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FILED

JAN 31 2017

BUREAU OF REAL ESTATE

By B. Nicholas

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)

RALPH ARNOLD ACCOLA JR.,)

Respondent.)

No. H-12051 SF

ACCUSATION

15 The Complainant, ROBIN S. TANNER, a Supervising Special Investigator of the
16 State of California, for cause of Accusation against RALPH ARNOLD ACCOLA JR.

17 (Respondent), is informed and alleges as follows:

18 PRELIMINARY ALLEGATIONS

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20 The Complainant, ROBIN S. TANNER, a Supervising Special Investigator of
21 the State of California, makes this Accusation in her official capacity.

22 2

23 Respondent is presently licensed and/or has license rights under the Real Estate
24 Law, Part 1 of Division 4 of the Business and Professions Code (Code).

25 3

26 At all times mentioned, Respondent was and is licensed by the Bureau
27 individually as a real estate broker.

1 4

2 At no times mentioned was MRAKA Compass Realty, Inc. (MCRI) licensed by
3 the Bureau as a real estate broker corporation.

4 5

5 At all times mentioned, Respondent 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 in the operation and conduct of a property
8 management business with the public wherein, on behalf of others, for compensation or in
9 expectation of compensation, Respondent leased or rented and offered to lease or rent, and
10 placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of
11 real property or improvements thereon, and collected rents from real property or improvements
12 thereon.

13 6

14 On or about May 19, 2016, and continuing intermittently through
15 September 22, 2016, an audit was conducted of the records of Respondent. The auditor herein
16 examined the records for the period of January 1, 2015, through April 30, 2016.

17 FIRST CAUSE OF ACTION

18 7

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

21 8

22 While acting as a real estate broker as described in Paragraph 5, Respondent
23 accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in
24 connection with the leasing, renting, and collection of rents on real property or improvements
25 thereon, as alleged herein, and thereafter from time-to-time made disbursements of said trust
26 funds.

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The trust funds accepted or received by Respondent as described in Paragraph 8 were deposited or caused to be deposited by Respondent into trust accounts which were maintained by Respondent for the handling of trust funds, and thereafter from time-to-time Respondent made disbursements of said trust funds, identified as follows:

ACCOUNT # 1	
Bank Name and Location:	Liberty Bank P.O. Box 431
Account No.:	XXX1574
Entitled:	MRAKA Compass Realty Inc.

In the course of the activities described in Paragraph 5, Respondent:

(a) caused, suffered, or permitted the balance of funds in Account #1 to be reduced to an amount which, as of February 29, 2016, was approximately \$1,228,635.10 less and as of April 30, 2016, was approximately \$217,575.22 less than the aggregate liability of Account #1 to all owners of such funds in violation of Sections 10176(i) and 10145 of the Code and Section 2832.1 of Title 10 of the California Code of Regulations (Regulations);

(b) failed to reconcile the balance of separate beneficiary or transaction records with the control record of trust funds received and disbursed at least once a month, and/or failed to maintain a record of such reconciliations for Account #1, as required by Section 2831.2 of the Regulations;

(c) failed to maintain accurate an columnar record in chronological sequence of all trust funds received and disbursed from Account #1 containing all required information, in violation of Section 2831 of the Regulations;

(d) failed to keep accurate separate records for each beneficiary or transaction, accounting therein for all funds which were deposited into Account #1 containing all of the information required by Section 2831.1 of the Regulations; and

1 (e) failed to deposit trust funds into a trust fund account in the name of
2 Respondent as trustee at a bank or other financial institution, in conformance with Section 10145
3 of the Code and Section 2832 of the Regulations.

4 11

5 The facts alleged in the First Cause of Action are grounds for the suspension or
6 revocation of Respondent's license and license rights under the following sections of the Code
7 and Regulations:

8 As to Paragraph 10(a), under Sections 10176(i), 10177(d) and/or 10177(g) of the
9 Code in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

10 As to Paragraph 10(b), under Sections 10177(d) and/or 10177(g) of the Code in
11 conjunction with Section 2831.2 of the Regulations;

12 As to Paragraph 10(c), under Sections 10177(d) and/or 10177(g) of the Code in
13 conjunction with Section 2831 of the Regulations;

14 As to Paragraph 10(d), under Sections 10177(d) and/or 10177(g) of the Code in
15 conjunction with Section 2831.1 of the Regulations; and

16 As to Paragraph 10(e), under Sections 10177(d) and/or 10177(g) of the Code in
17 conjunction with Section 2832 of the Regulations and Section 10145 of the Code.

18 SECOND CAUSE OF ACTION

19 12

20 Each and every allegation in Paragraphs 1 through 11, inclusive, above, are
21 incorporated by this reference as if fully set forth herein.

22 13

23 Within the last three years, Respondent willfully caused, suffered, permitted,
24 and/or disregarded the real estate law by allowing MCRI to perform the acts and conduct the
25 real estate activities described in Paragraph 5, above, including but not limited to the activities
26 described in Paragraph 14, below.

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2 Within the last three years, in the course of the employment and activities
3 described in Paragraph 13, above, Respondent, on behalf of MCRI, solicited prospective tenants
4 for, negotiated rental agreements for, and/or collected rents from real properties owned by
5 another or others, including but not limited to 330 single-family residential properties for
6 approximately 229 property owners.

7
8 In acting as described above, Respondent willfully caused, suffered, and/or
9 permitted, MCRI to willfully disregard Section 10130 of the Code.
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11 The facts alleged in the Second Cause of Action are grounds for the suspension
12 or revocation of Respondent's licenses and license rights pursuant to Section 10130 of the Code
13 in conjunction with Sections 10177(d) and/or 10177(g) of the Code.
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15 COST RECOVERY

16 The acts and/or omissions of Respondent as alleged above, entitle the Bureau to
17 reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund
18 handling violation) of the Code.
19

20 Section 10106 of the Code provides, in pertinent part, that in any order issued in
21 resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the
22 Administrative Law Judge to direct a licensee found to have committed a violation of this part to
23 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.
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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all licenses and license rights of Respondent under the Code, for the cost of
4 investigation and enforcement as permitted by law, for the cost of the audit, and for such other
5 and further relief as may be proper under other provisions of law.

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8 ROBIN S. TANNER
 Supervising Special Investigator

9 Dated at Oakland, California,
10 this 26th day of January, 2017.

11 DISCOVERY DEMAND

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