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DEPT. OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation against) No. H-41621 LA
)
DANIEL JOEL FISHER, doing) ACCUSATION
business as Park Place Realty,)
)
Respondent.)
)
)

The Complainant, Maria Suarez, a Supervising Special Investigator of the State of California, for cause of Accusation against DANIEL JOEL FISHER ("Respondent") 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, of the California Code of Regulations.

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1 6.

2 According to Respondent and the documents examined, during the last twelve
3 (12) months of the audit period, Respondent managed approximately forty-two (42) properties
4 for forty-one (41) owners during the audit period. Respondent collected and deposited rents,
5 and made disbursements for compensation.

6 7.

7 At all times mentioned herein, and in connection with the property management
8 activities described in Paragraph 4, above, Respondent accepted or received funds during the
9 audit period, including funds in trust ("trust funds") from or on behalf of the owners of the
10 properties managed by Respondent, and thereafter made deposits and/or disbursements of such
11 funds. According to Respondent, he maintained two (2) bank accounts for handling of the
12 receipts and disbursements of rents during the audit period in connection with his property
13 management activity. The bank accounts are as follows:

14 Trust Account 1 ("T/A1")

15 Bank: Desert Community Bank

16 Account Name: Nanette Hunt Fisher Daniel J Fisher DBA Fisher's Prk Place R.E./Rntl
17 Trust

18 Account Number: xxxxx3901

19 Signatories: Daniel J Fisher, Nanette Hunt Fisher

20 Purpose: T/A1 was maintained for multiple beneficiaries for handling the receipts
21 and disbursements of trust funds (rents) in connection with Respondent's property management
22 activity.

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1 Trust Account 2 ("T/A2")

2 Bank: Desert Community Bank

3 Account Name: Fisher Park Place Realty Client Trust Fund

4 Account Number: xxxxxx1246

5 Signatories: Daniel J Fisher, Nanette Hunt Fisher

6 Purpose: T/A2 was maintained for multiple beneficiaries for handling the receipts
7 and disbursements of trust funds (security deposits) in connection with Respondent's property
8 management activity. T/A2 was also maintained for handling the earnest money deposits in
9 connection with Respondent's real estate sales activity.

10 Trust Account ("T/A3")

11 Bank: Desert Community Bank

12 Account Name: Daniel J. Fisher DBA Park Place Realty Client Trust Fund

13 Account Number: xxxxxx9364

14 Signatories: Daniel J Fisher

15 Purpose: T/A3 was opened on October 12, 2018 to replace T/A2 for handling the
16 receipts and disbursements of trust funds (security deposits) in connection with Respondent's
17 property management activity. Additionally, T/A3 was opened to cure the trust fund shortage in
18 T/A2.

19 Violations

20 8.

21 The audit examination revealed violations of the Code and the Regulations, as
22 set forth in the following paragraphs, and more fully discussed in Audit No. LA180032 and the
23 exhibits and work papers attached to the audit report:

24 (a) Handling of Trust Funds/Trust Fund Handling for Multiple Beneficiaries
25 (Code section 10145 and Regulations section 2832.1).

26 T/A1: As of September 30, 2018, there was a trust fund shortage of \$15,763.47
27 in T/A1. The minimum shortage of \$15,763.47 was caused by the following:

- 1 (i) minimum negative property balance of \$13,478.98;
2 (ii) minimum bank charges totaling \$324.5; and
3 (iii) minimum unauthorized disbursements totaling \$1,959.98.

4 In addition, as of September 30, 2018, Respondent commingled fees/commission of a minimum
5 amount totaling \$11,189.20. Furthermore, there was a minimum amount of Respondent's
6 fees/commission allowed totaling \$1,721.10 and a minimum unidentified/unaccounted for
7 amount totaling \$8,001.78 due to inadequate record-keeping. There was no evidence in the files
8 examined that the owners of the trust funds had given their written consent to allow Respondent
9 to reduce the balance of the funds in T/A1 to an amount less than the existing aggregate trust
10 fund liabilities to all owners of the funds.

11 T/A2: As of April 30, 2018, there was a trust fund shortage of \$10,234.02 in
12 T/A2 due to bank charges totaling \$361.00 and conversion of trust funds totaling \$9,873.02.
13 There was no evidence in the files examined that the owners of the trust funds had given their
14 written consent to allow Respondent to reduce the balance of the funds in T/A2 to an amount
15 less than the existing aggregate trust fund liabilities to all owners of the funds.

16 (b) **Handling of Trust Funds/Trust Fund Records to be Maintained (Code**
17 **section 10145 and Regulations section 2831).**

18 T/A1: Respondent failed to maintain a control record during the period from
19 January 1, 2016 through August 31, 2017 for T/A1.

