

JASON D. LAZARK, Counsel (SBN 263714)
Department of Real Estate
P. O. Box 137007
Sacramento, CA 95813-7007

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

FILED

SEP 12 2018

DEPARTMENT OF REAL ESTATE
By X. Krupp

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:	)	NO. H-12158 SF
	)	
LCB COMMERCIAL REAL ESTATE	)	<u>ACCUSATION</u>
and STEVEN HENDEE BANKER	)	
	)	
Respondents.	)	

The Complainant, ROBIN S. TANNER, in her official capacity as a Supervising Special Investigator of the State of California, for cause of Accusation against LCB COMMERCIAL REAL ESTATE ("LCB") and STEVEN HENDEE BANKER ("BANKER"), (collectively referred to as "Respondents"), is informed and alleges as follows:

1

Respondent LCB is presently licensed by the California Department of Real Estate ("the Department") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("the Code"), as a corporate real estate broker.

2

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

///

3

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

4

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

COUNT ONE
NEGLIGENCE

(As to Respondents LCB and BANKER)

5

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

6

In or about November 2015, Respondents entered into an agreement with Ralph K. and Ruth K. ("Complainants") whereby Respondents agreed to act as Complainants' leasing agent to lease Complainants' real property located at 322 15th Street, Oakland, CA 94612 ("Subject Property").

///

///

In or about November 2015, Jonathan M. contacted Respondents about leasing the Subject Property. On or about November 18, 2015, Respondents sent Complainants information about Jonathan M. On December 1, 2015, Complainant sent Respondents information to add to a draft lease that was to be prepared by Respondents.

On or about December 22, 2015, Respondents prepared a Standard Industrial/Commercial Multi-Tenant Lease ("Lease Agreement") to lease the Subject Property to Jonathan M. for the period between January 1, 2016, and February 28, 2017, and presented the Lease Agreement to Jonathan M.

On or about December 23, 2015, Jonathan M. added as a leasee his business partner, Devonte P., and they both executed the Lease Agreement, and provided it back to Respondents. Also on December 23, 2015, Jonathan M. provided Respondents with \$2,400.00 cash for the down payment and first month's rent for the Subject Property.

Respondents did not wait until Complainants had an opportunity to review and approve the Lease Agreement before moving forward. Rather, upon the execution of the lease by Jonathan M. and Devonte P. on December 23, 2015, Respondents gave Jonathan M. a key to the Subject Property. Also on December 23, 2015, Respondents sent a check for \$2,400.00 along with the Lease Agreement to Complainants asking them to initial, sign and return the lease back to Respondents.

On or about December 29, 2015, Complainants returned the unsigned Lease Agreement and \$2,400.00 check to Respondents due to the addition of Devonte P. on the Lease Agreement without Complainants' prior knowledge or consent.

///

12

After receiving the key from Respondents, Jonathan M. made several alterations to the Subject Property, including constructing a wall on the premises, removing the carpets, and painting the walls.

13

Although Respondents and Complainants discussed the issue of allowing Jonathan M. and Devonte P. to remain on the premises, ultimately, Complainants decided they did not want to lease the premises to Jonathan M. and Devonte P.

14

On or about January 25, 2016, Respondents sent a letter to Jonathan M. notifying him that Complainants did not agree to execute the lease, and asking him to return the key for the Subject Property. Respondents also provided Jonathan M. with a check for \$2,400.00 for the return of the first month's rent and security deposit.

15

When Jonathan M. refused to vacate the Subject Property, Respondents hired an attorney to initiate eviction proceedings. In response, Jonathan M. hired his own attorney. In May 2016, the attorney hired by Respondents initiated eviction proceedings against Jonathan M.

16

Meanwhile, Complainants received several complaints from other tenants on the Subject Property that Jonathan M. had been holding parties at the Subject Property. On or about August 14, 2016, Jonathan M. held a party at the Subject Property that was attended by approximately 300 people. A fight broke out at the party and two people were shot and killed.

17

On or about August 15, 2016, Jonathan M. vacated the Subject Property.

///

///

///

As a result of Jonathan M.'s possession of the Subject Property from approximately January 2016 through August, 2016, Complainants had to reduce rent to another tenant by \$1,000 and Complainant incurred legal fees of their own. Additionally, Complainants experienced substantial difficulty selling or leasing the Subject Property due to the two deaths that had occurred on the Subject Property during Jonathan M.'s party.

The acts and/or omissions of Respondents, as alleged above in Paragraphs 5 through 18, are grounds for the revocation or suspension of Respondents' real estate licenses and/or license rights under Section 10177(d) and 10177(g) of the Code.

COUNT TWO
AUDIT VIOLATIONS
(As to Respondents LCB and BANKER)

Each and every allegation in paragraphs 1 through 19, inclusive, above, is incorporated by this reference as if fully set forth herein.

Beginning on or about November 8, 2016, and continuing intermittently through December 29, 2016, the Department conducted an audit of the books and records related to the real estate activities of Respondents at their main office located at 388 17th Street, Suite 200, Oakland, CA 94612. The auditor examined records for the period of January 1, 2015, to September 30, 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:

Bank Name: California Bank of Commerce
Account No.: Last 4 Digits: xxxx7022
Account Name: LCB Commercial Real Estate DBA LCB Associates
Signatories: Steve H. Banker (REB)
Purpose: Used to hold trust fund receipts and disbursements for LCB's lease activities

Bank Name:	Bank of the Orient
Account No.:	Last 4 Digits: xxxxxx1808
Account Name:	Steve H. Banker DBA LCB Associates
Signatories:	Steve H. Banker (REB)
Purpose:	Personal checking

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

(b) failed to place trust funds entrusted to Respondents into the hands of a principal on whose behalf the funds were received, into a neutral escrow depository, or into a trust fund account in the name of Respondents as trustee at a bank or other financial institution for the trust account within three (3) business days, in violation of Section 10145 of the Code and Section 2832 of the Regulations;

The acts and/or omissions of Respondents as alleged above in paragraph 23 constitute grounds for the suspension or revocation of all licenses and license rights of Respondents pursuant to the following provisions of the Code and Regulations:

- 6 -

1 As to Paragraph 23(b), under Section 10177(d) and/or 10177(g) of the Code, in
2 conjunction with Section 10145 of the Code, and Section 2832 of the Regulations.

3 **COUNT THREE**
4 **FAILURE TO SUPERVISE**
5 (As to Respondent BANKER)

6 25

7 Each and every allegation in Paragraphs 1 through 24, inclusive, above, is
8 incorporated by this reference as if fully set forth herein.

9 26

10 BANKER, as the designated officer of LCB, was required to exercise reasonable
11 supervision and control over the activities of LCB, its employees, and the real estate activities being
12 conducted by LCB.

13 27

14 BANKER failed to exercise reasonable supervision over the acts and/or omissions of
15 LCB and its employees, in such a manner as to allow the acts and/or omissions as described above
16 in the First and Second Causes of Action to occur, which constitutes cause for the suspension or
17 revocation of the license(s) and license rights of BANKER under Sections 10177(d) and/or
18 10177(g), 10177(h) and 10159.2 of the Code, in conjunction with Section 2725 of the Regulations.

19 **COST RECOVERY**

20 **Audit Costs**

21 28

22 The acts and/or omissions of Respondents, as alleged above in the Second Cause of
23 Action, entitle the Department to reimbursement of the costs of its audit pursuant to Section
24 10148(b) of the Code.

25 ///

26 ///

27 ///

///

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9


ROBIN S. TANNER
Supervising Special Investigator

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

DISCOVERY DEMAND

- 8 -