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FILED

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DEPARTMENT OF REAL ESTATE
By X. [Signature]

8
9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 MUTUAL HOUSING MANAGEMENT, and)
14 KENNETH WILLIAM BRACKENHOFF,)
15 Respondents.)

No. H- 6915 SAC
ACCUSATION

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17 The Complainant, TRICIA D. PARKHURST, a Supervising Special Investigator
18 of the State of California, for Accusation against MUTUAL HOUSING MANAGEMENT
19 (MHM) and KENNETH WILLIAM BRACKENHOFF (BRACKENHOFF), collectively
20 RESPONDENTS, is informed and alleges as follows:

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22 The Complainant makes this Accusation against RESPONDENTS in her official
23 capacity.

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25 MHM is presently licensed and/or has license rights by the Department of Real
26 Estate (Department), under the California Business and Professions Code (Code) as a corporate
27 real estate broker.

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BRACKENHOFF is presently licensed by the Department as a real estate broker.

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At all times mentioned, BRACKENHOFF was the designated broker-officer of MHM. As the designated broker-officer, BRACKENHOFF was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of officers, agents, real estate licensees and employees of MHM for which a real estate license is required to ensure the compliance of the corporation with the Real Estate law and the Regulations.

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At all times herein mentioned, RESPONDENTS engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers 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, RESPONDENTS leased or rented, or offered to lease or rent, or placed 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.

FIRST CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 5, above, and incorporates the same herein by reference.

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Beginning on September 7, 2018, and continuing intermittently through September 7, 2018, an audit was conducted at MHM's office located on 8001 Fruitridge Road, Suite A, Sacramento, California, where the auditor examined records for the period of July 1, 2017, through July 31, 2018 (the audit period).

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While acting as a real estate broker as described in Paragraph 5, above, and within the audit period, RESPONDENTS 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 RESPONDENTS at Bank of Commerce, 1504 Eureka Road, St. 100, Roseville, California as described below:

BANK ACCOUNT #1	
Account No.:	XXX7202
Entitled:	Evergreen Housing Associates LP c/o Mutual Housing Management Operating Account

BANK ACCOUNT #2	
Account No.:	XXX7296
Entitled:	Lemon Hill Housing Associates LP c/o Mutual Housing Management Operating Account

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

In the course of the activities described in Paragraph 4, in connection with the collection and disbursement of trust funds, it was determined that:

- (a) RESPONDENTS failed to designate Bank Account #1 and Bank Account #2 as trust accounts, in violation of Section 2832 of the Regulations and Section 10145(a) of the Code;
- (b) RESPONDENTS allowed unlicensed persons, Roberto A. Jimenez, Julie Goldfine, and Holly Wunder Stiles, as signatories on Bank Account #1 and Bank Account #2. While RESPONDENTS had insurance on these signatories, there was a five percent (5%)

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deductible and RESPONDENTS failed to provide proof of financial responsibility as required by Section 10145 (a) (2) of the Code; (c) RESPONDENTS allowed unlicensed, non-resident managers to conduct property management activities in violation of Sections 10130 and 10131 of the Code.

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The acts and/or omissions described above constitute violations of Section 2832 (trust fund designation) of the Regulations and of Sections 10130 (licensed activity) and 10145 (trust fund handling) of the Code, and are grounds for discipline under Sections 10130, 10177(d) (willful disregard of real estate laws), and 10177(g) (negligence/incompetence licensee) of the Code.

SECOND CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 10, above, and incorporates the same herein.

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At no time mentioned herein did Choua Lee hold a real estate license with the Department.

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At no time mentioned herein did Nicholas Donaldson hold a real estate license with the Department.

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At no time mentioned herein did Katherine Aguirre hold a real estate license with the Department.

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At all times mentioned herein, RESPONDENTS employed Lee, Donaldson, and Aguirre to conduct real estate activities.

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Within the last three (3) years Lee engaged in property management activities, in regards to, but not limited to that certain real property commonly known as 3257-3263 Norwood Avenue, Sacramento California and 402-406 Carroll Avenue, Sacramento, California.

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Within the last three (3) years Donaldson engaged in property management activities, in regards to, but not limited to that certain real property commonly known as 6010 34th Street, #14, North Highlands, California.

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Within the last three (3) years Aguirre engaged in property management activities, in regards to, but not limited to that certain real property commonly known as 3257-3263 Norwood Avenue, Sacramento California and 402-406 Carroll Avenue, Sacramento, California.

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The property management activities mentioned above, in Paragraphs 15-18, included, but were not limited to signing leases and collecting rent.

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The above acts/or omissions of Lee, Donaldson and Aguirre violate Sections 10130 (real estate license required) and 10131(b) (property management) of the Code and Section 10137 (broker compensating non licensee for real estate activities) and are grounds for disciplinary action under Section 10130 and 10137 of the Code.

THIRD CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 20, above, and incorporates the same, herein, by reference.

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At all times herein above mentioned, BRACKENHOFF was responsible, as the supervising designated broker/officer for MHM, for the supervision and control of the activities conducted on behalf of MHM's business by its employees to ensure its compliance with the Real Estate Law and Regulations. BRACKENHOFF failed to exercise reasonable supervision and control over the property management activities of MHM. In particular, BRACKENHOFF permitted, ratified and/or caused the conduct described above to occur, and failed to take reasonable steps, including but not limited to, the handling of trust funds, supervision of employees, and the implementation of policies, rules, and systems to ensure the compliance of the business with the Real Estate Law and the Regulations.

The above acts and/or omissions of BRACKENHOFF violate Section 2725 (broker supervision) of the Regulations and Section 10159.2 (responsibility/designated officer) of the Code and constitute grounds for disciplinary action under the provisions of Sections 10177(d), 10177(g), and 10177(h) (broker supervision) of the Code.

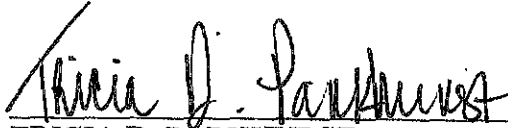
Audit Costs

The acts and/or omissions of RESPONDENTS as alleged above entitle the Department to reimbursement of the costs of its audits pursuant to Section 10148(b) (audit costs for trust fund handling violations) of the Code.

Costs of Investigation and Enforcement

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, 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.

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

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9 TRICIA D. PARKHURST
Supervising Special Investigator

10 Dated at Sacramento, California,
11 this 7th day of January, 2020.

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13 DISCOVERY DEMAND

14 The Department of Real Estate hereby requests discovery pursuant to Section
15 11507.6 of the California Government Code. Failure to provide discovery to the Department
16 may result in the exclusion of witnesses and/or documents at the hearing and other sanctions as
17 the Administrative Law Judge deems appropriate.