

1 Amelia V. Vetrone, SBN 134612
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6982
6 Direct: (213) 576-6940

FILED

MAR 11 2019

DEPT. OF REAL ESTATE

By John C. Quinn

7
8 **BEFORE THE DEPARTMENT OF REAL ESTATE**

9 **STATE OF CALIFORNIA**

10 * * *

11 In the Matter of the Accusation Against) No. H-41316 LA
12 RYLAN DAVID ROZELL,)
13 individually and as Designated Officer) ACCUSATION
14 of Cresco Property Management, Inc.)
15 and Rozell Property Management, Inc.;)
16 CRESCO PROPERTY)
17 MANAGEMENT, INC.; and ROZELL)
PROPERTY MANAGEMENT, INC.,)
Respondents.)

18 The Complainant, Brenda Smith, a Supervising Special Investigator of the State
19 of California, acting in her official capacity, for cause of Accusation against RYLAN DAVID
20 ROZELL, individually and as Designated Officer of Rozell Property Management, Inc. and
21 Cresco Property Management, Inc., CRESCO PROPERTY MANAGEMENT, INC., and
22 ROZELL PROPERTY MANAGEMENT, INC., is informed and alleges as follows:

23 1.

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

27 ///

1 2.

2 Respondent RYLAN DAVID ROZELL ("ROZELL") is licensed by the
3 Department of Real Estate ("DRE") as a real estate broker. Respondent was originally licensed
4 as a real estate salesperson on May 16, 2007, and as a real estate broker on November 2, 2011.
5 Respondent's real estate broker license is due to expire on November 2, 2019.

6 3.

7 Respondent CRESCO PROPERTY MANAGEMENT, INC. ("CPMI") is
8 presently licensed or has license rights under the Real Estate Law as a corporate real estate
9 broker. Respondent CPMI was originally licensed as a corporate real estate broker by the DRE
10 on or about December 15, 2015. Since that date and continuing to the present, Respondent
11 ROZELL has been the Designated Officer of CPMI. Respondent CPMI's corporate real estate
12 broker license is due to expire on December 14, 2019.

13 4.

14 Respondent ROZELL PROPERTY MANAGEMENT, INC. ("RPMI") is
15 presently licensed or has license rights under the Real Estate Law as a corporate real estate
16 broker. Respondent RPMI was originally licensed as a corporate real estate broker by the DRE
17 on or about December 30, 2011. Since that date and continuing to the present, Respondent
18 ROZELL has been the Designated Officer of RPMI. Respondent RPMI's corporate real estate
19 broker license is due to expire on December 29, 2019.

20 5.

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

26 ///

27 ///

1 FIRST CAUSE OF ACCUSATION

2 (AUDIT OF RPMI)

3 6.

4 On March 9, 2018, the DRE completed an audit examination of the books and
5 records of Respondent RPMI pertaining to the real estate activities described in paragraph 5,
6 above. The audit examination covered the period of time from October 1, 2016, to September
7 30, 2017. The primary purpose of the examination was to determine Respondent's compliance
8 with the Real Estate Law. The audit examination revealed numerous violations of the Code and
9 the Regulations as set forth in the following paragraphs, and more fully discussed in Audit
10 Report FR17-0026 (PM) and the exhibits and work papers attached to said audit report.

11 Bank Accounts

12 7.

13 At all times herein relevant, in connection with the activities described in
14 Paragraph 5, above, Respondent RPMI accepted or received funds to be held in trust ("trust
15 funds") from or on behalf of actual or prospective parties in connection with property
16 management activities. Thereafter Respondent made deposits and or disbursements of such trust
17 funds. From time to time herein mentioned during the audit period, said trust funds were
18 deposited and/or maintained by Respondent in the following bank accounts:

19
20 Rozell Property Management, Inc.
21 DBA RPMB Master Trust Account
22 Account No. 101XXXX (Redacted for security)
23 Pacific Western Bank
24 Bakersfield, California

25 (T/A #1 – trust account for the receipt and disbursal of trust funds)

26 ///

27 ///

///

1 Rozell Property Management, Inc.
2 DBA RPMB Security Deposit Trust
3 Account No. 101XXXX (Redacted for security)
4 Pacific Western Bank
5 Bakersfield, California

6 (T/A #2 – trust account for the receipt and disbursal of trust funds)

7 Violations

8 8.

