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**FILED**

JAN 23 2019

DEPARTMENT OF REAL ESTATE  
By *[Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of: )  
CHRISTIAN CHURCH HOMES OF NORTHERN ) No. H-12354 SF  
CALIFORNIA and RHIAL PATEL, )  
Respondents. ) ACCUSATION

The Complainant, ROBIN S. TANNER, in her official capacity as a Supervising Special Investigator of the State of California, Department of Real Estate ("Department"), brings this Accusation against CHRISTIAN CHURCH HOMES OF NORTHERN CALIFORNIA ("CCHNC") and RHIAL PATEL ("PATEL")<sup>1</sup>, ("collectively "Respondents"), and is informed and alleges as follows:

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CCHNC is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code"), as a corporate real estate broker, CREB No. 00473345.

2

PATEL is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code, as a real estate broker, REB No. 01966249.

<sup>1</sup> PATEL previously went by the name of Rhial N. Devine.

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2 At all relevant times herein, PATEL was and is the Designated Officer of CCHNC.

3 4

4 On or about November 23, 2016, Pastor Keva M. submitted a Licensing Complaint  
5 against Respondents on behalf of two affordable housing complexes, El Bethel Arms ("EBA") and  
6 El Bethel Terrance ("EBT"), wherein it was alleged that Respondents mismanaged the two  
7 complexes, and misused and converted funds.

8 5

9 At all relevant times herein, Respondents engaged in the business of, acted in the  
10 capacity of, advertised or assumed to act as real estate licensees within the State of California within  
11 the meaning of Section 10131(b) of the Code including the operation and conduct of a property  
12 management business with the public, wherein, on behalf of others, for compensation or in  
13 expectation of compensation, Respondents leased or rented or offered to lease or rent, and solicited  
14 for prospective tenants of real property or improvements thereon, and collected rents from real  
15 property or improvements thereon.

16 6

17 From April 24, 2017, through May 23, 2017, an audit was conducted into the real  
18 estate business activities of CCHNC, located at 303 Hegenberger Rd. STE 201, Oakland, CA  
19 94621-1419. Department auditor Gina King examined the business records of CCHNC for the  
20 period of October 1, 2014, to February 28, 2017, ("audit period").

21 **FIRST CAUSE OF ACTION**

22 Audit Violations

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24 Each and every allegation made above in Paragraphs 1 through 6, inclusive, is  
25 incorporated by reference as if fully set forth herein.

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While engaging in the real estate activities described above in Paragraph 5 and within the audit period, CCHNC maintained approximately 150 bank accounts. The subject audit was conducted on a sample basis and only two of the 150 bank accounts were selected for examination. The two accounts are identified as follows:

Trust Account #1

Bank Name: Wells Fargo Bank  
P.O. Box 15284  
Wilmington, DE 19850  
Account Name: Christian Church Homes of N Calif  
In Trust for El Bethel Terrace, Inc.  
Account No.: Last 4 Digits: 1404  
Signatories: Carol G. Frank/ REB/ Compliance Manager  
Dannice R. Fuller/ RES/ Terminated in Feb. 2017  
Hongchi Wong/ REB/ Project Manager  
Rhial N. Devine/ REB/ D.O./ Legal Counsel  
Description: Trust Account #1 was used for the property management activities of property owner El Bethel Terrace, Inc. Deposits included rent payments, security deposits, late fees, and owner contributions. Disbursements included owner distributions, expenditures for repairs and maintenance, bank fees, and management fees.

Trust Account #2

Bank Name: Wells Fargo Bank  
P.O. Box 15284  
Wilmington, DE 19850  
Account Name: Christian Church Homes of N Calif  
In Trust for El Bethel Arms, Inc.  
Account No.: Last 4 Digits: 14152  
Signatories: Carol G. Frank/ REB/ Compliance Manager  
Dannice R. Fuller/ RES/ Terminated in Feb. 2017  
Hongchi Wong/ REB/ Project Manager  
Rhial N. Devine/ REB/ D.O./ Legal Counsel  
Description: Trust Account #2 was used for the property management activities of property owner El Bethel Arms, Inc. Deposits included rent payments, security deposits, late fees, and owner contributions. Disbursements included owner distributions, expenditures for repairs and maintenance, bank fees, and management fees.

