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FILED

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BUREAU OF REAL ESTATE

By B. Nicholas

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

SHERRY KAY LUTTRELL,

Respondent.

No. H- 6405 SAC

ACCUSATION

The Complainant, TRICIA PARKHURST, a Supervising Special Investigator of the State of California, for cause of Accusation against SHERRY KAY LUTTRELL (Respondent), is informed and alleges as follows:

PRELIMINARY ALLEGATIONS

1

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

2

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

3

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

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.

On or about September 21, 2015, and continuing intermittently through January 13, 2016, an audit was conducted of the records of Respondent. The auditor herein examined the records for the period of August 1, 2013, through July 31, 2015.

While acting as a real estate broker as described in Paragraph 4, 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.

The trust funds accepted or received by Respondent as described in Paragraph 6 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:

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ACCOUNT # 1	
Bank Name and Location:	Bank of Sacramento 1750 Howe Avenue, suite 100 Sacramento, CA 95825
Account No.:	XXXXXX8356
Entitled:	Pacifica Pros Inc., DBA Pacifica Properties As Agent for Various Properties Trust Account
ACCOUNT # 2	
Bank Name and Location:	West America Bank 1610 Arden Way, #199 Sacramento, CA 95815
Account No.:	XXXX-XX013-0
Entitled:	Pacifica Properties Trust Account

FIRST CAUSE OF ACTION

8

Each and every allegation in Paragraphs 1 through 7, are incorporated by this reference as if fully set forth herein.

9

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

(a) 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 \$123,597.67 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);

(b) caused, suffered, or permitted the balance of funds in Account #2 to be reduced to an amount which, as of June 30, 2015, was approximately \$1,136.35 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 Regulations;

(c) 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, and 2 as required by Section 2831.2 of the Regulations; and

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

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

7 (f) caused, permitted, and/or allowed, the possible withdrawal of trust funds
8 from Account #1 by a person, Catherine Fe' Hazen, who was not licensed by the Bureau and not
9 covered by a fidelity bond in violation of Section 2834 of the Regulations.

10 10

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

14 As to Paragraphs 9(a) and 9(b), under Sections 10177(d) and/or 10177(g) of the
15 Code in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

16 As to Paragraph 9(c), under Sections 10177(d) and/or 10177(g) of the Code in
17 conjunction with Section 2831.2 of the Regulations;

18 As to Paragraph 9(d), under Sections 10177(d) and/or 10177(g) of the Code in
19 conjunction with Section 2831.1 of the Regulations;

20 As to Paragraph 9(e), under Sections 10177(d) and/or 10177(g) of the Code in
21 conjunction with Section 2832 of the Regulations and Section 10145 of the Code; and

22 As to Paragraph 9(f), under Sections 10177(d) and/or 10177(g) of the Code in
23 conjunction with Section 2834 of the Regulations.

24 SECOND CAUSE OF ACTION

25 11

26 Each and every allegation in Paragraphs 1 through 10, inclusive, above, are
27 incorporated by this reference as if fully set forth herein.

In connection with the operation and conduct of the real estate activities described in Paragraph 7, Respondent, engaged in the business of claiming, demanding, charging, receiving, collecting, or contracting for the collection of advance fees within the meaning of Sections 10026 and 10131.2 (advance fees) of the Code in the amount of \$8 per month for an Eviction Protection Program, including but not limited to the following:

Property Owner	Property Address
Dr. Howard Ferris	8424 Zinnia Way, Elk Grove
Marcia Stevens	4919 Whisper Lane, Sacramento
Norma Burchard	4416 Robertson Avenue, Sacramento
Dewey Selph	5636 Lancelot Drive, Sacramento
Huong Thi Nguyn & Phuong Van Le	2020 Delma Way, Sacramento
Walter Senini	2040 Bowling Green Drive, Sacramento
Sukhie Dhaliwal & Jas Lochab	8577 Almond Bluff Court, Orangevale
Robert & Eric Achtel	16 Adelphi Court, Sacramento

In connection with the collection and handling of said advance fee, Respondent:

(a) failed to cause the advance fee contract and all materials used in obtaining the advance fee agreement to be submitted to the Bureau of Real Estate prior to use as required by Section 10085 of the Code and Section 2970 of Title 10 of the Regulations;

(b) failed to immediately deliver said trust funds into a neutral escrow depository, or into a trust fund account in violation of Sections 10146 and 10145 of the Code; and

(c) failed to furnish the principal borrower the verified accounting required by Section 10146 of the Code and Section 2972 of the Regulations.

The acts and/or omissions of Respondent described in the Second Cause of Action, constitute violation of Sections 10177(d) and/or 10177(g) of the Code in conjunction with Sections 10085, 10146, and 10145 of the Code and Sections 2970 and 2972 of the

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1 Regulations, and are cause for the suspension or revocation of Respondent's license and license
2 rights.

3 COST RECOVERY

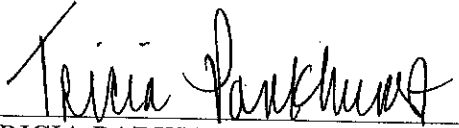
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5 The acts and/or omissions of Respondent as alleged above, entitle the Bureau to
6 reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund
7 handling violation) of the Code.

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

13 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
14 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
15 action against all licenses and license rights of Respondent under the Code, for the cost of
16 investigation and enforcement as permitted by law, for the cost of the audit, and for such other
17 and further relief as may be proper under other provisions of law.

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20 TRICIA PARKHURST
21 Supervising Special Investigator

22 Dated at Sacramento, California,
23 this 13th day of June, 2016.

24 DISCOVERY DEMAND

25 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the
26 Bureau of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in
27 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.