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FILED

DEC 18 2018

DEPT. OF REAL ESTATE

By Zm-ga

7
8 **BEFORE THE DEPARTMENT OF REAL ESTATE**
9 **STATE OF CALIFORNIA**

10 * * *

11 In the Matter of the Accusation of) No. H-41248 LA
12 MESA MANAGEMENT INC.; and) A C C U S A T I O N
13 CORTNEY ARTHUR ENSIGN,)
14 individually and as Designated Officer)
15 of Mesa Management Inc.,)
16 Respondents.)

17 The Complainant, Maria Suarez, a Supervising Special Investigator of the State of
18 California, acting in her official capacity for cause of Accusation against MESA
19 MANAGEMENT INC., and CORTNEY ARTHUR ENSIGN, individually and as Designated
20 Officer of Mesa Management Inc. ("Respondents"), is informed and alleges as follows:

21 1.

22 All references to the "Code" are to the California Business and Professions Code,
23 all references to the "Real Estate Law" are to Part 1 of Division 4 of the Code, and all references
24 to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

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2.

Respondent MESA MANAGEMENT INC. ("MMI") is presently licensed or has license rights under the Real Estate Law as a corporate real estate broker. Respondent was originally licensed as a corporate real estate broker by the Department of Real Estate ("DRE") effective June 22, 1990, with licensed real estate broker Robert K. Lucas as its Designated Officer. Beginning October 9, 2003, and continuing to the present, Respondent CORTNEY ARTHUR ENSIGN has been the Designated Officer of Respondent MMI. Respondent MMI's corporate real estate broker license is due to expire on November 16, 2019. Respondent's corporate real estate broker license was subject to discipline in DRE Case No. H-39572 LA, as more fully set forth below under, "PRIOR DISCIPLINARY ACTION."

3.

Respondent CORTNEY ARTHUR ENSIGN ("ENSIGN") is presently licensed or has license rights under the Real Estate Law as a real estate broker. ENSIGN was originally licensed by the DRE as a real estate broker on December 5, 1990. Respondent's real estate broker license is due to expire on August 4, 2019. Respondent's real estate broker license was subject to discipline in Department Case No. H-39572 LA, as more fully set forth below under, "PRIOR DISCIPLINARY ACTION."

4.

At all times herein relevant, in the City of Newport Beach, County of Orange, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the meaning of Code Section 10131(b). Their activities included soliciting listings of places for rent, soliciting for prospective tenants, and/or management of residential rental real property for and on behalf of others for compensation.

5.

On August 31, 2018, the DRE completed a follow-up audit examination to H-39572 LA, based on Audit Report LA130154, of the books and records of Respondents pertaining to the property management activities described in Paragraph 4, above. The audit

1 examination covered a period of time beginning on February 6, 2016, and ending January 31,
2 2018. The audit examination revealed violations of the Code and the Regulations as set forth
3 below, and more fully discussed in Audit Report LA170143 and the exhibits and work papers
4 attached to that audit report.

5 6.

6 At all times herein relevant, in connection with the activities described in
7 Paragraph 4, above, Respondents accepted or received funds, and funds in trust (hereinafter
8 "trust funds") including, but not limited to, rental security deposits and rents. Thereafter,
9 Respondents made deposits and or disbursements of such trust funds. From time to time herein
10 mentioned during the audit period, said trust funds were deposited and/or maintained by
11 Respondents in the following bank accounts which were not designated as trust accounts:

12
13 Mesa Management Inc.
14 Account No. 731XXXXXX (Redacted for security)
15 Citizens Business Bank
Newport Beach, California

16 (BA1 – Bank account used for the deposit of trust funds payable to outside vendors)

17
18 Mesa Management Inc.
19 HITF Park Mesa LP
20 Account No. 731XXXXXX (Redacted for security)
Citizens Business Bank
Newport Beach, California

21 (BA2 – Bank account for receipt and disbursal of trust funds for Park Mesa Villas)

22
23 Mesa Management Inc.
24 HITF LG Parkewood Village LP
25 Account No. 731XXXXXX (Redacted for security)
Citizens Business Bank
Newport Beach, California

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27 (BA3 – Bank account for receipt and disbursal of trust funds for Parkewood Village)

With respect to the licensed activities referred to in Paragraph 4, and the audit examination including the exhibits and work papers referenced in Paragraph 5, it is alleged that

Respondents:

(a) Permitted, allowed or caused the disbursement of trust funds from bank accounts BA1 to fall to an amount which, as of January 31, 2018, was \$217,153.14 less than the existing aggregate trust fund liability to the owners of said funds without first obtaining the prior written consent of the owners of said funds in violation of Code Section 10145 and Regulation 2832.1. As of that same date, BA2 contained unidentified funds of \$1,530.03, and BA3 contained unidentified funds of \$2,100.25 due to poor record keeping;

(b) Failed to correct the violations cited in the Stipulation and Agreement entered into in DRE Case No. H-39572 LA with respect to Code Sections 10140.6, 10145, 10176(i), and 10177(j), and Regulations 2831, 2831.1, 2831.2, 2832, 2832.1, 2834, and 2773, in addition to 10159.2, 10177(h), and Regulation 2725 as to ENSIGN;

