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FILED

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DEPARTMENT OF REAL ESTATE

By K. Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of )  
JOSEPH ANTHONY ANNUNZIATO, )  
Respondent. )

NO. H-11358 SF

ACCUSATION

The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against JOSEPH ANTHONY ANNUNZIATO (herein "Respondent") dba Annunziato & Associates (herein A&A), is informed and alleges as follows:

1

The Complainant makes this Accusation in his official capacity.

2

At all times herein mentioned, Respondent was and now is licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (herein "the Code").

3

At all times herein mentioned, Respondent was and now is licensed by the State of California Department of Real Estate (herein the "Department") as a real estate broker.

At all times herein mentioned, Respondent 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 on behalf of others, for compensation or in expectation of compensation within the meaning of:

- (a) 10131(a) of the Code, the operation and conduct of a real estate brokerage, which included the sale or offer of sale, purchase or offer of purchase, solicitation of prospective sellers and purchasers of, solicitation or obtaining listings of, or negotiations of the purchase, sale or exchange of real property or a business opportunity; and,
- (b) Section 10131(b) of the Code, the operation and conduct of a property management business, which included leasing or renting and offering to lease or rent, and placing for rent, and soliciting listings of places for rent, and soliciting for prospective tenants of real property or improvements thereon, and collecting rents from real property or improvements thereon.

In so acting as a real estate broker, as described in Paragraph 5 above, Respondent accepted or received funds in trust (herein "trust funds") from or on behalf of sellers, purchasers, owners, tenants, and others in connection with the sale of real property or leasing, renting, and collection of rents on real property or improvements thereon.

The aforesaid trust funds accepted or received by Respondent were deposited or caused to be deposited by Respondent into one or more bank accounts (herein "trust fund accounts") maintained by Respondent for the handling of trust funds at the San Leandro, California, branch of Fremont Bank, including but not necessarily limited to:

- (a) "Joseph A. Annunziato dba Annunziato and Associates", account number xxxx7073 (herein "Bank Account #1"); and,

(b) "Annunciato and Associates", account number xxxx7863  
(herein "Bank Account #2").

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Between about January 1, 2010 and December 31, 2010, in connection with the collection and disbursement of said trust funds, Respondent:

- (a) caused, suffered or permitted the balance of funds in Bank Account #1 to be reduced to amounts less than the liability of Respondent resulting in a trust fund shortage of about \$15,011.07 on about December 31, 2010, in violation of Section 2832.1 of Chapter 6, Title 10, California Code of Regulations (herein "the Regulations");
- (b) failed to keep a columnar record in chronological sequence of all trust funds received and disbursed from Bank Accounts #1 and #2 containing all the information required by Section 2831 of the Regulations;
- (c) failed to keep a separate record for each beneficiary or transaction for Bank Accounts #1 and #2 containing all the information required by Section 10145 of the Code and Section 2831.1 of the Regulations;
- (d) failed to reconcile at least once a month, the balance of all separate beneficiary or transaction records with Bank Accounts #1 and #2, as required by Section 2831.2 of the Regulations;
- (e) failed to place trust funds entrusted to Respondent within three (3) business days 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 Respondent as trustee at a bank or other financial institution, in that Respondent placed such funds in Bank Accounts #1 and #2, as required by Section 10145 of the Code and Section 2832 of the Regulations;

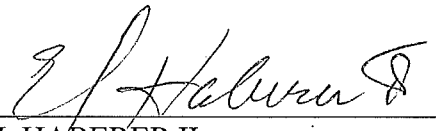
- 1 (f) authorized Annette Annunziato, an unlicensed person without  
2 fidelity bond coverage, to make withdrawals from Bank Accounts #1  
3 and #2, in violation of Section 2834 of the Regulations; and,  
4 (g) caused, suffered or permitted money of others which was received  
5 and held by Respondent as trustee in Bank Account #1 to be  
6 commingled with Respondent's own money, in violation of Section  
7 10176(e) of the Code and Section 2835 of the Regulations.

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

- 12 (a) as to Paragraph 7(a) under Section 2832.1 of the Regulations, in  
13 conjunction with Section 10177(d) of the Code  
14 (b) as to Paragraph 7(b) under Section 2831 of the Regulations, in  
15 conjunction with Section 10177(d) of the Code;  
16 (c) as to Paragraph 7(c) under Section 10145 of the Code and Section  
17 2831.1 of the Regulations, in conjunction with Section 10177(d) of  
18 the Code;  
19 (d) as to Paragraph 7(d) under Section 2831.2 of the Regulations, in  
20 conjunction with Section 10177(d) of the Code;  
21 (e) as to Paragraph 7(e) under Section 10145 of the Code and Section 2832  
22 of the Regulations, in conjunction with Section 10177(d) of the Code;  
23 (f) as to Paragraph 7(f) under Section 2834 of the Regulations in  
24 conjunction with Section 10177(d) of the Code; and  
25 (g) as to Paragraph 7(g) under Section 10176(e) of the Code and Section  
26 2835 of the Regulations, in conjunction with Section 10177(d) of the  
27 Code.

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

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11                   E. J. HABERER II  
12                   Deputy Real Estate Commissioner

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15                   Dated at Oakland, California

16                   this 12 day of March, 2012.