

1 ELLIOTT MAC LENNAN, SBN 66674  
2 Bureau of Real Estate  
3 320 West 4th Street, Ste. 350  
4 Los Angeles, California 90013-1105

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

**FILED**

MAR -10-2014

DEPARTMENT OF REAL ESTATE  
BY: 

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \* \* \*

11 In the Matter of the Accusation of

12 DESERT WILLOW MANAGEMENT INC.  
13 doing business as AAA Property Management Inc./  
14 AFG Realty;

15 JENNIFER ANNE THACHER-FINCH, individually  
16 and as former designated officer of AAA  
Property Management Inc./AFG Realty;

17 JAMES F. MASON; individually and as former  
18 designated officer of AAA Property  
Management Inc./AFG Realty; and

19 SUSAN GAY DAVIS, individually and as former  
20 designated officer of AAA Property  
21 Management Inc./AFG Realty,

22 Respondents.

No. H- 39359 LA

ACCUSATION

23  
24 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the  
25 State of California, for cause of Accusation against DESERT WILLOW MANAGEMENT  
26 INC., doing business as AAA Property Management Inc./AFG Realty.  
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1 AFG Realty; JENNIFER ANNE THACHER-FINCH; JAMES F. MASON, and SUSAN GAY  
2 DAVIS, individually and as former designated officers of AAA Property Management Inc.

3 /AFG Realty alleges as follows:

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5 1.

6 The Complainant, Robin Trujillo, acting in her official capacity as a Deputy Real  
7 Estate Commissioner of the State of California, makes this Accusation.

8 2.

9 All references to the "Code" are to the California Business and Professions Code  
10 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

11 License History

12 3.

13 A. At all times mentioned, DESERT WILLOW MANAGEMENT INC.  
14 ("DWMI") was licensed or had license rights issued by the Bureau of Real Estate ("Bureau") as  
15 a real estate broker. On February 14, 2012, DWMI was originally licensed as a real estate  
16 broker.

17 B. At all times mentioned, JENNIFER ANNE THACHER-FINCH  
18 ("THACHER-FINCH") was licensed or had license rights issued by the Bureau as a real estate  
19 broker. On January 6, 2007, THACHER-FINCH was originally licensed as a real estate broker.

20 C. At all times mentioned, JAMES F. MASON ("MASON") was licensed or  
21 had license rights issued by the Bureau as a real estate broker. On February 5, 2005, MASON  
22 was originally licensed as a real estate broker.

23 D. At all times mentioned, SUSAN GAY DAVIS ("DAVIS") was licensed or  
24 had license rights issued by the Bureau as a real estate broker. On January 6, 2007, DAVIS was  
25 originally licensed as a real estate broker.

26 E. At all times material herein, DWMI was licensed by the Bureau as a corporate  
27 real estate broker by and through THACHER-FINCH, MASON and DAVIS, as the designated

1 officer and formerly designated officer and brokers responsible, pursuant to Code Section  
2 10159.2 of the Business and Professions Code for supervising the activities requiring a real  
3 estate license conducted on behalf DWMI by DWMI's officers, agents and employees, including  
4 THACHER-FINCH, MASON and DAVIS, as set forth below:

5 Table: Tenure of Former Designated Officers

6 Jennifer Anne Thacher-Finch	July 31, 2012 to November 16, 2012	3 months
7 James F. Mason	May 18, 2012 to July 31, 2012	3 months
8 Susan Gay Davis	February 14, 2012 to May 18, 2012	3 months

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10  
11 F. Edward Canadas, an unlicensed person is the CEO, CFO and secretary of  
12 DWMI and its sole shareholder.

13 Brokerage

14 4.

15 At all times mentioned, in the City of Yucca Valley, County of San Bernardino,  
16 Respondents DWMI, THACHER-FINCH, MASON and DAVIS, acted as a real estate brokers  
17 and conducted licensed activities within the meaning of Code Section 10131(b) wherein they  
18 engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate  
19 brokers, including the operation and conduct of a property management brokerage with the  
20 public wherein, for or in expectation of compensation, for another or others. Respondents  
21 leased or rented or offered to lease or rent, or placed for rent or solicited listings of places for  
22 rent, or solicited for prospective tenants, or collected rents from real property, or improvements  
23 thereon.  
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FIRST CAUSE OF ACCUSATION

(Property Management Audit of Desert Willow Management Inc.)

5.

On March 26, 2013, the Bureau completed an audit examination of the books and records of DWMI pertaining to the property management activities described in Paragraph 4 that require a real estate license. The audit examination covered a period of time beginning on February 14, 2012 and ending on December 31, 2012. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 120179 and the exhibits and work papers attached to said audit report.

