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FILED
NOV 09 2022
DEPT. OF REAL ESTATE
By *E. Martinez*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation against

DRE No. H-42417 LA

12 AMPCORE, INCORPORATED;

ACCUSATION

13 ADAM MICHAEL PIROZZI, individually, and as
Designated Officer for AMPCore, Incorporated;

14 SANTA BARBARA PROPERTY MANAGEMENT,
15 INC.; and

16 STEPHEN JAMES DOWNAROWICZ, individually,
and as Designated Officer for Santa Barbara Property
17 Management, Inc.,

18 Respondents.

19 The Complainant, Jason Parson, a Supervising Special Investigator for the Department of
20 Real Estate¹ ("Department") of the State of California, for cause of Accusation against
21 AMPCORE INCORPORATED; ADAM MICHAEL PIROZZI, individually, and as Designated
22 Officer for AMPCore Incorporated; SANTA BARBARA PROPERTY MANAGEMENT, INC.;

24 ¹ Between July 1, 2013 and July 1, 2018, the Department of Real Estate operated as the Bureau of Real Estate
under the Department of Consumer Affairs.

1 and STEPHEN JAMES DOWNAROWICZ, individually, and as Designated Officer for Santa
2 Barbara Property Management, Inc.; (collectively “Respondents”), alleges as follows:

3 1. The Complainant, Jason Parson, acting in his official capacity as a Supervising
4 Special Investigator, makes this Accusation against Respondents.

5 2. All references to the “Code” are to the California Business and Professions Code,
6 all references to the “Real Estate Law” are to Part 1 of Division 4 of the Code, and all references
7 to “Regulations” are to the Regulations of the Real Estate Commissioner, Title 10, Chapter 6,
8 California Code of Regulations.

9 STATEMENT OF FACTS

10 Licensees

11 3. Respondents are presently licensed and/or have license rights under the Real
12 Estate Law (Part 1 of Division 4 of the Code).

13 4. On November 10, 2008, the Department issued a real estate corporation license to
14 Respondent AMPCORE INCORPORATED (“AI”), License ID 01850524. Respondent AI’s
15 license expired on November 9, 2020. AI’s license expiration date was extended until June 30,
16 2021 pursuant to Executive Order No. N-83-20. Respondent AI has renewal rights pursuant to
17 Code section 10201. The Department retains jurisdiction pursuant to Code section 10103.

18 5. Respondent AI was formerly named, “Five Deep Entertainment, Inc.” AI was
19 licensed to do business as: Harborside Real Estate & Investments, Harbor View Homes, Harbor
20 View Real Estate, Harbor View Real Estate & Investments, and Harbor View Realty.

21 6. On May 20, 2008, the Department issued a real estate broker license to
22 Respondent ADAM MICHAEL PIROZZI (“PIROZZI”), License ID 01408658. Unless renewed,
23 Respondent PIROZZI’s real estate broker license is scheduled to expire on May 19, 2024.

24

1 Respondent PIROZZI has renewal rights pursuant to Code section 10201. The Department
2 retains jurisdiction pursuant to Code section 10103.

3 7. PIROZZI was licensed as a real estate salesperson from approximately April 7,
4 2004 through May 19, 2008.

5 8. From November 10, 2008 through November 9, 2020, Respondent PIROZZI was
6 the designated officer for Respondent AI, pursuant to Code section 10211. As the designated
7 officer for AI, Respondent PIROZZI was responsible for the supervision and control of the
8 activities conducted on behalf of AI by its officers, agents, real estate licensees, and employees,
9 as necessary to secure full compliance with the provisions of the Real Estate Law, pursuant to
10 Code section 10159.2.

11 9. On March 30, 2018, the Department issued a real estate corporation license to
12 Respondent SANTA BARBARA PROPERTY MANAGEMENT, INC ("SBPMI"), License ID
13 02061577. Unless renewed, Respondent SBPMI's license is scheduled to expire on March 29,
14 2026. Respondent SBPMI has renewal rights pursuant to Code section 10201. The Department
15 retains jurisdiction pursuant to Code section 10103.

16 10. On August 7, 2017, the Department issued a real estate broker license to
17 Respondent STEPHEN JAMES DOWNAROWICZ ("DOWNAROWICZ"), License ID
18 01056752. Unless renewed, Respondent DOWNAROWICZ's license is scheduled to expire on
19 August 6, 2025. Respondent DOWNAROWICZ has renewal rights pursuant to Code section
20 10201. The Department retains jurisdiction pursuant to Code section 10103.

21 11. DOWNAROWICZ was licensed as a real estate salesperson from approximately
22 December 20, 1989 through August 6, 2017. DOWNAROWICZ was licensed as a real estate
23 salesperson affiliated with broker, AI, from March 17, 2009 through August 6, 2017.

24 ///

1 12. From March 30, 2018 through the present, Respondent DOWNAROWICZ has
2 been the designated officer for Respondent SBPMI, pursuant to Code section 10211. As the
3 designated officer for SBPMI, Respondent DOWNAROWICZ was responsible for the
4 supervision and control of the activities conducted on behalf of SBPMI by its officers, agents,
5 real estate licensees, and employees, as necessary to secure full compliance with the provisions
6 of the Real Estate Law, pursuant to Code section 10159.2.

7 13. On February 2, 2006, the Department issued a real estate salesperson license to
8 Brennan Titus (“Titus”), License ID 01732524. From on or about August 28, 2013 through
9 October 6, 2020, Titus was licensed as affiliated with broker, AI. Titus had no licensed broker
10 affiliation from October 7, 2020 through February 3, 2021.

