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DEPARTMENT OF REAL ESTATE

By *dw*

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8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:)

12 GEOFFREY CURTIS DAVIS JR.,)
13 GREG HAMILTON COLLINS,)
14 SUNSHINE REAL ESTATE and)
15 SOLUTIONS, INC.)

16 Respondents.)

No. H-12260 SF

FIRST AMENDED
ACCUSATION

17 The Complainant, TRICIA D. PARKHURST, in her official capacity as a
18 Supervising Special Investigator of the State of California, Department of Real Estate
19 ("Department"), brings this Accusation against GEOFFREY CURTIS DAVIS JR. ("DAVIS"),
20 GREG HAMILTON COLLINS, and SUNSHINE REAL ESTATE SOLUTIONS, INC. ("SRES"),
21 (collectively "Respondents"), and is informed and alleges as follows:

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

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DAVIS is presently licensed by the Department and/or has license rights under the Code as a real estate broker.

COLLINS is presently licensed by the Department and/or has license rights under the Code as a real estate salesperson.

At all relevant times herein, DAVIS was the designated officer for SRES.

At all relevant times herein, SRES was doing business under the fictitious business of Keyrenter East Bay.

At all relevant times herein, COLLINS was the Chief Executive Officer, Chief Financial Officer, Secretary, and 100% Shareholder of SRES.

At all relevant times herein, COLLINS and SRES were acting under the supervision of DAVIS.

At all relevant times herein, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate licensees within the State of California 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 or in expectation of compensation, Respondents leased or rented or offered to lease or rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

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

Beginning on or about July 12, 2017, and continuing through July 13, 2017, an audit was conducted of the real estate business activities of SRES, located at 1900 Addison St. Ste. 200, Berkeley, CA 94704. The auditor examined the business records of SRES for the period of July 1, 2016, through June 30, 2017, ("audit period").

While engaging in the real estate activities described in Paragraph 8, above, and within the audit period, SRES accepted or received funds in trust ("trust funds") and deposited or caused the trust funds to be deposited into two accounts maintained as follows:

Bank Account #1

Bank Name: Mechanics Bank
P.O. Box 5610, Hercules, CA 94547
Account Name: Sunshine Real Estate Solutions, Inc.
dba Keyrenter East Bay
Account No.: Last 4 Digits: 1177
Description: Bank Account #1 was used to hold rents and to disburse owners' proceeds, management fees, and maintenance expenses for properties managed by SRES.

Bank Account #2

Bank Name: Mechanics Bank
P.O. Box 5610, Hercules, CA 94547
Account Name: Sunshine Real Estate Solutions, Inc.
dba Keyrenter East Bay
Account No.: Last 4 Digits: 1150
Description: Bank Account #2 was used to hold security deposits for properties managed by SRES.

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FIRST CAUSE OF ACTION

(Audit Violations as to SRES and DAVIS)

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

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In the course of the real estate activities described in Paragraph 8, above, and during the audit period, it was discovered:

(a) As of June 30, 2017, Respondents caused or permitted the balance of funds in Bank Account #1 to be reduced to an amount that was approximately \$16,984.29 less than the aggregate liability of Bank Account #1, 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, Title 10, California Code of Regulations ("Regulations");

(b) The \$16,984.29 shortage was partially caused by Respondents disbursing \$12,397.44 in excess "Management and Other fees/expense reimbursements" from Bank Account #1, despite there not being sufficient funds to make the disbursements, in violation of Sections 10176(i) of the Code;

(c) Respondents failed to disclose to the beneficiaries of Bank Account # 1 all profits received from vendor services, in violation of Section 10176(g) of the Code; and

(d) Bank Account #1 and Bank Account #2 were not designated as trust accounts in the name of the broker as trustee, in violation of Section 10145 of the Code and Section 2832 of the Regulation.

SECOND CAUSE OF ACTION

(Fraud and/or Dishonest Dealings and/or Negligence as to COLLINS)

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Each and every allegation made in Paragraphs 1 through 13, inclusive, is incorporated by reference as if fully set forth herein.

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COLLINS was a signatory on Bank Account # 1 and Bank Account #2.

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The Department is informed, believes, and thereon alleges that the disbursements from Bank Account #1, amounting to \$12,397.44 in "Management and Other fees/expense reimbursements," were made by COLLINS.

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The Department is informed, believes, and thereon alleges that at the time COLLINS made the disbursements, COLLINS knew or should have known that Bank Account #1 did not have sufficient funds to cover the disbursements.

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The Department is informed, believes, and thereon alleges that COLLINS knowingly, intentionally, and/or negligently labeled the \$12,397.44 disbursements as "Management and Other fees/expense reimbursements" when, in fact, the disbursements were in excess to the management fees, expense reimbursements, and/or other fees to which SRES was contractually entitled.

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The Department is informed, believes, and thereon alleges that COLLINS knowingly, intentionally and/or negligently failed to disclose to the beneficiaries of Bank Account #1 and/or Bank Account #2 all profits received by SRES from vendors.

THIRD CAUSE OF ACTION

(Failure to Supervise as to DAVIS)

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

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DAVIS, as the designated officer of SRES, was required to exercise reasonable supervision and control over the activities of SRES and its employees, including COLLINS, and the real estate activities being conducted by SRES.

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DAVIS failed to exercise reasonable supervision over the acts and/or omissions of SRES and its employees, including COLLINS, in such a manner as to allow the acts and/or omissions described herein to occur.

FOURTH CAUSE OF ACTION

(Breach of Fiduciary Duties as to Respondents)

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Each and every allegation made in Paragraphs 1 through 22, inclusive, is incorporated by reference as if fully set forth herein.

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Respondents owed fiduciary duties of care, loyalty, and good faith to the beneficiaries of Bank Account #1 and Bank Account #2.

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Respondents breached their fiduciary duties by, among other things: permitting the balance of funds in Bank Account #1 to be reduced to an amount that was approximately \$16,984.29 less than the aggregate liability of Bank Account #1, without prior written consent from the beneficiaries of the funds; disbursing \$12,397.44 in excess "Management and Other fees/expense reimbursements" from Bank Account #1, despite there not being sufficient funds to make such disbursements; and failing to disclose to the beneficiaries of Bank Account # 1 all profits received from vendor services.

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