

FILED

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DEPARTMENT OF REAL ESTATE
BY: [Signature]

1 Elliott Mac Lennan, Counsel (SBN 66674)
2 Bureau of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105

4 Telephone: (213) 576-6982
5 Direct: (213) 576-6911
6 Facsimile: (213) 576-6917

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8
9 BEFORE THE BUREAU OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * * * *

11 In the Matter of the Accusation of)
12)
13 LAGANI INC. doing business as) No. H- 39355 LA
14 Progressive Property Management; and)
15 SCOTT PRESTON BRADY,) ACCUSATION
16 individually and as designated officer)
17 of Lagani Inc.,)
18 Respondents.)

19 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the
20 State of California, Bureau of Real Estate ("Bureau") for cause of Accusation against LAGANI
21 INC. ("LI") dba Progressive Property Management and SCOTT PRESTON BRADY
22 ("BRADY,") individually and as designated officer of Lagani Inc. (collectively "Respondents"),
23 is informed and alleges as follows:

24 1.

25 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the
26 State of California, makes this Accusation in her official capacity.

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2.

From October 6, 2011, through the present, Respondent LI has been licensed as a corporate real estate broker. At all times relevant herein, LI was acting by and through Respondent BRADY as its designated officer pursuant to Business and Professions Code (“Code”) Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law.

3.

Respondent BRADY was originally licensed as a real estate broker on October 2, 1995.

Table: Designated Officer Tenure

Designated Officer	Tenure	Ownership/Title
Scott Preston Brady	Inception to present	Scott Preston Brady 100% CEO/CFO/Secretary

4.

Whenever reference is made in an allegation in this Accusation to an act or omission of “Respondents.” such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with Respondents committed such act or omission while engaged in the furtherance of the business or operations of Respondents and while acting within the course and scope of their corporate authority and employment, including BRADY, and real estate salespersons Nicole Marie Brady and Michelle Diane Watkins.

FIRST CAUSE OF ACCUSATION
(Property Management Audit)

5.

At all times mentioned, in the City of Yorba Linda, County of Los Angeles, Respondents LI and BRADY acted as a real estate brokers and conducted licensed activities within the meaning of Code Section 10131(b) wherein they conducted a property management brokerage.

1
2 LI is engaged in property management activity and managed one hundred twelve
3 (112) residential properties for approximately one hundred (100) owners. LI collects rents, pays
4 expenses, and screens tenants for compensation. Approximately \$2,900,000.00 in trust funds
5 was handled during the last twelve (12) months.

6
7 Audit Examination

8 6.

9 On November 6, 2013, the Bureau completed an audit examination of the books
10 and records of Respondent LI pertaining to the property management activities described in
11 Paragraph 5, which require a real estate license. The audit examination covered a period of time
12 beginning on January 1, 2012 and ending on February 28, 2013. The audit examination
13 revealed violations of the Code and the Title 10, Chapter 6, California Code of Regulations
14 ("Regulations") as alleged in the following paragraphs, and more fully set forth in Audit Report
15 LA 120194 and the exhibits and work papers attached thereto.

16 Trust Accounts

17 7.

18 At all times mentioned, in connection with the activities described in Paragraph
19 6, above, LI accepted or received funds including funds in trust ("trust funds") from or on behalf
20 of property owners and tenants handled by LI and thereafter made deposits and or disbursements
21 of such funds. From time to time herein mentioned, during the audit period and thereafter, said
22 trust funds were deposited and/or maintained by LI in the bank accounts described below:

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1 Trust Account 1 (T/A 1)

2 Bank: Bank of America
3 160 East Yorba Linda Boulevard
4 Placentia, CA 92870

5 Account Name: Lagani Inc
6 dba: Progressive Property Management
7 Trust Account

8 Account Number: xxxx-xxxx-7096

9 Signatories: Scott Brady – REB
10 Michelle Watkins – RES
11 Nicole Brady – RES

12 Number of Signatures Required: one

13 (T/A-1 was used to handle rent receipts and disbursements related to LI's property management
14 activity.)

15 Trust Account 2 (T/A 2)

16 Bank: Bank of America
17 160 East Yorba Linda Boulevard
18 Placentia, CA 92870

19 Account Name: Lagani Inc
20 dba: Progressive Property Management
21 Trust Account

22 Account Number: xxx-xxxx-9024

23 Signatories: Scott Brady – REB
24 Michelle Watkins – RES

25 Number of Signatures Required: one

26 (T/A-2 was used to handle security deposit receipts and disbursements related to LI's property
27 management activity.)

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1 Violations of the Real Estate Law

2 8.