11 14. On February 22, 2018, the Department issued a real estate salesperson license to
12 Vincent Andrew Nola (“Nola”), License ID 02057105. From on or about June 26, 2018 through
13 August 27, 2018, Nola was licensed as affiliated with broker, SBPMI.

14 15. At all times relevant herein, in the State of California, Respondents engaged in
15 activities that require a real estate broker license within the meaning of Code section 10131,
16 subdivision (b). Respondents’ activities included soliciting or offering to negotiate the sale,
17 purchase or exchange of leases for real property and the collection of rents or security deposits
18 on real property or on a business opportunity for others, for compensation or in expectation of
19 compensation.

20 16. Whenever reference is made in an allegation in this Accusation to an act or
21 omission of Respondents AI or SBPMI, such allegation shall be deemed to mean that the
22 officers, directors, employees, agents and/or real estate licensees employed by or associated
23 with Respondents AI or SBPMI, committed such act or omission while engaged in the
24 furtherance of the business or operations of such corporate respondent and while acting within

1 the course and scope of their authority and employment.

2 First Cause of Accusation

3 17. The Department received a complaint against Respondents SBPMI and PIROZZI
4 submitted on behalf of A.M.², a property owner. The complaint alleged that Respondents
5 managed several rental properties for A.M. since 2018. According to the complaint, Respondents
6 abruptly notified A.M. that Respondents were no longer going to manage A.M.'s properties;
7 Respondents' trust account was frozen; and Respondents failed to provide a reconciliation of
8 trust funds. The complaint claimed that Respondents held approximately \$310,000.00 in trust
9 funds belonging to A.M. and/or tenants for rent payments and security deposits. The Department
10 initiated an investigation and audit of Respondents' property management activities in response
11 to the complaint.

12 18. The Santa Barbara County District Attorney's Bureau of Investigation provided
13 limited documents to the Department. The documents concerned a pending criminal action filed
14 against PIROZZI alleging money laundering, fraud, embezzlement, and theft from elders, among
15 other charges related to property management activities.

16 Audit LA210019

17 19. The Department attempted to conduct an audit examination of the books and
18 records of Respondent AI's real estate activities which require a real estate license pursuant to
19 Code section 10131, subdivision (b).

20 20. The audit examination covered the period from June 1, 2019 through June 30,
21 2021 ("audit period"). The audit examination was limited to AI's property management
22 activities.

23 _____
24 ² Initials are used in place of individuals' full names to protect their privacy. Documents containing individuals' full names will be provided during the discovery phase of this case to Respondent(s) and/or their attorneys, after service of a timely and proper request for discovery on Complainant's counsel.

1 21. The Department's auditor was not able to discuss the audit with Respondent
2 PIROZZI and the auditor did not receive the books and records requested from AI and PIROZZI
3 for the audit. No entrance conference for the audit was held. The audit examination was based on
4 limited records provided to the Department, records obtained through subpoenaed bank records,
5 and Department licensing records, among other documents.

6 22. Respondent PIROZZI is the sole owner, officer, director, and shareholder of AI.

7 23. According to the limited records examined, during the audit period, for
8 compensation, AI managed at least 23 properties with a total of 62 units for 19 property owners.
9 Additional details about AI's property management business activities during the audit period
10 were not provided to the Department's auditor.

11 24. Based on the auditor's examination of subpoenaed bank records, AI maintained at
12 least three (3) bank accounts used for handling the receipt and disbursements of trust funds for
13 multiple beneficiaries in connection with AI's property management activities during the audit
14 period. In addition, PIROZZI and PIROZZI's wife, Jillian Pirozzi, maintained five (5) private
15 client accounts. PIROZZI also maintained three (3) business accounts. The accounts are listed
16 below:

17 **Bank Account 1 (BA 1)**

18 Bank: JP Morgan Chase Bank

19 Account Name: Five Deep Entertainment, Inc. DBA Harbor View Realty or Santa Barbara
20 Property Management

21 Account #: xxxxx1903

22 Signatories: PIROZZI and Titus

23 Signatures required: One (1)

24

1 Purpose: According to examination of bank records, BA 1 was used to deposit rents collected
2 from tenants for multiple beneficiaries in connection with AI's property management activities.
3 Disbursements from BA 1 included payments for expenses related to the properties managed,
4 owner remittances, and to AI for management fees. BA 1 was opened on September 26, 2018.
5 According to the last examined bank statement for BA 1, the account had a balance of \$0.00 as
6 of March 31, 2021.

7 **Bank Account 2 (BA 2)**

8 Bank: JP Morgan Chase Bank

9 Account Name: Santa Barbara Property Management Trust

10 Account #: xxxxx3202

11 Signatories: PIROZZI and Titus

12 Signatures required: One (1)

13 Purpose: BA 2 was used to deposit rents collected from tenants for multiple beneficiaries in
14 connection with AI's property management activities. Disbursements from BA 2 included
15 payments or transfers to PIROZZI's other accounts. BA 2 was opened on September 26 2018.
16 There was a balance transfer from BA 1 to BA 2 of \$512,896.77 on December 21, 2020. On
17 December 31, 2020, BA 2 had a balance of \$408,598.59. According to the last examined bank
18 statement for BA 2, the account had a balance of \$196,446.77 as of August 31, 2021.

19 **Bank Account 3 (BA 3)**

20 Bank: American Rivera Bank

21 Account Name: Santa Barbara Property Management, Inc. SBPM Trust Account

22 Account #: xxxxx1889

23 Signatories: DOWNAROWICZ, Nola, and Titus

24 Signatures required: One (1)

1 Purpose: BA 3 was opened on October 10, 2014 and closed on June 30, 2020. BA 3 was used for
2 handling rents and security deposits collected from tenants multiple beneficiaries in connection
3 with AI's property management activities.

