

1 JASON D. LAZARK, Counsel
2 State Bar No. 263714
3 Bureau of Real Estate
4 P.O. Box 137007
5 Sacramento, CA 95813-7007

6 Telephone: (916) 263-6070
7 (916) 263-8684 (Direct)

FILED

AUG 17 2017

BUREAU OF REAL ESTATE

By H. Diaz

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:)

12 ANNE ELIZABETH OLIVA,)

13 Respondent.)

No. H-12043 SF

ACCUSATION

14 The Complainant, ROBIN S. TANNER, acting in her official capacity as a
15 Supervising Special Investigator of the State of California, for cause of Accusation against
16 ANNE ELIZABETH OLIVA ("Respondent"), is informed and alleges as follows:

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18 At all times mentioned herein, Respondent was and is licensed by the State of
19 California Bureau of Real Estate ("Bureau") under the Real Estate Law, Part 1 of Division 4 of
20 the Business and Professions Code ("Code") as a real estate broker.

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22 At all times mentioned, Respondent engaged in the business of, acted in the
23 capacity of, advertised, or assumed to act as a real estate broker within the State of California
24 within the meaning of Section 10131(b) of the Code, including the operation and conduct of a
25 property management business with the public wherein, on behalf of others, for compensation or
26 in expectation of compensation, Respondent leased or rented and offered to lease or rent, and
27 solicited for prospective tenants of real property or improvements thereon, and collected rents

1 from real property or improvements thereon.

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3 Beginning on or about September 14, 2016, and continuing intermittently through
4 September 16, 2016, an audit was conducted of Respondent's records. The auditor examined the
5 records for the period of January 1, 2015, through August 31, 2016.

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7 While acting as a real estate licensee, as described above in Paragraph 2,
8 Respondent accepted or received funds in trust (trust funds) from or on behalf of owners and
9 tenants in connection with the leasing, renting, and collection of rents on real property or
10 improvements thereon, as alleged herein, and thereafter from time-to-time made disbursements
11 of said trust funds.

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13 The trust funds accepted or received by Respondent, as described above in
14 Paragraph 4, were deposited or caused to be deposited by Respondent into a bank account which
15 was maintained by Respondent for the handling of trust funds, and thereafter from time-to-time
16 Respondent made disbursements of said trust funds, from the following bank account:

17 Bank Account #1

18 Bank Name: First National Bank of Northern California
19 Account No.: Last 4 Digits: xxx8216
20 Account Name: "Anne E Oliva DBA Marshall Realty"
21 Signatories: Anne Elizabeth Oliva (REB)
22 Purpose: Used for handling trust funds from property management
23 activities.

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Respondent also maintained the following bank account for business activities:
Bank Account #2

Bank Name: First National Bank of Northern California
Account No.: Last 4 Digits: xxx5365
Account Name: "Anne E Oliva DBA Marshall Realty"
Signatories: Anne Elizabeth Oliva (REB)
Purpose: Business Account

In the course of the activities described in Paragraph 2, Respondent:

(a) caused, suffered or permitted the balance of funds in Bank Account #1 to contain a shortage of \$118,334.58 as of July 31, 2016, without the prior written consent of each and every owner of such funds, in violation of Section 10145 of the Code and Section 2832.1 of Chapter 6, Title 10, California code of Regulations (herein "the Regulations");

(b) caused, suffered or permitted the balance of funds in Bank Account #1 to contain a shortage of \$285.03 as of August 31, 2016, without the prior written consent of each and every owner of such funds, in violation of Section 10145 of the Code and Section 2832.1 of the Regulations;

(c) caused four disbursements during the audit period totaling \$112,000.00 from Bank Account #1 (trust account) into Bank Account #2 (business account) in order to bring Bank Account #2 positive on four separate occasions. Such acts constituted fraud or dishonesty perpetrated against the beneficiaries of the trust funds held in Bank Account #1, in violation of Section 10176(i) of the Code;

(d) failed to properly designate Bank Account #1 as a trust account in the name of Respondent and/or a fictitious business name associated with Respondent, as trustee, in violation of Section 10145 of the Code and Section 2832 of the Regulations;

(e) failed to maintain separate records for each beneficiary or property of trust funds accepted or received for Bank Account #1, in violation of Section 10145(g) of the Code and Section 2831.1 of the Regulations;

1 (f) failed to reconcile at least once a month, the balance of all separate
2 beneficiary or transaction records with the balance of the control records for Bank Account #1, in
3 violation of Section 10145 of the Code and Section 2831.2 of the Regulations;

4 (g) conducted real estate activities using the fictitious business name
5 "Marshall Realty" without first registering this fictitious business name with the Bureau, as
6 required by Section 10159.5 of the Code and Section 2731 of the Regulations; and

7 (h) caused, suffered or permitted funds of others which were received and
8 held by Respondent to be commingled with Respondent's own money, in violation of Section
9 10176(e) of the Code and Section 2835 of the Regulations.

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

14 As to Paragraph 7(a), under Section 10177(d) of the Code, in conjunction with
15 Sections 10145 of the Code and Section 2832.1 of the Regulations;

16 As to Paragraph 7(b), under Section 10177(d) of the Code, in conjunction with
17 Sections 10145 of the Code and Section 2832.1 of the Regulations;

18 As to Paragraph 7(c), under Section 10176(i) of the Code and Section 10177(d)
19 and/or 10177(g) of the Code, in conjunction with Section 10145 of the Code and Section 2832.1
20 of the Regulations;

21 As to Paragraph 7(d), under Section 10177(d) of the Code, in conjunction with
22 Section 10145 of the Code and Section 2832 of the Regulations;

23 As to Paragraph 7(e), under Section 10177(d) of the Code, in conjunction with
24 Section 10145(g) of the Code and Section 2831.1 of the Regulations;

25 As to Paragraph 7(f), under Section 10177(d) of the Code, in conjunction with
26 Section 10145 of the Code and Section 2831.2 of the Regulations;

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1 As to Paragraph 7(g), under Section 10177(d) of the Code, in conjunction with
2 Section 10159.5 of the Code and Section 2731 of the Regulations; and

3 As to Paragraph 7(h), under Section 10176(e) of the Code, in conjunction with
4 Section 2835 of the Regulations.

5 COST RECOVERY

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

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

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

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22 ROBIN S. TANNER
23 Supervising Special Investigator

24 Dated at Oakland, California,

25 this 16th day of August, 2017

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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.

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