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FILED

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DEPARTMENT OF REAL ESTATE
By B. Nichols

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 NIELSEN PROPERTY MANAGERS, INC.) No. H-7414 SAC
13 and PATRICIA ANN NIELSEN,) ACCUSATION
14 Respondents.)

15 The Complainant, HEATHER NISHIMURA, acting in her official capacity as a
16 Supervising Special Investigator of the State of California, for cause of Accusation against
17 Respondents NIELSEN PROPERTY MANAGERS, INC. (“NPMI”) and PATRICIA ANN
18 NIELSEN (“NIELSEN”), collectively referred to as Respondents, is informed and alleges as
19 follows:

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21 Respondents are presently licensed and/or have license rights under the Real
22 Estate Law, Part 1 of Division 4 of the Business and Professions Code (“Code”).

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24 At all times mentioned, NPMI was and is licensed by the State of California
25 Department of Real Estate (“Department”) as a real estate broker corporation.

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At all times mentioned herein, NIELSEN was and is licensed by the Department individually as a real estate broker, and as the designated broker officer of NPMI. As the designated broker officer, NIELSEN was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of officers, agents, real estate licensees and employees of NPMI for which a real estate license is required to ensure the compliance of the corporation with the Real Estate Law and Regulations.

Whenever reference is made to an allegation in this Accusation to an act or omission of NPMI, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with NPMI committed such acts or omissions while engaged in furtherance of the business or operation of NPMI and while acting within the course and scope of their corporate authority and employment.

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers 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 or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or negotiated the sale, purchase or exchanges of leases on real property, or on a business opportunity, or collected rents from real property, or improvements thereon, or from business opportunities.

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1 FIRST CAUSE OF ACTION

2 (Audit SC 22-0119)

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4 Each and every allegation in Paragraphs 1 through 5, inclusive, is incorporated by
5 this reference as if fully set forth herein.

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7 Beginning on July 11, 2023, and continuing intermittently through July 25, 2024,
8 the Department conducted an audit of the records of NPMI's property management activities.
9 The Department's auditor examined the records for the period of November 1, 2021, through
10 May 31, 2023 (the audit period).

11 8

12 While acting as a real estate broker as described in Paragraph 5, above, and
13 within the audit period, Respondents accepted or received funds in trust (trust funds) from or on
14 behalf of property owners, lessees and others in connection with property management
15 activities, and deposited, caused to be deposited, or directed that the trust funds be deposited
16 into the following bank account maintained by Respondents, at Union Bank, 2650 Watt
17 Avenue, Sacramento, California 95821, identified as follows:

18 Trust Account #1

19 Account No.: XXXXXX8729

20 Account Name: NIELSEN PROPERTY MANAGERS, INC

21 TRUST ACCOUNT

22 Signatories: Patricia Ann Nielsen; Tom Gee

23 and thereafter from time-to-time made disbursement of said trust funds.

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25 In the course of the property management activities described in Paragraph
26 5, in connection with the collection and disbursement of trust funds during the audit period,
27 Respondents violated the Real Estate Law as described below:

- 1 (a) Bank reconciliations were performed on Trust Account #1, as follows:
- 2 i. As of November 30, 2021, there was a shortage in the amount of
- 3 \$146,029.22 revealed, in violation of Section 10145 of the Code;
- 4 ii. As of April 30, 2023, there was a shortage in the amount of
- 5 \$179,185.79 revealed, in violation of Section 10145 of the Code; and
- 6 iii. As of May 31, 2023, there was a shortage in the amount of
- 7 \$194,635.74 revealed, in violation of Section 10145 of the Code;
- 8 (b) Respondents failed to obtain written permission from owners of trust funds in
- 9 Trust Account #1, to allow the balances to drop below accountability, in
- 10 violation of Section 2832.1 of Chapter 6, Title 10, California Code of
- 11 Regulations (Regulations);
- 12 (c) Trust Account #1 contained unidentified and/or unaccounted for funds of
- 13 \$12,720.59 for which no separate record was maintained, in violation of
- 14 Section 10145 (g) of the Code and Section 2831.1 of the Regulations; and
- 15 (d) Respondents failed to properly and accurately reconcile at least once a month,
- 16 the balance of all separate beneficiary or transaction records with the balance
- 17 of the record of all trust funds received and disbursed for Trust Account #1, in
- 18 violation of Section 2831.2 of the Regulations

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20 10

21 The acts and/or omissions described above constitute violations of Sections

22 2831.1 (Separate Records), 2831.2 (Trust Account Reconciliation) and 2832.1 (Written

23 Permission for Balance Below Accountability) of the Regulations and of Section 10145 (Trust

24 Fund Handling) of the Code, and are grounds for discipline under Sections 10177 (d) (Willful

25 Disregard of Real Estate Laws) and/or 10177(g) (Negligence/Incompetence Licensee) of the

26 Code.

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1 SECOND CAUSE OF ACTION

2 (Unauthorized Disbursements)

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4 Each and every allegation in Paragraphs 1 through 10, inclusive, is incorporated
5 by this reference as if fully set forth herein.

