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FILED

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DEPARTMENT OF REAL ESTATE

By K. Contreras

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

11 * * *

13 In the Matter of the Accusation of)
14 SYRUS PROPERTIES, INC.,)
15 a Corporation, and)
16 TRACY LYNN ENGELEN,)
17 Respondents.)

NO. H-11314 SF

ACCUSATION

18 The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the
19 State of California, for cause of Accusation against SYRUS PROPERTIES, INC, a Corporation
20 (herein "SPI") and TRACY LYNN ENGELEN (herein "ENGELEN"), is informed and alleges
21 as follows:

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23 The Complainant makes this Accusation in his official capacity.

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25 At all times herein mentioned, Respondents SPI and ENGELEN (herein
26 "Respondents") were and now are licensed and/or have license rights under the Real Estate Law
27 (Part 1 of Division 4 of the Business and Professions Code) (herein "the Code").

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2 At all times herein mentioned SPI was and now is licensed by the State of
3 California Department of Real Estate (herein "the Department") as a corporate real estate broker
4 by and through ENGELEN as designated officer-broker of SPI to qualify said corporation and to
5 act for said corporation as a real estate broker.

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7 At all times herein mentioned, ENGELEN was and now is licensed by the
8 Department as a real estate broker, individually and as designated officer-broker of SPI. As said
9 designated officer-broker, ENGELEN was at all times mentioned herein responsible pursuant to
10 Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate
11 licensees, and employees of SPI for which a license is required.

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

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

In so acting as a real estate broker, as described in Paragraph 6, above, SPI accepted or received funds in trust (herein "trust funds") from or on behalf of tenants, borrowers, and others in connection with real estate leasing, renting, and collection of rents on real property or improvements thereon, and thereafter from time to time made disbursements of said funds.

The aforesaid trust funds accepted or received by Respondent SPI were deposited or caused to be deposited by Respondent SPI into one or more bank accounts (herein "trust fund accounts") maintained by Respondent SPI for the handling of trust funds at the:

- 1) Portland, Oregon branch of Wells Fargo Bank, including but not necessarily limited to:
 - a) "Syrus Properties Inc. Gerstle Park Apartments", account number xxxxxx8958 (herein "Bank Account #1");
 - b) "Syrus Properties Inc. Gerstle Park Apartments", account number xxxxxx9801 (herein "Bank Account #2"); and at the
- 2) Dallas, Texas branch of Chase Bank, including but not necessarily limited to:
 - (a) "Syrus Properties Inc. Alpine Apartments", account number xxx-xxx187-1 (herein "Bank Account #3"); and,
 - (b) "Syrus Properties Inc. 21 Arrowhead Lane", account number xxx-xxx968-6 (herein "Bank Account #4").

Between about January 1, 2009 and February 28, 2010, in connection with the collection and disbursement of said trust funds, SPI:

- 1) failed to place trust funds entrusted to SPI into the hands of a principal on whose behalf the funds were received, into a neutral escrow depository, or into a trust fund account in the name of SPI as

1 trustee at a bank or other financial institution, in conformance with
2 the requirements of Section 10145 of the Code and Section 2832 of
3 Title 10, the California Code of Regulations (herein the
4 “Regulations”), in that SPI placed such funds into Bank Accounts
5 #1-#4, an account that was not in the name of SPI as trustee;

- 6 (b) failed to keep a columnar record in chronological sequence of all
7 trust funds received and disbursed from Bank Account #2 containing
8 all the information required by Section 2831 of the Regulations;
- 9 (c) authorized John M. Kenney, an unlicensed person without fidelity
10 bond coverage, to make withdrawals from Bank Accounts #1 and #2,
11 in violation of Section 2834 of the Regulations;
- 12 (d) charged, collected and retained late fees from tenants without prior
13 authorization and consent from property owner John Kenney (herein
14 “Kenney”), in violation of Sections 10176(a), (e) and (i) or 10177(j)
15 or 10177(g) of the Code;
- 16 (e) failed to disclose to Kenney, SPI’s subsidiary relationship to vendor
17 Aegis Building Maintenance, Inc. (herein “Aegis”) prior to
18 compensating Aegis for cleaning and maintaining Kenney’s real
19 property, in violation of Sections 10176(a) and (i) or 10177(j) or
20 10177(g) of the Code; and
- 21 (f) failed to disclose to Kenney, mark-ups received on purchases from
22 Maintenance USA: invoice #4394363 in the amount of \$87.64
23 (marked-up to \$100.79), #4393771 in the amount of \$633.20
24 (marked-up to \$728.18); #4463247 in the amount of \$348.73
25 (marked-up to \$401.04), and #4462623 in the amount of \$35.10
26 (marked-up to \$40.37), in violation of Sections 10176(a) and (i) or
27 10177(j) or 10177(g) of the Code.

At all times mentioned herein, between about January 1, 2009 and February 28, 2010, ENGELEN failed to exercise reasonable supervision over the acts of SPI and its agents and employees in such a manner as to allow the acts and omissions on the part of SPI, described above, to occur in violation of Sections 10159.2 and 10177(g) and (h) of the Code.

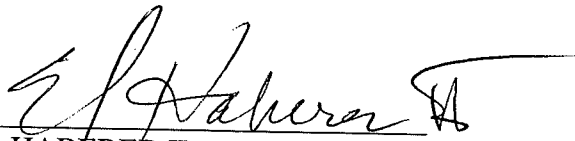
The facts alleged above are grounds for the suspension or revocation of the licenses and license rights of Respondents under the following provisions of the Code and/or the Regulations:

- (a) as to paragraph 9(a) and SPI under Section 10145 of the Code and Section 2832 of the Regulations in conjunction with Section 10177(d) of the Code;
- (b) as to paragraph 9(b) and SPI under Section 2831 of the Regulations in conjunction with Section 10177(d) of the Code;
- (c) as to paragraph 9(c) and SPI under Section 2834 of the Regulations in conjunction with Section 10177(d) of the Code;
- (d) as to Paragraph 9(d) and SPI under Sections 10176(a), (e) and (i) or 10177(j) or 10177(g) of the Code;
- (e) as to Paragraph 9(e) and (f) and SPI under Sections 10176(a) and (i) or 10177(j) or 10177(g) of the Code; and
- (f) as to Paragraph 10 and ENGELEN under Sections 10159.2, 10177(g) and (h) of the Code, in conjunction with Section 10177(d) 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

1 part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
2 case.

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

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12 E. J. HABERER II
13 Deputy Real Estate Commissioner
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15 Dated at Oakland, California

16 this 25th day of January, 2012.
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