Bank Accounts

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, DWMI accepted or received funds including funds in trust ("trust funds") from or on behalf of property owners and tenants handled by DWMI and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned, during the audit period and thereafter, said trust funds were deposited and/or maintained by DWMI in the bank accounts described below:

    ("BA 1")  
    US Bank  
    57550 29 Palms Hwy  
    Yucca Valley, CA 92284  
    "Desert Willow Management Inc.  
    dba AAA Property Management  
    \*\*\*\*\*4114"

    ("BA 2 & BA 3")(Signature Card dated 09/11/12)  
    JP Morgan Chase Bank  
    57297 29 Palms Hwy  
    Yucca Valley, CA 92284  
    "Desert Willow Management Inc.  
    dba AAA Property Management

1 \*\*\*\*\*5697 (BA 2)  
2 \*\*\*\*\*9815 (BA 3)”

3 (“BA 2 & BA 3”)(Signature Card dated 07/02/12)  
4 JP Morgan Chase Bank  
5 57297 29 Palms Hwy  
6 Yucca Valley, CA 92284  
7 “Desert Willow Management Inc.  
8 dba AAA Property Management  
9 \*\*\*\*\*5697 (BA 2)  
10 \*\*\*\*\*9815 (BA 3)”

11 Violations Of The Real Estate Law

12 7.

13 In the course of activities described in Paragraphs 4 and 6, above, and during the  
14 examination period described in Paragraph 5, Respondents DWMI, THACHER-FINCH,  
15 MASON and DAVIS, acted in violation of the Code and the Regulations whereby Respondents:

16 (a) Permitted, allowed or caused the disbursement of trust funds from BA 1, BA  
17 2 and BA 3, into which trusts funds were deposited in the form of rents and security deposits,  
18 and where the disbursement of trust funds reduced the total of aggregate funds in said accounts,  
19 in the amounts and times set forth in the table below, which were less than the existing  
20 aggregate trust fund liability to every principal who was an owner of the trust funds, without  
21 first obtaining the prior written consent of the owners of said funds, in violation of Code Section  
22 10145 and Regulation 2832.1. The \$45,459.84 shortage was restored on March 13, 2013;

23 Table: Trust Account Shortages

24 Designated Officer/Broker	25 Shortage Date	26 Shortage
27 Jennifer Anne Thacher-Finch	October 31, 2012	\$45,459.84
James F. Mason	June 30, 2012	\$41,493.57
Susan Gay Davis	April 30, 2012	\$45,733.44

1 (b) Failed to maintain an accurate and complete control record in chronological  
2 order for each beneficiary or transaction, thereby failing to account for all trust funds received,  
3 deposited and disbursed for BA 1, in violation of Code Section 10145 and Regulation 2831;

4 (c) Failed to maintain an accurate and complete separate record for each  
5 beneficiary or transaction, thereby failing to account for all trust funds received, deposited and  
6 disbursed for BA 1, in violation of Code Section 10145 and Regulation 2831.1;

7 (d) Failed to perform a monthly reconciliation of the balance of all separate  
8 beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of  
9 all trust funds received and disbursed by BA 1, in violation of Code Section 10145 and  
10 Regulations 2831.2, 2950(d) and 2951;

11 (e) Failed to place trust funds, including rents and security deposits, accepted on  
12 behalf of another into the hands of the owner of the funds, a neutral escrow depository or into a  
13 trust fund account in the name of the trustee at a bank or other financial institution, in violation  
14 of Code Section 10145 and Regulation 2832(a);

15 (f)(1) Permitted Edward Canadas, owner of DWMI, an unlicensed and unbonded  
16 person, to be an authorized signatory on BA 1, BA 2 & BA 3, in violation of Code Section  
17 10145 and Regulation 2834; and

18 (f)(2) Designated Officers THACHER-FINCH, MASON and DAVIS were not  
19 signatories on BA 1, BA 2 & BA 3, at times certain, in violation of Code Section 10145 and  
20 Regulation 2834;

21 (g)(1) Mixed, commingled and converted trust funds with personal funds by  
22 transferring trust funds from BA 1 in the form of rents and security deposits collected and  
23 received from tenants and property owners into DWMI's general operating account and issuing  
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1 checks from said account to the appraisers or credit companies after the escrow checks were  
2 deposited, in violation of Code Sections 10145 and 10176(e) and Regulation 2832; and

3 (g)(2) DWMI reduced the amount in DWMI's general account to an amount less  
4 than the amount of the trust funds deposited, \$37,414.53, constituting conversion of trust funds,  
5 in violation of Code Section 10176(i);

6 (h) DWMI. Engaged in the business of a corporate real estate broker by  
7 managing properties of others, and received and disbursed trust funds during the period from  
8 November 16, 2012 to December 31, 2012, without a designated officer for DWMI, in violation  
9 of Regulation 2740;

10 (i) Conducted escrow activities at 1558 N. Palm Canyon Drive, Palm Springs,  
11 California, prior to obtaining branch office licenses from the Bureau, in violation of Code  
12 Section 10163 and Regulation 2715;

13 (j) DWMI. Conducted licensed property management activities for  
14 compensation between December and February 14, 2012, prior to licensure by the Bureau, in  
15 violation of Code Section 10130; and

16 (k) THACHER-FINCH, MASON and DAVIS failed to maintain adequate  
17 supervision over DWMI, by failing to maintain accurate and complete trust fund handling  
18 procedures and by disbursing unauthorized trust funds, which were commingled and converted,  
19 in violation of Code Section 10159.2 and Regulation 2725.