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In the course of the real estate activities described in Paragraph 5, above, and during the audit period, Respondents:

(a) As of February 28, 2017, caused or permitted the balance of funds in Trust Account #1 to be reduced to an amount that was approximately \$2,386.67 less than the aggregate liability of Trust 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 ("the Regulations");

(b) As of February 28, 2017, caused or permitted the balance of funds in Trust Account #2 to be reduced to an amount that was approximately \$295.86 less than the aggregate liability of Trust Account #2, 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 of the Regulations;

(c) Made unauthorized withdrawals and/or disbursements from Trust Account #1 and Trust Account # 2 without the knowledge and/or written consent of each and every owner of such funds, in violation of Section 10145 of the Code and Section 2832.1 of the Regulations;

(d) Failed to place trust fund in a trust account maintained with a bank or a recognized depository, including the placement of trust funds in various investment accounts with Morgan Stanley Smith Barney, LLC, in violation of Section 10145 of the Code and Section 2832 of the Regulations; and

(e) Failed to maintain adequate control records for all trust funds received and disbursed in Trust Account #1 and Trust Account #2, in violation of Section 10145 of the Code and Section 2831 of the Regulations.

**SECOND CAUSE OF ACTION**

**Fraud and/or Dishonest Dealings and/or Negligence**

**Unauthorized Payments to Boston Market**

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

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Trust Account #1 was designated solely for the purpose of managing trust funds for EBT.

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On or about January 25, 2016, Respondents disbursed \$90.98 in trust funds to Boston Market Corporation from Trust Account # 1, Check No. 12456.

13

An examination of the invoices from Boston Market Corporation revealed that the amount of \$90.98 was billed to: "El Bethel Terrace Corporate Account 5840, Providence Senior Housing..."

14

Complainant is informed, believes, and thereon alleges that Respondents intentionally and/or negligently, and without the knowledge, permission, consent, and/or approval of EBT, used trust funds belonging to EBT from Trust Account #1 to order lunch catering services for Providence Senior Housing.

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Trust Account #2 was designated solely for the purpose of managing trust funds for EBA.

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On or about January 25, 2016, Respondents disbursed \$136.46 in trust funds to Boston Market Corporation from Trust Account # 2, Check No. 19189.

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An examination of the invoices from Boston Market Corporation revealed that the amount of \$136.46 was billed to: "El Bethel Terrace Corporate Account 5840, Providence Senior Housing..."

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Complainant is informed, believes, and thereon alleges that Respondents intentionally and/or negligently, and without the knowledge, permission, consent, and/or approval of EBA, used trust funds belonging to EBA from Trust Account #2 to order lunch catering services for Providence Senior Housing.

Unauthorized Payments to AAA Corporation Transportation

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In or around August 2016, Respondents made payments to AAA Corporation Transportation ("AAA") totaling approximately \$35,409.70 from Trust Account #1 and/or Trust Account #2.

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According to Respondents, the payments were based on "reservation confirmations." PATEL was unable to provide any route logs to substantiate her claim that the money was, in fact, used towards "reservations confirmations."

21

Complainant is informed, believes, and thereon alleges that Respondents made the payments described above in Paragraphs 19 and 20 intentionally, and/or negligently, and/or without the knowledge, permission, consent, and/or approval of the beneficiaries of said funds.

THIRD CAUSE OF ACTION  
Failure to Supervise as to PATEL only

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Each and every allegation in Paragraphs 1 through 21, inclusive, is incorporated by this reference as if fully set forth herein.

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As the corporate designated officer for CCHNC, PATEL was responsible for the supervision and control over the activities conducted on behalf of CCHNC by the corporation's officers and employees, as necessary to ensure full compliance with all provisions of the Real Estate

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The acts and/or omissions of Respondents, as alleged above in the SECOND CAUSE OF ACTION, Paragraphs 10 through 21, constitute further grounds for the suspension or revocation of all licenses and license rights of Respondents pursuant Sections 10177(d), 10176 (i), 10177(d), 10177(g), and/or 10177(j) of the Code.

PATEL failed to exercise reasonable supervision over the acts and/or omissions of CCHNC and/or its employees in such a manner as to allow the acts and/or omissions described above in the THIRD CAUSE OF ACTION, Paragraphs 22 through 24, to occur, which constitutes additional cause for the suspension or revocation of the license(s) and license rights of PATEL under Sections 10159.2, 10177(d), 10177(g), and/or 10177(h) of the Code, in conjunction with Section 2725 of the Regulations.

