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FILED

JUL 15 2011

DEPARTMENT OF REAL ESTATE

By K. Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusations of)	
)	
PERFORMANCE PROPERTY)	FILE NO. H-10003 SF
MANAGEMENT, INC., a Corporation, and)	and
KENDRA GAIL HOLLOWAY,)	FILE NO. H-10146 SF
)	
Respondents.)	

DISMISSAL

The Accusation Filed on May 7, 2007, in File No. H-10003 SF, and the Accusation Filed on August 30, 2007, in File No. H-10146 SF, and their Default Orders dated January 30, 2008, is DISMISSED. Respondents' license rights expired October 11, 2010.

IT IS SO ORDERED 7/1, 2011.

BARBARA J. BIGBY
Acting Real Estate Commissioner

Barbara J. Bigby

1 MARY F. CLARKE, Counsel (SBN 186744)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

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6 -or- (916) 227-0780 (Direct)

FILED
AUG 30 2007

DEPARTMENT OF REAL ESTATE

By H. Contreras

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 PERFORMANCE PROPERTY) H-10146 SF
14 MANAGEMENT, INC., and)
15 KENDRA GAIL HOLLOWAY) ACCUSATION
16 Respondents.)

17 The Complainant, CHARLES W. KOENIG, a Deputy Real
18 Estate Commissioner of the State of California, for cause of
19 Accusation against PERFORMANCE PROPERTY MANAGEMENT, INC., a
20 Corporation (herein "PERFORMANCE"), and KENDRA GAIL HOLLOWAY
21 (herein "HOLLOWAY"), is informed and alleges as follows:

22 I

23 The Complainant, CHARLES W. KOENIG, a Deputy Real
24 Estate Commissioner of the State of California, makes this
25 Accusation in his official capacity.

26 II

27 At all times herein mentioned PERFORMANCE and HOLLOWAY
(herein "Respondents") were and now are licensed and/or have

1 license rights under the Real Estate Law (Part 1 of Division 4
2 of the Business and Professions Code) (herein the "Code").

3 III

4 At all times herein mentioned PERFORMANCE was and now
5 is licensed by the Department of Real Estate of the State of
6 California (herein "the Department") as a corporate real estate
7 broker. At all times mentioned herein since October 12, 2004,
8 the license of Respondent PERFORMANCE has been and now is a
9 restricted corporate real estate broker license, subject to
10 terms, conditions, and restrictions pursuant to Sections 10156.6
11 and 10156.7 of the Code. At all times mentioned herein to and
12 until September 12, 2005, Respondent PERFORMANCE was so licensed
13 by and through Respondent HOLLOWAY as designated officer-broker
14 of Respondent PERFORMANCE, to qualify said corporation to act for
15 said corporation as a real estate broker. On September 12, 2005,
16 Respondent HOLLOWAY's license to act as a real estate broker for
17 and on behalf of Respondent PERFORMANCE was cancelled and has
18 not been reinstated or replaced by the license of any other
19 designated broker-officer. At no time mentioned herein since
20 September 13, 2005, has there been any real estate broker
21 licensed to act as a real estate broker for and on behalf of
22 Respondent PERFORMANCE as designated officer broker.

23 IV

24 At all times herein mentioned, HOLLOWAY was and now is
25 licensed by the Department as a real estate broker, individually
26 and, until September 12, 2005, as designated officer-broker of
27 PERFORMANCE. As said designated officer-broker, HOLLOWAY was at

1 all times mentioned herein until September 12, 2005, responsible
2 pursuant to Section 10159.2 of the Code for the supervision of the
3 activities of the officers, agents, real estate licensees, and
4 employees of PERFORMANCE for which a license is required. At all
5 times mentioned herein since October 12, 2004, the license of
6 Respondent HOLLOWAY has been and now is a restricted real estate
7 broker license subject to terms, conditions, and restrictions
8 pursuant to Sections 10156.6 and 10156.7 of the Code.

9
10 V

11 Whenever reference is made in a allegation in this
12 Accusation to an act or omission of PERFORMANCE, such allegation
13 shall be deemed to mean that the officers, directors, employees,
14 agents and/or real estate licensees employed by or associated
15 with PERFORMANCE committed such act or omission while engaged in
16 the furtherance of the business or operations of such corporate
17 Respondent and while acting within the course and scope of their
18 authority and employment.

