

1 RICHARD K. UNO, Counsel III (SBN 98275)
2 Department of Real Estate
3 P. O. Box 137007
4 Sacramento, CA 95813-7007

4 Telephone: (916)576-8700
(916)576-7848 (Direct)
5 Email: Richard.Uno@dre.ca.gov

FILED
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DEPARTMENT OF REAL ESTATE
By: J. Taggart

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of)
12) NO. H-7236 SAC
13 FOX REALTY & MANAGEMENT, INC.,)
14 MID-CAL PROPERTY MANAGEMENT,)
15 and COLIN LIGHTFOOT,) ACCUSATION
16 Respondents.)

16 The Complainant, TRICIA D. PARKHURST, in her official capacity as a
17 Supervising Special Investigator of the State of California, for cause of Accusation against FOX
18 REALTY & MANAGEMENT, INC. (FRM), MID-CAL PROPERTY MANAGEMENT
19 (MPM), and COLIN LIGHTFOOT (LIGHTFOOT) (collectively Respondents), is informed and
20 alleges as follows:

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22 At all times relevant, FRM was licensed and/or had license rights by the
23 Department of Real Estate (“the Department”) as a corporate real estate broker under the Real
24 Estate Law, Part 1 of Division 4, of the Business and Professions Code (“the Code”).

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At all times relevant, MPM was licensed and/or had license rights by the Department as a corporate real estate broker.

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At all times relevant, LIGHTFOOT was licensed and/or had license rights by the Department as a real estate broker under the Code, and was licensed by the Department as the designated broker/officer of FRM. As the designated broker/officer, LIGHTFOOT was responsible, pursuant to Section 10159.2 (responsibility of corporate broker in charge) of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of FRM for which a real estate license is required.

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At all times relevant, LIGHTFOOT was licensed and/or had license rights by the Department as a real estate broker under the Code, and was licensed by the Department as the designated broker/officer of MPM. As the designated broker/officer, LIGHTFOOT was responsible, pursuant to Section 10159.2 (responsibility of corporate broker in charge) of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of MPM for which a real estate license is required.

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At all times relevant, Respondents were engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate broker in the State of California within the meaning of Section 10131(b) (property management) 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.

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1 FIRST CAUSE OF ACTION

2 (FOX REALTY & MANAGEMENT, INC. AUDIT)

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4 Complainant refers to Paragraphs 1 through 5, above, and incorporates the same,
5 herein.

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7 On or about October 14, 2022, and continuing intermittently through October 14,
8 2022, an audit was conducted of FRM at their main office located at 42 S. Highway 26, Suite A,
9 Valley Springs, California, where the auditor examined the records for the period of April 1,
10 2021, through September 30, 2022 (the audit period).

11 8

12 While acting as real estate brokers as described in Paragraph 5, above, and
13 within the audit period, FRM accepted or received funds in trust (trust funds) in the course of
14 the real estate activities described in Paragraph 5, above, and deposited or caused to be deposited
15 those funds into a bank account maintained by FRM, including, but not limited to:

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17 Bank of Marin
18 422 Sutter Street
19 Jackson, CA 95642

20 Bank Account #1

21 Account No.: XXXXXX8528

22 Account Name: Fox Realty and Management, Inc.
23 Client Trust Account

24 Signatories: Colin Lightfoot (REB)
25 Catherine Nitchev

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Trust Account #1

Account No.: XXXXXX0521

Account Name: Fox Realty and Management, Inc.
Client Trust Account

Signatories: Colin Lightfoot (REB)
Catherine Nitchey

Thereafter, FRM from time-to-time made disbursement of said trust funds.

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In the course of the activities described in Paragraph 5, above, in connection with the collection and disbursement of trust funds:

- (a) FRM failed to designate Bank Account #1 as a Trust Account, in violation of Section 2832 of the Regulations;
- (b) As of August 31, 2022, there was a shortage in FRM's Bank Account #1 of \$28,460.63, in violation of Section 10145 of the Code;
- (c) FRM failed to obtain the prior written consent of every principal who is an owner of the funds in Bank Account #1 prior to any disbursement which would reduce the balance of the funds in Trust Account #1 to an amount less than the existing aggregate account liability of FRM to all owners and/or principals of those funds. Such acts and/or omissions by FRM violate Section 10145 (handling of trust funds) of the Code and Section 2832.1 (trust fund handling for multiple beneficiaries) of Title 10 of the California Code of Regulations ("the Regulations");
- (d) As of August 31, 2022, there was a shortage in FRM's Trust Account #1 of \$1,150.00, in violation of Section 10145 of the Code; and
- (e) FRM failed to obtain the prior written consent of every principal who is an owner of the funds in Trust Account #1 prior to any disbursement which would reduce the balance of the funds in Trust Account #1 to an amount less than the existing aggregate account liability of FRM to all

1 owners and/or principals of those funds. Such acts and/or omissions
2 by FRM violate Section 10145 (handling of trust funds) of the Code
3 and Section 2832.1 (trust fund handling for multiple beneficiaries) of
4 Title 10 of the Regulations.

