

FILED

March 3, 2014

BUREAU OF REAL ESTATE

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By _____

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BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

A B PROPERTY MANAGEMENT, INC.
and THOMAS DALE BRAMMEL,

Respondents.

No. H-11659 SF

ACCUSATION

The Complainant, ROBIN S. TANNER, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against A B PROPERTY MANAGEMENT, INC. and THOMAS DALE BRAMMEL (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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2 At all times prior to June 18, 2013, and after October 1, 2013, Respondent A B
3 PROPERTY MANAGEMENT, INC. (ABPM) was and is licensed by the State of California
4 Bureau of Real Estate (Bureau) as a real estate broker corporation.

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6 At all times mentioned, Respondent THOMAS DALE BRAMMEL (BRAMMEL)
7 was and is licensed by the Bureau individually as a real estate broker, and as the designated
8 broker officer of ABPM. As said designated officer-broker, BRAMMEL was responsible
9 pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers,
10 agents, real estate licensees, and employees of ABPM for which a license is required.

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

17 6

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

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FIRST CAUSE OF ACTION

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Each and every allegation in Paragraphs 1 through 6, inclusive, is incorporated by this reference as if fully set forth herein.

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On or about October 10, 2013, and continuing intermittently through December 3, 2013, an audit was conducted of the records of ABPM. The auditor herein examined the records for the period of October 1, 2012, through September 30, 2013.

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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:	Tri-Valley Bank 1756 First Street Livermore, CA 94550
Account No.:	XXXX1227
Entitled:	A B Property Management Inc (Trust Account)

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ACCOUNT #2	
Bank Name and Location:	Tri-Valley Bank 1756 First Street Livermore, CA 94550
Account No.:	XXXX1298
Entitled:	A B Property Management Inc (Trust Account – Suspense Account)

ACCOUNT #3	
Bank Name and Location:	Tri-Valley Bank 1756 First Street Livermore, CA 94550
Account No.:	XXXX4105
Entitled:	A B Property Management Inc (Trust Account – Rent 4 America)

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

(a) caused, suffered, or permitted the balance of funds in Account #1 to be reduced to an amount which, as of September 30, 2013, was approximately \$364,271.34 less than the aggregate liability of Account #1 to all owners of such funds in violation of Section 10145 of the Code and Section 2832.1 of Title 10 of the California Code of Regulations (Regulations);

(b) failed to deposit collected trust funds into a trust account within three business days in conformance with Section 10145 of the Code and Section 2832 of the Regulations;

(c) caused, permitted, and/or allowed, the possible withdrawal of trust funds from Account #1 by a person who was not licensed by the Bureau and not covered by a fidelity bond in violation of Section 2834 of the Regulations;

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1 (d) failed to maintain a written control record of all trust funds received and
2 disbursed for Account #1, containing all information as required by Section 2831 of the
3 Regulations; and,

4 (e) failed to reconcile the balance of separate beneficiary or transaction
5 records with the control record of trust funds received and disbursed at least once a month, and/or
6 failed to maintain a record of such reconciliations for each account as required by Section 2831.2
7 of the Regulations.

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9 In connection with the operation and conduct of the activities and transactions
10 described in Paragraph 6, Respondents:

11 (a) employed real estate salespersons, including but not limited to Nancy W.
12 Bramell, to engage in activities requiring a real estate salesperson license without first entering
13 into the broker-salesperson relationship agreement with such salespersons in conformance with
14 Section 2726 of the Regulations; and,

15 (b) failed to disclose ABPM's corporate broker license identification number
16 on its website, www.abpropertymgmt.com, in violation of Section 2773 of the Regulations and
17 Section 10140.6 of the Code.

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19 Respondents permitted and/or caused the disbursement of trust funds to
20 contractors and vendors, but charged the accounts of owners amounts which exceeded the actual
21 cost of the services performed by the vendors and contractors. Respondents made either no
22 disclosure or inadequate disclosure of these "mark-ups" to the beneficiaries of said trust funds,
23 did not obtain their informed consent to these "mark-ups", and pocketed the difference between
24 the amounts paid and the actual cost of the services. Respondents' acts and omissions constitute
25 fraud or dishonest dealing, and the taking of a secret profit, and are cause for discipline under
26 Sections 10176(g) and 10176(i) of the Code.

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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 10145 of the Code and Section 2832.1 of the Regulations;

(2) As to Paragraph 11(b), under Section 10177(d) of the Code in conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

(3) As to Paragraph 11(c), under Section 10177(d) of the Code in conjunction with Section 2834 of the Regulations;

(4) As to Paragraph 11(d), under Section 10177(d) of the Code in conjunction with Section 2831 of the Regulations;

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

(6) As to Paragraph 12(a), under Section 10177(d) of the Code in conjunction with 2726 of the Regulations;

(7) As to Paragraph 12(b), under Section 10177(d) of the Code in conjunction with Section 10140.6 of the Code and Section 2773 of the Regulations; and,

(8) As to Paragraph 13, under Sections 10176(g) and/or 10176(i) of the Code.

SECOND CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 14, inclusive, is incorporated by this reference as if fully set forth herein.

Between October 8, 2012, and December 19, 2012, Respondents willfully caused, suffered, permitted, and/or disregarded the real estate law by allowing ABPM to

1 perform the acts and conduct the real estate activities described in Paragraph 6, including but
2 not limited to, the activities described in Paragraph 17.

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4 Between June 18, 2013, and September 30, 2013, in the course of the employment
5 and activities described in Paragraph 6, ABPM solicited prospective tenants for, negotiated rental
6 agreements for, and/or collected rents from real properties owned by another or others, including
7 but not limited to, the management of 174 residential properties with 205 units and two
8 apartment complexes with 97 units.

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10 In acting as described in the Second Cause of Action, Respondents willfully
11 caused, suffered, and/or permitted ABPM to willfully disregard Section 10130 of the Code.

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13 The facts alleged in the Second Cause of Accusation are grounds for the
14 suspension or revocation of Respondents' licenses and license rights pursuant to Section 10130
15 of the Code in conjunction with Section 10177(d) and/or 10177(g) of the Code.

16 THIRD CAUSE OF ACTION

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18 Each and every allegation in Paragraphs 1 through 19, inclusive, is incorporated
19 by this reference as if fully set forth herein.

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21 Respondent BRAMELL failed to exercise reasonable supervision over the acts of
22 ABPM in such a manner as to allow the acts and events described above to occur.

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24 The acts and/or omissions of ABPM described in Paragraph 21 constitute failure
25 on the part of BRAMELL, as designated broker-officer for ABPM, to exercise reasonable
26 supervision and control over the licensed activities of ABPM as required by Section 10159.2 of
27 the Code.

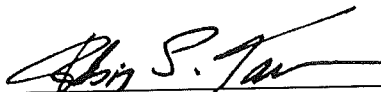
The facts described above as to the Third Cause of Action constitute cause for the suspension or revocation of the licenses and license rights of Respondent BRAMELL under Section 10177(g) and/or Section 10177(h) of the Code, and Section 10159.2 of the Code in conjunction with Section 10177(d) of the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

COST RECOVERY

The acts and/or omissions of Respondents as alleged above, entitle the Bureau to reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund handling violation) 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 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 27th day of February, 2014

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DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Bureau 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 Bureau 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.