(c) Failed to maintain an accurate control record of the receipt and disbursement of trust funds handled through BA1, BA2, and BA3 in violation of Code Section 10145 and Regulation 2831;

(d) Failed to maintain an accurate separate record for each beneficiary of trust funds collected for BA1, in violation of Code Section 10145 and Regulation 2831.1;

(e) Failed to perform a monthly reconciliation of the separate record to the control record for BA1, in violation of Code Section 10145 and Regulation 2831.2;

(f) Commingled trust funds with broker funds in BA1 in violation of Code Sections 10145, and 10176(e), and Regulation 2832;

(g) Converted trust funds by transferring trust funds from BA1 into MMI's general operating account without first obtaining the written consent of the owner of such funds in violation of Code Sections 10145, and 10176(i);

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1 (h) Placed trust funds into a bank account that was not designated as a trust
2 account in the name of the broker in violation of Code Section 10145 and Regulation 2832;

3 (i) Allowed unlicensed and unbonded owner James Gianulias, and employees
4 Stephen Mensinger, and Melanie Belger, to be signatories to BA1 in violation of Code Section
5 10145 and Regulation 2834. In addition, Respondent ENSIGN was not a signatory to BA1 until
6 December 20, 2017;

7 (j) Failed to disclose DRE license numbers on solicitation materials that are
8 first point of contact with consumers in violation of Code Section 10140.6 and Regulation 2773;

9 (k) Failed to retain records and provide them upon request to the Real Estate
10 Commissioner's representative, to wit: the auditor, in violation of Code Section 10148;

11 (l) As to ENSIGN, failed to exercise adequate supervision over the activities
12 of the property management company to ensure compliance with the Real Estate Law in
13 violation of Code Sections 10159.2, 10177(h), and Regulation 2725.

14 8.

15 The conduct of Respondents described in Paragraph 7, above, violated the Code
16 and the Regulations as set forth below:

17 PARAGRAPH

PROVISIONS VIOLATED

18 7(a)

Code Section 10145
Regulation 2832.1

19
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21 7(b)

Code Sections 10140.6, 10145, 10176(i), 10177(j)
22 Regulations 2831, 2831.1, 2831.2, 2832, 2832.1,
23 2834, and 2773
Code Sections 10159.2, 10177(h) as to ENSIGN
24 Regulation 2725 as to ENSIGN
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7(c) Code Section 10145
Regulation 2831

7(d) Code Section 10145
Regulation 2831.1

7(e) Code Section 10145
Regulation 2831.2

7(f) Code Sections 10145, 10176(e)
Regulation 2832

7(g) Code Sections 10145, 10176(i)

7(h) Code Section 10145
Regulation 2832

7(i) Code Section 10145
Regulation 2834

7(j) Code Section 10140.6
Regulation 2773

7(k) Code Section 10148

7(l) Code Sections 10159.2, 10177(h)
Regulation 2725

1 Each of the foregoing violations constitute cause for the suspension or revocation
2 of the real estate licenses and license rights of Respondents under the provisions of Code
3 Sections 10176(e), 10176(i), 10177(d), and/or 10177(g), and as to ENSIGN, 10177(h).

4 PRIOR DEPARTMENT ACTION

5 9.

6 On August 8, 2014, in Case No. H-39572 LA, an Accusation was filed against
7 Respondents that resulted in discipline against each Respondent by ninety (90) days' suspension
8 with sixty (60) days stayed on terms and conditions for two years and the initial thirty (30) days
9 stayed by payment of a \$3,000.00 fine for each Respondent for violations of Code Sections
10 10140.6(b), 10145, 10159.2, 10163, 10176(a), 10176(e), 10176(g), 10176(i), 10176(k),
11 10177(d), 10177(g), 10177(j), and 10177(h) (as to ENSIGN) and Regulations 2715, 2725 (as to
12 ENSIGN), 2752, 2773, 2831, 2831.1, 2831.2, 2832, 2832.1, and 2834.

13 10.

14 Code Section 10148(b) provides, in pertinent part, that the Real Estate
15 Commissioner shall charge a real estate broker for the cost of any audit if the Commissioner has
16 found in a final decision, following a disciplinary hearing, that the broker has violated Code
17 Section 10145 or a Regulation or rule of the Commissioner interpreting said Code section.

18 11.

19 California Business and Professions Code Section 10106 provides, in pertinent
20 part, that in any order issued in resolution of a disciplinary proceeding before the Department,
21 the Commissioner may request the administrative law judge to direct a licensee found to have
22 committed a violation of this part to pay a sum not to exceed the reasonable costs of
23 investigation and enforcement of the case.

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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 Respondents MESA MANAGEMENT INC., and
4 CORTNEY ARTHUR ENSIGN, individually and as Designated Officer of Mesa Management
5 Inc., under the Real Estate Law, for the costs of investigation and enforcement as provided by
6 law, for costs of the audit, and for such other and further relief as may be proper under other
7 applicable provisions of law.

8 Dated at Los Angeles, California: 13 December 2018.

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12 Maria Suarez
13 Supervising Special Investigator

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24 cc: Mesa Management Inc.
25 Cortney Arthur Ensign
26 Maria Suarez
27 Sacto
 Audits – Mandeep Sidhu