9 With respect to the licensed activities referred to in Paragraph 5, and the audit
10 examination including the exhibits and work papers referenced in Paragraph 6, it is alleged that

11 Respondents:

12 (a) Permitted, allowed or caused the disbursement of trust funds from bank
13 account T/A #1 to be reduced to an amount which, on August 31, 2017, was \$42,269.14 less than
14 the existing aggregate trust fund liability to the owners of said funds, without first obtaining the
15 prior written consent of the owners of said funds in violation of Code Section 10145 and
16 Regulation 2832.1;

17 (b) Allowed T/A #2 to maintain unaccounted for funds in the amount of
18 \$6,435.50 in violation of Code Section 10145 and Regulation 2832.1;

19 (c) Made multiple transfers of trust funds from T/A #1 and T/A #2, to pay off
20 RPMI's business loans in violation of Code Section 10176(i);

21 (d) Failed to maintain an accurate control record and separate record of the
22 receipt and disbursement of trust funds handled through T/A #1 in violation of Code Section
23 10145 and Regulations 2831 and 2831.1;

24 (e) Failed to maintain a separate record of the receipt and disbursement of trust
25 funds in T/A #2 resulting in the presence of unaccounted for funds in violation of Code Section
26 10145 and Regulation 2831.1;

27 (f) Failed to perform and maintain a monthly reconciliation of the separate record
to the control record of trust funds handled through T/A #1 and T/A #2 in violation of Code

1 Section 10145 and Regulation 2831.2;

2 (g) As to ROZELL, failed to exercise reasonable supervision over the activities
3 of his employees, to ensure compliance with the Real Estate Law and the Regulations in
4 violation of Code Sections 10159.2 and 10177(h), and Regulation 2725.

5 9.

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

8 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
9	
10 8(a)	Code Section 10145 and Regulation 2832.1
11	
12 8(b)	Code Section 10145 and Regulation 2832.1
13	
14 8(c)	Code Section 10176(i)
15	
16 8(d)	Code Section 10145 and Regulations 2831 and 2831.1
17	
18 8(e)	Code Section 10145 and Regulation 2831.1
19	
20 8(f)	Code Section 10145 and Regulation 2831.2
21	
22 8(g)	Code Sections 10159.2 and 10177(h) and Regulation 2725
23	

24 Each of the foregoing violations constitute cause for the suspension or revocation
25 of the real estate license and license rights of Respondents RPMI and ROZELL under the
26 provisions of Code Sections 10176(i), 10177(d), 10177(g) and/or 10177(h) (ROZELL).

27 ///

1 SECOND CAUSE OF ACCUSATION

2 (AUDIT OF CPMI)

3 10.

4 On March 27, 2018, the DRE completed an audit examination of the books and
5 records of Respondent CPMI pertaining to the real estate activities described in paragraph 5,
6 above. The audit examination covered the period of time from October 1, 2016, to September
7 30, 2017. The primary purpose of the examination was to determine Respondent's compliance
8 with the Real Estate Law. The audit examination revealed numerous violations of the Code and
9 the Regulations as set forth in the following paragraphs, and more fully discussed in Audit
10 Report FR17-0036 (PM) and the exhibits and work papers attached to said audit report.

11 Bank Accounts

12 11.