4 **Bank Account 4 (BA 4)**

5 Bank: JP Morgan Chase Bank

6 Account Name: Five Deep Entertainment, Inc. DBA Harbor View Realty or Santa Barbara
7 Property Management

8 Account #: xxxxx2872

9 Signatories: PIROZZI and Titus

10 Signatures required: One (1)

11 Purpose: BA 4 was opened on January 18, 2019. Disbursements reflected miscellaneous general
12 and business expenses. There was a debit balance withdrawal of \$60,401.28 from BA 4 on
13 December 21, 2020. BA 4 had a \$0.00 balance as of March 31, 2021. BA 4 was used for
14 handling of rent receipts and general operating expenses.

15 **Bank Account 5 (BA 5)**

16 Bank: JP Morgan Chase Bank

17 Account Name: PIROZZI or Jillian Pirozzi

18 Account #: xxxxx1653

19 Signatories: PIROZZI or Jillian Pirozzi

20 Signatures required: One (1)

21 **Bank Account 6 (BA 6)**

22 Bank: JP Morgan Chase Bank

23 Account Name: PIROZZI or Jillian Pirozzi

24 Account #: xxxxx1661

1 Signatories: PIROZZI

2 Signatures required: One (1)

3 **Bank Account 7 (BA 7)**

4 Bank: JP Morgan Chase Bank

5 Account Name: PIROZZI Jillian J. Pirozzi

6 Account #: xxxxx1107

7 Signatories: PIROZZI or Jillian Pirozzi

8 Signatures required: One (1)

9 **Bank Account 8 (BA 8)**

10 Bank: JP Morgan Chase Bank

11 Account Name: PIROZZI or Jillian Pirozzi

12 Account #: xxxxx8337

13 Signatories: PIROZZI or Jillian Pirozzi

14 Signatures required: One (1)

15 **Bank Account 9 (BA 9)**

16 Bank: JP Morgan Chase Bank

17 Account Name: Quicklink Asset Services, LLC

18 Account #: xxxxx6256

19 Signatories: PIROZZI

20 **Bank Account 10 (BA 10)**

21 Bank: JP Morgan Chase Bank

22 Account Name: Central Holding Group, LLC

23 Account #: xxxxx6982

24 Signatories: PIROZZI

1 **Bank Account 11 (BA 11)**

2 Bank: JP Morgan Chase Bank

3 Account Name: Central Holding Group, LLC

4 Account #: xxxxx2562

5 Signatories: PIROZZI

6 **Bank Account 12 (BA 12)**

7 Bank: MUFG Union Bank

8 Account Name: Harbor View Real Estate

9 Account #: xxxxx9217

10 Signatories: PIROZZI

11 25. The audit examination revealed violations of the Code and the Regulations as set
12 forth in the following paragraphs, and more fully discussed in Audit Report LA210019 and the
13 exhibits and work papers attached to said audit report.

14 **Audit Violations**

15 26. In the course of its property management activities during the audit period,
16 Respondents acted in violation of the Code and the Regulations as follows:

17 **Issue 1. Trust fund accountability and balances.**

18 27. A combined bank reconciliation was prepared for BA 1, BA 2, and BA 3. As of
19 December 31, 2020, there was a combined minimum shortage of <\$359,502.19>. The combined
20 minimum shortage was caused by a combined minimum negative property balances of
21 <\$1,236.05>, combined minimum bank charges of <\$169.00>, combined minimum
22 commingling/unauthorized disbursements of <\$117,842.00>, and combined minimum
23 unidentified shortage of <\$240,255.14>, as of the audit cut-off date of December 31, 2020.

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1 28. The adjusted bank balances were compared to the accountability. AI did not
2 provide separate records for the audit examination. The accountability was determined based on
3 limited records submitted to the Department by the Santa Barbara County District Attorney’s
4 Bureau of Investigation. The limited records included a deposit register, check register, general
5 ledger for January 1, 2019 through January 31, 2019, and a trust account balance as of December
6 28, 2020.

7 **Issue 2. Castillo and Montecito Gardens properties**

8 29. Respondents managed the properties located at 228, 230, and 234 Castillo Street
9 (“Castillo properties”), and 321, 323, and 325 West Montecito Street (“Montecito Garden
10 properties”), in Santa Barbara, California, for property owner, A.M.

11 30. PIROZZI acted as A.M.’s agent for the purchase of 228 Castillo Street and 321
12 West Montecito Street. On or about December 17, 2019, a wire payment of \$150,000.00 to an
13 unlicensed entity, Santa Barbara Management Company, was deposited to BA 12, related to the
14 transaction. On or about December 18, 2019, deposits of \$32,740.00 for rent and \$18,984.68 for
15 pro-rated rent were made to BA 3.

