

1 TRULY SUGHRUE, Counsel  
State Bar No. 223266  
2 Bureau of Real Estate  
P.O. Box 137007  
3 Sacramento, CA 95813-7007

4 Telephone: (916) 263-8672  
(916) 263-8676 (Direct)

5  
6 Fax: (916) 263-3767

**FILED**

"JUL 18 2018  
DEPARTMENT OF REAL ESTATE

By X. Kropp

7  
8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

12 SACRAMENTO PROPERTY MANAGEMENT )  
13 SERVICES, INC., and MICHELLE HORNEFF- )  
14 COHEN, )

15 Respondents. )

CalBre No. H-6702 SAC

ACCUSATION

16 The Complainant, TRICIA PARKHURST, a Supervising Special Investigator of  
17 the State of California, for cause of Accusation against SACRAMENTO PROPERTY  
18 MANAGEMENT SERVICES, INC., and MICHELLE HORNEFF-COHEN (collectively  
19 "Respondents"), are informed and allege as follows:

20 PRELIMINARY ALLEGATIONS

21 1

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

24 2

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

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1 3

2 At all times mentioned, Respondent SACRAMENTO PROPERTY  
3 MANAGEMENT SERVICES, INC. (SPMS) was and is licensed by the State of California  
4 Bureau of Real Estate (Bureau) as a real estate broker corporation.

5 4

6 At all times mentioned, Respondent MICHELLE HORNEFF-COHEN  
7 (HORNEFF-COHEN) was and is licensed by the Bureau individually as a real estate broker, and  
8 as the designated broker officer of SPMS. As said designated broker officer, HORNEFF-  
9 COHEN was responsible pursuant to Section 10159.2 of the Code for the supervision of the  
10 activities of the officers, agents, real estate licensees, and employees of SPMS for which a  
11 license is required.

12 5

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

18 6

19 At all times mentioned, Respondents engaged in the business of, acted in the  
20 capacity of, advertised, or assumed to act as real estate brokers in the State of California, within  
21 the meaning of Section 10131(b) of the Code in the operation and conduct of a property  
22 management business with the public wherein, on behalf of others, for compensation or in  
23 expectation of compensation, Respondents leased or rented and offered to lease or rent, and  
24 placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of  
25 real property or improvements thereon, and collected rents from real property or improvements  
26 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.

5 8

6 On or about February 20, 2018, an audit was conducted of the records of SPMS.  
7 The auditor herein examined the records for the period of September 1, 2016, through  
8 February 20, 2018.

9 9

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.

15 10

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:

20

ACCOUNT # 1	
21 Bank Name and Location:	Community 1 <sup>st</sup> Bank 649 Lincoln Way Auburn, CA 95803
22 Account No.:	XXXXXX5513
23 Entitled:	Sacramento Property Management Service, Inc., Client Trust Account

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ACCOUNT # 2	
Bank Name and Location:	Community 1 <sup>st</sup> Bank 649 Lincoln Way Auburn, CA 95803
Account No.:	XXXXXX5679
Entitled:	Sacramento Property Management Services, Inc., Security Deposit Escrow Account (Signor as Trustee)

ACCOUNT # 3	
Bank Name and Location:	Community 1 <sup>st</sup> Bank 649 Lincoln Way Auburn, CA 95803
Account No.:	XXXXXX5556
Entitled:	Sacramento Property Management Services, Inc., Transfer Account (Signor as Trustee)

ACCOUNT # 4	
Bank Name and Location:	Seacoast Commerce Bank 11246 Gold Express Drive, Suite 98 Gold River, CA 95670
Account No.:	XXXX7513
Entitled:	Sacramento Property Management Services, Inc. CO KTB Property Management Client Trust Account

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In the course of the activities described in Paragraph 6, Respondents:

(a) caused, suffered, or permitted the balance of funds in Account #2 to be reduced to an amount which, as of December 31, 2017, was approximately \$33,235.76 less than the aggregate liability of Account #2 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, permitted, and/or allowed, the possible withdrawal of trust funds from Account #s 1, 2 and 3 by a person, Christina Emphasis, who was not licensed to the broker and not covered by a fidelity bond in violation of Section 2834 of the Regulations; and

(c) failed to notify the Bureau within one (1) business day of the change of

1 SPMS' new main office location at 2300 N Street, Sacramento, CA, in violation of Section 10162 of  
2 the Code and Section 2715 of the Regulations.

3 12

4 The facts alleged in the First Cause of Action are grounds for the suspension or  
5 revocation of Respondents' licenses and license rights under the following Sections of the Code  
6 and Regulations:

7 As to Paragraph 11(a), under Sections 10176(i), 10177(d) and/or 10177(g) of the  
8 Code in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

9 As to Paragraph 11(b), under Sections 10177(d) and/or 10177(g) of the Code in  
10 conjunction with Section 10145 of the Code and Section 2834 of the Regulations; and

11 As to Paragraph 11(c), under Sections 10177(d) and/or 10177(g) of the Code in  
12 conjunction with Section 10162 of the Code and Section 2715 of the Regulations.

13 SECOND CAUSE OF ACTION

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

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18 Respondent HORNEFF-COHEN failed to exercise reasonable supervision over  
19 the acts of SPMS in such a manner as to allow the acts and events described above to occur.

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21 The acts and/or omissions of HORNEFF-COHEN as described in Paragraph 14,  
22 constitutes failure on the part of HORNEFF-COHEN, as designated broker-officer for SPMS, to  
23 exercise reasonable supervision and control over the licensed activities of SPMS as required by  
24 Section 10159.2 of the Code and Section 2725 of the Regulations.

25 16

26 The facts described above as to the Second Cause of Action constitute cause for  
27 the suspension or revocation of the licenses and license rights of Respondent HORNEFF-

1 COHEN under Section 10177(g) and/or Section 10177(h) of the Code, and Section 10159.2 of  
2 the Code in conjunction with Section 10177(d) of the Code.

3 COST RECOVERY

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5 The acts and/or omissions of Respondents 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.

8 18

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 discipline on all  
15 licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the  
16 Business and Professions Code), for the cost of the investigation and enforcement of this case as  
17 permitted by law, for the cost of the Bureau's audit as permitted by law, and for such other and  
18 further relief as may be proper under the provisions of law.

19 

20 TRICIA PARKHURST  
21 Supervising Special Investigator

21 Dated at Sacramento, California,

22 this 25<sup>th</sup> day of June, 2018

23 DISCOVERY DEMAND

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