

1 JASON D. LAZARK, Counsel (SBN 263714)  
2 Bureau of Real Estate  
3 P. O. Box 137007  
4 Sacramento, CA 95813-7007

5 Telephone: (916) 263-8670  
6 (916) 263-8684 (Direct)

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BUREAU OF REAL ESTATE  
By H. [Signature]

7  
8 BEFORE THE BUREAU OF REAL ESTATE  
9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of: ) NO. H-12094 SF  
12 )  
13 GIANT PROPERTIES INC. )  
14 and MARK WILLIAM DAWSON, ) ACCUSATION  
15 Respondents. )

16 The Complainant, ROBIN S. TANNER, in her official capacity as a Supervising  
17 Special Investigator of the State of California, for cause of Accusation against GIANT  
18 PROPERTIES INC. ("GIANT PROPERTIES"), and MARK WILLIAM DAWSON ("DAWSON"),  
19 (collectively referred to as "Respondents"), is informed and alleges as follows:

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21 Respondent GIANT PROPERTIES is presently licensed by the California Bureau  
22 of Real Estate ("the Bureau") and/or has license rights under the Real Estate Law, Part 1 of  
23 Division 4 of the California Business and Professions Code ("the Code"), as a corporate real estate  
24 broker. GIANT PROPERTIES was initially licensed from October 26, 2011, to October 25, 2015.  
25 From October 26, 2015, to February 9, 2016, GIANT PROPERTIES was not licensed. On  
26 February 10, 2016, GIANT PROPERTIES was relicensed. GIANT PROPERTIES' license will  
27 expire on or about February 9, 2020, unless it is revoked or renewed beforehand.

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2 DAWSON is presently licensed and/or has license rights under the Real Estate Law,  
3 Part 1 of Division 4 of the Code ("the Real Estate Law") as an individual real estate broker and, at  
4 all relevant times, was the designated broker officer of GIANT PROPERTIES.

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6 Whenever reference is made in an allegation in this Accusation to an act or omission  
7 of GIANT PROPERTIES, such allegation shall be deemed to mean that the employees, agents, real  
8 estate licensees, and others employed by or associated with GIANT PROPERTIES committed such  
9 act or omission while engaged in furtherance of the business or operations of GIANT  
10 PROPERTIES and while acting within the course and scope of their authority and employment.

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12 At all times herein mentioned, Respondents engaged in the business of, acted in the  
13 capacity of, advertised, or assumed to act as a corporate real estate broker within the State of  
14 California on behalf of others, for compensation or in expectation of compensation within the  
15 meaning of Section 10131(b) of the Code, including the operation and conduct of a property  
16 management business with the public wherein, on behalf of others, for compensation, leased or  
17 rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or  
18 solicited for prospective tenant, or negotiated for sale, purchase or exchanges of leases on real  
19 property, or on a business opportunity, or collected rent from real property, or improvements  
20 thereon, or from business opportunities.

21 COUNT ONE

22 AUDIT VIOLATIONS

23 (As to Respondents GIANT PROPERTIES and DAWSON)

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24 Each and every allegation in paragraphs 1 through 4, inclusive, above, is  
25 incorporated by this reference as if fully set forth herein.

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Beginning on or about February 11, 2016, and continuing intermittently through May 27, 2016, the Bureau conducted an audit of the books and records related to the real estate activities of Respondents at the main office of GIANT PROPERTIES located at 929 Sherman Ave., Ste. B, Novato, CA 94945. The auditor examined records for the period of February 1, 2015, to January 31, 2016 ("audit period").

While acting as real estate brokers as described above in paragraph 4, and within the audit period, Respondents accepted or received funds in trust ("trust funds") and deposited or caused the trust funds to be deposited into a bank account maintained by Respondents, and thereafter, from time-to-time, Respondents made disbursements of said trust funds, identified as follows:

Trust Account #1

Bank Name:	Umpqua Bank
Account No.:	Last 4 Digits: xxxxxx0829
Account Name:	Giant Properties, Inc. Trust Account
Signatories:	Mark William Dawson (REB)
Purpose:	Used to hold rents and security deposits, and for payment of owners' proceeds, management fees, and expenses related to properties managed by Giant Properties, Inc.