19 VI

20 At all times herein mentioned Respondents engaged in
21 the business of, acted in the capacity of, advertised, or assumed
22 to act as real estate brokers within the State of California
23 within the meaning of Sections 10131(b) of the Code, including
24 the operation and conduct of a property management business with
25 the public wherein, on behalf of others, for compensation or in
26 expectation of compensation, Respondents leased or rented and
27 offered to lease or rent, and placed for rent, and solicited
listings of places for rent, and solicited for prospective

1 tenants of real property or improvements thereon, and collected
2 rents from real property or improvements thereon.

3 VII

4 In so acting as real estate brokers, as described in
5 Paragraph VI above, Respondents accepted or received funds in
6 trust (herein "trust funds") from or on behalf of owners,
7 tenants, and others in connection with the leasing, renting, and
8 collection of rents on real property or improvements thereon, as
9 alleged herein, and thereafter from time to time made
10 disbursements of said funds.

11 VIII

12 The aforesaid trust funds accepted or received by
13 Respondents were deposited or caused to be deposited by
14 Respondents into one or more bank accounts (herein "trust fund
15 accounts") maintained by Respondents for the handling of trust
16 funds at the Santa Rosa, California, branch of Sonoma National
17 Bank and at the Santa Rosa branch of Exchange Bank including but
18 not necessarily limited to:

19 (a) "Kendra Holloway (REB)", account number 1317098
20 (herein "Trust #1"); and

21 (b) "Kendra Holloway (REB)", account number 71034326
22 (herein "Trust #2"); and

23 (c) "Kendra Holloway (REB)", account number 0070023676
24 (herein "Trust #3").

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IX

On or about September 1, 2004, and on or about March 31, 2007, in connection with the collection and disbursement of said trust funds, Respondent PERFORMANCE:

(a) failed to keep a separate record for each beneficiary or transaction for Trust #1 and #2 containing all the information required by Section 2831.1 of the Regulations; and,

(b) caused, suffered or permitted the balance of funds in Trust #1 to be reduced to an amount which as of March 31, 2005, was approximately \$750.00 less than the aggregate liability of Respondent PERFORMANCE to all owners of such funds, without the prior written consent of the owners of such funds in violation of Section 2832.1 of the Code.

X

At all times mentioned herein, Respondent HOLLOWAY failed to exercise reasonable supervision over the acts of PERFORMANCE and its agents and employees in such a manner as to allow the acts and omissions on the part of PERFORMANCE, described above, to occur.

PRIOR DISCIPLINE

Effective October 12, 2004, Case No. H-8682 SF, the Real Estate Commissioner revoked the real estate broker licenses for violations by Respondents of Sections 10145, 10148, and 10159.5 of the Code and Sections 2831.1, 2831.2, 2832, 2832.1, and 2834 of the Regulations, but granted Respondents the right to restricted real estate broker licenses, subject to terms,

1 conditions, and restrictions pursuant to Sections 10156.6 and
2 10156.7 of the Code.

3 XII

4 The facts alleged above are grounds for the suspension
5 or revocation of the licenses and license rights of Respondent
6 under the following provisions of the Code and/or the
7 Regulations:

8 (a) as to Paragraph IX(a) and Respondent PERFORMANCE
9 under Section 10145 of the Code and Section 2831.1 of the
10 Regulations in conjunction with Section 10177(d) of the Code;

11 (b) as to Paragraph IX(b) and Respondent PERFORMANCE
12 under Section 10145 of the Code and Section 2832.1 of the
13 Regulations in conjunction with Section 10177(d) of the Code; and

14 (c) as to Paragraph X and Respondent HOLLOWAY under
15 Sections 10159.2 of the Code in conjunction with Sections
16 10177(g), 10177(h), and 10177(d) of the Code.

17 WHEREFORE, Complainant prays that a hearing be
18 conducted on the allegations of this Accusation and that upon
19 proof thereof a decision be rendered imposing disciplinary action
20 against all licenses and license rights of Respondents under the
21 Real Estate Law (Part 1 of Division 4 of the Business and
22 Professions Code) and for such other and further relief as may be
23 proper under other applicable provisions of law.

24
25 
26 CHARLES W. KOENIG
27 Deputy Real Estate Commissioner

28 Dated at Sacramento, California
29 this 30th day of August, 2007.