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MAY 22 2019

DEPARTMENT OF REAL ESTATE

By By den

MEGAN LEE OLSEN, Counsel, (SBN 272554)

Department of Real Estate

P. O. Box 137007

Sacramento, CA 95813-7007

Telephone: (916) 576-8700

(916) 263-3767 (Fax)

(916) 576-7846 (Direct)

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)

No. H-12378 SF

RHONDA SUE IMBERG MORRIS,)

ACCUSATION

Respondent.)

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
RHONDA SUE IMBERG MORRIS (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.

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At all times herein mentioned, Respondent conducted real estate activity under
her individual broker license and the fictitious business name, "Show and Sell Realty,"
registered with the Department.

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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.

FIRST CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 3, inclusive, is incorporated by this reference as if fully set forth herein.

On or about December 10, 2018, and continuing intermittently through December 27, 2018, an audit was conducted of the records of Respondent. The auditor examined the records for the period of November 1, 2017, through October 31, 2018 (the audit period).

Respondent, while acting as a real estate broker, as described in Paragraph 3, above, and within the audit period, 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 the following financial institutions, including but not limited to the following:

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BANK ACCOUNT #1	
Bank:	US Bank, 39390 Fremont Boulevard, Fremont, CA 94538
Account No.:	XXXXXXXXX6438
Entitled:	AMOS PICKER DBA COMMON PROPERTIES

BANK ACCOUNT #2	
Bank:	US Bank, 39390 Fremont Boulevard, Fremont, CA 94538
Account No.:	XXXXXXXXX5669
Entitled:	RHONDA SUE IMBERG MORRIS DBA S.S. TRUST

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

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In the course of the activities described in Paragraph 3, in connection with the collection and disbursement of trust funds, it was determined that:

- (a) An accountability was performed on Bank Account #2, and as of October 31, 2018, a shortage of \$68,159.07 was revealed, in violation of Section 10145 and of the Code;
- (b) Respondent failed to obtain written permission from owners of trust funds in Bank Account #2 to allow the balance to drop below accountability, in violation of Section 2832.1 of Chapter 6, Title 10, California Code of Regulations (Regulations);
- (c) Respondent failed to designate Bank Account #1 and Bank Account #2 as trust fund accounts and in the name of the broker as trustee as required by Section 10145 of the Code and Section 2832 of the Regulations;
- (d) Bank Account #2 was an interest bearing bank account that held trust funds for multiple beneficiaries and trust funds were not kept separate, distinct, and apart from funds belonging to other persons for whom Respondent was hold

- 1 funds in trust, as required by Section 10145 (d) of the Code;
- 2 (e) Trust funds collected in forms of rents and security deposits were sent to
- 3 Respondent's PayPal Account and therefore Respondent failed to place trust
- 4 funds she received into the hands of the principal, into a neutral escrow
- 5 depository, or into a trust fund account within three days of receipt, in
- 6 violation of Section 10145 of the Code and Section 2832 of the Regulations;
- 7 (f) Respondent caused, suffered or permitted funds of others which were received
- 8 and held by Respondent to be commingled with personal funds in
- 9 Respondent's PayPal Account, in violation of Section 10176 (e) of the Code
- 10 and Section 2835 of the Regulations;
- 11 (g) Respondent caused, suffered or permitted funds of others which were received
- 12 and held by Respondent to be commingled with personal funds and broker
- 13 funds in excess of \$200 in Bank Account #2, in violation of Section 10176 (e)
- 14 of the Code and Section 2835 of the Regulations;
- 15 (h) Respondent disbursed \$3,500 to herself for leasing commissions she had
- 16 already been paid for, in violation of Sections 10176 (i) and/or 10177 (g) of
- 17 the Code;
- 18 (i) Respondent disbursed \$2,000 to herself as an advance for November 2018
- 19 management fees, in violation of Sections 10176 (i) of the Code;
- 20 (j) Respondent allowed a person who was not employed by Respondent and
- 21 without a written agreement, to be a signatory on Bank Account #1 and Bank
- 22 Account #2, in violation of Section 10145 (a) (2) (B) of the Code and Section
- 23 2834 of the Regulations;
- 24 (k) Respondent failed to maintain an accurate columnar record in chronological
- 25 sequence of all trust funds received and disbursed (Control Record),
- 26 containing all required information, for Bank Account #1 and Bank Account
- 27 #2, in violation of Section 2831 of the Regulations;

1 (l) Respondent failed to maintain an accurate separate record of the receipt and
2 disposition of all trust funds deposited into Bank Account #2, in violation of
3 Section 10145 (g) of the Code and Section 2831.1 of the Regulations; and
4 (m) Respondent failed to reconcile at least once a month, the balance of all
5 separate beneficiary or transaction records for Bank Account #2, in violation
6 of Section 2831.2 of the Regulations.

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8 The acts and/or omissions described above constitute violations of Sections 2831
9 (Control Records), 2831.1 (Separate Records), 2831.2 (Trust Fund Reconciliation), 2832 (Bank
10 Account Not Properly Designated as Trust Account), 2832.1 (Written Permission for Balance
11 Below Accountability), 2834 (Trust Fund Signatory), and 2835 (Commingling) of the
12 Regulations and Sections 10145 (Trust Fund Handling), 10176 (e) (Commingling), 10176 (i)
13 (Fraud/Dishonest Dealing) of the Code, 10177 (g) (Negligence/Incompetence Licensee), and are
14 grounds for discipline under Sections 10177(d) (Willful Disregard of Real Estate Laws) and/or
15 10177(g) of the Code.

16 COST RECOVERY

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18 Audit Costs

19 The acts and/or omissions of Respondent, as alleged above, entitle the
20 Department to reimbursement of the costs of its audit pursuant to Section 10148(b) (Audit Costs
21 for Trust Fund Handling Violations) of the Code.

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23 Costs of Investigation and Enforcement

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

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

Robyn S. E.

ROBIN S. TANNER
Supervising Special Investigator

Dated at Oakland, California,
this 16th day of May, 2019

DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the *Administrative Procedure Act*. Failure to provide Discovery to the Department of 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.