

**FILED**

**APR 30 2021**

**DEPARTMENT OF REAL ESTATE**

By                      *Adew*

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8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of: )  
12 EAGLE VINES REALTY and ) No. H-7016 SAC  
13 RONALD KENNETH BANASIK, ) ACCUSATION  
14 Respondents. )  
15 \_\_\_\_\_ )

16 The Complainant, TRICIA PARKHURST, in her official capacity as a Supervising  
17 Special Investigator of the State of California, Department of Real Estate ("Department"), brings  
18 this Accusation against EAGLE VINES REALTY ("EVR") and RONALD KENNETH BANASIK  
19 ("BANASIK"), (collectively "Respondents"), and is informed and alleges as follows:

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21 EVR is presently licensed by the Department and/or has license rights under the  
22 Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code"), as  
23 a corporate real estate broker, License No. 01770018.

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25 BANASIK is presently licensed by the Department and/or has license rights under  
26 the Real Estate Law, Part 1 of Division 4 of the Code, as a real estate broker, License No.  
27 00557904.

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At all relevant times herein, BANASIK is and was the Designated Officer of EVR.

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At all relevant times herein, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate licensees 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, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

**PRIOR DISCIPLINE**  
**(As to both Respondents)**

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

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On or about August 31, 2017, the Department filed an Accusation No. H-6584 SAC, against Respondents. The Accusation alleged violations of Real Estate Law, which were discovered after the Department conducted an audit of Respondents' license activities.

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On or about November 1, 2018, the Department and Respondents entered into a Stipulation and Agreement in Settlement and Order for the purpose of settling the Accusation No. H-6584 SAC.

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Pursuant to the Stipulation and Agreement, the acts and/or omissions of EVR, as described in Accusation No. H-6584 SAC, were grounds for disciplinary action against EVR pursuant to Sections 10145, 10176(e), 10177(d), and 10177(g) of the Code, in conjunction with

1 Sections 2831.1, 2831.2, and 2835 of the Regulations. As a result, all license and licensing rights  
2 of BANASIK were suspended for a period of 90 days from the effective date of the Order;  
3 however, 45 days of said suspension were bout-out at a rate of \$50 per day, and the remaining 45  
4 days were stayed for two years.

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6 Pursuant to the Stipulation and Agreement, the acts and/or omissions of BANASIK,  
7 as described in Accusation No. H-6584 SAC, were grounds for disciplinary action against EVR  
8 pursuant to Sections 10145, 10159.2, 10176(e), 10177(d), and 10177(g) of the Code, in  
9 conjunction with Sections 2725, 2831.1, 2831.2, and 2835 of the Regulations. As a result, all  
10 license and licensing rights of BANASIK were suspended for a period of 90 days from the  
11 effective date of the Order; however, 45 days of said suspension were bout-out at a rate of \$50 per  
12 day, and the remaining 45 days were stayed for two years.

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14 On or about October 26, 2018, the Commissioner signed an Order adopting the  
15 Stipulation and Agreement. The Order became effective on November 26, 2018.

16 FIRST CAUSE OF ACTION  
17 **(Audit Violations as to Respondents)**

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19 Each and every allegation made above in Paragraphs 1 through 10, inclusive, is  
20 incorporated by reference as if fully set forth herein.

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22 On or about January 14, 2020, pursuant to the terms and conditions set forth in the  
23 Stipulation and Agreement for Accusation No. H-6584 SAC, a follow-up audit was conducted of  
24 the real estate business activities of EVR, located at 4381 Broadway Ste. 104, American Canyon,  
25 CA 94503. The Department's auditor examined the business records of EVR for the period of  
26 December 1, 2018, through November 30, 2019, ("audit period").

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While engaging in real estate activities as described in Paragraph 4, above, and within the audit period, Respondents accepted or received funds in trust ("trust funds") and deposited or caused the trust funds to be deposited into a bank account maintained as follows:

Trust Account #1

Bank Name: Umpqua Bank  
 305 Soscol Ave., Napa, CA 94559  
 Account No.: Last 4 Digits: 2659  
 Account Name: Eagle Vines Realty  
 Cta-Eagle Vine Realty Brokers  
 Signatories: Ronald K. Banasik (REB)  
 Ramona Quintana (RES)  
 Description: Collect, hold, and disburse trust funds from EVR's property management activities.

