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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

DRE No. H-42902 LA

LB PROPERTY MANAGEMENT, INC. and
ROBERT BRUCE LOPATA,
individually and as designated officer for
LG Property Management, Inc.,

ACCUSATION

Respondents.

The Complainant, Jason Parson, a Supervising Special Investigator for the Department of Real Estate¹ ("Department") of the State of California, for cause of Accusation against LB PROPERTY MANAGEMENT, INC. and ROBERT BRUCE LOPATA, individually and as designated officer for LB Property Management, Inc. (collectively "Respondents"), alleges as follows:

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

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.

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

Licenses

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

4. On April 16, 1997, the Department issued a real estate corporation license to Respondent LB PROPERTY MANAGEMENT, INC. ("LBPMI"), License ID 01218447. Respondent LBPMI's license is scheduled to expire on November 12, 2025, unless renewed. Respondent has renewal rights pursuant to Code section 10201. The Department retains jurisdiction pursuant to Code section 10103.

5. On June 8, 1990, the Department issued a real estate broker license to Respondent ROBERT BRUCE LOPATA ("LOPATA"), License ID 01078343. Respondent LOPATA's broker license is scheduled to expire on September 9, 2026, unless renewed. Respondent has renewal rights pursuant to Code section 10201. The Department retains jurisdiction pursuant to Code section 10103.

6. At all times herein mentioned, Respondent LBPMI was and now is licensed as a corporate real estate broker by and through Respondent LOPATA as designated broker-officer for Respondent LBPMI to qualify said corporation and to act for said corporation as a real estate broker.

7. At all times herein mentioned, LOPATA has been the designated officer for Respondent LBPMI, pursuant to Code section 10211. As the designated officer for LBPMI, Respondent LOPATA, is responsible for the supervision and control of the activities conducted

1 on behalf of LBPMI by its officers, agents, real estate licensees, and employees, as necessary to
2 secure full compliance with the provisions of the Real Estate Law, pursuant to Code section
3 10159.2.

4 Prior Discipline

5 8. Effective May 12, 1999, in Case No. H-28101 LA, the Real Estate Commissioner
6 issued an Order to Desist and Refrain against Respondent LOPATA for violation of Code section
7 10159.2, and against Respondent LBPMI for violation of Code sections 10161.8, 10145, and
8 Regulations 2731, 2752, and 2832.1.

9 First Cause of Accusation - Audit LA 230010

10 9. Whenever reference is made in an allegation in this Accusation to an act or
11 omission of Respondent LBPMI, such allegation shall be deemed to mean that the officers,
12 directors, employees, agents and/or real estate licensees employed by or associated with
13 Respondent LBPMI, committed such act or omission while engaged in the furtherance of the
14 business or operations of such corporate respondent and while acting within the course and
15 scope of their authority and employment.

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

22 11. On or about February 28, 2024, the Department completed an audit examination
23 of the books and records of Respondent LBPMI's property management activities, which require
24 a real estate license pursuant to Code section 10131, subdivision (b), to determine if Respondents

1 handled and accounted for trust funds in compliance with the Real Estate Law and the
2 Regulations.

3 12. According to Respondents, LOPATA is the President of LBPMI and owns 50%
4 of LBPMI. Gregg Mitchell Bernstein ("Bernstein") is the CPA, CFO, and Co-Founder of LBPMI
5 and owns 50% of LBPMI. Gregory Justin De Rubeis ("De Rubeis") is an Executive Vice-
6 President for LBPMI.

7 13. On April 29, 1989, the Department issued a real estate broker license to
8 Bernstein, License ID 01026069. Bernstein's broker license expired on April 28, 2009.

9 14. On or about March 25, 1997, in Case No. H-27101 LA, the Real Estate
10 Commissioner issued an Order to Desist and Refrain against Bernstein.

11 15. On December 22, 2009, the Department issued a real estate broker license to
12 Gregory Justin De Rubeis ("De Rubeis"), License ID 01487050. De Rubeis is a broker-
13 associate for Respondent LBPMI.

14 16. At all times mentioned herein, Respondents were not licensed to do business as
15 "LBPM."

16 17. The audit examination covered the period from January 1, 2022, through July 31,
17 2023, ("audit period").

18 18. According to Respondents, during the audit period, LBPMI managed
19 approximately 800 properties for 700 property owners. LBPMI collected and handled trust funds
20 totaling approximately \$161 million, annually. LBPMI collected rents, paid expenses, and
21 screened tenants for compensation. LBPMI charged property management fees or compensation
22 for their services.

