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FILED

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DEPARTMENT OF REAL ESTATE  
By B. Nicholas

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of

PROFESSIONAL PROPERTY  
MANAGEMENT SERVICES;

and

DEBORAH LEAH HENNING, individually  
and as designated officer of Professional  
Property Management Services,

Respondents.

No. H-7182 SAC

ACCUSATION

The Complainant, TRICIA D. PARKHURST, a Supervising Special Investigator  
of the State of California, for cause of Accusation against PROFESSIONAL PROPERTY  
MANAGEMENT SERVICES and DEBORAH LEAH HENNING (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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Whenever reference is made in an allegation in this Accusation to an act or omission of PPMS, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with PPMS committed such acts or omissions while engaged in furtherance of the business or operation of PPMS and while acting within the course and scope of their corporate authority and employment.

AUDIT SC20-0102

On or about February 11, 2022, the Department completed its audit (SC20-0102) of the books and records of PPMS property management activities described in Paragraph 7. The auditor herein examined the records for the period of July 1, 2020, through June 30, 2021.

At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Sections 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 and 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.

As of the audit examination, Respondents managed approximately 153 residential properties with 158 units and one apartment complex with 10 units for 106 owners. Respondents collected approximately \$4.5 million in trust funds annually.

Respondents' property management services include, but not limited to, collecting rents, paying expenses, and screening tenants. For such property management services, Respondents charged a management fees between \$80 and \$180 per unit per month and six percent of collected rents per unit per month. Respondents also charged half of first month rent for lease execution and 10 percent of rent for lease renewal.

While acting as a real estate broker as described in Paragraph 7, Respondents accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in connection with the leasing, renting, and collection of rents on real property or improvements thereon, as alleged herein, and thereafter from time-to-time made disbursements of said trust funds.

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

TRUST ACCOUNT # 1	
Bank Name and Location:	Central Valley Community Bank 7100 N. Financial Drive, Suite #101 Fresno, CA 93720
Account No.:	XXXX5771
Account Name:	Professional Property Management Service Trustee Trust Account Client Trust Account
Purpose:	Trust Account #1 was used for the handling of trust funds from property management activities. Deposits consisted of rent and owner contributions. Disbursements consisted of owner proceeds, security deposit disposition, repairs and maintenance payments, and management fees.

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TRUST ACCOUNT # 2	
Bank Name and Location:	Central Valley Community Bank 7100 N. Financial Drive, Suite #101 Fresno, CA 93720
Account No.:	XXXX5836
Account Name:	Professional Property Management Service Trustee Trust Account Security Deposit Account
Purpose:	Trust Account #2 was used for the handling of trust funds from property management activities. Deposits consisted of security deposit payments. Disbursements consisted of security deposit disposition at move out to Trust Account #1.

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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 as of April 30, 2021. The adjusted bank balance was calculated by using the ending bank balance per the bank statement provided plus deposits in transit minus outstanding checks as identified from the Record of Trust Funds Received and Disbursed. The adjusted bank balance was then compared to the corresponding sum of all the Separate Records for Each Beneficiary.

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Adjusted Bank Balance	\$107,747.71
Accountability	<u>\$113,664.19</u>
Trust Fund Shortage	<u>(\$5,916.48)</u>

A shortage of \$5,916.48 was found in Trust Account #1 as of April 30, 2021. The shortage was caused by the following: (a) negative balances in property/owners accounts in the amount of \$3,095.59, and (b) funds being received and not being deposited into Trust Account #1 in the amounts of \$619.42 and \$1,000. The cause of the remaining shortage of \$1,201.47 was unidentified

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

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Based on the records provided during the audit, a bank reconciliation for Trust Account #2 was prepared as of April 30, 2021. The adjusted bank balance was calculated by using the ending bank balance per the bank statement provided plus deposits in transit minus outstanding checks as identified from the Record of Trust Funds Received and Disbursed. The adjusted bank balance was then compared to the corresponding sum of all the Separate Records for Each Beneficiary.

Adjusted Bank Balance	\$361,830.00
Accountability	<u>\$422,225.00</u>
Trust Fund Shortage	<u>(\$60,395.00)</u>

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1 A shortage of \$60,395 was found in Trust Account #2 as of April 30, 2021.  
2 \$8,632.83 of the shortage was caused by negative balances. The cause of remaining shortage of  
3 \$51,762.17 was identified.

4 Respondents provided no evidence that the owners of the trust funds had given  
5 their written consent to allow Respondents to reduce the balance of the funds in Trust Account  
6 #3 to an amount less than the existing aggregate trust fund liabilities, in violation of Section  
7 10145 of the Code and Section 2832.1 of the Regulations.

#### 8 FAILURE TO SUPERVISE

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10 Respondent HENNING failed to exercise reasonable supervision over the acts of  
11 PPMS in such a manner as to allow the acts and events described above to occur.

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

#### 17 GROUND FOR DISCIPLINE

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

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

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25 The acts and/or omissions of HENNING as alleged in Paragraphs 13 and 14  
26 constitute grounds for the suspension or revocation of all licenses and license rights of

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1 HENNING under Sections 10177(g) and/or 10177(h) of the Code, and Section 10159.2 of the  
2 Code in conjunction with Section 10177(d) of the Code.

3 COST RECOVERY


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

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

12 WHEREFORE, Complainant prays that a hearing be conducted on the  
13 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing  
14 disciplinary action against all licenses and license rights of Respondent under the Code, for the  
15 cost of investigation and enforcement as permitted by law, and for such other and further relief as  
16 may be proper under the provisions of law.

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19 TRICIA D. PARKHURST  
20 Supervising Special Investigator

21 Dated at Sacramento, California,  
22 this 28<sup>th</sup> day of December, 2022.  
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DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Government Code*, 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.