In the course of the real estate activities described in Paragraph 4, above, and during the audit period, it was discovered:

(a) October 31, 2019, Trust Account #1 contained a shortage in the amount of \$14,151.26. Of this amount, \$925 was caused by a negative property balance and the cause of the remaining \$13,226.26 could not be identified. There was no prior written consent from the owners of the trust funds in Trust Account #1 so as to allow the balance of the funds to drop below the accountability of the account, in violation of Section 10145 of the Code and Section 2832.1 of Chapter 6, Title 10, California Code of Regulations ("Regulations");

(b) Respondents failed to reconcile at least once a month the balance of all separate beneficiary or transaction records to the balance of the record of trust funds received and disbursed from Trust Account #1 in violation of Section 10145 of the Code and Section 2831.2 of the Regulations;

(c) Respondents commingled trust funds with broker funds in Trust Account #1 by maintaining more than \$200 of broker funds in the account. Between December 1, 2018 and November 30, 2019, Respondents commingled approximately \$1,163.01 in broker funds with trust funds, in violation of Section 10176(e) of the Code;

1 (d) Respondents failed to notify the Department in writing of its employment of  
2 Travis Lee Behn as a broker associate, in violation of Section 10161.8 of the Code; and

3 (e) BANASIK, as the Designated Officer for EVR, failed to adequately provide  
4 supervision over the real estate activities of EVR in violation of Section 10159.2 of the Code and  
5 Section 2725 of the Regulations.

6 SECOND CAUSE OF ACTION  
7 **(Failure to Supervise as to BANASIK)**

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9 Each and every allegation in Paragraphs 1 through 14, inclusive, is incorporated by  
10 this reference as if fully set forth herein.

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12 As the designated officer for EVR, BANASIK was responsible for the supervision  
13 and control over the activities conducted on behalf of EVR by the corporation's officers, employees  
14 and agents, as necessary to ensure full compliance with all provisions of the Real Estate Law,  
15 including the supervision of all salespersons licensed under the corporation in the performance of  
16 acts for which a real estate license is required.

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18 BANASIK failed to exercise reasonable supervision and control over the activities  
19 of EVR. In particular, BANASIK permitted, ratified and/or caused the conduct described above to  
20 occur, and failed to take reasonable steps, including but not limited to, supervision of employees  
21 and agents, and the implementation of policies, rules and systems to ensure the compliance of the  
22 business with the Real Estate Law and the Regulations.

23 THIRD CAUSE OF ACTION  
24 **(Breach of Fiduciary Duties as to Respondents)**

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26 Each and every allegation in Paragraphs 1 through 17, inclusive, is incorporated by  
27 reference as if fully set forth herein.

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At all relevant times herein, while acting as real estate agents, Respondents owed their principals fiduciary duties, including, but not limited to the following: duty of reasonable care and skill; duty of good faith; duty of loyalty; and duty of diligence.

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Respondents breached their fiduciary duties owed to their principals by engaging in the acts and/or omissions described above.

GROUNDS FOR DISCIPLINE

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Each and every allegation in Paragraphs 1 through 20, inclusive, is incorporated by reference as if fully set forth herein.

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The acts and/or omissions of EVR, as described above in the FIRST AND THIRD CAUSES OF ACTION, constitute grounds for discipline pursuant to Sections 10145, 10161.8, 10176(e), 10177(d), and 10177(g) of the Code, in conjunction with Sections 2831.1, 2831.2, and 2835 of the Regulations.

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The acts and/or omissions of BANASIK, as described above in FIRST, SECOND, and THIRD CAUSES OF ACTION, constitute violations of Sections 10145, 10159.2, 10161.8, 10176(e), 10177(d), and 10177(g) of the Code, in conjunction with Sections 2725, 2831.1, 2831.2, and 2835 of the Regulations.

AUDIT COSTS

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


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1 COST OF INVESTIGATION AND ENFORCEMENT

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

7 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of  
8 this Accusation and that upon proof thereof, a decision be rendered revoking all licenses and license  
9 rights of Respondents under the Real Estate Law, for the cost of investigation and enforcement as  
10 permitted by law, for the cost of the audit as permitted by law, and for such other and further relief  
11 as may be proper under other provisions of law.

12   
13 TRICIA PARKHURST  
14 Supervising Special Investigator

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16 Dated at Sacramento, California,  
17 this 23rd day of April, 2021.

18 DISCOVERY DEMAND

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