FILED

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DEPARTMENT OF REAL ESTATE

By _____

TRULY SUGHRUE, Counsel
State Bar No. 223266
Department of Real Estate
P.O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789
(916) 227-0781 (Direct)
Fax: (916) 227-9458

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of PIZZIMENTI HILL & ASSOCIATES INC. and MARY MARGARET PIZZIMENTI, Respondents.	No. H-11525 SF ACCUSATION

The Complainant, ROBIN S. TANNER, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against PIZZIMENTI HILL & ASSOCIATES INC., and MARY MARGARET PIZZIMENTI (Respondents), is informed and alleges as follows:

PRELIMINARY ALLEGATIONS

1

The Complainant, ROBIN S. TANNER, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

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

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At all times mentioned, Respondent PIZZIMENTI HILL & ASSOCIATES INC. (PHAI) was and is licensed by the State of California Department of Real Estate (Department) as a real estate broker corporation.

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At all times mentioned, Respondent MARY MARGARET PIZZIMENTI (PIZZIMENTI) was and is licensed by the Department individually as a real estate broker, and as the designated broker officer of PHAI. As said designated officer-broker, PIZZIMENTI was and is responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees, and employees of PHAI for which a license is required.

5

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

6

At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers in the State of California, within the meaning of Section 10131(b) of the Code in 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 and offered to lease or rent, and placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

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On or about February 2, 2012, and continuing intermittently through March 2, 2012, an audit was conducted of the records of PHAI. The auditor herein examined the records for the period of January 1, 2011, through December 31, 2011.

FIRST CAUSE OF ACTION

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Each and every allegation in Paragraphs 1 through 7, inclusive, is incorporated by this reference as if fully set forth herein.

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While acting as a real estate broker as described in Paragraph 6, Respondents accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in 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.

10

The trust funds accepted or received by Respondents as described in Paragraph 9 were deposited or caused to be deposited by Respondents into trust 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:	Wells Fargo P.O. Box 6995 Portland, OR 97228-6995
Account No.:	XXXXXX3048
Entitled:	PHA Mario Juarez Property Mgmt (Jan. to July, 2011) Pizzimenti Hill & Associates, Inc. (Aug. to Dec. 2011)

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In the course of the activities described in Paragraph 6, Respondents:

(a) failed to keep accurate separate records for each beneficiary or transaction, accounting therein for all funds which were deposited into Account #1, containing all of the information required by Section 2831.1 of the Regulations;

(b) failed to reconcile, for Account #1, 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 account as required by Section 2831.2 of the Regulations; and

(c) failed to deposit trust funds into one or more trust funds accounts in the name of Respondent as trustee at a bank or other financial institution, in conformance with Section 10145 of the Code and Section 2832 of the Regulations.

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The facts alleged in the First Cause of Action are grounds for the suspension or revocation of Respondents licenses and license rights under the following sections of the Code and Regulations:

(1) As to Paragraph 11(a), under Section 10177(d) of the Code in conjunction with Section 2831.1 of the Regulations;

(2) As to Paragraph 11(b), under Section 10177(d) of the Code in conjunction with Section 2831.2 of the Regulations; and

(3) As to Paragraph 11(c), under Section 10177(d) of the Code in conjunction with Section 10145 of the Code and Section 2832 of the Regulations.

SECOND CAUSE OF ACTION

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Each and every allegation in Paragraphs 1 through 12, inclusive, above, is incorporated by this reference as if fully set forth herein.

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Respondent PIZZIMENTI failed to exercise reasonable supervision over the acts of Respondent PHAI in such a manner as to allow the acts and events described above to occur.

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The acts and/or omissions of PHAI described in Paragraph 14 constitute failure on the part of PIZZIMENTI, as designated broker-officer for PHAI, to exercise reasonable supervision and control over the licensed activities of PHAI required by Section 10159.2 of the Code.

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The facts described above as to the Second Cause of Action constitute cause for the suspension or revocation of the licenses and license rights of Respondent PIZZIMENTI under Section 10177(g) and/or Section 10177(h) of the Code and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

COST RECOVERY

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

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

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

ROBIN S. TANNER
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 28th day of February, 2013

DISCOVERY DEMAND

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