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FILED

MAY 02 2024

DEPARTMENT OF REAL ESTATE
By B. Nishimura

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

TITUS PROPERTIES GROUP INC.;

and

RAE ANN R. TITUS, individually and as
designated officer of Titus Properties Group
Inc.,

Respondents.

No. H-7322 SAC

ACCUSATION

The Complainant, HEATHER NISHIMURA, a Supervising Special Investigator
of the State of California, for cause of Accusation against TITUS PROPERTIES GROUP INC.
and RAE ANN R. TITUS (collectively referred to as Respondents), is informed and alleges as
follows:

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The Complainant, HEATHER NISHIMURA, 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 TPGI, such allegation shall be deemed to mean that the officers, directors, employees, agents, and real estate licensees employed by or associated with TPGI committed such acts or omissions while engaged in furtherance of the business or operation of TPGI and while acting within the course and scope of their corporate authority and employment.

AUDIT SC21-0096

On or about November 20, 2023, the Department completed its audit (SC21-0096) of the books and records of TPGI's property management activities described in Paragraph 8. The auditor herein examined the records for the period of March 1, 2021, through March 31, 2022.

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 Section 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 200 properties with 250 units for approximately 145 owners. Respondents collected approximately \$2,961,444 in trust funds annually.

Respondents' property management services include, but were not limited to, collecting rents and security deposits for real property and responsibility for repairs and maintenance. For such property management services, Respondents charged a management fee of 6 to 8 percent of collected rents.

While acting as a real estate broker as described in Paragraph 8, 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:

ACCOUNT # 1	
Bank Name and Location:	Tri Counties Bank 657 N. Santa Cruz Avenue Los Gatos, CA 95030
Account No.:	XXXX0242
Account Name:	Titus Properties Group Inc. Trust ACCT DBA Almond Blossom
Signatories:	Rae Ann Titus Ben A Titus Megan Mirande
Purpose:	Account #1 was used for deposits and disbursements related to 200 properties and their owners. Deposits consisted of rents, security deposits, and any property management related fees. Disbursements were made for repairs, maintenance, broker fees, and owner proceeds.

In the course of the property management activities described in Paragraph 8, and during the audit examination period described in Paragraph 7, Respondents violated the Code and Title 10, Chapter 6, California Code of Regulations (Regulations) described below:

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Trust Account Accountability and Balances

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Based on the records provided during the audit, a bank reconciliation for Account #1 was prepared as of March 31, 2022. The adjusted bank balance of Account #1 as of March 31, 2022, was compared to the beneficiaries' accountability for Account #1 as of March 31, 2022.

Adjusted Bank Balance	\$256,335.58
Accountability	<u>\$347,003.42</u>
Trust Fund Shortage	<u>(\$90,667.84)</u>

A shortage of \$90,667.84 was found in Account #1 as of March 31, 2022. \$12,813.16 of the shortage was caused by negative balances. The cause of the remaining shortage of \$77,854.68 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 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.

Trust Account Designation

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During the audit period, Account #1, an account used to hold trust funds, was not designated as a trust account in the name of the broker or the broker's fictitious business name as

1 trustee, in violation of Section 10145 of the Code and Section 2832 of the Regulations. Account
2 #1 was titled "Titus Properties Group Inc Trust ACCT DBA Almond Blossom." Almond
3 Blossom was not a registered dba under TGPI during the audit period.

4 Trust Account Signatory

5 14

6 Respondents caused, permitted, and/or allowed, the possible withdrawal of trust
7 funds from Account #1, by Ben A. Titus, a unlicensed person. No evidence of a fidelity bond or
8 insurance was provided in violation of Section 10145 of the Code and Section 2834 of the
9 Regulations.

10 FAILURE TO SUPERVISE

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12 Respondent TITUS failed to exercise reasonable supervision over the acts of
13 TPGL. TITUS permitted, ratified, and/or caused the conduct described above, to occur, and
14 failed to take reasonable steps, including but not limited to the handling of trust funds,
15 supervision of employees, and the implementation of policies, rules, procedures, and systems to
16 ensure the compliance of the corporation with the Real Estate Law and the Regulations.

17 16

18 The acts and/or omissions of TITUS as described in Paragraph 15, constitute
19 failure on the part of TITUS, as designated broker-officer for TPGL, to exercise reasonable
20 supervision and control over the licensed activities of TPGL as required by Section 10159.2 of
21 the Code and Section 2725 of the Regulations.

22 GROUND FOR DISCIPLINE

23 17

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

27 ///

1 As to Paragraph 11, under Sections 10177(d) and/or 10177(g) of the Code in
2 conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations.

3 As to Paragraph 12, under Sections 10177(d) and/or 10177(g) of the Code in
4 conjunction with Section 10145 of the Code and Section 2831.2 of the Regulations.

5 As to Paragraph 13, under Sections 10177(d) and/or 10177(g) of the Code in
6 conjunction with Section 10145 of the Code and Section 2832 of the Regulations.

7 As to Paragraph 14, under Sections 10177(d) and/or 10177(g) of the Code in
8 conjunction with Section 10145 of the Code and Section 2834 of the Regulations.

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10 The acts and/or omissions of TITUS as alleged in Paragraphs 15 and 16 constitute
11 grounds for the suspension or revocation of all licenses and license rights of TITUS under
12 Sections 10177(g) and/or 10177(h) of the Code, and Section 10159.2 of the Code in conjunction
13 with Section 10177(d) of the Code.

14 COST RECOVERY

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

18 20

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

24 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
25 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
26 action against all licenses and license rights of Respondents under the Code, for the cost of

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1 investigation and enforcement as permitted by law, for the costs of the audit, and for such other
2 and further relief as may be proper under the provisions of law.

3 
4 HEATHER NISHIMURA
5 Supervising Special Investigator

6 Dated at Sacramento, California,
7 this 10th day of April, 2024

8
9 DISCOVERY DEMAND

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