

FILED

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BUREAU OF REAL ESTATE

By Carl Salinas

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BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of

No. H- 40020 LA

MICHAEL ROBERT FINK,

ACCUSATION

Respondent.

The Complainant, Maria Suarez, a Supervising Special Investigator of the State of California, for cause of Accusation against MICHAEL ROBERT FINK, alleges as follows:

1.

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

2.

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

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CalBRE Accusation – Michael Robert Fink

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Respondent MICHAEL ROBERT FINK (“FINK”) is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a real estate broker (“REB”), license ID 01210885. Respondent was originally licensed by the Bureau (then “Department”) of Real Estate (“Bureau”) on or about July 1, 1996. Respondent’s main office and mailing address of record with the Bureau is: 12979 Banyan Street, Rancho Cucamonga, California 91739. Respondent holds no active DBAs registered under his Bureau license; nor does Respondent hold any designated officer affiliations under his Bureau license.

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At all times mentioned in Los Angeles County, California, Respondent acted as a real estate broker, and ordered, caused, authorized or participated in licensed activities within the meaning of Code Section 10131(b), wherein Respondent leased or rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or negotiated the 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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1 examination period”), and examined records located at 412 S. Grand Ave., Covina, California.  
2 The field work on the audit examination period records was performed between July 27, 2015  
3 and August 10, 2015 (“field work period”). The final report of August 27, 2015 revealed  
4 violations of the Code and the Regulations as set forth in the following paragraphs, and more  
5 fully discussed in Audit Report LA 140143.

6 Bank Accounts

7 6.

8 During the audit examination period described in Paragraph 5 above, Respondent  
9 FINK accepted or received funds including funds in trust (“trust funds”) from or on behalf of  
10 actual or prospective parties, including tenants and property owners, and thereafter made deposits  
11 or disbursements of such funds. During the examination period FINK deposited and/or  
12 maintained said trust funds relating to his property management activities in the following  
13 account:

14 FINK Bank Account 1 (“FINK B/A 1”)

15 \* Account Title: MICHAEL FINK

DBA Realty World – FPC Real Estate

16 \* Bank: Chase Bank, Rancho Cucamonga, CA

17 \* Account # xxxxx2739

18 \* Sole Owner: Michael Fink

\* Signer: Michael R. Fink

19 \* Date Opened: 05/07/13

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1 During the field work period described in Paragraph 5 above, Respondent FINK  
2 opened a new account for accepting or receiving funds including trust funds from or on behalf of  
3 actual or prospective parties including tenants and property owners, and included the words  
4 "Trust Account" on the face of the checks associated with the following account:

5 FINK Bank Account 2 ("FINK B/A 2")

- 6 \* Account Title: MICHAEL R FINK DBA Realty World – FPC Real Estate  
7 \* Bank: US Bank, Ontario, CA  
8 \* Account # xxxxxxxx9673  
9 \* Signer: Michael R. Fink  
10 \* Date Opened: 07/31/15

11 Violations of the Real Estate Law

12 7.

13 In the course of activities as described in Paragraph 4, above, and during the  
14 examination period described in Paragraph 5, Respondent FINK acted in violation of the Code  
15 and the Regulations, as described below:

16 **A. Trust Fund Handling – Commingling.** In connection with his property  
17 management activities, FINK received rents and security deposits from tenants and funds from  
18 property owners; FINK then deposited the rents, security deposits and funds into the FINK B/A 1  
19 account. This account was neither designated as a trust account, nor was FINK named as a  
20 trustee on this account, in violation of **Code Section 10145 and Regulation 2832**. As of FINK's  
21 Chase Bank statement for FINK B/A 1 for the period ending June 30, 2015, the balance on June  
22 30, 2015 was \$11,689.22, of which \$1,689.25 was comprised of trust funds. FINK commingled  
23 the rents, security deposits and funds with his own funds, in violation of **Code Section 10145**  
24 **and Regulation 2835, and Code Section 10176(e).**

25 **B. Trust Fund Handling - Control Records.** FINK failed to maintain for FINK  
26 B/A 1 an accurate and complete columnar record in the form of a chronological record with an  
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1 accurate running daily balance of all trust funds received, deposited and disbursed in relation to  
2 his property management activities, in violation of **Code Section 10145 and Regulation 2831.**

3 **C. Trust Fund Handling - Separate Records for Each Trust Fund Beneficiary**  
4 **or Transaction.** FINK failed to maintain accurate and complete separate records for each  
5 property that he managed, including pertinent information for all trust funds received, such as:  
6 from whom the funds were received; the date of receipt; the date of deposit; disbursement check  
7 numbers; and to whom disbursements were made, in violation of **Code Section 10145 and**  
8 **Regulation 2831.1.** While the audit field work progressed FINK prepared the separate record for  
9 some but not all of the properties he managed

10 **D. False or Fictitious Business Name.** FINK used unlicensed fictitious business  
11 name "Realty World FPC Real Estate" in connection with his property management activities on  
12 bank titles and statements, property management agreements and residential lease agreements  
13 without first obtaining a license from the Bureau bearing such fictitious business names, in  
14 violation of **Code Section 10159.5 and Regulation 2731.**

15 **E. Business and Mailing Addresses of Licensees.** According to FINK, in the  
16 middle of July 2015, he moved his main office from the main office address of record with the  
17 BRE of 12979 Banyan Street, Rancho Cucamonga, California to 412 S. Grand Ave., Covina,  
18 California, where the BRE's audit was performed intermittently between July 27, 2015 and  
19 August 10, 2015. FINK failed to timely notify the Bureau of the change of his principal place of  
20 business, in violation of **Code Section 10162 and Regulation 2715.** As of November 6, 2015,  
21 FINK's main and mailing address of record is still 12979 Banyan Street, Rancho Cucamonga,  
22 California.

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The overall conduct of Respondent is violative of the Real Estate Law and constitutes cause for the suspension or revocation of the real estate licenses and license rights of MICHAEL ROBERT FINK under the provisions of **Code Sections 10177(g)** for negligence; **10176(i)** and **10177(j)** for breach of fiduciary duty and/or dishonest dealing; and **10177(d)** for willful disregard of the Real Estate Law.

9.

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

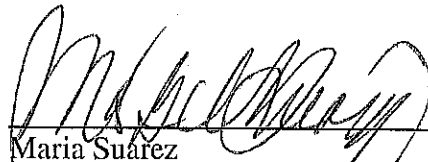
Code Section 10148(b) provides, in pertinent part, the Commissioner shall charge a real estate broker for the cost of any audit, if the Commissioner has found in a final decision following a disciplinary hearing that the broker has violated Code section 10145 or a regulation or rule of the Commissioner 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 the license and license rights of Respondent MICHAEL ROBERT FINK under the  
4 Real Estate Law (Part 1 of vision 4 of the Business and Professions Code), for the cost of  
5 investigation and enforcement as permitted by law, and for such other and further relief as may  
6 be proper under other provisions of law, and for costs of audit.  
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8 Dated at Los Angeles, California

9 this 13th day of November, 2015.

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12 Maria Suarez  
13 Deputy Real Estate Commissioner  
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18 cc: Michael Robert Fink  
19 Maria Suarez  
20 Sacto.  
21 Audits – Lisa Kwong  
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