In the course of the real estate broker activities described above in paragraph 4, and during the audit period, Respondents:

- (a) failed to maintain complete and accurate records of all trust funds received and disbursed (control record) for Trust Account #1, in violation of Section 10145 of the Code, and Section 2831, Title 10, California Code of the Regulations ("the Regulations");
- (b) failed to maintain and/or keep accurate and complete separate records for each beneficiary or property of trust funds accepted or received in Trust Account #1, in violation of Section 10145(g) of the Code, and Section 2831.1 of the Regulations;

1 (c) performed real estate activities including negotiated property management  
2 agreements, and collected rents from tenants, during a period that GIANT PROPERTIES' license  
3 was expired, in violation of Section 10130 of the Code;

4 (d) caused or permitted funds of others which were received and held in Trust  
5 Account #1 to be commingled with Respondents' own money, in violation of Section 10176(e) of  
6 the Code;

7 (e) 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 Trust Account #1, in  
9 violation of Section 10145 of the Code, and Section 2831.2 of the Regulations;

10 (f) conducted real estate activities at 929 Sherman Ave., Ste. B, Novato, CA  
11 94945, without first procuring a real estate license for that office location, in violation of Section  
12 10162 of the Code, and Section 2715 of the Regulations; and

13 (g) failed to disclose GIANT PROPERTIES' license number on the  
14 corporation's website in violation of Section 10140.6(b) of the Code, and Section 2773 of the  
15 Regulations.

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17 The acts and/or omissions of Respondents as alleged above in paragraph 8, constitute  
18 grounds for the suspension or revocation of all licenses and license rights of Respondents pursuant  
19 to the following provisions of the Code and Regulations:

20 As to Paragraph 8(a), under Section 10177(d) and/or 10177(g) of the Code, in  
21 conjunction with Sections 10145 of the Code, and Section 2831 of the Regulations;

22 As to Paragraph 8(b), under Section 10177(d) and/or 10177(g) of the Code, in  
23 conjunction with Section 10145(g) of the Code, and Section 2831.1 of the Regulations;

24 As to Paragraph 8(c), under Section 10177(d) and/or 10177(g) of the Code, in  
25 conjunction with Section 10130 of the Code;

26 As to Paragraph 8(d), under Section 10177(d) and/or 10177(g) of the Code, in  
27 conjunction with Section 10176(e) of the Code;

1 As to Paragraph 8(e), under Section 10177(d) and/or 10177(g) of the Code, in  
2 conjunction with Section 10145 of the Code, and Section 2831.2 of the Regulations;

3 As to Paragraph 8(f), under Section 10177(d) and/or 10177(g) of the Code, in  
4 conjunction with Section 10162 of the Code, and Section 2715 of the Regulations; and

5 As to Paragraph 8(g), under Section 10177(d) and/or 10177(g) of the Code, in  
6 conjunction with Section 10140.6(b) of the Code, and Section 2773 of the Regulations.

7 **COUNT TWO**  
8 **FAILURE TO SUPERVISE**  
9 (As to Respondent DAWSON)

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11 Each and every allegation in Paragraphs 1 through 9, inclusive, above, is  
12 incorporated by this reference as if fully set forth herein.

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14 DAWSON, as the designated officer of GIANT PROPERTIES, was required to  
15 exercise reasonable supervision and control over the activities of GIANT PROPERTIES, its  
16 employees, and the real estate activities being conducted by GIANT PROPERTIES.

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18 DAWSON failed to exercise reasonable supervision over the acts and/or omissions  
19 of GIANT PROPERTIES and its employees, in such a manner as to allow the acts and/or omissions  
20 as described above in Paragraph 8 of the First Cause of Action to occur, which constitutes cause for  
21 the suspension or revocation of the license(s) and license rights of DAWSON under Sections  
22 10177(d) and/or 10177(g), 10177(h) and 10159.2 of the Code, in conjunction with Section 2725 of  
23 the Regulations.

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1 COST RECOVERY

2 Audit Costs

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4 The acts and/or omissions of Respondents, as alleged above in the First Cause of  
5 Action, entitle the Bureau to reimbursement of the costs of its audit pursuant to Section 10148(b) of  
6 the Code.

7 Investigation and Enforcement Costs

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

13 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of  
14 this Accusation and that upon proof thereof, a decision be rendered revoking all licenses and license  
15 rights of all Respondents named herein under the Real Estate Law, for the cost of investigation and  
16 enforcement as permitted by law, for the cost of the audit as permitted by law, and for such other  
17 and further relief as may be proper under other provisions of law.

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19 ROBIN S. TANNER  
20 Supervising Special Investigator

21 Dated at Oakland, California,  
22 this 18<sup>th</sup> day of January, 2018.

23 DISCOVERY DEMAND

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