16 31. On or about December 31, 2019, a deposit of \$117,842.00 was made into BA 8
17 (PIROZZI’s personal account) from BA 12. The following check disbursements were also made
18 from BA 12 to PIROZZI’s family members:

<u>Date of check</u>	<u>Check No.</u>	<u>Payment to</u>	<u>Amount</u>
12/31/2019	3887	S. Pirozzi and A. Pirozzi	\$5,024.25
12/31/2019	3886	S. Pirozzi and A. Pirozzi	\$5,024.25
12/31/2019	3885	Jillian Pirozzi	\$48,872.50
12/31/2019	3884	B. Pirozzi and A. Pirozzi	\$5,024.25

<u>Date of check</u>	<u>Check No.</u>	<u>Payment to</u>	<u>Amount</u>
12/31/2019	3883	A. Pirozzi and A. Pirozzi	\$5,024.25
12/31/2019	3882	A. Pirozzi	<u>\$48,872.50</u>
		Total	\$117,842.00

32. As of December 31, 2020, the balance for BA 8 was \$3.48.

33. PIROZZI used BA 3 to collect and disburse trust funds (rents and security deposits) collected from tenants related to AI's property management activities. On or about January 7, 2020, wire transfers of \$182,790.00 and \$157,180.22 were made from BA 3 into BA 1. On June 26, 2020, Respondents withdrew the remaining balance of \$181.45 in BA 3 and closed the account as of June 30, 2020.

34. On or about December 21, 2020, \$512,897.77 was transferred from BA 1 into BA 2 for AI's property management activities. As of December 31, 2020, BA 1 had a \$0.00 balance.

35. Respondents continued to collect rents totaling \$249,484.46 for the Castillo and Montecito Garden properties from May 1, 2020 through December 31, 2020. Respondents' owner statement indicated that e-checks totaling <\$225,000.00> were disbursed to A.M.; however, examination of bank records showed that said disbursements were not paid or disbursed to property owner, A.M., from BA 1, BA 2, or BA3. The auditor was unable to trace of any the "Owner Disbursements" paid/posted from May 1, 2020 through December 31, 2020, in BA 1, BA 2, and BA 3 because the general ledger, separate records, and bank statement records were not provided for the audit.

36. Based on the audit examination, Respondents needed to release trust funds totaling approximately \$375,000.00 to A.M. As of the audit report date, the auditor was unable to confirm whether Respondents released the trust funds to A.M. Complete control records,

1 separate records, and owner statements for the Castillo and Montecito Gardens properties were
2 not provided to the Department's auditor for the audit examination.

3 **Issue 3. Code sections 10145(a). Handling of trust funds**

4 37. Respondents violated Code section 10145, subdivision (a) as set forth below.
5 An "Outbound Wire Notification" from the Fidelity National Title Company escrow file for the
6 "228 Castillo and 321 West Montecito Street" properties showed a wire transfer of \$150,000.00
7 to BA 12 on December 17, 2019. The transfer was to Santa Barbara Property Management as a
8 Buyer's Consulting Fee. Bank statements for BA 12 were not made available for the audit
9 examination.

10 38. On or about December 17, 2019, \$150,000.00 was deposited into BA 12, then on
11 December 31, 2019, Respondents disbursed trust funds totaling \$117,842.00 into BA 8, a
12 personal account belonging to PIROZZI and his wife. Six check payments noted above in Issue
13 2, were paid to PIROZZI and his family members. The memo noted on the six checks was "2019
14 Payroll."

15 39. An owner statement for 230 Castillo Street for property owner, A.M., showed
16 receipt posting of funds from escrow as an owner contribution of \$150,000.00 on April 27, 2020.
17 Due to limited records, the auditor was unable to trace the exact amount of \$150,000.00 or
18 \$117,482.00 deposited into BA 1, BA 2, or BA 3, that were used to handle AI's property
19 management trust funds.

20 40. Bank statements for BA 8 showed the following withdrawals from BA 8:

<u>Date</u>	<u>Bank Description on Withdrawal</u>	<u>Amount</u>
02/28/2020	Domestic wire: Jillian Pirozzi	\$33,000.00
02/28/2020	Withdrawal (Payee: PIROZZI)	\$20,000.00

<u>Date</u>	<u>Bank Description on Withdrawal</u>	<u>Amount</u>
03/16/2020	Online transfer to chk 1107 [BA 7]	\$15,000.00
06/08/2020	Online Transfer to Hbvw 9217 [BA 12]	<u>\$40,000.00</u>
	Total	\$108,000.00

Issue 4. Code sections 10145 and 10176(e). Handling of trust funds/commingling.

41. During the audit period, on December 17, 2019, trust funds totaling \$150,000.00 belonging to the property owner of the Montecito Gardens properties were deposited into BA 12. Bank statements for BA 12 were not made available to the auditor. An examination of the December 2019 bank statement for BA 8 (PIROZZI's personal account) showed a deposit received from BA 12 for the amount of \$117,842.00. Respondents commingled trust funds with PIROZZI's own funds in BA 8, in violation of Code sections 10145 and 10176, subdivision (e).

42. On December 31, 2019, check disbursements were also made from BA 12 to PIROZZI's family members. The memo noted on the six checks was "2019 Payroll." The check payments are noted below:

<u>Date of check</u>	<u>Check No.</u>	<u>Payment to</u>	<u>Amount</u>
12/31/2019	3887	S. Pirozzi and A. Pirozzi	\$5,024.25
12/31/2019	3886	S. Pirozzi and A. Pirozzi	\$5,024.25
12/31/2019	3885	Jillian Pirozzi	\$48,872.50
12/31/2019	3884	B. Pirozzi and A. Pirozzi	\$5,024.25
12/31/2019	3883	A. Pirozzi and A. Pirozzi	\$5,024.25
12/31/2019	3882	A. Pirozzi	<u>\$48,872.50</u>
		Total	\$117,842.00

43. An owner statement for 230 Castillo Street for property owner, A.M., showed receipt posting of funds from escrow as an owner contribution of \$150,000.00 on April 27, 2020.

1 Due to limited records, the auditor was unable to trace the exact amount of \$150,000.00 or
2 \$117,482.00 deposited into BA 1, BA 2, or BA 3, that were used to handle AI's property
3 management trust funds.

