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FILED

SEP 28 2023

DEPARTMENT OF REAL ESTATE
By B. Nicholas

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	
PROPERTY FORCE, INC.;)	No. H-12690 SF
)	
and)	
)	<u>ACCUSATION</u>
)	
JOHN M. WAY JR., as designated officer of)	
Property Force, Inc.,)	
)	
Respondents.)	

The Complainant, STEPHANIE YEE, a Supervising Special Investigator of the State of California, for cause of Accusation against PROPERTY FORCE, INC., and JOHN M. WAY JR. (collectively referred to as "Respondents"), is informed and alleges as follows:

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The Complainant, STEPHANIE YEE, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

PRELIMINARY ALLEGATIONS

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Respondents are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code ("Code").

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At all times mentioned, Respondent PROPERTY FORCE, INC. (PFI) was and is licensed by the Department as a real estate broker corporation, License ID 01919443.

On or about October 12, 2012, PFI was licensed by the Department as a real estate broker corporation. Unless renewed, PFI's corporate broker license will expire September 21, 2025.

Effective March 15, 2021, in Case No. H-12470 SF before the Department, the Real Estate Commissioner (Commissioner) issued an order suspending the real estate corporate license of PFI for 60-days, stayed upon terms and conditions, for violation of Business and Professions Code ("Code") Sections 10177(d) and 10176(g).

At all times mentioned, Respondent WAY was and is licensed by the Department as the designated broker officer of PFI. WAY was licensed as a real estate salesperson (01810572) on June 27, 2007, and as the designated officer of PFI on October 12, 2012.

Effective March 15, 2021, in Case No. H-12470 SF before the Department, the Commissioner issued an order suspending the real estate designated broker officer license of WAY for 60-days, stayed upon terms and conditions, for violation of Code Sections 10177(d), 10176(g), and 10177(h).

As said designated officer-broker, WAY 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 PFI for which a license is required.

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

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thereon, as alleged herein, and thereafter from time-to-time made disbursements of said trust funds.

The trust funds accepted or received by Respondents were deposited or caused to be deposited by Respondents into accounts which were maintained by Respondents for the handling of trust funds, and thereafter from time-to-time Respondents made disbursements of said trust funds, identified as follows:

TRUST ACCOUNT # 1	
Bank Name and Location:	Wells Fargo Bank P.O. Box 563974 Charlotte, NC 28256
Account No.:	XXXXXXX4096
Account Name:	Property Force Inc. Real Estate Trust Account Rent Trust Account
Purpose:	Trust Account #1 was maintained for the receipt and disbursement of trust funds from property management activities.

TRUST ACCOUNT # 2	
Bank Name and Location:	Wells Fargo Bank P.O. Box 563974 Charlotte, NC 28256
Account No.:	XXXXXXX8222
Account Name:	Property Force Inc. Real Estate Trust Account

	Deposit Trust Account
Purpose:	Trust Account #2 was maintained for the handling of security deposits from PFI's property management activities.

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In the course of the property management activities described in Paragraph 7, and during the audit examination period described in Paragraph 6, Respondents violated the Code and Regulations described below:

Trust Account Accountability and Balances

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Based on the records provided during the audit, a bank reconciliation for Trust Account #1 was prepared for as of December 31, 2021. The adjusted bank balance of Trust Account #1 as of December 31, 2021, was compared to the beneficiaries' accountability for Trust Account #1 as of December 31, 2021.

Adjusted Bank Balance	\$262,672.63
Accountability	<u>\$265,199.42</u>
Trust Fund Shortage	<u>(\$2,526.79)</u>

A shortage of \$2,526.79 was found in Trust Account #1 as of December 31, 2021. The shortage was caused by negative balances of three (3) properties totaling \$1,051.83; \$45 of trust funds, for property 1015 Continentals Way, was held by PFI but was not deposited into Trust Account #1, and \$1,429.96 in over-charged management fees.

Respondents provided no evidence that the owners of the trust funds had given their written consent to allow Respondents to reduce the balance of the funds in Trust Account #1 to an amount less than the existing aggregate trust fund liabilities, in violation of Section 10145 of the Code and Section 2832.1 of Title 10, Chapter 6, California Code of Regulations (Regulations).

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1 Trust Account Reconciliation

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3 Respondents failed to reconcile the balance of separate beneficiary or transaction
4 records with the control record of trust funds received and disbursed at least once a month,
5 and/or failed to maintain a record of such reconciliations for Trust Account #1 and Trust
6 Account #2, as required by Section 2831.2 of the Regulations.

7 Management Fees

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9 Respondents over-charged a total of \$1,429.96 of management fees in October
10 and December 2021 in violation of Sections 10176(i) and/or 10177(g) of the Code.

11 FAILURE TO SUPERVISE

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13 Respondent WAY failed to exercise reasonable supervision over the acts of PFI in
14 such a manner as to allow the acts and events described above to occur.

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16 The acts and/or omissions of WAY as described in Paragraph 13, constitutes
17 failure on the part of WAY, as designated broker-officer for PFI, to exercise reasonable
18 supervision and control over the licensed activities of PFI as required by Section 10159.2 of the
19 Code and Section 2725 of the Regulations.

20 GROUND FOR DISCIPLINE

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22 The acts and/or omissions of Respondents as alleged in the above constitute
23 grounds for the suspension or revocation of all licenses and license rights of Respondents,
24 pursuant to the following provisions of the Code and Regulations:

25 As to Paragraph 10, under Sections 10177(d) and/or 10177(g) of the Code in
26 conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

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1 As to Paragraph 11, under Sections 10177(d) and/or 10177(g) of the Code in
2 conjunction with Section 10145 of the Code and Section 2831.2 of the Regulations; and

3 As to Paragraph 12, under Sections 10177(g) and/or 10176(i) of the Code.

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5 The acts and/or omissions of WAY as alleged in Paragraphs 13 and 14 constitute
6 grounds for the suspension or revocation of all licenses and license rights of WAY under
7 Sections 10177(g) and/or 10177(h) of the Code, and Section 10159.2 of the Code in conjunction
8 with Section 10177(d) of the Code.

9 COST RECOVERY

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11 The acts and/or omissions of Respondents as alleged above, entitle the
12 Department to reimbursement of the costs of its audit pursuant to Section 10148(b) of the Code.

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

19 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
20 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
21 action against all licenses and license rights of Respondent under the Code, for the cost of

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1 investigation and enforcement as permitted by law, and for such other and further relief as may
2 be proper under the provisions of law.

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5 STEPHANIE YEE
6 Supervising Special Investigator

7 Dated at Oakland, California,
8 this 20th day of September, 2023

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10 DISCOVERY DEMAND

11 Pursuant to Sections 11507.6, *et seq.* of the *Government Code*, the Department of
12 Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the
13 *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate
14 may result in the exclusion of witnesses and documents at the hearing or other sanctions that the
15 Office of Administrative Hearings deems appropriate.