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DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:)	NO. H-12563 SF
)	
DPM PROPERTY MANAGEMENT, INC.,)	<u>ACCUSATION</u>
and DAVID BRUCE DOLLINGER,)	
)	
Respondents.)	
)	

The Complainant, STEPHANIE YEE, acting in her official capacity as a Supervising Special Investigator of the State of California, for cause of Accusation against DPM PROPERTY MANAGEMENT, INC. ("DPM"), and DAVID BRUCE DOLLINGER ("DOLLINGER"), (collectively referred to as "Respondents"), is informed and alleges as follows:

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Respondent DPM is presently licensed by the California Department of Real Estate ("the Department") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("the Code"), as a corporate real estate broker, and at all times relevant herein was acting by and through DOLLINGER as its designated broker officer.

DPM obtained its corporate real estate broker licensed on June 3, 2020.

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DOLLINGER is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code (“the Real Estate Law”) as an individual real estate broker and as the designated broker officer of DPM. At all times relevant herein, DOLLINGER, acting in the capacity as the designated broker officer of DPM, 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 DPM for which a real estate license is required.

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

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as a corporate real estate broker within the State of California on behalf of others, for compensation or in expectation of compensation 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, leased or rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenant, or negotiated for sale, purchase or exchanges of leases on real property, or on a business opportunity, or collected rent from real property, or improvements thereon, or from business opportunities.

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COUNT ONE
AUDIT VIOLATIONS
(As to Respondents DPM and DOLLINGER)

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Each and every allegation above in paragraphs 1 through 4, inclusive, is incorporated by this reference as if fully set forth herein.

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Beginning on June 1, 2021, and continuing intermittently until July 12, 2021, the Department conducted an audit of the books and records related to the real estate activities of Respondents at and the Department's main office located at 1515 Clay Street, Suite 702, Oakland, CA 94612. The auditor examined records for the period of April 1, 2019, to May 31, 2021 ("audit period").

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While acting as real estate brokers as described above in paragraph 4, and within the audit period, Respondents accepted or received funds in trust ("trust funds") and deposited or caused the trust funds to be deposited into bank accounts maintained by Respondents, and thereafter, from time-to-time, Respondents made disbursements of said trust funds, identified as follows:

Bank Account #1

Bank Name:	City National Bank
Account No.:	xxxxx3632
Account Name:	Dollinger Properties, A CA General Partner
Signatories:	David B. Dollinger (D.O.) Michael I. Dollinger (REB) Barrie Dollinger Mengarelli (RES)
Purpose:	Used for deposits and disbursements related to the management of properties.

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In the course of the real estate broker activities described above in paragraph 4, and during the audit period, Respondents:

(a) caused, suffered, or permitted the balance of funds in Bank Account #1 to be reduced to an amount which, as of April 30, 2021, was approximately \$4,757,805.29 less than the aggregate liability of Bank Account #1 to all owners of such funds, 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) from April 1, 2019 to June 2, 2020, Respondents performed property management activities and collected management fees from owners of properties under DPM prior to DPM having a valid corporate real estate broker license, in violation of Sections 10130 and 10131(b) of the Code;

(c) failed to designate Bank Account #1, used to hold trust funds, as a trust account in violation of Section 10145 of the Code and Section 2832 the Regulations;

(d) from April 1, 2019 through May 10, 2021, allowed, authorized, and/or permitted Michael I. Dollinger, whose real estate broker license was not associated with DPM until May 11, 2021, and for which there was no fidelity bond coverage, to serve as a signatory on Bank Account #1, in violation of Section 10145 of the Code and Section 2834 of the Regulations;

(e) from April 1, 2019 through May 2, 2021, allowed, authorized, and/or permitted Barrie Dollinger Mengarelli, whose real estate salesperson license as not associated with DPM until May 3, 2021, and for which there was no fidelity bond coverage, to serve as a signatory on Bank Account #1, in violation of Section 10145 of the Code and Section 2834 of the Regulations;

(f) failed to maintain an accurate record of all trust funds received and disbursed (control records) for Bank Account #1, in violation of Section 10145 of the Code and Section 2831 of the Regulations;

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1 (g) failed to maintain and/or keep accurate and complete separate records for
2 each beneficiary or property of trust funds accepted or received in Bank Account #1 in violation of
3 Section 10145(g) of the Code, and Section 2831.1 of the Regulations;