13 At all times herein relevant, in connection with the activities described in
14 Paragraph 5, above, Respondent CPMI accepted or received funds to be held in trust ("trust
15 funds") from or on behalf of actual or prospective parties in connection with property
16 management activities. Thereafter Respondent made deposits and or disbursements of such trust
17 funds. From time to time herein mentioned during the audit period, said trust funds were
18 deposited and/or maintained by Respondent in the following bank accounts:

19
20 Cresco Property Management, Inc.
21 DBA Real Property Management Porterville Statutory Trust Account
22 Account No. 100XXXX (Redacted for security)
23 Pacific Western Bank
Bakersfield, California

24 (T/A #1 – trust account for the receipt and disbursal of trust funds)

25 ///

26 ///

27 ///

1 Cresco Property Management, Inc.
2 DBA Real Property Management Porterville RPMP Security Deposit Trust Account
3 Account No. 100XXXX (Redacted for security)
4 Pacific Western Bank
5 Bakersfield, California

6 (T/A #2 – trust account for the receipt and disbursal of trust funds)

7 Violations

8 12.

9 With respect to the licensed activities referred to in Paragraph 5, and the audit
10 examination including the exhibits and work papers referenced in Paragraph 10, it is alleged that
11 Respondents:

12 (a) Permitted, allowed or caused the disbursement of trust funds from bank
13 account T/A #1 to be reduced to an amount which, on September 30, 2017, was \$23,725.06 less
14 than the existing aggregate trust fund liability to the owners of said funds, without first obtaining
15 the prior written consent of the owners of said funds in violation of Code Section 10145 and
16 Regulation 2832.1;

17 (b) Allowed T/A #2 to maintain unaccounted for funds in the amount of
18 \$2,700.00 in violation of Code Section 10145 and Regulation 2832.1;

19 (c) Failed to maintain a separate record of the receipt and disbursement of trust
20 funds in T/A #2 resulting in the presence of unaccounted for funds in violation of Code Section
21 10145 and Regulation 2831.1;

22 (d) Failed to perform and maintain a monthly reconciliation of the separate
23 record to the control record of trust funds handled through T/A #1 and T/A #2 in violation of
24 Code Section 10145 and Regulation 2831.2;

25 (e) As to ROZELL, failed to exercise reasonable supervision over the activities of
26 his employees, to ensure compliance with the Real Estate Law and the Regulations in violation
27 of Code Sections 10159.2 and 10177(h), and Regulation 2725.

///

13.

The conduct of Respondents as described in Paragraph 12, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
12(a)	Code Section 10145 and Regulation 2832.1
12(b)	Code Section 10145 and Regulation 2832.1
12(c)	Code Section 10145 and Regulation 2831.1
12(d)	Code Section 10145 and Regulation 2831.2
12(e)	Code Sections 10159.2 and 10177(h) and Regulation 2725

Each of the foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of Respondents CPMI and ROZELL under the provisions of Code Sections 10177(d), 10177(g) and/or 10177(h) (ROZELL).

14.

Code Section 10148(b) provides, in pertinent part, that the Real Estate 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 Code section.

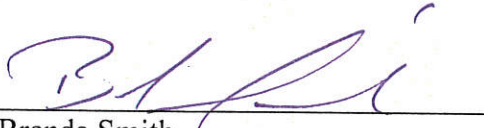
15.

California Business and Professions Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, the Commissioner may request the administrative law judge to direct a licensee found to have

1 committed a violation of this part to pay a sum not to exceed the reasonable costs of
2 investigation and enforcement of the case.

3
4 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
5 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
6 action against the licenses and license rights of Respondents RYLAN DAVID ROZELL,
7 individually and as Designated Officer of Rozell Property Management, Inc. and Cresco
8 Property Management, Inc., CRESCO PROPERTY MANAGEMENT, INC., and ROZELL
9 PROPERTY MANAGEMENT, INC. under the Real Estate Law, for the costs of investigation
10 and enforcement as provided by law, for costs of the audits, and for such other and further relief
11 as may be proper under other applicable provisions of law.

12 Dated at Fresno, California: 11-15-18.

13
14
15 
16 Brenda Smith
17 Supervising Special Investigator

18
19
20
21
22
23 cc: Rylan David Rozell
24 Rozell Property Management, Inc.
25 Cresco Property Management, Inc.
26 Brenda Smith
27 Sacto
Audits – Joshua Matkin