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FILED

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DEPARTMENT OF REAL ESTATE
By K. Knappe

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)

ROGER PEREZ,)

Respondent.)

No. H-12334 SF

ACCUSATION

The Complainant, ROBIN S. TANNER, acting in her official capacity as a
Supervising Special Investigator of the State of California, for cause of Accusation against
ROGER PEREZ (Respondent), is informed and alleges as follows:

1

At all times herein mentioned, Respondent was and is presently licensed and/or
has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and
Professions Code (Code) by the Department of Real Estate (the Department) as a real estate
broker. Effective August 7, 2016, Respondent's broker license expired. Respondent's license
was not renewed until August 8, 2017.

2

At all times herein mentioned, Respondent conducted real estate activity under
his individual broker license and the fictitious business names, "Propel Real Estate Group"
and/or "Propel Real Estate Group, Inc.".

3

At no time herein mentioned was Propel Real Estate Group or Propel Real Estate Group, Inc., licensed as a corporate real estate broker or registered as a fictitious business name with the Department.

4

At all times herein 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 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, Respondent leased or rented or offered to lease or rent, or solicited listings of places for rent or solicited for prospective tenants, or negotiated the sale, purchase or exchange of leases on real property, or on a business opportunity, or collected rent from tenants.

5

Beginning on August 9, 2017, and continuing intermittently through December 14, 2017, an audit was conducted of the records of Respondent. The auditor examined the records for the period of July 1, 2016, through June 30, 2017 (the audit period).

6

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

7

Respondent, while acting as a real estate broker, as described in Paragraph 4, accepted or received funds in trust (trust funds) from or on behalf of owners, lessees and others in connection with property management activities, and deposited those funds into bank accounts maintained by Respondent, at First Republic Bank, 111 Pine Street, San Francisco, California 94111, including but not limited to the following:

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BANK ACCOUNT #1	
Account No.:	XXXXXXXX5571
Entitled:	PROPEL REAL ESTATE GROUP FBO HAYES VALLEY PROPERTIES

BANK ACCOUNT #2	
Account No.:	XXXXXXXX5563
Entitled:	PROPEL REAL ESTATE GROUP FBO HAYES VALLEY PROPERTIES TENANT SECURITY ACCOUNT

BANK ACCOUNT #3	
Account No.:	XXXXXXXX0103
Entitled:	PROPEL REAL ESTATE GROUP FOR YOKO KATO

BANK ACCOUNT #4	
Account No.:	XXXXXXXX7612
Entitled:	PROPEL REAL ESTATE GROUP FBO 833 COLE LLC

and thereafter from time-to-time made disbursement of said trust funds.

8

In the course of the activities described in Paragraph 4, in connection with the collection and disbursement of trust funds, it was determined that:

- (a) An accountability was performed on Bank Account #1, and as of June 30, 2017, a minimum shortage of \$172.41 was revealed, in violation of Section 10145 of the Code;
- (b) Respondent failed to obtain written permission from owners of trust funds in Bank Account #1 to allow the balance to drop below accountability, in violation of Section 2832.1 of Chapter 6, Title 10, California Code of Regulations (Regulations);

- 1 (c) For the period of August 7, 2016 through June 30, 2017, Respondent
2 conducted real estate activity while his real estate broker license was expired,
3 in violation of Section 10130 of the Code;
- 4 (d) Respondent failed to designate Bank Accounts #1, #2, #3, #4 as trust fund
5 accounts and in the name of a holder of a license as trustee as required by
6 Section 10145 of the Code and Section 2832 of the Regulations;
- 7 (e) Respondent caused, suffered or permitted funds of others which were received
8 and held by Respondent to be commingled with broker funds which had not
9 been disbursed within 25 days of earning them in accordance with Section
10 2835 of the Regulations in Bank Account #1, in violation of Section 10176 (e)
11 of the Code;
- 12 (f) Respondent failed to maintain an accurate columnar record in chronological
13 sequence of all trust funds received and disbursed (Control Record),
14 containing all required information, for Bank Accounts #1 and #4, in violation
15 of Section 2831 of the Regulations; and
- 16 (g) Respondent conducted real estate activity using the fictitious business names,
17 "Propel Real Estate Group" and "Propel Real Estate Group, Inc.", without first
18 registering these fictitious business names with the Department as required by
19 Section 2731 of the Regulations.

20 9

21 The acts and/or omissions described above constitute violations of Sections 2731
22 (Use of False/Fictitious Name), 2831 (Control Records), 2832 (Bank Account Not Properly
23 Designated as Trust Account), and 2832.1 (Written Permission for Balance Below
24 Accountability) of the Regulations, and Sections 10130 (Unlicensed Broker Activity), 10145
25 (Trust Fund Handling), 10176 (e) (Commingling) of the Code, and are grounds for discipline
26 under Sections 10177(d) (Willful Disregard of Real Estate Laws) and/or 10177(g)
27 (Negligence/Incompetence Licensee) of the Code.

1 COST RECOVERY

2 10

3 Audit Costs

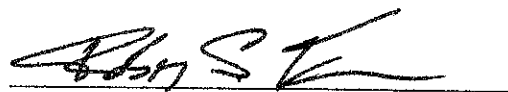
4 The acts and/or omissions of Respondents, as alleged above, entitle the
5 Department to reimbursement of the costs of its audits pursuant to Section 10148(b) (Audit Costs
6 for Trust Fund Handling Violations) of the Code.

7 11

8 Costs of Investigation and Enforcement

9 Section 10106 of the Code provides, in pertinent part, that in any order issued in
10 resolution of a disciplinary proceeding before the Department, 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
14 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
15 action against all licenses and license rights of Respondents under the Code, for the cost of
16 investigation and enforcement as permitted by law, and for such other and further relief as may
17 be proper under the provisions of law.

18 

19 ROBIN S. TANNER
20 Supervising Special Investigator

21 Dated at Oakland, California,
22 this 22 day of January, 2019.

23 DISCOVERY DEMAND

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