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September 23, 2013

BUREAU OF REAL ESTATE

By *R. Uno*

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of

12 BRAD LYLE DUNCAN,

13 Respondent.

No. H-11585 SF

ACCUSATION

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16 The Complainant, ROBIN S. TANNER, a Deputy Real Estate Commissioner of
17 the State of California for cause of Accusation against BRAD LYLE DUNCAN (DUNCAN), is
18 informed and alleges as follows:

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20 The Complainant makes this Accusation against Respondent in her official
21 capacity.

22 2

23 Respondent DUNCAN is presently licensed and/or has license rights under the
24 Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (Code).
25 as a real estate broker dba "Madison Stone Property Management" and "Pacific Properties" for
26 his property management activities.

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2 At no time mentioned was Oscar M. Rodriguez licensed by the Bureau of Real
3 Estate as a real estate broker or salesperson.

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5 At all times mentioned, DUNCAN engaged in the business of, acted in the
6 capacity of, advertised or assumed to act as a real estate broker in the State of California, within
7 the meaning of Section 10131(b) of the Code, including the operation and conduct of a property
8 management business wherein Respondent leased, rented, or offered to lease or rent, solicited
9 listings for lease or rent, collected rents from tenants or lessees, or performed other services for
10 real property owners and tenants or lessees, all for or in expectation of compensation.

11 FIRST CAUSE OF ACTION

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13 Beginning on or about September 10, 2012, and intermittently through
14 November 5, 2012, the Bureau conducted an audit of DUNCAN's real estate property
15 management business for the period of January 1, 2011, to August 31, 2012, as set forth in
16 Audit Nos. OK-12-0042 (PM) and OK-12-0048 (OA), dated November 5, 2012. During the
17 course of the real estate activities described in Paragraph 4, above, DUNCAN received and
18 disbursed funds held in trust on behalf of others.

19 6

20 DUNCAN maintained forty-five (45) bank accounts, two of which were reviewed
21 for audit purposes:

- 22 (1) Bank Account #1, located at JPMorgan Chase Bank, N.A., P.O. Box
23 659754, San Antonio, TX 78265, was designated as "Bradley L. Duncan
24 DBA Pacific Properties", Account No. XXXXXX4098;
25 (2) Bank Account #2, located at Wells Fargo Bank, N.A., P. O. Box 6995,
26 Portland, OR 97228, was designated as "Craig M. Enyart DBA Madison
27 Stone Property Mngt Casa Linda Apts.", Account No. XXXXXX7952;

The following facts were ascertained by the audit for the period referred to above:

- a. DUNCAN failed to have Bank Account #1 and Bank Account #2 designated as a trust accounts as required by Section 2832, Title 10, Chapter 6 of the California Code of Regulations (herein "the Regulations");
- b. Trust Fund Accountability was established for Bank Account #1 and as of August 31, 2012, a shortage of \$4,201.82 was discovered, in violation of Section 10145 of the Code;
- c. DUNCAN failed to obtain the written consent of every owner of trust funds to allow the balance of the trust account to fall to an amount less than the existing aggregate trust fund liability of the broker to all owners of the funds in violation of Section 2832.1 of the Regulations. After discovery, DUNCAN failed to notify owners of the trust funds of the trust account shortages;
- d. DUNCAN allowed Oscar M. Rodriguez, an unlicensed, unbonded person to be a signatory on trust accounts in violation of Section 2834 of the Regulations;
- e. DUNCAN failed to maintain a record of all trust funds received and disbursed for Bank Account #1 and Bank Account #2 as required by Section 2831 of the Regulations;
- f. DUNCAN failed to maintain separate beneficiary records for Bank Account #1 and Bank Account #2 as required by Section 2831.1 of the Regulations; and,
- g. DUNCAN failed to perform the required monthly reconciliations comparing the balance of the control records to the total balance of the beneficiary records for Bank Account #1 and Bank Account #2, as required by Section 2831.2 of the Regulations.

The acts and omissions of DUNCAN described in Paragraph 10, above, constitute violations of Sections 2831 (Control Records), 2831.1 (Separate Beneficiary Records), 2831.2 (Monthly Reconciliations), 2832 (Trust Fund Designation) and 2832.1 (Written Consent Trust Fund Owners) of the Regulations and Section 10145 (Trust Fund Handling) of the Code and constitute grounds for disciplinary action under Sections 10177(d) (Willful Disregard/Violation of Real Estate Law) or, in the alternative, 10177(g) (Negligence/Incompetence Real Estate Licensee) of the Code.

SECOND CAUSE OF ACTION

Complainant refers to Paragraphs 1 through 8, above, and incorporates them herein by reference.

On or about October 14, 2011, Oscar M. Rodriguez, Jr., on behalf of Pacific Properties, entered into a Management Agreement with Lisa and Ken G., owners of 963 Santa Cruz Way (Santa Cruz Property) and 1076 Civic Center Drive (Civic Center Property).

On or about October 19, 2011, Oscar M. Rodriguez, Jr., on behalf of Pacific Properties, entered into a Residential Lease-Rental Agreement and Deposit Receipt with tenants for the Civic Center Property.

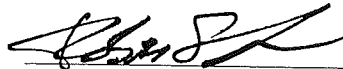
On or about October 19, 2011, Oscar M. Rodriguez, Jr., on behalf of Pacific Properties, entered into a Residential Lease-Rental Agreement and Deposit Receipt with tenants for the Santa Cruz Property.

The acts and/or omissions of Oscar M. Rodriguez, Jr. set forth in Paragraphs 9 through 12, above, constitute violations of Section 10130 of the Code (Unlicensed Activities).

The acts and/or omissions of DUNCAN set forth in Paragraphs 9 through 12, above, constitute violations of Section 10137 of the Code (Hiring Unlicensed Individual) and are grounds for the suspension or revocation of DUNCAN's license under Section 10137, 10177(d) (Intentional Violation of Real Estate Law and 10177(g) (Negligence or Incompetence) 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 Bureau, 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.

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 Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the reasonable cost of investigation and litigation of this case, including agency attorney's fees 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 10th day of September, 2013.