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BUREAU OF REAL ESTATE

By S. Black

7
8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:)

NO. H-11812 SF

12 FERDINAND MANGABAT PIANO)

ACCUSATION

13 Respondent.)

14
15 The Complainant, ROBIN S. TANNER, acting in her official capacity as a
16 Deputy Real Estate Commissioner of the State of California, for cause of Accusation against
17 FERDINAND MANGABAT PIANO ("Respondent"), is informed and alleges as follows:

18 1.

19 Respondent is presently licensed and/or had license rights under the Real Estate
20 Law, Part 1 of Division 4 of the Code (herein "the Real Estate Law") has an individual real
21 estate broker.

22 2.

23 At all times herein mentioned, Respondent engaged in the business of,
24 acted in the capacity of, advertised, or assumed to act as an individual real estate broker within
25 the State of California on behalf of others, for compensation or in expectation of compensation
26 within the meaning of Section 10131(b) of the Code, including the operation and conduct of a
27 property management business with the public wherein, on behalf of others, for compensation,

1 leased or rented or offered to lease or rent, or placed for rent, or solicited listings of places for
2 rent, or solicited for prospective tenants, or negotiated for sale, purchase or exchanges of leases
3 on real property, or on a business opportunity, or collected rent from real property, or
4 improvements thereon, or from business opportunities.

5 AUDIT VIOLATIONS

6 3.

7 Each and every allegation contained above in Paragraphs 1 and 2, inclusive, are
8 incorporated by this reference as if fully set forth herein.

9 4.

10 Beginning on April 16, 2014 and continuing intermittently through May 13,
11 2014, the California Bureau of Real Estate ("the Bureau") conducted an audit of the books and
12 records related to the real estate activities of Respondent at Respondent's main office located at
13 1199 De Haro Street, San Francisco, CA 94107, where the auditor examined records for the
14 period of February 1, 2012 to March 31, 2014 ("audit period").

15 5.

16 While doing business within the audit period, Respondent accepted or received
17 funds in trust ("trust funds") from or on behalf of owners and tenants in connection with the
18 leasing, renting, and collection of rents on real property or improvements thereon, as alleged
19 herein, and thereafter from time to time made disbursements of said trust funds.

20 6.

21 The trust funds accepted or received by Respondent, as described above in
22 Paragraph 5, were deposited or caused to be deposited by Respondent into trust accounts which
23 were maintained by Respondent for the handling of trust funds, and thereafter from time-to-time
24 Respondent made disbursements of said trust funds, identified as follows:

25 ///

26 ///

27 ///

BANK ACCOUNT #1	
Bank Name and Location:	Wells Fargo, P.O. Box 6995 Portland, OR 97228-6995
Account No.:	XXXXXX0963
Entitled:	Ferdinand M. Piano dba Golden Gate Properties
Signatories:	Ferdinand M. Piano (REB)
No. of Signatures Required:	One

BANK ACCOUNT #2	
Bank Name and Location:	Wells Fargo, P.O. Box 6995 Portland, OR 97228-6995
Account No.:	XXXXXX6763
Entitled:	Ferdinand M. Piano dba Golden Gate Properties
Signatories:	Ferdinand M. Piano (REB)
No. of Signatures Required:	One

7.

In the course of the activities described above in Paragraph 2, in connection with the collection and disbursement of trust funds, Respondent:

(a) caused, suffered, or permitted the balance of funds in Bank Account #1 to be reduced to an amount which, as of March 31, 2014, was approximately \$14,843.15 less than the aggregate liability of Bank Account #1 to all owners of such funds, without the prior written consent of each and every owner of such funds, in violation of section 10145 (trust fund handling) of the Code and section 2832.1 (written authorization of all beneficiaries required to reduce funds to below liability) of title 10 of the California Code of Regulations ("the Regulations");

(b) caused, suffered, or permitted the balance of funds in Bank Account #2 to be reduced to an amount which, as of March 31, 2014, was approximately \$3,929.11 less than the aggregate liability of Bank Account #2 to all owners of such funds, without the prior written consent of each and every owner of such funds, in violation of section 10145 (trust fund handling) of the Code and section 2832.1 (written authorization of all beneficiaries required to reduce funds to below liability) of the Regulations;

