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FILED

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DEPARTMENT OF REAL ESTATE
By K-Krapp

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)

13 THOMAS CONNOLLY,)

14 Respondent.)

No. H-12298 SF

ACCUSATION

15 The Complainant, ROBIN S. TANNER, a Supervising Special Investigator of the
16 State of California, for cause of Accusation against THOMAS CONNOLLY (Respondent), is
17 informed and alleges as follows:

18 1

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

21 2

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

24 3

25 At all times mentioned, Respondent was and is licensed by the Department as a
26 real estate broker.

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At all times mentioned, Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Sections 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, Respondent leased or rented and 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.

FIRST CAUSE OF ACTION

On or about April 9, 2018, through April 10, 2018, an audit was conducted of the records of Respondent. The auditor herein examined the records for the period of January 1, 2016, through March 31, 2018.

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

The trust funds accepted or received by Respondent as described in Paragraph 5 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:	Fremont Bank

	39150 Fremont Blvd. Fremont, CA 94538
Account No.:	XXX4916
Entitled:	MPC & Associates, Inc. (from November 25, 2015 through November 2, 2017) MPC & Associates. Inc. dba Property Management Inc, East Bay (November 2, 2017 onward)

ACCOUNT # 2	
Bank Name and Location:	Fremont Bank 39150 Fremont Blvd. Fremont, CA 94538
Account No.:	XXX4959
Entitled:	MPC & Associates, Inc. (from November 25, 2015 through November 2, 2017) MPC & Associates. Inc. dba Property Management Inc, East Bay (November 2, 2017 onward)

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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 December 31, 2017, was approximately \$10,833.73 less than the aggregate liability of Account #1 to all owners of such funds in violation of Section 10145 of the Code and Section 2832.1 of Title 10 of the California Code of Regulations (Regulations);

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1 As to Paragraph 8(e), under Sections 10177(d) and/or 10177(g) of the Code in
2 conjunction with Section 10163 of the Code; and

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

5 SECOND CAUSE OF ACTION

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7 Each and every allegation in Paragraphs 1 through 9, inclusive, above, are
8 incorporated by this reference as if fully set forth herein.

9 11

10 At all times relevant herein, Respondent was required to exercise reasonable
11 supervision and control over the activities of Respondent's employees, agents, and others acting
12 on Respondent's behalf pursuant to Section 2725 of the Regulations.

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14 Respondent failed to exercise reasonable supervision over the acts and/or
15 omissions of Respondent's employees, agents and others acting on Respondent's behalf in
16 such a manner as to allow the acts and/or omissions as described in Paragraph 10, above, to
17 occur, which constitutes cause for the suspension or revocation of the licenses and license rights
18 of Respondent pursuant to Sections 10177(d), 10177(g), and/or 10177(h) of the Code, in
19 conjunction with Section 2725 of the Regulations.

20 COST RECOVERY

21 13

22 The acts and/or omissions of Respondent as alleged above, entitle the Department
23 to reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund
24 handling violation) of the Code.

25 14

26 Section 10106 of the Code provides, in pertinent part, that in any order issued in
27 resolution of a disciplinary proceeding before the Department, the Commissioner may request the

1 Administrative Law Judge to direct a licensee found to have committed a violation of this part to
2 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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

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10 ROBIN S. TANNER
11 Supervising Special Investigator

12 Dated at Oakland, California,
13 this 18th day of September 2018

14 DISCOVERY DEMAND

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