

FILED

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BUREAU OF REAL ESTATE

By S. Black

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9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)

13 ROBERT BURGESS INGOLS,)

14 Respondent.)

No. H-6297 SAC

ACCUSATION

15 The Complainant, HEATHER NISHIMURA, a Supervising Special Investigator
16 of the State of California, for cause of Accusation against ROBERT BURGESS INGOLS
17 (Respondent), is informed and alleges as follows:

18 PRELIMINARY ALLEGATIONS

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20 The Complainant, HEATHER NISHIMURA, a Supervising Special Investigator
21 of the State of California, makes this Accusation in her official capacity.

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23 Respondent is presently licensed and/or has license rights under the Real Estate
24 Law, Part 1 of Division 4 of the Business and Professions Code (Code).

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26 At all times mentioned, Respondent was and is licensed by the Bureau
27 individually as a real estate broker.

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At all times mentioned, Brandon Defanti (Defanti) was and is licensed by the Bureau as a real estate salesperson. At no time after January 28, 2013, was Defanti licensed under the employ of Respondent.

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At all times mentioned, Respondent 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 in 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 and offered to lease or rent, and placed for rent, and solicited listings of places for 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 November 12, 2014, and continuing intermittently through June 15, 2015, an audit was conducted of the records of Respondent. The auditor herein examined the records for the period of May 1, 2013, through October 31, 2014.

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While acting as a real estate broker as described in Paragraph 5, Respondent accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in connection with the leasing, renting, and collection of rents on real property or improvements thereon, as alleged herein, and thereafter from time to time made disbursements of said trust funds.

8

The trust funds accepted or received by Respondent as described in Paragraph 7 were deposited or caused to be deposited by Respondent into trust accounts which were maintained by Respondent for the handling of trust funds, and thereafter from time-to-time

Respondent made disbursements of said trust funds, identified as follows:

ACCOUNT # 1	
Bank Name and Location:	Wells Fargo Bank 2261 Del Paso Road Sacramento, CA 95835
Account No.:	XXXXXXX0955
Entitled:	Apple One Property Management Inc.
ACCOUNT # 2	
Bank Name and Location:	Wells Fargo Bank 2261 Del Paso Road Sacramento, CA 95835
Account No.:	XXXXXXX0971
Entitled:	Apple One Property Management Inc.
ACCOUNT # 3	
Bank Name and Location:	Wells Fargo Bank 2261 Del Paso Road Sacramento, CA 95835
Account No.:	XXXXXXX0574
Entitled:	Apple One Property Management Inc.
ACCOUNT # 4	
Bank Name and Location:	Wells Fargo Bank 2261 Del Paso Road Sacramento, CA 95835
Account No.:	XXXXXXX0582
Entitled:	Apple One Property Management Inc.
ACCOUNT # 5	
Bank Name and Location:	Wells Fargo Bank 2261 Del Paso Road Sacramento, CA 95835
Account No.:	XXXXXXX0963
Entitled:	Apple One Property Management Inc.

FIRST CAUSE OF ACTION

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Each and every allegation in Paragraphs 1 through 8, inclusive, above, are incorporated by this reference as if fully set forth herein.

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In the course of the activities described in Paragraph 5, Respondent:

(a) caused, suffered, or permitted the combined balance of funds in Account #1, 2, 3, 4, and 5 to be reduced to an amount which, as of October 31, 2014, was approximately \$57,289.37 less than the aggregate liability of Account #1, 2, 3, 4, and 5 to all owners of such funds in violation of Section 10145 of the Code and Section 2832.1 of Title 10 of the California Code of Regulations (Regulations);

(b) failed to deposit trust funds into a trust fund account in the name of Respondent as trustee at a bank or other financial institution, in conformance with Section 10145 of the Code and Section 2832 of the Regulations;

(c) failed to maintain an accurate written control record, for Account #1, 2, 3, 4, and 5, of all trust funds received and disbursed, containing all information required by Section 2831 of the Regulations;

(d) failed to keep accurate separate records for each beneficiary or transaction, accounting therein for all funds which were deposited into Account #1, 2, 3, 4, and 5, containing all of the information required by Section 2831.1 of the Regulations;

(e) failed to reconcile the balance of separate beneficiary or transaction records with the control record of trust funds received and disbursed at least once a month, and/or failed to maintain a record of such reconciliations for Account #1, 2, 3, 4, and 5 as required by Section 2831.2 of the Regulations; and

(f) commingled with his own money or property, the money or property of others which was received or held by Respondent in trust in violation of Section 10176(e) of the Code.

