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FILED

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DEPARTMENT OF REAL ESTATE
By B. McDowell

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
NIELSEN PROPERTY MANAGERS, INC.;)
and)
PATRICIA ANN NIELSEN, individually and)
as designated officer of Nielsen Property)
Managers, Inc.,)
Respondents.)

No. H-7115 SAC

ACCUSATION

The Complainant, TRICIA D. PARKHURST, a Supervising Special Investigator of the State of California, for cause of Accusation against NIELSEN PROPERTY MANAGERS, INC. and PATRICIA ANN NIELSEN (collectively referred to as "Respondents"), is informed and alleges as follows:

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

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1 such acts or omissions while engaged in furtherance of the business or operation of NPMI and
2 while acting within the course and scope of their corporate authority and employment.

3 AUDIT SC20-0079

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5 On or about June 29, 2021, the Department completed its audit (SC20-0079) of
6 the books and records of NPMI property management activities described in Paragraph 7. The
7 auditor herein examined the records for the period of February 2, 2020, through January 31,
8 2021.

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10 At all times mentioned, Respondents engaged in the business of, acted in the
11 capacity of, advertised, or assumed to act as a real estate broker within the State of California
12 within the meaning of Sections 10131(b) of the Code, including the operation and conduct of a
13 property management business with the public wherein, on behalf of others, for compensation or
14 in expectation of compensation, Respondents leased or rented and offered to lease or rent, and
15 solicited for prospective tenants of real property or improvements thereon, and collected rents
16 from real property or improvements thereon.

17 As of the audit examination, Respondents managed 113 one-to-four family
18 residences, 112 apartment complexes, and five (5) commercial complexes for 117 owners.
19 Respondents collected approximately \$21 million in trust funds annually.

20 Respondents' property management services include, but not limited to, collecting
21 rents, paying expenses, and screening tenants. For such property management services,
22 Respondents charged a management fee of 3.5 to 10 percent of collected rents, and/or a flat fee
23 of \$100 per month. In addition, Respondents charged a lease execution fee of 50 percent of the
24 first month's rent.

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26 While acting as a real estate broker as described in Paragraph 7, Respondents
27 accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in

1 connection with the leasing, renting, and collection of rents on real property or improvements
2 thereon, as alleged herein, and thereafter from time to time made disbursements of said trust
3 funds.

4 The trust funds accepted or received by Respondents were deposited or caused to
5 be deposited by Respondents into accounts which were maintained by Respondents for the
6 handling of trust funds, and thereafter from time-to-time Respondents made disbursements of
7 said trust funds, identified as follows:

TRUST ACCOUNT # 1	
Bank Name and Location:	Union Bank 630 K Street Sacramento, CA 95814
Account No.:	XXXXXX8729
Account Name:	Nielsen Property Managers Inc. Trust Account
Signatories:	NIELSEN Tom Gee Lizetta Souza
Purpose:	Trust Account #1 was used for the handling of trust funds.

TRUST ACCOUNT # 2	
Bank Name and Location:	Union Bank 630 K Street Sacramento, CA 95814
Account No.:	XXXXXX6674
Account Name:	Patricia A. Nielsen

	DBA Nielsen Property Managers, 17 Quay Court Operating Trust Account
Signatories:	NIELSEN Tom Gee Lizetta Souza
Purpose:	Trust Account #1 was used for the handling of trust funds.

TRUST ACCOUNT # 3	
Bank Name and Location:	Union Bank 630 K Street Sacramento, CA 95814
Account No.:	XXXXXX4493
Account Name:	Patricia A. Nielsen DBA Nielsen Property Managers Operating Trust Account
Signatories:	NIELSEN Tom Gee Lizetta Souza
Purpose:	Trust Account #1 was used for the handling of trust funds.