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1 19. The Department's auditor reviewed the audit period records provided by
2 Respondents for the following LBPMI bank accounts:

3 A. Bank Account 1 (B/A 1)

4 Bank: Pacific Western Bank

5 Account #: xxxx7616

6 B. Bank Account 2 (B/A 2)

7 Bank: Pacific Western Bank

8 Account #: xxxx9393

9 C. Bank Account 3 (B/A 3)

10 Bank: Pacific Western Bank

11 Account #: xxxx5016

12 D. Bank Account 4 (B/A 4)

13 Bank: Pacific Western Bank

14 Account #: xxxx9892

15 20. The audit examination revealed violations of the Code and the Regulations as set
16 forth in the following paragraphs, and more fully discussed in Audit Report LA 230010 and the
17 exhibits and work papers attached to said audit report.

18 Audit Violations

19 21. In the course of its property management activities during the audit period,
20 Respondents acted in violation of the Code and the Regulations as follows:

21 Issue 1. Code section 10145 and Regulation 2832. Trust fund handling - B/A 1 and B/A 2.

22 22. During the audit period, LBPMI used B/A 1 and B/A 2 for handling trust fund
23 receipts and disbursements belonging to others in connection with property management
24 activities. B/A 1 and B/A 2 were not designated as trust accounts in the name of LBPMI or its

1 licensed fictitious business names, as trustee, in violation of Code section 10145 and Regulation
2 2832.

3 Issue 2. Code section 10145 and Regulation 2834. Trust Account Withdrawals – B/A 1, B/A 2,
4 and B/A 3.

5 23. During the audit period, LBPMI used B/A 1, B/A 2, and B/A 3 for handling trust
6 fund receipts and disbursements belonging to others in connection with property management
7 activities. Based on a review of the bank signature cards for B/A 1, B/A 2, and B/A 3, Bernstein
8 was authorized to sign and make withdrawals from B/A 1, B/A 2, and B/A 3. Craig Tice, an
9 unlicensed person, was also authorized to sign and make withdrawals and wire funds from B/A
10 2, in violation of Code section 10145 and Regulation 2834.

11 Issue 3. Code sections 10145 and 10176(g). Secret profit/Undisclosed compensation.

12 24. During the audit period, LBPMI overcharged property management fees of at
13 least \$2,859.40 to the property owners for the following properties: 18415 Dearborn Street,
14 Northridge, California; 1110 W. La Palma, Anaheim, California; and 318 N. Electric Ave.,
15 Alhambra, California, in violation of Code sections 10145 and 10176, subdivision (g).

16 25. LBPMI's management fee for the 18415 Dearborn St. property was based on 95%
17 gross scheduled income or the minimum management fee of \$920. The fee percentage by gross
18 receipts included current rent, prepaid rent, rent received from security deposits, laundry
19 revenues, and returned check fees for insufficient funds.

20 26. LBPMI overcharged property management fees of at least \$1,900.00 to the
21 property owners for the 18415 Dearborn St. property. Examples of the excess/overcharged fees
22 for the 18415 Dearborn St. property include the following, without limitation:

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<u>Date</u>	<u>PM Fee per Agreement</u>	<u>Check No.</u>	<u>Amount</u>	<u>Difference</u>
01/04/2022	\$960.00	673	\$1,060.00	\$100.00
06/17/2022	\$960.00	799	\$1,060.00	\$100.00
12/02/2022	\$960.00	927	\$1,060.00	\$100.00
07/05/2023	\$960.00	1054	\$1,060.00	\$100.00

27. LBPMI overcharged property management fees of at least \$812.76 to the property owners for the 1110 W. La Palma property. Examples of the excess/overcharged fees for the 1110 W. La Palma property include the following, without limitation:

<u>Date</u>	<u>PM Fee per Agreement</u>	<u>Check Nos.</u>	<u>Amount</u>	<u>Difference</u>
Aug. 2022	3% (\$1,165.85)	15 and 26	\$1,545.46	\$379.61
May 2023	3% (\$1,082.47)	120 and 134	\$1,242.12	\$159.65
June 2023	3% (\$1,682.76)	138 and 143	\$19,56.26	\$273.50

28. LBPMI overcharged property management fees of at least \$146.64 to the property owners for the 318 N. Electric Ave. property. Examples of the excess/overcharged fees for the 318 N. Electric Ave. property include the following, without limitation:

<u>Date</u>	<u>PM Fee per Agreement</u>	<u>Check Nos.</u>	<u>Amount</u>	<u>Difference</u>
Aug. 2022	4% flat fee or \$449.41	3 and 10	\$515.65	\$66.24
Jan 2023	4% flat fee of \$354.00	39, 45, & 48	\$480.40	\$80.40

Issue 4. Code section 10159.5 and Regulation 2731. Use of unlicensed false or fictitious name.