4 **Issue 5. Code sections 10145 and Regulation 2834. Trust account withdrawals.**

5 44. During the audit period, BA 3 was used to hold trust funds related to AI's
6 property management activities. Based on an examination of the bank signature cards, Nola was
7 a signor for BA 3. Nola was authorized to sign and make withdrawals from BA 3 even though
8 Nola was not licensed as affiliated with AI during the audit period. Nola was licensed as
9 affiliated with SBPMI from June 26, 2018 through August 27, 2018. Due to limited records
10 made available for the audit, the auditor was unable to determine whether AI maintained fidelity
11 bond coverage or insurance coverage equal to at least the maximum amount of trust funds of
12 which the unlicensed employee had access at any time during the audit period. PIROZZI was not
13 authorized to sign or make withdrawals from BA 3. The above mentioned acts are in violation of
14 Code section 10145 and Regulation 2834.

15 **Issue 6. Code section 10145 and Regulation 2831. Trust fund records to be maintained.**

16 45. Based on an examination of control records for BA 1 that were provided to the
17 auditor including, but not limited to, a "Deposit Register," "Check Register," General Ledger
18 "1105 Operating Cash" from January 1, 2019 through December 15, 2020, and "1160 Security
19 Deposit Cash" from February 20, 2019 through January 4, 2020, the control records were not
20 accurate and complete. The control records did not reflect an accurate date of deposit, amount of
21 deposits and complete disbursement, and did not reflect an accurate running daily balance, in
22 violation of Code section 10145 and Regulation 2831.

23 46. Some of the deposits from property owner A.M.'s properties were posted on BA 1
24 but were not posted in the general ledger/control record. Examples include the following,

1 without limitation:

<u>Tenant</u>	<u>Property</u>	<u>Amount</u>	<u>Deposit on general ledger</u>	<u>Deposit Date</u>	<u>BA 1 Lumpsum Deposit</u>
I.V.	321 E. Montecito St.	\$1,500.00	Not posted	05/01/2020	\$14,282.36
A.D.S.	234 Castillo A	\$850.00	Not posted	05/13/2020	\$10,305.93
I.V.	321 E. Montecito St.	\$1,500.00	Not posted	06/03/2020	\$8,145.25
A.D.S.	234 Castillo B	\$850.00	Not posted	06/11/2020	\$850.00

7 47. Some of the disbursements for A.M.'s properties indicated on the Owner
8 Statement were not recorded on the control records and were not posted on the BA 1 bank
9 statements. The disbursements include the following:

<u>Owner</u>	<u>Description</u>	<u>Amount</u>	<u>Date of disbursements (GL)</u>	<u>Date posted in bank</u>
A.M.	Owner Disbursement	\$50,000.00	05/01/2020	N/A
A.M.	Owner Disbursement	\$25,000.00	05/18/2020	N/A
A.M.	Owner Disbursement	\$25,000.00	06/10/2020	N/A
A.M.	Owner Disbursement	\$25,000.00	07/23/2020	N/A
A.M.	Owner Disbursement	\$25,000.00	09/04/2020	N/A
A.M.	Owner Disbursement	\$25,000.00	10/31/2020	N/A
A.M.	Owner Disbursement	\$25,000.00	12/02/2020	N/A
A.M.	Owner Disbursement	\$25,000.00	12/10/2020	N/A
	TOTAL	<u>\$225,000.00</u>		

20 48. AI failed to provide the records of all trust fund receipts and disbursements in
21 connection with AI's property management activities for the audit examination.

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1 **Issue 7. Code section 10145 and Regulation 2831.1. Separate records for each beneficiary**
2 **or transaction.**

3 49. During the audit period, Respondent AI failed to maintain accurate and complete
4 separate records of the receipts and disbursements of all trust funds deposited into BA 1, BA 2,
5 and BA 3 for each beneficiary or property related to its property management activities, in
6 violation of Code section 10145(g) and Regulation 2831.1.

7 **Issue 8. Code sections 10145 and Regulation 2832. Trust fund handling.**

8 50. Based on the examination of the bank signature cards for BA 1 and BA 3, said
9 accounts were used for handling trust funds related to AI's property management activities. BA 1
10 and BA 3 were not designated as trust accounts in the name of AI, in violation of Code section
11 10145 and Regulation 2832.

12 **Issue 9. Code section 10145 and Regulation 2831.2. Trust account reconciliation.**

13 51. During the audit period, AI failed to maintain complete and accurate monthly
14 reconciliations comparing the balance of all separate beneficiary or transaction records (separate
15 records) to the balance of all trust funds received and disbursed (control record) for BA 1, BA 2,
16 and BA 3, in violation of Code section 10145 and Regulation 2831.2.

17 **Issue 10. Code section 10176(g) and Regulation 2830. Undisclosed compensation/Broker**
18 **placement of trust funds with financial institution.**

19 52. AI failed to disclose in writing to the property owners who had trust funds in
20 BA 1 that AI maintained an earnings credit relationship with JP Morgan Chase bank, in violation
21 of Code section 10176, subdivision (g), and Regulation 2830. The monthly earnings credits were
22 used to offset combined bank service charges incurred the audit period.

23 53. According to bank statements for BA 1, the monthly service fee was waived if AI
24 maintained an average ledger balance of \$50,000.00 or more in deposits and investments. BA 1's

1 average monthly business deposits during the period from April 1, 2019 through November 30,
2 2020, exceeded \$50,000.00.

3 54. The combined price/unit service charges for April 2019 through November 2020
4 for BA 1 totaled \$1,414.605. The combined monthly service fees waived for the same period for
5 BA 1 totaled \$1,327.795.