(c) failed to ensure that the funds in Bank Account #1 were kept separate, distinct, and apart from funds belonging to Respondent or any other person for whom the broker holds funds in trust, in violation of section 10145(d) (trust fund handling) of the Code;

1 (d) failed to ensure that the funds in Bank Account #2 were kept separate,
2 distinct, and apart from funds belonging to Respondent or any other person for whom the broker
3 holds funds in trust, in violation of section 10145(d) (trust fund handling) of the Code;

4 (e) failed to reconcile at least once per month, the balance of all separate
5 beneficiary or transaction records to the balance of the control records for Bank Account #1, in
6 violation of section 2831.2 (monthly trust account reconciliation) of the Regulations;

7 (f) failed to reconcile at least once per month, the balance of all separate
8 beneficiary or transaction records to the balance of the control records for Bank Account #2, in
9 violation of section 2831.2 (monthly trust account reconciliation) of the Regulations;

10 (g) failed to properly designate Bank Account #1 as a trust account in the
11 name of Respondent or his fictitious business name, as trustee, in violation of section 10145
12 (trust fund handling) of the Code and section 2832 (trust fund handling) of the Regulations;

13 (h) failed to properly designate Bank Account #2 as a trust account in the
14 name of Respondent or his fictitious business name, as trustee, in violation of section 10145
15 (trust fund handling) of the Code and section 2832 (trust fund handling) of the Regulations;

16 8.

17 The acts and/or omissions of Respondent, as alleged in Paragraph 7, above,
18 constitute grounds for the suspension or revocation of all licenses and license rights of
19 Respondent pursuant to the following provisions of the Code and Regulations:

20 As to Paragraph 7(a), under section 10177(d) and/or 10177(g) of the Code, in
21 conjunction with section 10145 of the Code and section 2832.1 of the Regulations;

22 As to Paragraph 7(b), under section 10177(d) and/or 10177(g) of the Code, in
23 conjunction with section 10145 of the Code and section 2832.1 of the Regulations;

24 As to Paragraph 7(c), under section 10177(d) and/or 10177(g) of the Code, in
25 conjunction with section 10145(d) of the Code;

26 As to Paragraph 7(d), under section 10177(d) and/or 10177(g) of the Code, in
27 conjunction with section 10145(d) of the Code;

1 As to Paragraph 7(e), under section 10177(d) and/or 10177(g) of the Code, in
2 conjunction with section 2831.2 of the Regulations;

3 As to Paragraph 7(f), under Section 10177(d) and/or 10177(g) of the Code, in
4 conjunction with section 2831.2 of the Regulations;

5 As to Paragraph 7(g), under section 10177(d) and/or 10177(g) of the Code, in
6 conjunction with section 10145 of the Code and section 2832 of the Regulations;

7 As to Paragraph 7(h), under section 10177(d) and/or 10177(g) of the Code, in
8 conjunction with section 10145 of the Code and section 2832 of the Regulations;

9 9.

10 The acts and/or omissions of Respondent, as alleged above in Paragraphs 7 and
11 8, entitle the Bureau to reimbursement of the costs of its audit pursuant to section 10148(b) of
12 the Code.

13 10.

14 COST RECOVERY

15 Section 10106 of the Code provides, in pertinent part, that in any order issued in
16 resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the
17 Administrative Law Judge to direct a licensee found to have committed a violation of this part to
18 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

19 WHEREFORE, Complainant prays that a hearing be conducted on the
20 allegations of this Accusation and that upon proof thereof, a decision be rendered revoking all
21 licenses and license rights of Respondent under the Real Estate Law (Part 1 of Division 4 of
22 the Business and Professions Code), for the cost of investigation and enforcement as permitted
23 by law, and for such other and further relief as may be proper under other provisions of law.

24 
25 ROBIN S. TANNER
26 Deputy Real Estate Commissioner

27 Dated at Oakland, California,
this 30th day of January, 2015.

DISCOVERY DEMAND

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