

FILED

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BUREAU OF REAL ESTATE

By S. Black

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8
9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 BRIAN WILLIAM BARRINGER,)
14 Respondent.)
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No. H-6295 SAC
ACCUSATION

16 The Complainant, HEATHER NISHIMURA, a Supervising Special Investigator
17 of the State of California, for Accusation against Respondent BRIAN WILLIAM BARRINGER
18 (RESPONDENT), is informed and alleges as follows:

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

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23 RESPONDENT is presently licensed and/or has license rights with the Bureau of
24 Real Estate (Bureau) under the California Business and Professions Code (Code) as a real estate
25 broker.

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At all times herein mentioned, RESPONDENT engaged in the business of, acted in the capacity of, advertised, or assumed to act as 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. RESPONDENT 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.

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Beginning on May 13, 2014, and continuing intermittently through August 18, 2014, an audit was conducted at RESPONDENT's main office located on 1111 E. Street, Tracy, California 95376, where the auditor examined records for the period of May 1, 2013, through May 31, 2014, (the audit period).

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While acting as a real estate broker as described in Paragraph 3, above, and within the audit period, RESPONDENT accepted or received funds in trust (trust funds) from or on behalf of property owners, lessees and others in connection with property management activities, deposited or caused to be deposited those funds into bank accounts maintained by RESPONDENT, at Well's Fargo Bank, 1900 W. 11th Street, Tracy, California 95376, as described below:

BANK ACCOUNT #1	
Account No.:	XXXXXX5363
Entitled:	Barringer Investments & Property MNGT Unit Account

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TRUST ACCOUNT #1	
Account No.:	XXXXXX0223
Entitled:	Barringer Investments & Property MNGT Unit Trust Account

and thereafter from time to time made disbursement of said trust funds.

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In the course of the activities described in Paragraph 3, in connection with the collection and disbursement of trust funds, it was determined that:

- (a) RESPONDENT failed to designate Bank Account #1 as a trust account as required by Section 2832 of Chapter 6, Title 10, California Code of Regulations (Regulations);
- (b) RESPONDENT allowed a person who was not licensed and did not have a surety bond to be a signatory on the trust account, in violation of Section 2834 of the Regulations;
- (c) During an accountability performed on Bank Account #1, and as of May 31, 2014, a shortage of \$74,529.36 was revealed, in violation of Section 10145 of the Code;
- (d) During an accountability performed on Trust Account #1, and as of May 31, 2014, a shortage of \$1,452.20 was revealed, in violation of Section 10145 of the Code;
- (d) RESPONDENT failed to obtain written permission from owners of trust funds in Bank Account #1 or Trust Account #1, to allow the balance to drop below accountability, in violation of Section 2832.1 of the Regulations;
- (e) RESPONDENT failed to maintain control records for Bank Account #1 or Trust Account #1, as required by Section 2831 of the Regulations;

1 (f) RESPONDENT failed to perform monthly reconciliations of the separate
2 beneficiary records and control records for Bank Account #1 or Trust
3 Account #1, as required by Section 2831.2 of the Regulations.

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5 The acts and/or omissions described above constitute violations of Sections 2831
6 (control records), 2831.2 (monthly reconciliations), 2832 (trust fund designation) 2832.1
7 (written permission balance below accountability) and 2834 (trust fund withdrawals) of the
8 Regulations and of Section 10145 (trust fund handling) of the Code and are grounds for
9 discipline under Section 10177(d) (willful disregard of real estate laws) and 10177(g)
10 (negligence/incompetence licensee) of the Code.

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12 Audit Costs

13 The acts and/or omissions of RESPONDENT as alleged above, entitle the Bureau
14 to reimbursement of the costs of its audits pursuant to Section 10148(b) (audit costs for trust
15 fund handling violations) of the Code.

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17 Costs of Investigation and Enforcement

18 Section 10106 of the Code provides, in pertinent part, that in any order issued
19 in resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the
20 administrative law judge to direct a licensee found to have committed a violation of this part to
21 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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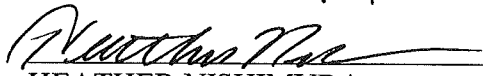
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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents under the Real Estate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


HEATHER NISHIMURA
Supervising Special Investigator

Dated at Sacramento, California,
this 4th day of August, 2015.