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FILED

DEC 02 2020

DEPARTMENT OF REAL ESTATE
By B.N. Charles

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

12 CARL SAN MIGUEL,)

13 Respondent.)

No. H-12506 SF

ACCUSATION

14 The Complainant, STEPHANIE YEE, a Supervising Special Investigator of the
15 State of California, for cause of Accusation against CARL SAN MIGUEL (Respondent), are
16 informed and alleges as follows:

17 PRELIMINARY ALLEGATIONS

18 1

19 The Complainant, STEPHANIE YEE, 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 have 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
26 individually as a real estate broker.

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1 4

2 At all times mentioned, Respondent engaged in the business of, acted in the
3 capacity of, advertised, or assumed to act as real estate brokers in the State of California, within
4 the meaning of Section 10131(b) of the Code in the operation and conduct of a property
5 management business with the public wherein, on behalf of others, for compensation or in
6 expectation of compensation, Respondent leased or rented and offered to lease or rent, and
7 placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of
8 real property or improvements thereon, and collected rents from real property or improvements
9 thereon.

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11 On or about May 7, 2020, through July 8, 2020, an audit was conducted of the
12 records of Respondent. The auditor herein examined the records for the period of January 1,
13 2019, through March 31, 2020.

14 6

15 While acting as a real estate broker as described in Paragraph 4, Respondent
16 accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in
17 connection with the leasing, renting, and collection of rents on real property or improvements
18 thereon, as alleged herein, and thereafter from time to time made disbursements of said trust
19 funds.

20 7

21 The trust funds accepted or received by Respondent as described in Paragraph 6,
22 were deposited or caused to be deposited by Respondent into trust accounts which were
23 maintained by Respondent for the handling of trust funds, and thereafter from time-to-time
24 Respondent made disbursements of said trust funds, identified as follows:

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27 ///

| | |
|-------------------------|--|
| ACCOUNT # 1 | |
| Bank Name and Location: | First Bank 790 East Campbell Avenue Campbell, CA 95008 |
| Account No.: | XXXXXXX4293 |
| Entitled: | Carl San Miguel dba: Highland Properties Trust |

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In the course of the activities described in Paragraph 4, above, Respondent:

(a) caused, suffered, or permitted the balance of funds in Account #1 to be reduced to an amount which, as of March 24, 2020, was approximately \$3,589.82 less than the aggregate liability of Account #1 in violation of Section 10145 of the Code and Section 2832.1 of Title 10 of the California Code of Regulations (Regulations); and

(b) failed to reconcile the balance of separate beneficiary or transaction records with the control record of trust funds received and disbursed at least once a month, and/or failed to maintain a record of such reconciliations for Account #1 as required by Section 2831.2 of the Regulations.

9

The facts alleged above are grounds for the suspension or revocation of Respondent's licenses and license rights under the following sections of the Code and Regulations:

As to Paragraph 8(a) under Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

As to Paragraph 8(b), under Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2831.2 of the Regulations.

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1 COST RECOVERY


2 10

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

6 11

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

11 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
12 of this Accusation and that upon proof thereof, a decision be rendered imposing discipline on all
13 licenses and license rights of Respondent under the Real Estate Law (Part 1 of Division 4 of the
14 Business and Professions Code), for the cost of the investigation and enforcement of this case as
15 permitted by law, for the cost of the Department's audit as permitted by law, and for such other
16 and further relief as may be proper under the provisions of law.

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19 _____
20 STEPHANIE YEE
21 Supervising Special Investigator

22 Dated at Oakland, California,
23 this 25th day of November, 2020

