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FILED

MAR 26 2024

DEPARTMENT OF REAL ESTATE
By B.N. Chwla

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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

PRELIMINARY ALLEGATIONS

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6 At all times mentioned, Respondent STARR PROPERTY MANAGEMENT,
7 INC. (SPM) was and is licensed by the Department as a real estate broker corporation, License
8 ID 02080627. On or about December 10, 2018, SPM was licensed by the Department as a real
9 estate broker corporation. Unless renewed, SPM's corporate broker license will expire
10 December 9, 2026.

11 At all times mentioned, DAVID MATTHEW VERTULLO (VERTULLO) was
12 and is licensed by the Department as the designated broker officer of SPM. As designated
13 broker-officer, VERTULLO is responsible pursuant to Section 10159.2 of the Code for the
14 supervision of the activities of the officers, agents, real estate licensees, and employees of SPM
15 for which a license is required.

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17 At all times mentioned, Respondent VERTULLO was and is licensed by the
18 Department individually as a real estate broker, License ID 01927257. VERTULLO was
19 licensed as a real estate salesperson on March 25, 2013, and as a broker on November 2, 2016.
20 Unless renewed, VERTULLO 's broker license will expire November 1, 2024.

21 VERTULLO is also licensed by the Department as the designated broker officer
22 of SPM.

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24 Whenever reference is made in an allegation in this Accusation to an act or
25 omission of SPM, such allegation shall be deemed to mean that the officers, directors,
26 employees, agents, and real estate licensees employed by or associated with SPM committed

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

3 AUDIT SC22-0112

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5 On or about October 13, 2023, the Department completed its audit (SC22-0112)
6 of the books and records of SPM's property management activities described in Paragraph 7.
7 The auditor herein examined the records for the period of January 1, 2021, through March 31,
8 2023.

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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 Section 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 682 one-to-four-unit family
18 residences, 37 apartment complexes with 430 units, 6 commercial complexes, and 225 other
19 properties with 420 units for 577 owners. Respondents collected approximately \$28,070,325 in
20 trust funds annually.

21 Respondents' property management services include, but were not limited to,
22 collecting rents and security deposits for real property and responsibility for repairs and
23 maintenance. For such property management services, Respondents charged a management fee
24 of \$85 to \$200 per month and/or 5 to 10 percent of collected rents.

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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: | BAC Community Bank 2001 West March Lane Stockton, CA 95207 |
| Account No.: | XXXX0715 |
| Account Name: | Starr Property Management Inc. Trust Acct Starr Property Management Inc. |
| Purpose: | Trust Account #1 was maintained for the receipt and disbursement of trust funds from property management activities. |

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16 In the course of the property management activities described in Paragraph 7, and
17 during the audit examination period described in Paragraph 6, Respondents violated the Code
18 and Title 10, Chapter 6, California Code of Regulations (“Regulations”) described below:

19 Trust Account Accountability and Balances

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21 Based on the records provided during the audit, a bank reconciliation for Trust
22 Account #1 was prepared as of March 31, 2023. The adjusted bank balance of Trust Account #1
23 as of March 31, 2023, was compared to the beneficiaries’ accountability for Trust Account #1 as
24 of March 31, 2023.

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|-----------------------|-----------------------|
| Adjusted Bank Balance | \$2,225,648.45 |
| Accountability | <u>\$2,228,513.52</u> |
| Trust Fund Shortage | (\$2,865.07) |

A shortage of \$2,865.07 was found in Trust Account #1 as of March 31, 2023.

The shortage was caused by negative balances.

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 the Regulations.

Trust Account Reconciliation

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Respondents failed to reconcile the balance of separate beneficiary or transaction records with the control record of trust funds received and disbursed at least once a month, and/or failed to maintain a record of such reconciliations for each bank account holding trust funds as required by Section 2831.2 of the Regulations.

Main Office Address

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On about February 1, 2023, Respondents failed to notify the Department within thirty (30) business day of the change of SPM's new main office location at 2431 W March Lane #220, Stockton, in violation of Section 10162 of the Code and Section 2715 of the Regulations.

FAILURE TO SUPERVISE

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Respondent VERTULLO failed to exercise reasonable supervision over the acts of SPM. VERTULLO permitted, ratified, and/or caused the conduct described above, to occur, and failed to take reasonable steps, including but not limited to the handling of trust funds.

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

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4 The acts and/or omissions of VERTULLO as described in Paragraph 12,
5 constitute failure on the part of VERTULLO, as designated broker-officer for SPM, to exercise
6 reasonable supervision and control over the licensed activities of SPM as required by Section
7 10159.2 of the Code and Section 2725 of the Regulations.

8 GROUND FOR DISCIPLINE

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

13 As to Paragraph 10, under Sections 10177(d) and/or 10177(g) of the Code in
14 conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations.

15 As to Paragraph 11, under Sections 10177(d) and/or 10177(g) of the Code in
16 conjunction with Section 10145 of the Code and Section 2831.2 of the Regulations.

17 As to Paragraph 12, under Sections 10177(d) and/or 10177(g) of the Code in
18 conjunction with Section 10162 of the Code and Section 2715 of the Regulations.

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20 The acts and/or omissions of VERTULLO as alleged in Paragraphs 13 and 14
21 constitute grounds for the suspension or revocation of all licenses and license rights of
22 VERTULLO under Sections 10177(g) and/or 10177(h) of the Code, and Section 10159.2 of the
23 Code in conjunction with Section 10177(d) of the Code.

24 COST RECOVERY

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

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 cost of investigation and enforcement as permitted by law, for the costs of the audit, 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 15th day of March, 2024

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.