During the audit period, Respondent commingled and/or converted trust funds in connection with the property management activities described in Paragraph 5. Respondent earned approximately \$75,463.23 in property management fees. However, Respondent

1 disbursed approximately \$91,375.80 in management fees. Respondent converted and/or
2 commingled said trust funds to Respondent's own use and benefit or to purposes not authorized
3 by the rightful owners of said funds. The amount of said commingled and converted trust funds
4 is approximately \$15,743.57.

5 12

6 The facts alleged in the First Cause of Action are grounds for the suspension or
7 revocation of Respondent's license and license rights under the following sections of the Code
8 and Regulations:

9 As to Paragraph 10(a), under Section 10177(d) of the Code in conjunction with
10 Section 10145 of the Code and Section 2832.1 of the Regulations;

11 As to Paragraph 10(b), under Section 10177(d) of the Code in conjunction with
12 Section 2832 of the Regulations and Section 10145 of the Code;

13 As to Paragraph 10(c), under Section 10177(d) of the Code in conjunction with
14 Section 2831 of the Regulations;

15 As to Paragraph 10(d), under Section 10177(d) of the Code in conjunction with
16 Section 2831.1 of the Regulations;

17 As to Paragraph 10(e), under Section 10177(d) of the Code in conjunction with
18 Section 2831.2 of the Regulations;

19 As to Paragraph 10(f), under Section 10176(e) of the Code; and

20 As to Paragraph 11, under Sections 10176(i) and/or 10176(e) of the Code.

21 SECOND CAUSE OF ACTION

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23 Each and every allegation in Paragraphs 1 through 12, inclusive, above, are
24 incorporated by this reference as if fully set forth herein.

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26 On or about March 30, 2008, Respondent and Drew J. (Drew) entered into a
27 Property Management Agreement calling for Respondent to manage the real property located at

1 14 Boswell Court, Sacramento, California. The Property Management Agreement called for
2 Respondent to remit owner funds monthly.

3 15

4 On or about January 17, 2014, Respondent, on behalf of Drew, entered into a
5 Residential Lease or Month-to-Month Rental Agreement with Allison V. (Allison) to rent the
6 real property located at 14 Boswell Court, Sacramento, California.

7 16

8 On or about January 24, 2014, Respondent received from Allison approximately
9 \$17,902.74. This represented \$16,152.74 in rent for the period of January 24, 2014, through
10 October 31, 2014, plus a security deposit of \$1,750.00.

11 17

12 On or about January 24, 2014, Respondent deposited the \$17,902.74 into Account
13 #1. Respondent failed to remit the owner proceeds to Drew as required by the Property
14 Management Agreement. Instead, Respondent used approximately \$15,016.00 of Drew's funds
15 for expenses associated with Respondent's property management brokerage. Respondent
16 converted and/or commingled said trust funds to Respondent's own use and benefit or to
17 purposes not authorized by the rightful owners of said funds.

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19 The facts alleged in the Second Cause of Action are grounds for the suspension or
20 revocation of Respondent's license and license rights under Sections 10145, 10176(e), 10176(i),
21 and/or 10177(g) of the Code.

22 THIRD CAUSE OF ACTION

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24 Each and every allegation in Paragraphs 1 through 18, inclusive, above, are
25 incorporated by this reference as if fully set forth herein.

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Between on or about January 29, 2013 and April 2014, Respondent employed and compensated Defanti, while Defanti's license was not associated under Respondent's license, to perform the acts and conduct the real estate activities described in Paragraph 5, above, including but not limited to the activities described in Paragraph 21.

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On or about January 29, 2013, in course of the employment and activities described in Paragraph 20, above, Defanti solicited prospective tenants for, negotiated rental agreements for, and/or collected rents from real properties owned by another or others, including but not limited to the following:

PROPERTY OWNER

PROPERTY LOCATION

Drew Jones

14 Boswell Court, Sacramento

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In acting as described in Paragraphs 20 through 21, Respondent violated and/or willfully disregarded the provisions of Section 10137 of the Code.

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The facts alleged in the Third Cause of Accusation are grounds for the suspension or revocation of Respondent's license and license rights under Section 10137 of the Code in conjunction with Section 10177(d) of the Code.

COST RECOVERY

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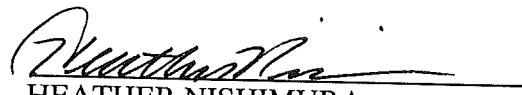
The acts and/or omissions of Respondent as alleged above, entitle the Bureau to reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund handling violation) of the Code.

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Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, the 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 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Code, for the cost of investigation and enforcement as permitted by law, for the cost of the audit, 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.

DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Bureau of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the *Administrative Procedure Act*. Failure to provide Discovery to the Bureau of Real Estate may result in the exclusion of witnesses and documents at the hearing or other sanctions that the Office of Administrative Hearings deems appropriate.