6 **Issue 11. Code section 10159.5 and Regulation 2731. Use of unlicensed false or fictitious**
7 **name.**

8 55. During the audit period, AI conducted property management activities that require
9 a real estate broker license while using the following unlicensed, fictitious business name, "Santa
10 Barbara Property Management," in violation of Code section 10159.5 and Regulation 2731. AI
11 used the unlicensed fictitious names on documents including, but not limited to, bank statements,
12 deposit slips, and cancelled checks.

13 **Issue 12. Code section 10148. Retention of records.**

14 56. The Department served to Respondents an audit appointment letter and subpoenas
15 to produce records for the audit examination. AI failed to retain or produce some of the requested
16 books and records which were required to be maintained pursuant to, and in violation, of Code
17 section 10148. Some the requested records that were not produced by Respondents included, but
18 are not limited to, bank statements bank signature cards for BA 1, BA 2, and BA 3, control
19 records, separate records, copies of cancelled checks, deposit receipts, invoices, records of
20 monthly reconciliation, property management agreements, and lease agreements related to AI's
21 property management activities.

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1 **Issue 13. Code section 10159.2 and Regulation 2725. Responsibility of Corporate Officer in**

2 **Charge/Broker supervision.**

3 57. Respondent PIROZZI failed to adequately supervise the activities of AI's
4 salespersons, employees, or agents and failed to establish policies, rules, procedures, and systems
5 to review, oversee, inspect, and manage transactions requiring a real estate license and the
6 handling of trust funds to ensure compliance with the Real Estate Law, in violation of Code
7 section 10159.2 and Regulation 2725.

8 58. The conduct of Respondents AI and PIROZZI as described in Paragraphs 26
9 through 56, above, violated the Code and the Regulations as set forth below:

10	<u>Issue</u>	<u>Paragraph(s)</u>	<u>Violations</u>
11	1	27-28	N/A
12	2	29-36	N/A
13	3	37-40	Code section 10145(a)
14	4	41-43	Code sections 10145 and 10176(e)
15	5	44	Code section 10145 and Regulation 2834
16	6	45-48	Code section 10145 and Regulation 2831
17	7	49	Code section 10145 and Regulation 2831.1
18	8	50	Code sections 10145 and Regulation 2832
19	9	51	Code sections 10145 and Regulation 2831.2
20	10	52-54	Code section 10176(g) and Regulation 2830
21	11	55	Code section 10159.5 and Regulation 2731
22	12	56	Code section 10148
23	///		
24	///		

1 activities.

2 64. The auditor held an entrance conference with Respondent DOWNAROWICZ on
3 September 2, 2021. The audit examination was based on limited records provided to the
4 Department, records obtained through subpoenaed bank records, and Department licensing
5 records, among other documents.

6 65. Respondent DOWNAROWICZ is the sole owner, officer, director, and
7 shareholder of SBPMI. DOWNAROWICZ has been licensed as the Designated Officer for
8 SBPMI since March 30, 2018.

9 66. According to DOWNAROWICZ, during the audit period, SBPMI managed
10 approximately 47 properties with a total of 208 units for 43 property owners. DOWNAROWICZ
11 stated that some of those properties belonged to AI. SBPMI charged a management fee of 7% -
12 8% of collected rents for its property management activities.

13 67. Based on the auditor's examination of subpoenaed bank records, SBPMI
14 maintained at least two (2) bank accounts used for handling the receipt and disbursements of
15 trust funds for multiple beneficiaries in connection with SBPMI's property management
16 activities during the audit period. The accounts are listed below:

17 **Trust Account 1 (TA 1)**

18 Bank: American Riviera Bank

19 Account Name: Santa Barbara Property Management, Inc. SBPM Trust Account

20 Account #: xxxxx9953

21 Signatories: DOWNAROWICZ

22 Signatures required: One (1)

23 Purpose: According to examination of bank records, TA 1 was used to deposit rents and security
24 deposits collected from tenants for multiple beneficiaries in connection with SBPMI's property

1 management activities. Disbursements from TA 1 included payments for expenses related to the
2 properties managed, owner remittances, and to SBPMII for management fees. TA 1 was opened
3 on December 21, 2020.

4 **Bank Account 1 (BA 1)**

5 Bank: American Riviera Bank

6 Account Name: Santa Barbara Property Management, Inc. DbA Real Property Management

7 Account #: xxxxx1889

8 Signatories: DOWNAROWICZ, Nola, and Titus.

9 Signatures required: One (1)

10 Purpose: According to examination of bank records, BA 1 was maintained for handling trust
11 fund receipts and disbursements for multiple beneficiaries in connection with SBPMI's property
12 management activities. BA 1 was opened on October 10, 2014 and closed on June 30, 2020.

13 68. The audit examination revealed violations of the Code and the Regulations as set
14 forth in the following paragraphs, and more fully discussed in Audit Report LA210020 and the
15 exhibits and work papers attached to said audit report.

16 **Audit Violations**

17 69. In the course of its property management activities during the audit period,
18 Respondents acted in violation of the Code and the Regulations as follows:

19 **Issue 1. Trust fund accountability and balances.**

20 70. A bank reconciliation was prepared for TA 1. As of July 30, 2021, TA 1 had a
21 minimum unidentified/unaccounted for funds \$17,233.17 due to poor record keeping. The
22 adjusted bank balances were compared to the accountability. The accountability was based on
23 inaccurate and incomplete separate records, a deposit register for December 20, 2020 through
24

1 September 8, 2021, and a check register for April 1, 2020 to July 31, 2021 for TA 1. The control
2 records for TA 1 were not provided to the auditor for examination.