4 (h) failed to reconcile at least once per month, the balance of all separate
5 beneficiary or transaction records to the balance of the control records Bank Account #1, in
6 violation of Section 10145 of the Code and Section 2831.2 of the Regulations;

7 (i) failed to obtain a real estate license bearing the fictitious business name
8 "Dollinger Properties" before conducting in that name activities for which a license was required, in
9 violation of Section 10159.5 of the Code, and Section 2731 of the Regulations; and

10 (j) As of April 23, 2021 and May 6, 2021, Respondents failed to disclose on its
11 website <http://www.dollingerproperties.com/> the real estate license number issued to DPM by the
12 Department which was used by DPM to solicit real estate clients, in violation of Section 10140.6 of
13 the Code and Section 2773 of the Regulations.

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15 The acts and/or omissions of Respondents, as alleged above in paragraph 8, constitute
16 grounds for the suspension or revocation of all licenses and license rights of Respondents pursuant
17 to the following provisions of the Code and Regulations:

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

20 As to Paragraph 8(b), under Section 10177(d) and/or 10177(g) of the Code, in
21 conjunction with Sections 10130 and 10131(b) of the Code;

22 As to Paragraph 8(c), under Section 10177(d) and/or 10177(g) of the Code, in
23 conjunction with Section 10145 of the Code, and Section 2832 of the Regulations;

24 As to Paragraph 8(d), under Section 10177(d) and/or 10177(g) of the Code, in
25 conjunction with Section 10145 of the Code, and Section 2834 of the Regulations;

26 As to Paragraph 8(e), under Section 10177(d) and/or 10177(g) of the Code, in
27 conjunction with Section 10145 of the Code, and Section 2834 of the Regulations;

1 As to Paragraph 8(f), under Section 10177(d) and/or 10177(g) of the Code, in
2 conjunction with Section 10145 of the Code, and Section 2831 of the Regulations;

3 As to Paragraph 8(g), under Section 10177(d) and/or 10177(g) of the Code, in
4 conjunction with Section 10145(g) of the Code, and Section 2831.1 of the Regulations;

5 As to Paragraph 8(h), under Section 10177(d) and/or 10177(g) of the Code, in
6 conjunction with Section 10145 of the Code, and Section 2831.2 of the Regulations;

7 As to Paragraph 8(i), under Section 10177(d) and/or 10177(g) of the Code, in
8 conjunction with Section 10159.5 of the Code, and Section 2731 of the Regulations; and

9 As to Paragraph 8(j), under Section 10177(d) and/or 10177(g) of the Code, in
10 conjunction with Section 10140.6 of the Code, and Section 2773 of the Regulations.

11 **COUNT TWO**
12 **FAILURE TO SUPERVISE**
13 **(As to Respondent DOLLINGER)**

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

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18 DOLLINGER, as the designated officer of DPM, was required to exercise reasonable
19 supervision and control over the activities of DPM, and its employees, and the real estate activities
20 being conducted by DPM.

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22 DOLLINGER failed to exercise reasonable supervision over the acts and/or
23 omissions of DPM, and its employees, in such a manner as to allow the acts and/or omissions as
24 described above in Paragraphs 8 and 9 of the Count One to occur, which constitutes cause for the
25 suspension or revocation of the license(s) and license rights of DOLLINGER under Sections
26 10177(d) and/or 10177(g), 10177(h) and 10159.2 of the Code, in conjunction with Section 2725 of
27 the Regulations.

1 **COST RECOVERY**

2 **Audit Costs**

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4 The acts and/or omissions of Respondents, as alleged above in Count One and Count
5 Two, entitle the Department to reimbursement of the costs of its audit pursuant to Section 10148(b)
6 of the Code.

7 **Investigation and Enforcement Costs**

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

13 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
14 this Accusation and that upon proof thereof, a decision be rendered revoking all licenses and license
15 rights of all Respondents named herein under the Real Estate Law, for the cost of investigation and
16 enforcement as permitted by law, for the cost of the audit as permitted by law, and for such other
17 and further relief as may be proper under other provisions of law.

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20 STEPHANIE YEE
21 Supervising Special Investigator

22 Dated at Oakland, California,
23 this 26th day of January, 2022.

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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.

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