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FILED

MAY 21 2021

DEPARTMENT OF REAL ESTATE  
By J. Taggart

9 BEFORE THE DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of: ) NO. H-12525 SF  
13 TRINITY MANAGEMENT AND )  
14 REAL ESTATE SERVICES, INC., and ) ACCUSATION  
15 ERIN JOSEPH GARDERE )  
16 Respondents. )

17 The Complainant, STEPHANIE YEE, acting in her official capacity as a  
18 Supervising Special Investigator of the State of California, for cause of Accusation against  
19 TRINITY MANAGEMENT AND REAL ESTATE SERVICES, INC. ("TRINITY INC.") and  
20 ERIN JOSEPH GARDERE ("GARDERE") (collectively referred to herein as "Respondents"), is  
21 informed and alleges as follows:

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23 Respondent TRINITY INC. is presently licensed by the California Department of  
24 Real Estate ("the Department") and/or has license rights under the Real Estate Law, Part 1 of  
25 Division 4 of the California Business and Professions Code ("the Code"), as a real estate broker  
26 corporation.

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Respondent GARDERE is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code ("The Real Estate Law"), as a real estate broker. At all relevant times, GARDERE served as the designated broker-officer of TRINITY INC. As the designated officer, GARDERE was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of TRINITY INC. for which a real estate license is required. At all times herein mentioned, GARDERE was and is licensed by the Department as an individual mortgage loan originator with NMLS identification number 01404737.

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Whenever reference is made in an allegation in this Accusation to an act or omission of TRINITY INC., such allegation shall be deemed to mean that the employees, agents, real estate licensees, and others employed by or associated with TRINITY INC. committed such act or omission while engaged in furtherance of the business or operations of TRINITY INC. and while acting within the course and scope of their authority and employment.

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At all times mentioned herein, Respondents 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, Respondents leased or rented and offered to lease or rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

**COUNT ONE**

**AUDIT VIOLATIONS**

(As to Respondents TRINITY INC. and GARDERE)

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Each and every allegation in paragraphs 1 through 4, inclusive, above, is

1 incorporated by this reference as if fully set forth herein.

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3 Beginning on or about January 16, 2020, and continuing intermittently through  
4 January 30, 2020, an audit was conducted of Respondents' records. The auditor examined the  
5 records for the period of July 1, 2018, through October 31, 2019.

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7 While acting as real estate licensees, as described above in Paragraph 4,  
8 Respondents accepted or received funds in trust (trust funds) from or on behalf of owners and  
9 tenants in connection with the leasing, renting, and collection of rents on real property or  
10 improvements thereon, as alleged herein, and thereafter from time-to-time made disbursements  
11 of said trust funds.

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13 The trust funds accepted or received by Respondents, as described above in  
14 Paragraph 7, were deposited or caused to be deposited by Respondents into bank accounts  
15 maintained by Respondents for the handling of trust funds, and thereafter from time-to-time  
16 Respondents made disbursements of said trust funds, from the following accounts:

<b>BANK ACCOUNT #1</b>	
<b>Bank:</b>	US Bank P.O Box 1800 Saint Paul MN 55101-0800
<b>Account No.:</b>	XXXXXXXX1253
<b>Entitled:</b>	Trinity Management and Real Estate
<b>Signatories:</b>	Erin Joseph Gardere (REB) Thalia Jones (Unlicensed)
<b>Purpose:</b>	Holding handling trust funds for property management activities. Deposits consisted of rent payments, late fees, and owner contributions. Disbursements consisted of owner proceeds, repairs and maintenance payments, bank and management fees, and corporate expenses.

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In the course of the activities described in Paragraph 4, Respondents:

(a) caused, suffered or permitted the balance of funds in the Bank Account #1 to contain a shortage of \$38,213.47 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 Chapter 6, Title 10, California Code of Regulations ("the Regulations");

(b) failed to place trust funds entrusted to Respondents into the hands of a principal on whose behalf the funds were received, into a neutral escrow depository, or into a trust fund account in the name of Respondents as trustee at a bank or other financial institution, in that trust funds were deposited into Bank Account #1, in violation of Section 10145 of the Code and Section 2832 of the Regulations;

(c) failed to deposit trust funds received, within three (3) business days from the date of receipt, in violation of Section 10145 of the Code and Section 2832 of the Regulations;

(d) allowed an unlicensed individual without fidelity bond coverage, Thalia Jones, to be a signatory on the trust account, in violation of Section 10145 of the Code and Section 2834 of the Regulations.

The acts and/or omissions of Respondents, as alleged above in Paragraph 9, constitute grounds for the suspension or revocation of Respondent's real estate licenses and license rights and GARDERE's mortgage loan originator license endorsement and endorsement rights, pursuant to the following provisions of the Code and Regulations:

As to Paragraph 9(a), under Section 10177(d) of the Code, in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

As to Paragraph 9(b), under Section 10177(d) of the Code, in conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

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1 As to Paragraph 9(c), under Section 10177(d) of the Code, in conjunction with  
2 Section 10145(g) of the Code and Section 2832 of the Regulations; and

3 As to Paragraph 9(d), under Section 10177(d) of the Code, in conjunction with  
4 Section 10145 of the Code and Section 2834 of the Regulations.

5 **COUNT TWO**  
6 **CONVERSION**

7 (As to Respondents TRINITY INC. and GARDERE)

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9 Each and every allegation in Paragraphs 1 through 10, inclusive, above, is  
10 incorporated by this reference as if fully set forth herein.

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12 During the audit period, Respondents disbursed trust funds in the form of debit  
13 card purchases, ACH transfers, and checks from Bank Account #1 in the following manner:

<b>Date</b>	<b>Check No.</b>	<b>Payee</b>	<b>Amount</b>	<b>Description</b>
9/14/18	6981	Raul M.	\$6,300	Fix property damage caused by TRINITY INC. employee
9/21/18	7017	Raul M.	\$1,900	Fix TRINITY office damage
12/21/18	Debit Card	BevMo	\$230.55	Gifts for TRINITY year end party

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15 Respondents made the expenses described above in Paragraph 12 without the  
16 prior written approval and/or consent of the owners of the funds.

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18 The acts and/or omissions of Respondents, as alleged above in Paragraphs 11  
19 through 13, are grounds for the revocation or suspension of Respondents' real estate licensed and  
20 license rights, and GARDERE's mortgage loan originator license endorsement and endorsement  
21 rights, under Sections 10176(c), 10176(i), 10177(g) and/or 10177(j) of the Code.

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1 COST RECOVERY

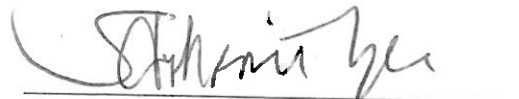
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3 The acts and/or omissions of Respondents, as alleged above in First Cause of  
4 Action entitle the Department to reimbursement of the costs of its audit pursuant to Section  
5 10148(b) of the Code.

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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 disciplinary  
13 action against all licenses and license rights of Respondents under the Code, and the mortgage  
14 loan originator license endorsement and endorsement rights of GARDERE under the Code, for  
15 the cost of investigation and enforcement as permitted by law, for the cost of the audit, and for  
16 such other and further relief as may be proper under other provisions of law.

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19 STEPHANIE YEE  
20 Supervising Special Investigator

21 Dated at Oakland, California,  
22 this 14th day of May, 2021

23 DISCOVERY DEMAND

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