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FILED

MAR 12 2021

DEPARTMENT OF REAL ESTATE
By J. Taggart

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 ALLEGIANCE PROPERTY MANAGEMENT)
13 and ADAM ALEXANDER OWENS,)
14 Respondents.)

No. H-7000 SAC
ACCUSATION

15 The Complainant, TRICIA D. PARKHURST, acting in her official capacity as a
16 Supervising Special Investigator of the State of California, for cause of Accusation against
17 Respondents ALLEGIANCE PROPERTY MANAGEMENT (APM) and ADAM
18 ALEXANDER OWENS (OWENS), sometimes collectively referred to as Respondents, is
19 informed and alleges as follows:

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

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24 At all times mentioned, APM was and is licensed by the State of California
25 Department of Real Estate (Department) as a real estate broker corporation.

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On or about December 3, 2018, the California Franchise Tax Board and the California Secretary of State suspended the corporate powers, rights and privileges of APM. At least until December 2, 2019, the corporate powers, rights and privileges of APM remained suspended.

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At all times mentioned herein, OWENS was and is licensed by the Department individually as a real estate broker, and as the designated broker officer of APM. As the designated broker officer, OWENS 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 APM for which a real estate license is required to ensure the compliance of the corporation with the Real Estate Law and Regulations.

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

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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 exchanges of leases on real property, or on a business

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1 opportunity, or collected rents from real property, or improvements thereon, or from business
2 opportunities.

3 FIRST CAUSE OF ACTION

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

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8 On or about November 13, 2019, and continuing intermittently through January
9 15, 2020, an audit was conducted of the records of APM. The auditor examined records for the
10 period of January 1, 2019, through September 30, 2019 (the audit period).

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12 While acting as real estate brokers, as described in Paragraph 6, above, and
13 within the audit period, Respondents accepted or received funds in trust (trust funds) from or on
14 behalf of property owners, lessees and others in connection with property management
15 activities, and deposited or caused to be deposited those funds into bank accounts maintained by
16 Respondents, at American River Bank, 1545 River Park Drive, Suite 107, Sacramento,
17 California 95815, including but not limited to the following:

18

BANK ACCOUNT #1	
19 Account No.:	XXXXXX5269
20 Entitled:	ALLEGIANCE PROPERTY MANAGEMENT

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

23 10

24 In the course of the activities described in Paragraph 5, in connection with the
25 collection and disbursement of trust funds, it was determined that:

- 26 (a) Respondents failed to designate Bank Account #1 as a trust account as
27 required by Section 10145 of the Code and Section 2832 of Chapter 6, Title

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- 10, California Code of Regulations (Regulations);
- (b) An accountability was performed on Bank Account #1, and as of August 31, 2019, there was a shortage in the amount of \$15,370.82 revealed, in violation of Section 10145 of the Code;
- (c) Respondents failed to obtain written permission from owners of trust funds to allow the balances to drop below accountability, in violation of Section 2832.1 of the Regulations;
- (d) Bank Account #1 contained unidentified and/or unaccounted for funds of at least \$6,226.50 for which no separate record was maintained, in violation of Section 10145 (g) of the Code and Section 2831.1 of the Regulations;
- (e) Respondents failed to properly and accurately reconcile at least once a month, the balance of all separate beneficiary or transaction records for Bank Account #1, in violation of Section 2831.2 of the Regulations;
- (f) Respondents allowed a person who was not employed and licensed under APM to be a signatory on Bank Account #1, in violation of Section 2834 of the Regulations;
- (g) Respondents engaged in the business of a real estate broker while not in good legal standing with the California Office of the Secretary of State, in violation of Section 2742 (c) of the Regulations; and
- (h) Respondents failed to inform the Department of the change to Respondents' office and/or mailing address within 30 days, in violation of Section 10162 of the Code.

The acts and/or omissions described above constitute violations of Sections 2742 (Operating While Not in Good Standing with the Secretary of State) 2831.1 (Separate Records), 2831.2 (Trust Account Reconciliation), 2832 (Bank Account Not Properly Designated as Trust Account), 2832.1 (Written Permission for Balance Below Accountability), and 2834 (Trust

1 Fund Signatory) of the Regulations and of Sections 10145 (Trust Fund Handling) and 10162
2 (Place of Business: Contact Info) of the Code, and are grounds for discipline under Sections
3 10177(d) (Willful Disregard of Real Estate Laws) and/or 10177(g) (Negligence/Incompetence
4 Licensee) of the Code.

5 SECOND CAUSE OF ACTION

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7 Each and every allegation in Paragraphs 1 through 11, inclusive, is incorporated
8 by this reference as if fully set forth herein.

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10 Respondent OWENS failed to exercise reasonable supervision and control over
11 the property management activities of APM. In particular, OWENS permitted, ratified and/or
12 caused the conduct described above to occur, and failed to take reasonable steps, including but
13 not limited to, the handling of trust funds, supervision of employees, and the implementation of
14 policies, rules and systems to ensure the compliance of the business with the Real Estate Law
15 and the Regulations.

16 14

17 The above acts and/or omissions of OWENS violate Section 2725 (Broker
18 Supervision) of the Regulations and Section 10159.2 (Responsibility/Designated Officer) of the
19 Code and constitute grounds for disciplinary action under the provisions of Sections 10177(d),
20 10177(g) and/or 10177(h) (Broker Supervision) of the Code.

21 COST RECOVERY

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23 Audit Costs

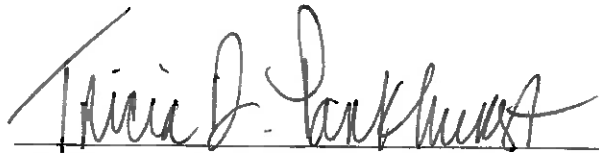
24 The acts and/or omissions of Respondents, as alleged above, entitle the
25 Department to reimbursement of the costs of its audits pursuant to Section 10148(b) (Audit Costs
26 for Trust Fund Handling Violations) of the Code.

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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 Real Estate 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 Respondents under the Real Estate Law, for the cost of the investigation and enforcement as permitted by law, for the cost of the audit as permitted by law, and for such other and further relief as may be proper under other provisions of law.



TRICIA D. PARKHURST
Supervising Special Investigator

Dated at Sacramento, California,
this 30th day of December.

DISCOVERY DEMAND

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Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department 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 Department 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.