

FILED

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BUREAU OF REAL ESTATE

By *pdw*

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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 KAPPEL & KAPPEL INC. and)
14 STEVEN TED KAPPEL,) CalBre No. H-6360 SAC
15 Respondents.) ACCUSATION

16 The Complainant, TRICIA PARKHURST, a Supervising Special Investigator of
17 the State of California, for cause of Accusation against KAPPEL & KAPPEL INC. and STEVEN
18 TED KAPPEL (collectively "Respondents"), is informed and alleges as follows:

19 PRELIMINARY ALLEGATIONS

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21 The Complainant, TRICIA PARKHURST, a Supervising Special Investigator of
22 the State of California, makes this Accusation in her official capacity.

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24 Respondents are presently licensed and/or have license rights under the Real
25 Estate Law, Part 1 of Division 4 of the Business and Professions Code (Code).

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At all times mentioned, Respondent KAPPEL & KAPPEL INC. (K&K) was and is licensed by the State of California Bureau of Real Estate (Bureau) as a real estate broker corporation.

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At all times mentioned, Respondent STEVEN TED KAPPEL (KAPPEL) was and is licensed by the Bureau individually as a real estate broker, and as the designated broker officer of K&K. As said designated broker officer, KAPPEL 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 K&K for which a license is required.

5

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

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At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers 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, Respondents 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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1 FIRST CAUSE OF ACTION

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3 Each and every allegation in Paragraphs 1 through 6, inclusive, is incorporated by
4 this reference as if fully set forth herein.

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6 On or about October 20, 2015, and continuing intermittently through November
7 20, 2015, an audit was conducted of the records of K&K. The auditor herein examined the
8 records for the period of September 1, 2014, through August 31, 2015.

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10 While acting as a real estate broker as described in Paragraph 6, Respondents
11 accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in
12 connection with the leasing, renting, and collection of rents on real property or improvements
13 thereon, as alleged herein, and thereafter from time to time made disbursements of said trust
14 funds.

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16 The trust funds accepted or received by Respondents as described in Paragraph 9
17 were deposited or caused to be deposited by Respondents into trust accounts which were
18 maintained by Respondents for the handling of trust funds, and thereafter from time-to-time
19 Respondents made disbursements of said trust funds, identified as follows:

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ACCOUNT # 1	
21 Bank Name and Location:	Umpqua Bank 403 Davis Street Vacaville, California
22 Account No.:	XXXXXX9174
23 Entitled:	Kappel & Kappel, Inc., Property Management, Trust Account

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In the course of the activities described in Paragraph 6, Respondents caused, suffered, or permitted the balance of funds in Account #1 to be reduced to an amount which, as of June 30, 2015, was approximately \$116,017.20 less than the aggregate liability of Account #1 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).

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The facts alleged in the First Cause of Action are grounds for the suspension or revocation of Respondents' licenses and license rights under Section 10177(d) of the Code in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations.

SECOND CAUSE OF ACTION

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

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Respondent KAPPEL failed to exercise reasonable supervision over the acts of K&K in such a manner as to allow the acts and events described above to occur.

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The acts and/or omissions of KAPPEL as described in Paragraph 14, constitutes failure on the part of KAPPEL, as designated broker-officer for K&K, to exercise reasonable supervision and control over the licensed activities of K&K as required by Section 10159.2 of the Code and Section 2725 of the Regulations.

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The facts described above as to the Second Cause of Action constitute cause for the suspension or revocation of the licenses and license rights of Respondent KAPPEL under Section 10177(g) and/or Section 10177(h) of the Code, and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

1 COST RECOVERY

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

6 18

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

11 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
12 of this Accusation and that upon proof thereof, a decision be rendered imposing discipline on all
13 licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the
14 Business and Professions Code), for the cost of the investigation and enforcement of this case as
15 permitted by law, for the cost of the Bureau's audit as permitted by law, and for such other and
16 further relief as may be proper under the provisions of law.

17 
18 TRICIA PARKHURST
Supervising Special Investigator

19 Dated at Sacramento, California,
20 this 16th day of February, 2016

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22 DISCOVERY DEMAND

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