20 Disciplinary Statutes and Regulations

21 8.

22 The conduct of Respondents DWMI, THACHER-FINCH, MASON and DAVIS,  
23 described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

24 Paragraph

25 Provisions Violated

26 9(a)

Code Section 10145 and Regulation 2832.1

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- 1 9(b) Code Section 10145 and Regulation 2831
- 2 9(c) Code Section 10145 and Regulation 2831.1
- 3 9(d) Code Section 10145 and Regulation 2831.2
- 4 9(e) Code Section 10145 and Regulation 2832(a)
- 5 9(f) Code Section 10145 and Regulation 2834
- 6 9(g) Code Sections 10145, 10176(e) and 10176(i)
- 7
- 8 9(h) Regulation 2740
- 9 9(i) Code Section 10163 and Regulation 2715
- 10 9(j) Code Section 10130
- 11 9(k) Code Sections 10159.2 and 10177(h) and Regulation
- 12 2725 (THACHER-FINCH, MASON and DAVIS)

13 The foregoing violations constitute cause for the suspension or revocation of the real estate  
14 licenses and license rights of Respondents DWMI, THACHER-FINCH, MASON and DAVIS  
15 under the provisions of Code Sections 10176(e), 10176(i), 10177(d), 10177(g) and 10177(h)  
16 (THACHER-FINCH, MASON and DAVIS).

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18 SECOND CAUSE OF ACCUSATION  
(Negligence)

19 9.

20 The overall conduct of Respondents DWMI, THACHER-FINCH, MASON, and  
21 DAVIS constitutes negligence. This conduct and violation are cause for the suspension or  
22 revocation of the real estate license and license rights of said Respondents pursuant to Code  
23 Section 10177(g).

24 THIRD CAUSE OF ACCUSATION  
(Breach of Fiduciary Duty)

25 10.

26 The overall conduct of Respondents DWMI, THACHER-FINCH, MASON, and  
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1 DAVIS constitutes a breach of their fiduciary duty of good faith, trust, confidence and candor,  
2 within the scope of their brokerage relationship, owed to DWMI's clientele, in violation of Code  
3 Section 10177(g) and constitutes cause for discipline of the real estate license and license rights  
4 of said Respondents pursuant to said section, for unauthorized disbursement of trust funds,  
5 commingling and conversion.

6 FOURTH CAUSE OF ACCUSATION  
7 (Supervision and Compliance)

8 11.

9 The overall conduct of Respondents THACHER-FINCH, MASON and DAVIS  
10 constitutes a failure on their part, as current and former officers designated by a corporate broker  
11 licensee, to exercise the reasonable supervision and control over the licensed activities of  
12 DWMI as required by Code Section 10159.2 and Regulation 2725, and to keep DWMI and its  
13 officers in compliance with the Real Estate Law.

14 12.

15 Code Section 10106 provides, in pertinent part, that in any order issued in  
16 resolution of a disciplinary proceeding before the Bureau of Real Estate, the Commissioner may  
17 request the administrative law judge to direct a licensee found to have committed a violation of  
18 this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of  
19 the case.  
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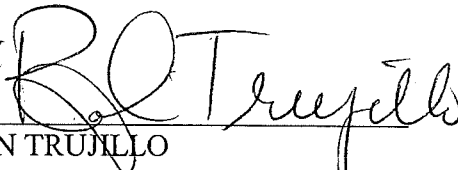
21 13.

22 Code Section 10148(b) provides, in pertinent part the Commissioner shall charge  
23 a real estate broker for the cost of any audit, if the commissioner has found in a final decision  
24 following a disciplinary hearing that the broker has violated Code section 10145 or a regulation  
25 or rule of the commissioner interpreting said section.  
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1                   WHEREFORE, Complainant prays that a hearing be conducted on the  
2 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing  
3 disciplinary action against the license and license rights of Respondents DESERT WILLOW  
4 MANAGEMENT INC, JENNIFER ANNE THACHER-FINCH, JAMES F. MASON and  
5 SUSAN GAY DAVIS, under the Real Estate Law (Part 1 of Division 4 of the Business and  
6 Professions Code) ) and for such other and further relief as may be proper under other applicable  
7 provisions of law, including but not limited to, proof of cure of the shortage, and costs of  
8 investigation, enforcement and audit.

9  
10 Dated at Los Angeles, California

11 this 6 day of January 2014   
12                   ROBIN TRUJILLO  
13                   Deputy Real Estate Commissioner

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22 cc: Desert Willow Management Inc.  
23       Jennifer Anne Thacher-Finch D.O.  
24       James F. Mason, former D.O.  
25       Susan Gay Davis, former D.O.  
26       Robin Trujillo  
27       Sacto  
      Audits – Zaky Wanis