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4 In the course of activities described in Paragraphs 5 and 7, above, and during the
5 examination period, described in Paragraph 6, Respondents LI and BRADY acted in violation of
6 the Code and the Regulations in which Respondents:

7 (a) Permitted, allowed or caused the disbursement of trust funds from LI's
8 property management trust accounts into which trust funds in the form of rents and security
9 deposits collection, and where the disbursement of funds reduced the total of aggregate funds in
10 T/A 1 and T/A 2 to an amount which, on February 28, 2013, was at a combined minimum
11 accountability of \$548,803.06, less than the existing aggregate trust fund accountability of LI to
12 every principal who was an owner of said funds, without first obtaining the prior written consent
13 of the owners of said funds, in violation of Code Section 10145(a) and Regulation 2832.1. On
14 August 6, 2013, LI restored \$43,014.77 to T/A 1, leaving a net shortage in T/A 1 and T/A 2 of
15 \$505,788.29. Recapitulated:
16

17 \$548,803.06 (shortage in combined T/A 1 and T/A 2 trust accounts)
18 \$ 43,014.77 (restored to T/A 1)
19 \$505,788.29 (net shortage)

20 (b) Failed to maintain an accurate and complete control record in the form of a
21 columnar record in chronological order of trust funds received but not deposited into T/A 1 and
22 T/A 2, in violation of Code Section 10145 and Regulation 2831;

23 (c) Failed to maintain an accurate and complete separate record for each
24 beneficiary or transaction, thereby failing to account for all trust funds received, deposited and
25 disbursed for T/A 1 and T/A 2, in violation of Code Section 10145 and Regulation 2831.1;
26

1 (d) Failed to perform an accurate and complete monthly reconciliation of the
2 balance of all separate beneficiary or transaction records maintained pursuant to Regulation
3 2831.1 with the record of all trust funds received and disbursed by T/A 1 and T/A 2, in violation
4 of Code Section 10145 and Regulations 2831.2;

5 (e) Failed to place trust funds in the form of rent receipts, accepted on behalf of
6 another into the hands of the owner of the funds, a neutral escrow depository or into a trust fund
7 account in the name of the trustee at a bank or other financial institution not later than three
8 business days following receipt of the funds by the broker or by the broker's salesperson, in
9 violation of Code Section 10145 and Regulation 2832(d);

10 (f) Used the fictitious names of "Lagani" "HB Realty & Investment, Inc." and
11 "Coldwell Banker Excellence" to conduct licensed activities without first obtaining from the
12 Bureau a license bearing said fictitious business names, in violation of Code Section 10159.5
13 and Regulation 2731;

14 (g) BRADY failed to adequately supervise and control the real estate and
15 property management activity conducted under LI's real estate broker license. Additionally,
16 Respondent BRADY had no system in place for regularly monitoring LI's compliance with the
17 Real Estate Law especially in regard to establishing, systems, policies and procedures to review
18 trust fund handling, and to keep LI in compliance with the Real Estate Law, in violation of Code
19 Sections 10159.2, 10177(h) and Regulation 2725.
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9.

The conduct of Respondents LI and BRADY, described in Paragraph 8, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
8(a)	Code Section 10145 and Regulation 2832.1
8(b)	Code Section 10145 and Regulation 2831
8(c)	Code Section 10145 and Regulation 2831.1
8(d)	Code Section 10145 and Regulation 2831.2
8(e)	Code Section 10145 and Regulation and 2832(d)
8(f)	Code Sections 10159.5 and Regulation 2731
8(g)	Code Sections 10159.2 and 10177(h) and Regulation 2725 (BRADY)

The foregoing violations constitute cause for the discipline of the real estate licenses and license rights of Respondents LI and BRADY under the provisions of Code Sections 10145, 10159.2, 10177(d), 10177(g), and 10177(h) for BRADY.

SECOND CAUSE OF ACCUSATION
(Negligence)

10.

The overall conduct of Respondents LI and BRADY constitutes negligence and is cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

THIRD CAUSE OF ACCUSATION
(Fiduciary Duty)

11.

The conduct, acts and omissions of Respondents LI and BRADY constitutes a breach of fiduciary duty owed to LI's clients of good faith, trust, confidence and candor, within

1 the scope of their property management relationship with property owners and tenants, in
2 violation of Code Section 10177(g) and constitutes cause for discipline of the real estate license
3 and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).
4

5 12.

6 Code Section 10106 provides, in part, that in any order issued in resolution of a
7 disciplinary proceeding before the Bureau of Real Estate, the Commissioner may request the
8 administrative law judge to direct a licensee found to have committed a violation of this part to
9 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.
10

11 13.

12 Code Section 10148(b) provides, in pertinent part the Commissioner shall charge
13 a real estate broker for the cost of any audit, if the commissioner has found in a final decision
14 following a disciplinary hearing that the broker has violated Code section 10145 or a regulation
15 or rule of the commissioner interpreting said section.
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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all licenses and/or license rights of Respondents LAGANI INC. and SCOTT
4 PRESTON BRADY, individually and as designated officer of Lagani Inc., under the Real Estate
5 Law (Part 1 of Division 4 of the California Business and Professions Code) and for such other
6 and further relief as may be proper under other applicable provisions of law, including but not
7 limited to, proof of cure of the remaining shortage, and costs of investigation, enforcement and
8 audit.
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10 Dated at Los Angeles, California

11 this 13 day of February 2014.
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15 ROBIN TRUJILLO
16 Deputy Real Estate Commissioner
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23 cc: Lagani Inc.
24 Scott Preston Brady
25 Robin Trujillo
26 Bitu Yazdani - Audits
Sacto