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FILED

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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 STEP UP PM, INC.,)
13 ANN THERESA BRENNAN,)
14 SHANNON M. KENT, ACCESS ASSET)
15 MANAGEMENT, INC. and)
16 JARROD VINCENT WHITEHORN,)
Respondents.)

No. H-7018 SAC
ACCUSATION

17 The Complainant, TRICIA D. PARKHURST, a Supervising Special Investigator
18 of the State of California, for Accusation against Respondents STEP UP PM, INC. (SUPM),
19 ANN THERESA BRENNAN (BRENNAN), SHANNON M. KENT (KENT), ACCESS ASSET
20 MANAGEMENT, INC. (AAM), and JARROD VINCENT WHITEHORN (WHITEHORN),
21 sometimes collectively referred to as Respondents, is informed and alleges as follows:

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23 The Complainant makes this Accusation against Respondents in her official
24 capacity.

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SUPM is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (Code), by the Department of Real Estate (Department) as a corporate real estate broker.

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BRENNAN is presently licensed and/or has license rights under the Code, by the Department as a real estate broker.

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KENT is presently licensed and/or has license rights under the Code, by the Department as a real estate salesperson.

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AAM is presently licensed and/or has license rights under the Code, by the Department as a corporate real estate broker.

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WHITEHORN is presently licensed and/or has license rights under the Code, by the Department as a real estate broker.

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At all times mentioned herein, BRENNAN was the designated broker-officer of SUPM. As the designated broker-officer, BRENNAN 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 SUPM 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 mentioned herein, WHITEHORN was the designated broker-officer of AAM. As the designated broker-officer, WHITEHORN was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of officers, agents, real estate licensees

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1 and employees of AAM for which a real estate license is required to ensure the compliance of
2 the corporation with the Real Estate law and the Regulations.

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4 At all times herein mentioned, Respondents engaged in the business of, acted in
5 the capacity of, advertised, or assumed to act as a real estate broker within the State of
6 California within the meaning of Section 10131(b) of the Code, including the operation and
7 conduct of a property management business with the public wherein, on behalf of others, for
8 compensation or in expectation of compensation, Respondent leased or rented or offered to
9 lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for
10 prospective tenants, or negotiated the sale, purchase or exchanges of leases on real property, or
11 on a business opportunity, or collected rents from real property, or improvements thereon, or
12 from business opportunities.

13 FIRST CAUSE OF ACTION

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15 Complainant refers to Paragraphs 1 through 9, above, and incorporates the same,
16 herein by reference.

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18 Beginning on May 15, 2020 and continuing intermittently through October 29,
19 2020, an audit was conducted of SUPM's trust fund and other records at the Department's
20 principal office located at 1651 Exposition Blvd., Sacramento, California, where the auditor
21 examined records for the period of January 1, 2019, through December 31, 2019 (the audit
22 period).

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24 While acting as a real estate broker as described in Paragraph 9, above, and
25 within the audit period, SUPM accepted or received funds in trust (trust funds) from or on
26 behalf of property owners, lessees and others in connection with property management

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1 activities, and deposited or caused to be deposited those funds into bank accounts maintained by
2 SUPM at Umpqua Bank, 111 Wall Street, Spokane, Washington, as described below:

TRUST ACCOUNT #1	
Account No.:	XXXXXX9165
Entitled:	Step UP PM Inc. Client Trust Account

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

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10 In the course of the activities described in Paragraph 9, in connection with the
11 collection and disbursement of trust funds, it was determined that:

12 (a) An accountability was performed on Trust Account #1 and as of October
13 31, 2019, a shortage of \$421,160.05 was revealed, in violation of Section 10145 of the Code;

14 (b) SUPM failed to obtain written permission from owners of trust funds in
15 Bank Account #1 and Bank Account #2, to allow the balance to drop below accountability, in
16 violation of Section 2832.1 of the Regulations;

17 (c) SUPM failed to deposit trust funds received into a trust fund account
18 within three (3) business days in violation of Section 2832 of the Regulations and Section 10145
19 of the Code;

20 (d) While SUPM's corporate real estate broker license was expired on
21 September 18, 2018, until it was renewed on October 21, 2019, SUPM continued to conduct
22 property management activities in violation of Sections 10130 and 10131 of the Code.

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24 The acts and/or omissions described above constitute violations of Sections 2731
25 2832 (trust account handling) and 2832.1 (written permission balance below accountability) of
26 the Regulations, and of Sections 10145 (trust fund handling) and are grounds for discipline

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1 under Sections 10177(d) (willful disregard of real estate laws) and 10177(g) (negligence/
2 incompetence licensee) of the Code.

3 SECOND CAUSE OF ACTION

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5 Complainant refers to Paragraphs 1 through 14, above, and incorporates the
6 same, herein, by reference.

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8 In 2020 an audit was conducted of AAM's trust fund and other records at the
9 Department's principal office located at 1651 Exposition Blvd., Sacramento, California, where
10 the auditor examined records for the period of January 1, 2019, through April 30, 2020 (the audit
11 period).

