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**FILED**

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BUREAU OF REAL ESTATE  
By B. Nicholas

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

12 WILLIAM JOSEPH KELLEY, JR. )

13 Respondent. )  
14 )

No. H- 11996 SF

ACCUSATION

15 The Complainant, ROBIN S. TANNER, a Supervising Special Investigator of the  
16 State of California, for Accusation against Respondent WILLIAM JOSEPH KELLEY, JR.  
17 (KELLEY), is informed and alleges as follows:

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

21 2

22 KELLEY is presently licensed and/or has license rights under the Real Estate  
23 Law, Part 1 of Division 4 of the California Business and Professions Code (Code) by the Bureau  
24 of Real Estate (Bureau) as a real estate broker.

25 3

26 At all times herein mentioned, KELLEY engaged in the business of, acted in the  
27 capacity of, advertised, or assumed to act as a real estate broker within the State of California

1 within the meaning of Section 10131(b) of the Code, including the operation and conduct of a  
2 property management business with the public wherein, on behalf of others, for compensation or  
3 in expectation of compensation, KELLEY leased or rented or offered to lease or rent, or placed  
4 for rent, or solicited listings of places for rent or solicited for prospective tenants, or negotiated  
5 the sale, purchase or exchange of leases on real property, or on a business opportunity, or  
6 collected rents from tenants.

7 FIRST CAUSE OF ACTION

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9 Complainant refers to Paragraphs 1 through 3, above, and incorporates the same  
10 herein by reference.

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12 Beginning on December 4, 2015, and continuing intermittently through May 5,  
13 2016, an audit was conducted at KELLEY's main office located at 489 S. Main Street,  
14 Sebastopol, California, and at the Bureau's district office located at 1515 Clay Street, Suite 702,  
15 Oakland, California, where the auditor examined records for the period of October 1, 2013,  
16 through November 30, 2015 (the audit period).

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18 While acting as a real estate broker as described in Paragraph 3, above, and  
19 within the audit period, KELLEY accepted or received funds in trust (trust funds) from or on  
20 behalf of property owners, and deposited or caused to be deposited those funds into bank  
21 accounts maintained by KELLEY, in Westamerica Bank, 105 N. Main Street, Sebastopol,  
22 California, as described below:

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BANK ACCOUNT #1	
Account No.:	XXXXX2660
Entitled:	Kelley Rentals Property Management, Inc.

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BANK ACCOUNT #2	
Account No.:	XXXXXX2686
Entitled:	Kelley Rentals Property Management, Inc.

and thereafter from time-to-time made disbursement of said trust funds.

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In the course of the activities described in Paragraph 6, in connection with the collection and disbursement of trust funds, it was determined that:

- (a) KELLEY failed to designate Bank Account #1 and Bank Account #2 as trust accounts as required by Section 2832 of Chapter 6, Title 10, California Code of Regulations (Regulations);
- (b) during an accountability performed on Bank Account #1, and as of October 30, 2015, a shortage of \$8,223.28 was revealed, in violation of Section 10145 of the Code;
- (c) during an accountability performed on Bank Account #2, and as of October 30, 2015, a shortage of \$14,817.51 was revealed, in violation of Section 10145 of the Code;
- (d) KELLEY failed to obtain written permission from owners of trust funds in Bank Account #1 and Bank Account #2 to allow the balance to drop below accountability, in violation of Section 2832.1 of the Regulations;
- (e) KELLEY failed to deposit security deposits from tenants into a trust account within 3 days as required by Section 2832 of the Regulations and Section 10145 of the Code; and
- (f) KELLEY failed to have a Broker-Salesperson Relationship Agreement in place as required by Section 2726 of the Regulations.

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The acts and/or omissions described above constitute violations of Sections 2726 (broker-salesperson agreement), 2832 (trust fund handling) and 2832.1 (written permission

1 balance below accountability) of the Regulations, and of Section 10145 (trust fund handling) of  
2 the Code, and are grounds for discipline under Sections 10177(d) (willful disregard of real estate  
3 laws) and 10177(g) (negligence/incompetence licensee) of the Code.

4 SECOND CAUSE OF ACTION

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6 Complainant refers to Paragraphs 1 through 8, above, and incorporates the same  
7 herein, by reference.

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9 Beginning on February 1, 2011, KELLEY entered into a property management  
10 agreement with Katherine M. for certain real property commonly known as 2314 Derringer  
11 Court, Sebastopol, California (Derringer Property).

12 11

13 The property agreement mentioned in Paragraph 9, above, provided, among other  
14 things, that repairs that exceeded \$1.00 required owner's authorization. Invoices for the  
15 Derringer Property for November 2013 amounted to \$7,466.44. Katherine M. did not give  
16 approval for any of the November 2013 repairs.

17 12

18 KELLEY failed to pay the April 2014 mortgage payment on behalf of the owner  
19 on the Derringer Property, but did disburse \$1,700.00 to himself as reimbursement for repairs to  
20 that property.

21 13

22 The acts and/or omissions referred to in Paragraphs 9 through 12, above,  
23 constitute violations of Section 10176(i) (conduct: fraud/dishonest dealing) of the Code and are  
24 grounds for the suspension or revocation of Respondent's license pursuant to Sections 10176(i),  
25 10177(d) and 10177(g) of the Code.

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1 THIRD CAUSE OF ACTION

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3 Complainant refers to Paragraphs 1 through 13, above, and incorporates the same  
4 herein, by reference.

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6 At all times mentioned herein, Kelley Rentals Property Management, Inc., a  
7 California corporation, was not licensed by the Bureau as a corporate real estate broker.

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9 On or about October 30, 2015, KELLEY entered into a Property Management  
10 Agreement under the name "Kelley Rentals Property Management, Inc." for that certain real  
11 property commonly known as 3218 Hidden Valley Drive, Santa Rosa, California.

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13 On or about October 27, 2015, KELLEY entered into a Property Management  
14 Agreement under the name "Kelley Rentals Property Management, Inc." for that certain real  
15 property commonly known as 2279 Claiborne Circle, Santa Rosa, California.

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17 On or about November 30, 2015, KELLEY entered into a Property Management  
18 Agreement under the name "Kelley Rentals Property Management, Inc." for that certain real  
19 property commonly known as 2916 Park Meadow Drive, Santa Rosa, California.

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21 The acts and/or omissions referred to in Paragraphs 14 through 18, above,  
22 constitute violations of Section 10130 (unlicensed activity) of the Code and are grounds for the  
23 suspension or revocation of Respondent's license pursuant to Sections 10177(d) and 10177(g) of  
24 the Code.

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COSTS

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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 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), and for such other and further relief as may be proper under other provisions of law.



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ROBIN S. TANNER  
Supervising Special Investigator

Dated at Oakland, California,  
this 23<sup>rd</sup> day of August, 2016.