MATTERS IN AGGRAVATION

Unauthorized Payments to Boston Market from Trust Accounts #1 and #2

On or about September 21, 2015, Respondents disbursed \$246.28 in trust funds to Boston Market Corporation from Trust Account # 1, Check No. 12164.

An examination of the invoices from Boston Market Corporation revealed that the amount of \$246.28 was billed to: "El Bethel Terrace Corporate Account 5840, Providence Senior Housing..."

Complainant is informed, believes, and thereon alleges that Respondents intentionally and/or negligently, and without the knowledge, permission, consent, and/or approval of EBT, used trust funds belonging to EBT from Trust Account #1 to order lunch catering services for Providence Senior Housing.

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On or about December 7, 2015, Respondents disbursed \$106.27 in trust funds to Boston Market Corporation from Trust Account # 1, Check No. 12342.

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An examination of the invoices from Boston Market Corporation revealed that the amount of \$106.27 was billed to: "El Bethel Terrace Corporate Account 5840, Harrison Street Housing..."

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Complainant is informed and believes that Respondents intentionally and/or negligently, and without the knowledge, permission, consent, and/or approval of EBT, used trust funds belonging to EBT from Trust Account #1 to order lunch catering services for Harrison Street Housing.

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On or about December 7, 2015, Respondents disbursed \$159.40 in trust funds to Boston Market Corporation from Trust Account # 2, Check No. 19024.

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An examination of the invoices from Boston Market Corporation revealed that the amount of \$159.40 was billed to: "El Bethel Terrace Corporate Account 5840, Harrison Street Housing..."

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Complainant is informed and believes that Respondents intentionally and/or negligently, and without the knowledge, permission, consent, and/or approval of EBA, used trust funds belonging to EBA from Trust Account #2 to order lunch catering services for Harrison Street Housing.

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1 Unauthorized Payments to Quill Corporation from Trust Account #1

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3 On or about November 2, 2015, Respondents disbursed \$1,943.14, to Quill  
4 Corporation, from Trust Account #1, Check No. 12279.

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6 An examination of Respondent's Order Form and Check No. 12279 reveals that the  
7 payment was made with trust funds belonging to EBT and it showed a notation of "For Sister Thea  
8 Brown Manor."

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10 Complainant is informed, believes, and thereon alleges that Respondents  
11 intentionally and/or negligently, and without the knowledge, permission, consent, and/or approval  
12 of EBT, used trust funds belonging to EBT from Trust Account #1 to make the order from Quill  
13 Corporation for Sister Thea Brown Manor.

14 PRIOR DISCIPLINE

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16 On or about June 25, 2012, the Department filed an Accusation against the real  
17 estate licenses of CCHNC and its then-designated officer Merrill D. Clum ("Clum")

18 42

19 On or about October 18, 2019, CCHNC, acting by and through Clum, signed a  
20 Stipulation and Agreement in Settlement and Order ("Stipulation and Agreement"), wherein it was  
21 stipulated to, and agreed that, the acts and omissions alleged in the 2012 Accusation were grounds  
22 for the suspension or revocation of CCHNC's corporate real estate license pursuant to Sections  
23 10085, 10085.5, 10145, 10160, 10177(d), 10177(g), and 10177(h) of the Code, in conjunction with  
24 Sections 2753, 2831.1, 2831.2, 2832, 2832.1, 2834, and 2970 of the Regulations.

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2 The Stipulation and Agreement became effective February 11, 2014. CCHNC's  
3 corporate real estate license was suspended for a period of sixty (60) days pursuant to the terms  
4 and conditions of the Stipulation and Agreement.

5 44

6 The Department conducted a follow-up audit of CCHNC in 2016.

7 45

8 On or about October 6, 2016, the Department issued two citations to CCHNC,  
9 Citation Nos. C-5-16-1006-005 and C-5-16-1006-006, for ongoing violations of Sections 2832 and  
10 2834 of the Regulations.

11 **COST RECOVERY**

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13 The acts and/or omissions of Respondents as alleged above entitle the Department to  
14 reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund  
15 handling violation) of the Code.

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

21 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of  
22 this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action  
23 against all licenses and license rights of Respondent under the Code, for the cost of investigation

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1 and enforcement as permitted by law, for the cost of the audit, and for such other and further relief  
2 as may be proper under other provisions of law.

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5 ROBIN S. TANNER  
6 Supervising Special Investigator

6 Dated at Oakland, California,  
7 this 10 day of January, 2019.

8  
9 DISCOVERY DEMAND

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