, accepted or received funds in trust (herein "trust funds") from or on behalf of tenants, owners, and others in connection with real estate leasing, renting, and collection of rents on real property or improvements thereon, and thereafter from time to time made disbursements of said funds.

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The aforesaid trust funds accepted or received by THOMAS, acting through TRC, were deposited or caused to be deposited by THOMAS into one or more bank accounts (herein "trust fund accounts") maintained by THOMAS for the handling of trust funds at the So. Lake Tahoe, California branch of Bank of the West as follows:

- a) "Dan Shideler DBA Tahoe Rental Connection Real Estate Trust Account," account #xxx-xx6424 (herein "Trust #1"); and
- b) "Dan Shideler DBA Tahoe Rental Connection Real Estate Trust Account." Account #xxx-xx6465 (herein "Trust #2").

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2 Between about October 29, 2014 and about November 14, 2014, an audit was
3 conducted of the records of TRC in connection with the activities described in Paragraphs 3
4 through 5, above. The auditor herein examined the records for the period between about
5 November 1, 2011 and about October 31, 2014, and found THOMAS:

- 6 (a) caused, suffered or permitted the balance of funds in Trust #1 to be
7 reduced to an amount, which as of September 30, 2014, was
8 approximately \$311,959.99, less than the aggregate liability of
9 THOMAS to all owners of such funds, without the prior written
10 consent of the owners of such funds, in violation of Section 2832.1
11 of Chapter 6, Title 10, of the California Code of Regulations (herein
12 "the Regulations");
- 13 (b) failed to place trust funds entrusted to THOMAS into the hands of a
14 principal on whose behalf the funds were received, into a neutral escrow
15 depository, or into a trust fund account in the name of THOMAS as
16 trustee at a bank or other financial institution, in conformance with the
17 requirements of Section 10145 of the Code and Section 2832 of the
18 Regulations, in that THOMAS placed such funds into Trust Accounts #1
19 and #2, accounts that were not in the name of THOMAS as trustee;
- 20 (c) failed to reconcile at least once a month, the balance of all separate
21 beneficiary or transaction records with Trust Accounts #1 and #2, as
22 required by Section 2831.2 of the Regulations;
- 23 (d) authorized Dan S., Ward S. and Anne S., unlicensed persons without
24 fidelity bond coverage, to make withdrawals from Trust Accounts #1
25 and #2, in violation of Section 2834 of the Regulations;
- 26 (e) failed to obtain written agreements with real estate salespersons Zachary
27 V. M. and Keely A. S., in violation of Section 2726 of the Regulations;

- 1 (f) allowed TRC to conduct licensed activities during a time when TRC was
2 not licensed nor registered with the Bureau as THOMAS's DBA, in
3 violation of Section 10130 of the Code; and
4 (g) failed to exercise reasonable supervision over the acts of TRC and its
5 agents and employees, in violation of Sections 10159.2, and 10177(g)
6 and (h) of the Code, and Section 2725 of the Regulations.

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8 Between about 2006 and November 14, 2014, STEWART embezzled between about
9 \$200,000 and about \$300,000 from her employer, TRC, in violation of Section 10177(j) of the Code.

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11 The facts alleged above are grounds for the suspension or revocation of the licenses
12 and license rights of THOMAS under the following provisions of the Code and Regulations:

- 13 (a) as to Paragraph 7(a) under Section 2832.1 of the Regulations in
14 conjunction with Section 10177(d) of the Code;
15 (b) as to Paragraph 7(b) under Section 10145 of the Code and 2832 of the
16 Regulations in conjunction with Section 10177(d) of the Code;
17 (c) as to Paragraph 7(c) under Section 2831.2 of the Regulations in
18 conjunction with Section 10177(d) of the Code;
19 (d) as to Paragraph 7(d) under Section 2834 of the Regulations in
20 conjunction with Section 10177(d) of the Code;
21 (e) as to Paragraph 7(e) under Section 2726 of the Regulations in
22 conjunction with Section 10177(d) of the Code;
23 (f) as to Paragraph 7(f) under Section 10130 of the Code in conjunction
24 with Section 10177(d) of the Code; and
25 (g) as to Paragraph 7(g) under Sections 10159.2, and 10177(g) and (h) of
26 the Code, and Section 2725 of the Regulations in conjunction with
27 Section 10177(d) of the Code.

The facts alleged above are grounds for the suspension or revocation of the licenses and license rights of STEWART as to Paragraph 8 under Section 10177(j) of the Code

COST RECOVERY

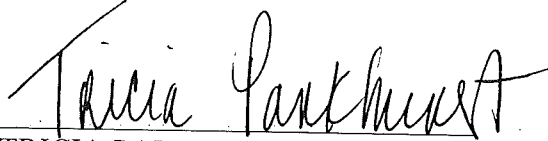
Audit Costs

The acts and/or omissions of Respondents as alleged above entitle the Bureau to reimbursement of the costs of its audit pursuant to Section 10148(b) of the Code.

Investigation and Enforcement Costs

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, the Real Estate 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 First Amended Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of the audit, investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other applicable provisions of law.


TRICIA PARKHURST
Supervising Special Investigator

Dated at Sacramento, California
this 14th day of December, 2015.