3 71. Based on bank statements for BA 1 and “wire application and agreements,” on
4 January 7, 2020, Titus requested a transfer of \$182,790.00 from SBPMI’s BA 1 into AI’s BA 1
5 and a second transfer of \$157,180.22 from SBPMI’s BA 1 into AI’s BA 1. The total amount of
6 trust funds transferred from SBPMI’s BA 1 into AI’s BA 1 on January 7, 2020, was
7 \$339,970.22. Titus was licensed as affiliated with AI from August 28, 2013 to October 6, 2020.

8 72. SBPMI did not provide records or itemization of the amounts and names of
9 properties or property owners related to the transfer of trust funds totaling \$339,970.22.

10 73. The remaining balance of \$181.45 was withdrawn from BA 1 on June 26, 2020 to
11 close the account. As of June 30, 2020, BA 1 had a balance of \$0.00.

12 **Issue 2. Castillo and Montecito Gardens properties**

13 74. Respondents managed the properties located at 228, 230, and 234 Castillo Street
14 (“Castillo properties”), and 321, 323, and 325 West Montecito Street (“Montecito Garden
15 properties”), in Santa Barbara, California, for property owner, A.M.

16 75. PIROZZI acted as A.M.’s agent for the purchase of 228 Castillo Street and 321
17 West Montecito Street. On or about December 17, 2019, a wire payment of \$150,000.00 to an
18 unlicensed entity, Santa Barbara Management Company, was deposited to BA 12, related to the
19 purchase transaction. On or about December 18, 2019, deposits of \$32,740.00 for rent and
20 \$18,984.68 for pro-rated rent were made to BA 1 (the same bank account is referred to as BA 3
21 in Audit LA 210019).

22 76. Based on bank statements for BA 1 and “wire application and agreements,” on
23 January 7, 2020, Titus requested a transfer of \$182,790.00 from SBPMI’s BA 1 into AI’s BA 1
24 and a second transfer of \$157,180.22 from SBPMI’s BA 1 into AI’s BA 1. Titus transferred

1 \$339,970.22 of trust funds from SBPMI's BA 1 into AI's BA 1, without the instructions of the
2 property owners who were entitled to the funds. The remaining balance of \$181.45 was
3 withdrawn from BA 1 on June 26, 2020 to close the account. As of June 30, 2020, BA 1 was
4 closed with a balance of \$0.00. Titus was licensed as affiliated with AI from August 28, 2013 to
5 October 6, 2020.

6 77. According to DOWNAROWICZ, he did not have any accounting records related
7 to trust funds prior December 31, 2021.

8 78. The control records, separate records, and some owner statements for the Castillo
9 and Montecito Gardens properties were not provided to the Department's auditor.

10 **Issue 3. Code section 10145 and Regulation 2832. Trust fund handling.**

11 79. BA 1 was used to hold trust funds related to SBPMI's property management
12 activities and was not designated in the name of SBPMI or its licensed fictitious business name
13 as trustee, in violation of Code section 10145 and Regulation 2832.

14 **Issue 4. Code sections 10145(a). Handling of trust funds.**

15 80. On January 7, 2020, Titus requested a transfer of \$182,790.00 from SBPMI's
16 BA 1 to AI's BA 1 with the note: "Security deposit Transfer." Titus also transferred \$157,180.22
17 (trust account transfer) from SBPMI's BA 1 to AI's BA 1. On January 7, 2020, Respondents
18 transferred a total amount of \$339,970.22 from SBPMI's BA 1 to AI's BA 1 without the
19 instructions of the persons who were entitled to the funds, in violation of Code section 10145,
20 subdivision (a).

21 **Issue 5. Code sections 10145 and Regulation 2834. Trust account withdrawals.**

22 81. During the audit period, Titus and Nola, who were not licensed as affiliated with
23 SBPMI, were authorized to sign and make withdrawals from SBPMI's BA 1. SBPMI did not
24 maintain fidelity bond coverage or insurance coverage equal to at least the maximum amount of

1 trust funds of which the unlicensed employees had access to in BA 1 at any time during the audit
2 period. The above mentioned acts are in violation of Code section 10145 and Regulation 2834.

3 **Issue 6. Code section 10145 and Regulation 2831. Trust fund records to be maintained.**

4 82. Based on an examination of a “Deposit Register” and “Check Register” for TA 1,
5 the control records were not accurate and complete. The control records did not reflect an
6 accurate date of deposit and an accurate running daily balance, in violation of Code section
7 10145 and Regulation 2831.

8 83. BA 1’s control record (record of all trust funds received and disbursed) was not
9 provided for the audit examination.

10 **Issue 7. Code section 10145 and Regulation 2831.1. Separate records for each beneficiary**
11 **or transaction.**

12 84. During the audit period, Respondent SBPMI failed to maintain accurate separate
13 records (owner statements) for TA 1, in violation of Code section 10145(g) and Regulation
14 2831.1. The separate record did not reflect an accurate date of deposit of trust funds including,
15 but not limited to, the following examples:

<u>Tenant</u>	<u>Property</u>	<u>Deposit</u>	<u>Date of receipt on</u>	<u>Date of receipt on</u>
		<u>Amount</u>	<u>Owner Statement</u>	<u>Deposit Register</u>
18 W.E.J.	1152 Calle De Sol, 19 Santa Barbara	\$3,809.50	02/17/2021	02/15/2021
20 C.M.G.	914 Cheltenham Rd., 21 Santa Barbara	\$1,036.00	01/29/2021	01/30/2021

22 85. During the audit period and in connection with the collection and disbursement of
23 trust funds, SBPMI failed to maintain a separate record of receipt and disposition of all trust
24 funds deposition into TA 1, as required by Code section 10145, subdivision (g), and Regulation

1 2831.1, in that TA 1 contained unidentified/unaccounted for funds of at least \$17,233.17 as of
2 July 30, 2021.