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13 While acting as a real estate broker as described in Paragraph 9, above, and
14 within the audit period, AAM accepted or received funds in trust (trust funds) from or on behalf
15 of property owners, lessees and others in connection with property management activities, and
16 deposited or caused to be deposited those funds into bank accounts maintained by AAM at
17 Seacoast Commerce Bank, San Diego, California, as described below:

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TRUST ACCOUNT #1	
Account No.:	XXXX2640
Entitled:	Access Asset Management, Inc., DBA Step Up Property Management as Trustee Client Trust

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

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25 In the course of the activities described in Paragraph 9, in connection with the
26 collection and disbursement of trust funds, it was determined that:

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1 (a) AAM deposited non-trust funds belonging to AAM into Trust Account
2 #1 in the amount of \$202,933.66 on or about April 30, 2020, in violation of Sections 10145 and
3 10176(e) of the Code;

4 (b) AAM's control records did not include entries for a mistaken deposit of
5 \$20,878.72 and related withdrawal on February 13, 2020, as required by Section 2831 of the
6 Regulations and in violation of Section 10145 of the Code;

7 (c) AAM failed to make a separate record of the mistaken deposit of
8 \$20,878.72 on February 13, 2020, as required by Section 2831.1 of the Regulations and in
9 violation of Section 10145 of the Code;

10 (d) AAM did not have a broker-salesperson relationship agreement for real
11 estate salesperson Kent as required by Section 2726 of the Regulations;

12 (e) AAM failed to obtain a branch office license for 19518-A Hillsdale
13 Drive, Sonora, California before opening that office as required by Section 2715 of the
14 Regulations and Section 10163 of the Code;

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16 The acts and/or omissions described above constitute violations of Sections 2715
17 (branch office), 2726 (broker-salesperson agree.), 2831 (control records), and 2831.1 (separate
18 beneficiary records) of the Regulations and Sections 10145 and 10176(e) (commingling) of the
19 Code, and are grounds for discipline under Sections 10176(e), 10177(d), and 10177(g) of the
20 Code.

21 THIRD CAUSE OF ACTION

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23 Complainant refers to Paragraphs 1 through 19, above, and incorporates the
24 same, herein, by reference.

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26 Robert B. had a property management agreement with SUPM for a property
27 commonly known as 951 Shaws Flat. He made an owner contribution of \$3,000 for repairs on

1 that property that were not done. Despite his request of SUPM and KENT, Robert B. has not
2 received a refund of the \$3,000.

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4 Elwyn P. had a property management agreement with SUPM for a property
5 commonly known as 590 S. Stewart. She was due \$3,300 from SUPM. Despite her request of
6 SUPM and KENT, Elwyn P., has not received a refund of the \$3,300.

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8 Jane B. had a property management agreement with SUPM for a property
9 commonly known as 420 Baretta. She was due \$2,750 from SUPM for the security deposit and
10 reserve. Despite her request of SUPM and KENT, Jane B. has not received a refund of the
11 \$2,750.

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13 Cheryl S. had a property management agreement with SUPM for a property
14 commonly known as 20677 Steven. She was due \$5,537 from SUPM. Despite her request of
15 SUPM and KENT, Cheryl S. has not received a refund of the \$5,537.

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18 The acts and/or omissions of SUPM and KENT, described above, constitute
19 violations of Sections 10176(e) and 10176(i) (other conduct: fraud or dishonest dealing) of the
20 Code, and are grounds for discipline under Sections 10176(e), 10176(i), 10177(d), 10177(g) and
21 10177(i) (other conduct fraud or dishonest dealing) of the Code.

22 FOURTH CAUSE OF ACTION

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24 Complainant refers to Paragraphs 1 through 25, above, and incorporates them
25 herein by reference.

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

12 The above acts and/or omissions of BRENNAN violate Section 2725 (broker
13 supervision) of the Regulations and Section 10159.2 (responsibility/designated officer) of the
14 Code and constitute grounds for disciplinary action under the provisions of Sections 10177(d),
15 10177(g), and 10177(h) (broker supervision) of the Code.

16 FIFTH CAUSE OF ACTION

18 Complainant refers to Paragraphs 1 through 28, above, and incorporates them
19 herein by reference.

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

1 employees, and the implementation of policies, rules, and systems to ensure the compliance of
2 the business with the Real Estate Law and the Regulations.

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4 The above acts and/or omissions of WHITEHORN violate Section 2725 (broker
5 supervision) of the Regulations and Section 10159.2 (responsibility/designated officer) of the
6 Code and constitute grounds for disciplinary action under the provisions of Sections 10177(d),
7 10177(g) and 10177(h) (broker supervision) of the Code.

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9 Audit Costs

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

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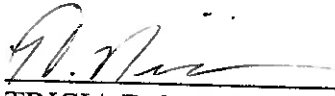
14 Costs of Investigation and Enforcement

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

20 WHEREFORE, Complainant prays that a hearing be conducted on the
21 allegations of this Accusation and that upon proof thereof a decision be rendered imposing

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1 disciplinary action against all licenses and license rights of Respondents under the Real Estate
2 Law, and for such other and further relief as may be proper under other provisions of law.
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4  (for T. Parkhurst)
5 TRICIA D. PARKHURST
6 Supervising Special Investigator

7 Dated at Sacramento, California,
8 this 20th day of January, 2021.
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10 DISCOVERY DEMAND

11 The Department of Real Estate hereby requests discovery pursuant to Section
12 11507.6 of the California Government Code. Failure to provide discovery to the Department
13 may result in the exclusion of witnesses and/or documents at the hearing, and other sanctions as
14 the Administrative Law Judge deems appropriate.
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