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FILED

DEC 23 2021

DEPARTMENT OF REAL ESTATE
By K. Knapp

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of:) NO. H-12574 SF
13 C F McBRIDE REALTY INC.,)
14 CHRISTINA F. McBRIDE, and) ACCUSATION
15 MARLENE U. McBRIDE)
16 Respondents.)

17 The Complainant, STEPHANIE YEE, acting in her official capacity as a Supervising
18 Special Investigator of the State of California, for cause of Accusation against C F McBRIDE
19 REALTY INC. ("McBRIDE REALTY"), CHRISTINA F. McBRIDE ("CHRISTINA"), and
20 MARLENE U. McBRIDE ("MARLENE") (collectively referred to as "Respondents"), is informed
21 and alleges as follows:

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23 Respondent McBRIDE REALTY is presently licensed by the California Department
24 of 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 corporate real estate
26 broker, and at all times relevant herein was acting by and through CHRISTINA as its designated
27 broker officer.

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CHRISTINA 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 McBRIDE REALTY. At all times relevant herein, CHRISTINA, acting in the capacity as the designated broker officer of McBRIDE REALTY, 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 McBRIDE REALTY for which a real estate license is required.

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At all times herein mentioned, MARLENE was licensed and/or had license rights under the Real Estate Law, Part 1 of Division 4 of the Code ("the Real Estate Law") as a real estate salesperson.

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

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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

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1 property, or on a business opportunity, or collected rent from real property, or improvements
2 thereon, or from business opportunities.

3 **COUNT ONE**
4 **AUDIT VIOLATIONS**
(As to Respondents McBRIDE REALTY and CHRISTINA)

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6 Each and every allegation above in paragraphs 1 through 5, inclusive, is incorporated
7 by this reference as if fully set forth herein.

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9 Beginning on December 18, 2020, and continuing intermittently until March 19,
10 2021, the Department conducted an audit of the books and records related to the real estate activities
11 of Respondents at and the Department's main office located at 1515 Clay Street, Suite 702, Oakland,
12 CA 94612. The auditor examined records for the period of January 1, 2019, to January 31, 2020
13 ("audit period #1").

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15 While acting as real estate brokers as described above in paragraph 5, and within
16 audit period #1, McBRIDE REALTY and CHRISTINA accepted or received funds in trust ("trust
17 funds") and deposited or caused the trust funds to be deposited into bank accounts maintained by
18 McBRIDE REALTY and CHRISTINA, and thereafter, from time-to-time. McBRIDE REALTY and
19 CHRISTINA made disbursements of said trust funds, identified as follows:

20 **Bank Account #1**

21 Bank Name: Exchange Bank
22 Account No.: xxxxxx3592
23 Account Name: C F McBride Realty Inc. dba McBride Realty Property
Management
24 Signatories: Jon W. McBride (Unlicensed)
Christina F. McBride (D.O.)
Marie A. McBride-Berolone (Licensed Officer)
25 Purpose: Used for deposits and disbursements related to the
26 management of properties.

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2 In the course of the real estate broker activities described above in paragraph 5, and
3 during the audit period, McBRIDE REALTY and CHRISTINA:

4 (a) caused, suffered, or permitted the balance of funds in Bank Account #1 to
5 be reduced to an amount which, as of December 31, 2019, was approximately \$8,638.53 less than
6 the aggregate liability of Bank Account #1 to all owners of such funds, without the prior written
7 consent of each and every owner of such funds, in violation of Section 10145 of the Code and
8 Section 2832.1 of Chapter 6, Title 10, California Code of Regulations ("the Regulations");

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

11 (c) allowed, authorized, and/or permitted John w. McBride, who was unlicensed,
12 to serve as a signatory on Bank Account #1 without fidelity bond coverage, in violation of Section
13 10145 of the Code and Section 2834 of the Regulations;

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

17 (e) failed to maintain and/or keep accurate and complete separate records for
18 each beneficiary or property of trust funds accepted or received in Bank Account #1, in that as of
19 December 31, 2019, Bank Account #1 contained unaccounted for or unidentified funds in the
20 amount of \$9,790.84, in violation of Section 10145(g) of the Code, and Section 2831.1 of the
21 Regulations;

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

25 (g) failed to obtain a real estate license bearing the fictitious business name
26 "McBride Realty Property Management" before conducting in that name activities for which a
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1 license was required, in violation of Section 10159.5 of the Code, and Section 2731 of the
2 Regulations.