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6 The facts alleged in Paragraph 9, above, violate Sections 2832(trust fund
7 designation) and 2832.1(balance below accountability) of the Regulations and Section 10145 of
8 the Code and are grounds for the suspension or revocation of the license and license rights of
9 Respondents under Sections 10177(d) (willful disregard of Real Estate Law) and/or 10177(g)
10 (negligence/incompetence) of the Code.

11 SECOND CAUSE OF ACTION

12 (MID-CAL PROPERTY MANAGEMENT AUDIT)

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14 Complainant refers to Paragraphs through 10, above, and incorporates the same
15 herein.

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17 On or about September 6, 2022, and continuing intermittently through September
18 6, 2022, an audit was conducted of MPM at their main office located at 1616 W. Mineral King
19 Avenue, Suite C, Visalia, California, where the auditor examined the records for the period of
20 February 1, 2021, through July 31, 2022 (the audit period).

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22 While acting as real estate brokers as described in Paragraph 3, above, and
23 within the audit period, MPM accepted or received funds in trust (trust funds) in the course of
24 the real estate activities described in Paragraph 3, above, and deposited or caused to be deposited
25 those funds into a bank account maintained by MPM, including, but not limited to:

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1 Union Bank
2 2005 S. Mooney Blvd.
3 Visalia, CA 93277

4 Trust Account #1

5 Account No.: XXXXX0027

6 Account Name: Mike V LIGHTFOOT (Trustee)
7 DBA LIGHTFOOT Realty - Rental
8 Trust Acct.

9 Signatories: Mike LIGHTFOOT (REB)

10 Thereafter, MPM from time-to-time made disbursement of said trust funds.

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12 In the course of the activities described in Paragraph 5, above, in connection with
13 the collection and disbursement of trust funds:

14 (a) As of June 30, 2022, there was a shortage in MPM's Trust Account
15 #1 of \$81,851.05, in violation of Section 10145 of the Code; and

16 (b) MPM failed to obtain the prior written consent of every principal who
17 is an owner of the funds in Trust Account #1 prior to any disbursement
18 which would reduce the balance of the funds in Trust Account #1 to an
19 amount less than the existing aggregate account liability of MPM to all
20 owners and/or principals of those funds. Such acts and/or omissions
21 by MPM violate Section 10145 of the Code and Section 2832.1 of the
22 Regulations.

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24 The facts alleged in Paragraph 14, above, violate Section 2832.1 of the
25 Regulations and Section 10145 of the Code and are grounds for the suspension or revocation of
26 the license and license rights of Respondents under Sections 10177(d) and/or 10177(g) of the
27 Code.

1 THIRD CAUSE OF ACTION

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3 Complainant refers to Paragraphs 1 through 15, above, and incorporates the same,
4 herein.

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

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16 At all times herein above mentioned, LIGHTFOOT was responsible, as the
17 Supervising designated broker/officer for MPM, for the supervision and control of the activities
18 conducted on behalf of MPM's business by its employees to ensure its compliance with the Real
19 Estate Law and Regulations. LIGHTFOOT failed to exercise reasonable supervision and control
20 over the property management activities of MPM. In particular, LIGHTFOOT permitted,
21 ratified and/or caused the conduct described above to occur, and failed to take reasonable steps,
22 including but not limited to, the handling of trust funds, supervision of employees, and the
23 implementation of policies, rules, and systems to ensure the compliance of the business with the
24 Real Estate Law and the Regulations.

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

COST RECOVERY

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department; the 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 Code, for the reasonable cost of the investigation and prosecution of this case, and for such other and further relief as may be proper under the provisions of law.

TRICIA D. PARKHURST
Supervising Special Investigator

Dated at Sacramento, California
this 3rd day of July, 2023.

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DISCOVERY DEMAND

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