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FILED

JUL 30 2020

DEPARTMENT OF REAL ESTATE
By Y. X. X. X.

8
9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)

13 ADAM ATITO,)

14 Respondent.)
15

No. H-12457 SF

ACCUSATION

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

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20 The Complainant makes this Accusation against Respondent in her official
21 capacity.

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23 At all times herein mentioned until April 11, 2019, ATITO was and is presently
24 licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the
25 California Business and Professions Code (the Code) by the Department of Real Estate (the
26 Department) as a real estate salesperson. From and since April 11, 2019, ATITO was and
27 presently is licensed as a real estate broker doing business as Atito Realty.

At all times herein mentioned, ATITO engaged in the business of, acted in the capacity of, advertised, or assumed to act as 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. ATITO leased or rented or offered to lease or rent, or placed for 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 rents from tenants.

FIRST CAUSE OF ACTION

Beginning on January 28, 2020, an audit was conducted at ATITO'S main office located at 2087 Sahara Way, #12, Santa Clara, California, and at the Department's Oakland office located at 1515 Clay Street, Oakland, CA 94612, where the auditor examined records for the period of January 1, 2018, through December 31, 2019 (the audit period).

While acting as a real estate broker as described in Paragraph 3, above, and within the audit period, ATITO accepted or received funds in trust (trust funds) from or on behalf of property owners, lessees and others in connection with property management activities, deposited or caused to be deposited those funds into bank accounts maintained by ATITO, at Star One Credit Union, 3136 Stevens Creek Blvd., San Jose, as described below:

BANK ACCOUNT #1	
Account No.:	XXXXXX4609
Entitled:	Adam Atito

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1 and at Wells Fargo Bank, 1995 El Camino Real, Santa Clara as described below:

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TRUST ACCOUNT #1	
Account No.:	XXXXXXX0995
Entitled:	Adam Atito Atito Realty Trust

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

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

- 11 (a) ATITO failed to designate Bank Account #1 as trust account as required
12 by Section 2832 of Chapter 6, Title 10, California Code of Regulations
13 (Regulations);
- 14 (b) The auditor could not conduct an accountability on Bank Account #1 or
15 Trust Account #1 because ATITO did not maintain control records, and
16 did not perform monthly reconciliations, in violation of Section 10145 of
17 the Code;
- 18 (c) ATITO failed to maintain control records for Bank Account #1 or Trust
19 Account #1, as required by Section 2831 of the Regulations;
- 20 (d) ATITO failed to maintain accurate separate beneficiary records for Bank
21 Account #1 or Trust Account #1, as required by Section 2831.1 of the
22 Regulations;
- 23 (e) ATITO failed to perform monthly reconciliations of the separate
24 beneficiary records and control records for Bank Account #1 or Trust
25 Account #1, as required by Section 2831.2 of the Regulations; and
- 26 (f) ATITO mixed his own funds with trust funds, in violation of Section
27 10176 (e) of the Code;

1 (g) ATITO held trust funds in an interest bearing account and failed to
2 distribute the interest to owners of trust funds as required by Section
3 10145 (d) of the Code; and

4 (h) ATITO failed to designate a definite place of business as required by
5 Section 10162(a) of the Code.

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7 The acts and/or omissions described above constitute violations of Sections 2731
8 (fictitious business name), 2831 (control records), 2831.1 (separate beneficiary records), 2831.2
9 (monthly reconciliations), and 2832 (trust fund designation) of the Regulations and of Section
10 10145 (trust fund handling) of the Code and are grounds for discipline under Sections 10177(d)
11 (willful disregard of real estate laws), and/or 10177(g) (negligence/incompetence licensee) of
12 the Code.

13 SECOND CAUSE OF ACTION

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15 Complainant refers to Paragraphs 1 through 7 above, and incorporates the same,
16 herein, by reference.

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18 Prior to receiving his real estate broker license, ATITO conducted property
19 management activities without permission from his broker at the time, CSR, on properties,
20 including but not limited to 884 Lusterleaf Drive, Sunnyvale.

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22 The acts and/or omissions described above constitute violations of Sections 10130
23 (licensed activity) and 10131 (broker activity) of the Code and are grounds for discipline under
24 Sections 10130, 10177(d) (violate real estate law), and 10177(g) (negligence/incompetence of
25 real estate licensee) of the Code.

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Audit Costs

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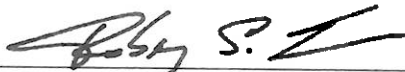
The acts and/or omissions of ATTTO as alleged above, entitle the Department to reimbursement of the costs of its audits pursuant to Section 10148(b) (audit costs for trust fund handling violations) of the Code.

Costs of Investigation and Enforcement

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Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, the Commissioner may request the Administrative Law Judge to direct a licensee found to have committed a violation of this part to 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 Respondent under the Code, for the cost of the investigation and enforcement of the case as permitted by law, for the cost of the Department's audit as permitted by law, and for such other and further relief as may be proper under other provisions of law.


ROBIN S. TANNER
Supervising Special Investigator

Dated at Oakland, California,

this June 16, 20 day of _____, 2020.

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