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In the course of the property management activities described in Paragraph 7, and during the audit examination period described in Paragraph 6, Respondents violated the Code and Regulations described below:

Trust Account Accountability and Balances

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Based on the records provided during the audit, a bank reconciliation for Trust Account #1 was prepared for as of December 31, 2020. The adjusted bank balance of Trust

1 Account #1 as of December 31, 2020, was compared to the beneficiaries' accountability for Trust
2 Account #1 as of December 31, 2020.

4	Adjusted Bank Balance	\$2,358,584.75
5	Accountability	<u>\$2,391,429.01</u>
6	Trust Fund Shortage	<u>(\$32,844.26)</u>

7 A shortage of \$32,844.26 was found in Trust Account #1 as of December 31,
8 2020. The cause of the trust fund shortage was unidentified.

9 Respondents provided no evidence that the owners of the trust funds had given
10 their written consent to allow Respondents to reduce the balance of the funds in Trust Account
11 #1 to an amount less than the existing aggregate trust fund liabilities, in violation of Section
12 10145 of the Code and Section 2832.1 of Title 10, Chapter 6, California Code of Regulations
13 (Regulations).

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15 Based on the records provided during the audit, a bank reconciliation for Trust
16 Account #2 was prepared for as of December 31, 2020. The adjusted bank balance of Trust
17 Account #2 as of December 31, 2020, was compared to the beneficiaries' accountability for Trust
18 Account #2 as of December 31, 2020.

20	Adjusted Bank Balance	\$61,503.30
21	Accountability	<u>\$61,708.30</u>
22	Trust Fund Shortage	<u>(\$205.00)</u>

23 A shortage of \$205 was found in Trust Account #2 as of December 31, 2020. The
24 cause of the trust fund shortage was unidentified shortage.

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1 Respondents provided no evidence that the owners of the trust funds had given
2 their written consent to allow Respondents to reduce the balance of the funds in Trust Account
3 #1 to an amount less than the existing aggregate trust fund liabilities, in violation of Section
4 10145 of the Code and Section 2832.1 of the Regulations.

5 Trust Account Reconciliation

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7 Respondents failed to reconcile the balance of separate beneficiary or transaction
8 records with the control record of trust funds received and disbursed at least once a month, and/or
9 failed to maintain a record of such reconciliations for Trust Account #1 as required by Section
10 2831.2 of the Regulations.

11 FAILURE TO SUPERVISE

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13 Respondent NIELSEN failed to exercise reasonable supervision over the acts of
14 NPMI in such a manner as to allow the acts and events described above to occur.

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16 The acts and/or omissions of NIELSEN as described in Paragraph 13, constitutes
17 failure on the part of NIELSEN, as designated broker-officer for NPMI, to exercise reasonable
18 supervision and control over the licensed activities of NPMI as required by Section 10159.2 of
19 the Code and Section 2725 of the Regulations.

20 GROUND FOR DISCIPLINE

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22 The acts and/or omissions of Respondents as alleged in the above constitute
23 grounds for the suspension or revocation of all licenses and license rights of Respondents,
24 pursuant to the following provisions of the Code and Regulations:

25 As to Paragraphs 10 and 11, under Sections 10177(d) and/or 10177(g) of the
26 Code in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations; and

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1 As to Paragraph 12, under Sections 10177(d) and/or 10177(g) of the Code in
2 conjunction with Section 2831.2 of the Regulations.

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4 The acts and/or omissions of NIELSEN as alleged in Paragraphs 13 and 14
5 constitute grounds for the suspension or revocation of all licenses and license rights of NIELSEN
6 under Sections 10177(g) and/or 10177(h) of the Code, and Section 10159.2 of the Code in
7 conjunction with Section 10177(d) of the Code.

8 COST RECOVERY

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

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

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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 Respondent under the Code, for the
4 cost of investigation and enforcement as permitted by law, and for such other and further relief as
5 may be proper under the provisions of law.

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7  (S.T.P.)
8 TRICIA D. PARKHURST
9 Supervising Special Investigator

10 Dated at Sacramento, California,
11 this 30th day of March, 2022

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13 DISCOVERY DEMAND

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