3 86. BA 1's separate records were not provided for the audit examination.

4 **Issue 8. Code section 10145 and Regulation 2831.2. Trust account reconciliation.**

5 87. During the audit period, SBPMI did not maintain complete and accurate monthly
6 reconciliation all separate records to the control records for TA 1 and BA 1, in violation of Code
7 section 10145 and Regulation 2831.2.

8 88. The reconciliation records for TA 1 for the month of January through July of 2021
9 and October through December of 2019 for BA 1 did not identify the bank account name and
10 number and trust fund liabilities of the broker to each of the principals, beneficiaries, or
11 transactions.

12 **Issue 9. Code section 10148. Retention of records.**

13 89. The Department served to Respondents an audit appointment letter and subpoenas
14 to produce records for SBPMI's audit examination. As of April 29, 2022, SBPMI failed to retain
15 or produce some of the requested books and records which were required to be maintained
16 pursuant to, and in violation, of Code section 10148. Some the requested records that were not
17 produced by Respondents included, but are not limited to, control record, separate records,
18 monthly reconciliation records, property management agreements, lease agreements, owner
19 statements, deposit registers/receipts, checks, and invoices related to SBPMI's property
20 management activities. Respondents did not make all of the records for TA 1 related to SBPMI's
21 property management activities during the audit period available for the audit examination.

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23 ///

24

1 **Issue 10. Code section 10159.2 and Regulation 2725. Responsibility of Corporate Officer in**
2 **Charge/Broker supervision.**

3 90. Respondent DOWNAROWICZ failed to adequately supervise the activities of
4 SBPMI's salespersons, employees, or agents and failed to establish policies, rules, procedures,
5 and systems to review, oversee, inspect, and manage transactions requiring a real estate license
6 and the handling of trust funds to ensure compliance with the Real Estate Law, in violation of
7 Code section 10159.2 and Regulation 2725.

8 91. DOWNAROWICZ failed to maintain an accurate control record and separate
9 records of the receipt and disposition of all trust funds deposited into SBPMI's TA 1, as required
10 by Code section 10145 and Regulations 2831 and 2831.1.

11 92. DOWNAROWICZ failed to accurately reconcile the balance of all separate
12 records and control records for SBPMI's TA 1 and BA 1 on a monthly basis, as required by
13 Regulation 2831.2.

14 93. The conduct of Respondent SBPMI as described in Paragraphs 70 through 89,
15 above, violated the Code and the Regulations as set forth below:

<u>Issue</u>	<u>Paragraph(s)</u>	<u>Violations</u>
17 1	70-73	N/A
18 2	74-78	N/A
19 3	79	Code section 10145 and Regulation 2832
20 4	80	Code section 10145(a)
21 5	81	Code section 10145 and Regulation 2834
22 6	82-83	Code section 10145 and Regulation 2831
23 7	84-86	Code section 10145 and Regulation 2831.1

1 Issue Paragraph(s) Violations

2 8 87-88 Code sections 10145 and Regulation 2831.2

3 9 89 Code section 10148

4 94. The foregoing violations, as described in Paragraphs 70 through 89, above,
5 constitute cause for the suspension or revocation of the real estate licenses and license rights of
6 Respondent SBPMI pursuant to the provisions of Code section 10177, subdivisions (d) and/or (g)
7 for violation of Code sections 10145, 10148, and Regulations 2831, 2831.1, 2831.2, 2832, and
8 2834.

9 Respondent DOWNAROWICZ– Officer - Broker Supervision

10 95. The conduct, acts, and/or omissions of Respondent DOWNAROWICZ, as alleged
11 above in Paragraphs 90 through 92, constitutes a failure to exercise the supervision and control
12 over the activities of SBPMI to ensure compliance with the Real Estate Law and Regulations, as
13 required by Code section 10159.2 and Regulation 2725. Said conduct, acts, or omissions
14 constitute cause to suspend or revoke the real estate licenses and license rights of Respondent
15 DOWNAROWICZ pursuant to Code section 10177, subdivisions (h), (d), and/or (g).

16 Audit Costs

17 96. Code section 10148(b) provides, in pertinent part, that the Commissioner shall
18 charge a real estate broker for the cost of any audit, if the Commissioner has found in a final
19 decision following a disciplinary hearing that the broker has violated Code section 10145 or a
20 regulation or rule of the Commissioner interpreting said section.

21 Investigation/Enforcement Costs

22 97. Code section 10106 provides, in pertinent part, that in any order issued in
23 resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner
24 may request the administrative law judge to direct a licensee found to have committed a violation

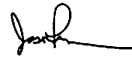
1 of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement
2 of the case.

3 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this
4 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
5 against all licenses and/or license rights of Respondents under the Real Estate Law (Part 1 of
6 Division 4 of the Business and Professions Code), for the costs of the audit, investigation, and
7 enforcement as permitted by law, and for such other and further relief as may be proper under
8 other provisions of law.

9 Dated on Nov 3, 2022 at Los Angeles, California.

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JASON PARSON
Supervising Special Investigator

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14 cc: AMPCore, Incorporated
15 Adam Michael Pirozzi
16 Santa Barbara Property Management, Inc.
17 Stephen James Downarowicz
18 Jason Parson
19 Sacto
20 Audits/Anna Hartoonian

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