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7 Between November 26, 2021, through November 29, 2021, the following
8 unauthorized disbursements of trust funds from Trust Account #1 were used to pay the property
9 taxes for properties owned by NIELSEN:

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11 Property Location	Amount Disbursed
12 1237 G Street, Sacramento	\$5,354.16
13 1620-22 P Street, Sacramento	\$16,418.38
14 1711 Q Street, Sacramento	\$10,903.96
15 1800 F – 603 18th Street, Sacramento	\$7,184.14
16 1800 F – 603 18th Street, Sacramento	\$5,150.44
17 1800 F – 603 18th Street, Sacramento	\$3,612.68
18 1815 H Street, Sacramento	\$3,540.38
19 1822 N Street, Sacramento, CA 95811	\$10,314.94
20 1968 Venice Dr, South Lake Tahoe	\$7,429.36
21 2113 Edith Street, Sacramento	\$1,200.34
22 2217–19 T Street, Sacramento	\$7,014.10
23 2456 Highland Hills Dr, El Dorado Hills	\$14,005.16
24 2505–2523 Sierra Blvd, Sacramento	\$9,995.64
25 2528–30 I Street, Sacramento	\$2,435.06
26 2608 Q Street, Sacramento	\$8,247.16
27 3739 Kings Way, Sacramento	\$1,493.56

1	3917 Lusk Drive, Sacramento	\$1,104.94
2	4112 43rd Avenue, Sacramento	\$752.06
3	4213 Brigit Way, Sacramento	\$1,194.30
4	4223-31 Robertson Ave, Sacramento	\$2,758.10
5	4639-4721 Mendocino Blvd, Sacramento	\$609.98
6	4639-4721 Mendocino Blvd, Sacramento	\$599.76
7	4639-4721 Mendocino Blvd, Sacramento	\$578.90
8	4639-4721 Mendocino Blvd, Sacramento	\$574.60
9	4639-4721 Mendocino Blvd, Sacramento	\$562.14
10	6500 Harmon Dr./311 Bello Rio Way	\$2,838.68
11	719 27th Street, Sacramento, CA 95816	\$6,439.50
12	2206-12 V Street, Sacramento, CA 95818	\$13,716.80

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14 The acts and/or omissions described above constitute violations of Sections
15 10145, 10176 (i) (Fraud or Dishonest Dealing), 10177 (j) (Fraud or Dishonest Dealing), and/or
16 10177 (g) of the Code, and are grounds for discipline under Sections 10176 (i), 10177 (j), 10177
17 10177 (d) and/or 10177(g) of the Code.

18 THIRD CAUSE OF ACTION

19 (Unauthorized Disbursements)

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21 Each and every allegation in Paragraphs 1 through 13, inclusive, is incorporated
22 by this reference as if fully set forth herein.

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24 On or about December 23, 2021, Respondents disbursed to themselves trust
25 funds amounting to \$32,844.26 from Trust Account #1 without the knowledge or authorization
26 of the trust fund owners.

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The acts and/or omissions described above constitute violations of Sections 10145, 10176 (i) (Fraud or Dishonest Dealing), 10177 (j) (Fraud or Dishonest Dealing), and/or 10177 (g) of the Code, and are grounds for discipline under Sections 10176 (i), 10177 (j), 10177 (d) and/or 10177(g) of the Code.

FOURTH CAUSE OF ACTION

(Failure to Supervise)

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Each and every allegation in Paragraphs 1 through 16, inclusive, is incorporated by this reference as if fully set forth herein.

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Respondent NIELSEN failed to exercise reasonable supervision and control over the property management activities of NPMI. In particular, NIELSEN 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, supervision of employees, and the implementation of policies, rules and systems to ensure compliance of the business with the Real Estate Law and the Regulations.

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The above acts and/or omissions of NIELSEN 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/or 10177 (h) (Broker Supervision) of the Code.

PRIOR ADMINISTRATIVE ACTION

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Effective October 14, 2022, in Case No. H-7115 SAC, before the Department, the Real Estate Commissioner suspended all licensing rights of NPMI and NIELSEN for a period of

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1 30-days and that suspension was stayed pursuant to terms and conditions imposed pursuant to
2 Section 10156.6 and 10156.7 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) (Audit Costs
7 for Trust Fund Handling Violations) of the Code.

8 22

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

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15 WHEREFORE, Complainant prays that a hearing be conducted on the
16 allegations of this Accusation and that upon proof thereof a decision be rendered imposing
17 disciplinary action against all licenses and license rights of Respondents under the Real Estate
18 Law, for the cost of the investigation and enforcement as permitted by law, for the cost of the
19 audit as permitted by law, and for such other and further relief as may be proper under other
20 provisions of law.

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22 
23 HEATHER NISHIMURA
24 Supervising Special Investigator

25 Dated at Sacramento, California,
26 this 27th day of November, 2024.