20 Respondent failed to maintain an accurate and complete record of all trust funds
21 received and disbursed ("control record") for T/A1 during the period from September 1, 2017
22 through September 30, 2018. The control record was not in chronological sequence by date and
23 thus it did not have an accurate daily balance. Some receipts were recorded on the control
24 record of T/A1 but were not deposited in T/A1. In addition, the control record of T/A1 was
25 maintained in a format that did not readily enable tracing and reconciliation. Moreover,
26 Respondent did not account or record his management fees in T/A1's control record.
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1 T/A2: During the audit period, Respondent failed to maintain a control record
2 for T/A2 which was used for handling the receipts and disbursements of trust funds (security
3 deposits) in connection with Respondent's property management activity during the audit
4 period.

5 **(c) Handling of Trust Funds/Separate Record for Each Beneficiary of**
6 **Transaction (Code section 10145 and Regulations section 2831.1).**

7 T/A1: Respondent failed to maintain separate records during the period from
8 January 1, 2016 through August 31, 2017 for T/A1 which was used for handling the receipts
9 and disbursements of trust funds in connection with Respondent's property management
10 activity.

11 Respondent failed to maintain accurate and complete separate records for T/A1
12 during the period from September 1, 2017 through September 30, 2018. Some disbursements
13 were made from T/A1 but were not recorded on the separate records of T/A1.

14 T/A2: During the audit period, Respondent failed to maintain separate records
15 for T/A2 which was used for handling the receipts and disbursements of trust funds (security
16 deposits) in connection with Respondent's property management activity during the audit
17 period.

18 **(d) Trust Account Reconciliation (Code section 10145 and Regulations**
19 **section 2831.2).** During the audit period, Respondent failed to maintain a monthly
20 reconciliation comparing the balance of all separate beneficiary or transaction records (separate
21 records) to the balance of the record for all trust funds received and disbursed (control record)
22 for T/A1 and T/A2.

23 As of September 30, 2018, Respondent failed to reconcile the
24 unidentified/unaccounted for funds held in T/A1 totaling \$8,001.78.

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1 (e) **Trust Account Designation and Trust Fund Handling (Code section**
2 **10145 and Regulations section 2832).**

3 T/A1: According to the bank signature maintained for T/A1, T/A1 was not
4 established in the name of Respondent or his authorized fictitious name "Park Place Realty," as
5 trustee. T/A1 was established in the name of "Nanette Hunt Fisher Daniel J Fisher DBA
6 Fisher's Prk Place R.E./Rntl Trust."

7 T/A2: According to the bank signature card maintained for T/A2, T/A2 was not
8 established in the name of Respondent or his authorized fictitious name "Park Place Realty," as
9 trustee. T/A2 was established in the name of "Fisher Park Place Realty Client Trust Fund."

10 (f) **Commingling / Mishandling of Trust Funds (Code section 10145 and**
11 **Regulation section 2835(b)).** As of September 30, 2018, Respondent kept a minimum of
12 \$11,189.20 of his fees/commissions for over twenty-five (25) days in T/A1 after their deposit.

13 (g) **Unauthorized Disbursements / Conversion of Trust Funds/Mishandling**
14 **of Trust Funds (Code section 10145).** As of September 30, 2018, there was, at a minimum,
15 \$1,959.98 in unauthorized disbursements of trust funds from T/A1. The unauthorized
16 disbursements caused a shortage in T/A1. For example:

<u>Date</u>	<u>Amount</u>	<u>Check No.</u>	<u>Expense Type</u>
12/4/2017	\$163.00	11778	Auto Club Membership
5/22/2018	\$457.72	11907	Payroll expense
8/1/2018	\$256.68	Debit	Vitamins for personal use
8/13/2018	\$96.00	Debit	Refund of rental application/credit report fee
8/28/2018	\$460.40	11980	Payroll expense
9/11/2018	\$526.18	1194	Payroll expense
Total	\$1,959.98		

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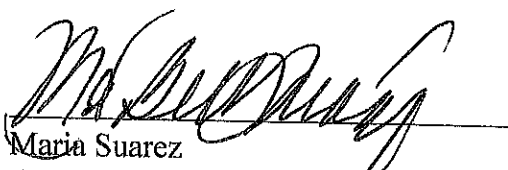
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1 the administrative law judge to direct a licensee found to have committed a violation of this part
2 to pay a sum not to exceed the reasonable costs of investigation and enforcement of the case.

3 WHEREFORE, Complainant prays that a hearing be conducted on the
4 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
5 disciplinary action against all the licenses and/or license rights of Respondent DANIEL JOEL
6 FISHER, doing business as Park Place Realty, under the Real Estate Law, for the costs of
7 investigation and enforcement as permitted by law, for the cost of the audit, and for such other
8 and further relief as may be proper under other applicable provisions of law.

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10 Dated at Los Angeles, California this 25th day of February, 2020.

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14 Maria Suarez
15 Supervising Special Investigator
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25 cc: DANIEL JOEL FISHER
26 Maria Suarez
27 Sacto.
Audits – Zaky Wanis