29. During the audit period, LBPMI used the unlicensed fictitious business name "LBPM" in connection with property management activities, in violation of Code section 10159.5 and Regulation 2731.

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1 Issue 5. Code sections 10163. Branch offices.

2 30. During the audit period, LBPMI used unlicensed branch offices located at: 625 E.
3 Main St., Alhambra, California, and 2271 W. 250th St., Ste. #103, Torrance, California, in
4 connection with property management activities in violation of Code section 10163.

5 31. On or about February 1, 2024, the Department received notice from LBPMI of the
6 additional branch offices for the locations noted above.

7 32. The conduct of Respondent LBPMI as described above in Paragraphs 22 through
8 31, violated the Code and the Regulations as set forth below:

<u>Issue</u>	<u>Violations</u>
9 1	Code section 10145 and Regulation 2832
10 2	Code section 10145 and Regulation 2834
11 3	Code sections 10145 and 10176(g)
12 4	Code section 10159.5 and Regulation 2731
13 5	Code section 10163

14
15 33. The foregoing violations, as described above in Paragraphs 22 through 31,
16 constitute cause for the suspension or revocation of the real estate licenses and license rights of
17 Respondent LBPMI under the provisions of Code section 10165, 10176, subdivision (g) and
18 Code section 10177, subdivisions (d) and/or (g).

19 Respondent LOPATA– Officer - Broker Supervision

20 34. Based on the audit violations cited above, Respondent LOPATA failed to exercise
21 adequate supervision and control over LBPMI's property management activities to ensure
22 compliance with the Real Estate Law and Regulations, in violation of Code section 10159.2 and
23 Regulation 2725. Said conduct, acts, or omissions constitute cause to suspend or revoke the real
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1 estate licenses and license rights of Respondent LOPATA pursuant to Code section 10177,
2 subdivisions (h), (d), and/or (g).

3 Second Cause of Accusation

4 35. There is hereby incorporated in this Second, separate and distinct Cause of
5 Accusation, all of the allegations contained in Paragraphs 1 through 34, with the same force and
6 effect as if herein fully set forth.

7 36. The Department received separate complaints against Respondents from property
8 owners for the following properties: 221 W. Plymouth, Inglewood, California 90302 ("Plymouth
9 property), and 318 N. Electric Ave., Alhambra, California 91801 ("Electric property"). The
10 complaints alleged that Respondent LBPMI charged the property owners for repairs that were
11 not done or done improperly by unlicensed contractors, overcharged for repairs, and theft or
12 mishandling of trust funds, among other issues.

13 37. The Department conducted the audit described above as part of the investigation
14 into the complaints. The Department's investigator requested Respondents' property
15 management files for the Plymouth and Electric properties.

16 38. Based upon review of the documents provided by Respondents for the Plymouth
17 property, including, but not limited to the property management agreement, Respondents
18 provided invoices, estimates, or bids for emergency roofing repair work to the Plymouth
19 property and failed to provide written notice to the owners of the Plymouth property of
20 Respondents' affiliation or ownership interest with the construction business, Nu Way, 2271 W.
21 205th St. #103, Torrance, California 90501.

22 39. Based upon review of the documents provided by Respondents for the Electric
23 property, including, but not limited to the property management agreement, Respondents failed
24 to provide written notice to the owners of the Electric property of Respondents' affiliation or

1 ownership interest with the construction businesses, Nu Way and/or Consolidated Property
2 Services, Inc., doing business as CPS.

3 40. The foregoing failure to disclose the affiliation and omission of material facts, as
4 described above in Paragraphs 38 and 39, constitute cause for the suspension or revocation of the
5 real estate licenses and license rights of Respondents LBPMI and LOPATA pursuant to Code
6 section 10176, subdivisions (a), (g), and (i), and Code section 10177, subdivisions (d), (j), and/or
7 (g).

8 Audit Costs

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

13 Investigation/Enforcement Costs

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


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

7 Dated 09/25/24 at Los Angeles, California.

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10 JASON PARSON
Supervising Special Investigator

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12 cc: LB Property Management, Inc.
13 Robert Bruce Lopata
14 Jason Parson
Sacto
Audits/Anna Hartoonian
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