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4 The acts and/or omissions of McBRIDE REALTY and CHRISTINA, as alleged
5 above in paragraph 9, constitute grounds for the suspension or revocation of all licenses and license
6 rights of McBRIDE REALTY and CHRISTINA pursuant to the following provisions of the Code
7 and Regulations:

8 As to Paragraph 9(a), under Section 10177(d) and/or 10177(g) of the Code, in
9 conjunction with Sections 10145 of the Code and Sections 2832.1 of the Regulations:

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

12 As to Paragraph 9(c), under Section 10177(d) and/or 10177(g) of the Code, in
13 conjunction with Section 10145 of the Code, and Section 2834 of the Regulations;

14 As to Paragraph 9(d), under Section 10177(d) and/or 10177(g) of the Code, in
15 conjunction with Section 10145 of the Code, and Section 2831 of the Regulations;

16 As to Paragraph 9(e), under Section 10177(d) and/or 10177(g) of the Code, in
17 conjunction with Section 10145(g) of the Code, and Section 2831.1 of the Regulations;

18 As to Paragraph 9(f), under Section 10177(d) and/or 10177(g) of the Code, in
19 conjunction with Section 10145 of the Code, and Section 2831.2 of the Regulations; and

20 As to Paragraph 9(g), under Section 10177(d) and/or 10177(g) of the Code, in
21 conjunction with Section 10159.5 of the Code, and Section 2731 of the Regulations.

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While acting as real estate brokers as described above in paragraph 5, and within audit period #2, MARLENE accepted or received funds in trust ("trust funds") and deposited or caused the trust funds to be deposited into bank accounts maintained by MARLENE, and thereafter. from time to time, MARLENE made disbursements of said trust funds, identified as follows:

Bank Account #1

Bank Name: Redwood Credit Union
Account No.: xxxx37-10
Account Name: McBride Realty Property Management
Signatories: Marlene U. McBride (RES)
Purpose: Used for deposits and disbursements related to the management of properties.

In the course of the real estate broker activities described above in paragraph 5, and during the audit period, MARLENE:

(a) performed property management activities without the knowledge or consent of her employing broker, in violation of Sections 10130 and 10137 of the Code;

(b) 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;

(c) caused, suffered, or permitted funds of others which were received and held by MARLENE in Bank Account #1 to be commingled with MARLENE's own money, in violation of Sections 10145 and 10176(e) of the Code, and Section 2835 of the Regulations;

(d) failed to maintain and/or keep accurate and complete separate records for each beneficiary or property of trust funds accepted or received in Bank Account #1, in that as of December 31, 2019, Bank Account #1 contained unaccounted for or unidentified funds in the amount of \$9,790.84, in violation of Section 10145(g) of the Code, and Section 2831.1 of the Regulations; and

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1 (e) failed to reconcile at least once per month, the balance of all separate
2 beneficiary or transaction records to the balance of the control records Bank Account #1, in
3 violation of Section 10145 of the Code and Section 2831.2 of the Regulations.

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5 The acts and/or omissions of MARLENE, as alleged above in paragraph 17,
6 constitute grounds for the suspension or revocation of all licenses and license rights of MARLENE
7 pursuant to the following provisions of the Code and Regulations:

8 As to Paragraph 17(a), under Section 10177(d) and/or 10177(g) of the Code, in
9 conjunction with Sections 10130 and 10137 of the Code;

10 As to Paragraph 17(b), under Section 10177(d) and/or 10177(g) of the Code, in
11 conjunction with Sections 10145 of the Code and Sections 2832 of the Regulations;

12 As to Paragraph 17(c), under Section 10177(d) and/or 10177(g) of the Code, in
13 conjunction with Sections 10145 and 10176(e) of the Code and Section 2835 of the Regulations;

14 As to Paragraph 17(d), under Section 10177(d) and/or 10177(g) of the Code, in
15 conjunction with Section 10145(g) of the Code, and Section 2831.1 of the Regulations; and

16 As to Paragraph 17(e), under Section 10177(d) and/or 10177(g) of the Code, in
17 conjunction with Section 10145 of the Code, and Section 2831.2 of the Regulations.

18 **COST RECOVERY**

19 **Audit Costs**

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21 The acts and/or omissions of Respondents, as alleged above in the First and Third
22 Causes of Action, entitle the Department to reimbursement of the costs of its audit pursuant to
23 Section 10148(b) of the Code.

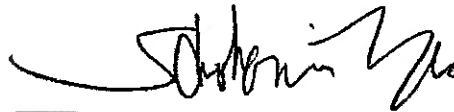
24 **Investigation and Enforcement Costs**

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26 Section 10106 of the Code provides, in pertinent part, that in any order issued in
27 resolution of a disciplinary proceeding before the Department, the Commissioner may request the

1 Administrative Law Judge to direct a licensee found to have committed a violation of this part to
2 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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

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10 STEPHANIE YEE
11 Supervising Special Investigator

12 Dated at Oakland, California,
13 this 20th day of December, 2021.

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15 DISCOVERY DEMAND

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