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FILED

MAY 03 2024

DEPARTMENT OF REAL ESTATE
By B. Nishimura

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

ALMOND BLOSSOM PROPERTIES INC.;

and

MEGAN LORI MIRANDE, individually and
as designated officer of Almond Blossom
Properties Inc.,

Respondents.

No. H-7328 SAC

ACCUSATION

The Complainant, HEATHER NISHIMURA, a Supervising Special Investigator
of the State of California, for cause of Accusation against ALMOND BLOSSOM PROPERTIES
INC. and MEGAN LORI MIRANDE (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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1 BLOSSOM and while acting within the course and scope of their corporate authority and
2 employment.

3 AUDIT SC22-0127

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5 On or about November 20, 2023, the Department completed its audit (SC22-
6 0127) of the books and records of BLOSSOM's property management activities described in
7 Paragraph 7. The auditor herein examined the records for the period of August 1, 2022, through
8 August 31, 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 approximately 180 properties
18 with 210 units for approximately 150 owners. Respondents collected approximately \$2,883,408
19 in trust funds annually.

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

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25 While acting as a real estate broker as described in Paragraph 7, Respondents
26 accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in
27 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.:	XXXX1565
Account Name:	Almond Blossom Properties Inc.
Purpose:	Account #1 was used for deposits and disbursements related to 180 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.

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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 Title 10, Chapter 6, California Code of Regulations (Regulations) described below:

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 August 31, 2023. The adjusted bank balance of Account #1 as of August 31, 2023, was compared to the beneficiaries' accountability for Account #1 as of August 31, 2023.

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Adjusted Bank Balance	\$308,067.45
Accountability	<u>\$350,639.97</u>
Trust Fund Shortage	<u>(\$42,572.52)</u>

A shortage of \$42,572.52 was found in Account #1 as of August 31, 2023. \$466.50 of the shortage was caused by negative balances. The cause of the remaining shortage of \$42,106.02 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 trustee, in violation of Section 10145 of the Code and Section 2832 of the Regulations. Account #1 was titled "Almond Blossom Properties Inc."

FAILURE TO SUPERVISE

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Respondent MIRANDE failed to exercise reasonable supervision over the acts of BLOSSOM. MIRANDE permitted, ratified, and/or caused the conduct described above, to

1 occur, and failed to take reasonable steps, including but not limited to the handling of trust funds,
2 supervision of employees, and the implementation of policies, rules, procedures, and systems to
3 ensure the compliance of the corporation with the Real Estate Law and the Regulations.

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5 The acts and/or omissions of MIRANDE as described in Paragraph 13, constitute
6 failure on the part of MIRANDE, as designated broker-officer for BLOSSOM, to exercise
7 reasonable supervision and control over the licensed activities of BLOSSOM as required by
8 Section 10159.2 of the Code and Section 2725 of the Regulations.

9 GROUND FOR DISCIPLINE

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

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

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

18 As to Paragraph 12, under Sections 10177(d) and/or 10177(g) of the Code in
19 conjunction with Section 10145 of the Code and Section 2832 of the Regulations.

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

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1 COST RECOVERY

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

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

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

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17 HEATHER NISHIMURA
18 Supervising Special Investigator

19 Dated at Sacramento, California,
20 this 10th day of April, 2024

21 DISCOVERY DEMAND

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