1	[[TRULT SUGRRUE, Counsel	
2	Department of Real Estate	FILED
3	P.O. Box 137007 Sacramento, CA 95813-7007	
4	ii i	AUG 0 2 2021
5		DEPARTMENT OF REAL ESTATE  By 6. 11. CW 10.5
6	Fax: (916) 263-3767	
7 8	BEFORE THE DEPARTMENT OF REAL ESTATE	
9	STATE OF CALIFORNIA	
10	***	
11	In the Matter of the Accusation of	
12	)	No. H-3386 FR
	CITYWIDE PROPERTY MANAGEMENT ) INC.	No. H-3386 FK
13 14	and	<u>ACCUSATION</u>
15	OSCAD I INDSAV DI IDAIION : 1: 1 1	
16	OSCAR LINDSAY RUDNICK, individually and as designated officer of Citywide Property Management Inc.,	
17	}	
18	Respondents.  The Complement PRENTA SHATTINGS AND ASSAULT OF THE COMPLEMENT OF THE C	
19	The Complainant, BRENDA SMITH, a Supervising Special Investigator of the	
20	State of California, for cause of Accusation against CITYWIDE PROPERTY MANAGEMENT INC. and OSCAR LINDSAY RUDNICK (Respondents), is informed and alleges as follows:	
21	1	), is informed and alleges as follows:
22		Companying Constant
23	The Complainant, BRENDA SMITH, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.	
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## **PRELIMINARY ALLEGATIONS**

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

At all times prior to March 11, 2020, CITYWIDE PROPERTY MANAGEMENT INC. (CITYWIDE) was licensed by the State of California Department of Real Estate

(Department) as a real estate broker corporation. At all times after March 11, 2020, CITYWIDE was and is licensed by the Department as a restricted real estate broker corporation.

At all times prior to March 11, 2020, OSCAR LINDSAY RUDNICK.

(RUDNICK) was licensed by the Department individually as a real estate broker, and as the designated broker officer of CITYWIDE. At all times after March 11, 2020, RUDNICK was and

is licensed by the Department individually as a restricted real estate broker, and as the restricted

designated broker officer of CITYWIDE.

As said designated officer-broker, RUDNICK was responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees, and employees of CITYWIDE for which a license is required.

Effective March 11, 2020, in Case No. H-3191 FR before the Department, the Real Estate Commissioner revoked the real estate broker license of Respondents, for violation of

Business and Professions Code (Code) Section 10145(g), and Title 10, Chapter 6, California

Code of Regulations (Regulations) Section 2832.1; Code Section 10145 and Regulation 2832;

Code Section 10145 and Regulation 2831.2; Code Section 10176(g); and [as to RUDNICK only]

Code Sections 10159.2 and 10177(h) and Regulations 2725, but granted Respondents the right to

a restricted real estate broker license, on terms, conditions, and restrictions set forth in the Order.

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Whenever reference is made in an allegation in this Accusation to an act or omission of CITYWIDE, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with CITYWIDE committed such acts or omissions while engaged in furtherance of the business or operation of CITYWIDE and while acting within the course and scope of their corporate authority and employment.

At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers in the State of California, within the meaning of Section 10131(b) of the Code in the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents leased or rented and offered to lease or rent, and placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

Between on or about August 12, 2020 and April 23, 2021, an audit was conducted of the records of CITYWIDE. The auditor herein examined the records for the period of January 1, 2020, through October 1, 2020.

# FIRST CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 8, inclusive, is incorporated by this reference as if fully set forth herein.

While acting as a real estate broker as described in Paragraph 7, Respondents accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in

connection with the leasing, renting, and collection of rents on real property or improvements thereon, as alleged herein, and thereafter from time-to-time made disbursements of said trust funds.

The trust funds accepted or received by Respondents as described in Paragraph 10 were deposited or caused to be deposited by Respondents into trust accounts which were maintained by Respondents for the handling of trust funds, and thereafter from time-to-time Respondents made disbursements of said trust funds, identified as follows:

ACCOUNT # 1

Bank Name and Location: Wells Fargo

1300 22<sup>nd</sup> Street

Bakersfield, CA 93301

Account No.: XXXXX95221

Entitled: Citywide Property Management Inc. Trust Account

In the course of the activities described in Paragraph 7, Respondents caused, suffered, or permitted the balance of funds in Account #1 to be reduced to an amount which, as of July 31, 2020 and August 31, 2020, was approximately \$57,151.78 less, and as of September 30, 2020, was approximately \$57,120.00 less than the aggregate liability of Account #1 to all owners of such funds in violation of Section 10145 of the Code and Section 2832.1 of the Regulations.

The facts alleged in Paragraph 12 are grounds for the suspension or revocation of Respondents' licenses and license rights under Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations.

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#### SECOND CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 13, inclusive, above, are incorporated by this reference as if fully set forth herein.

Respondent RUDNICK failed to exercise reasonable supervision over the acts of CITYWIDE in such a manner as to allow the acts and events described above to occur.

The acts and/or omissions of RUDNICK described in Paragraph 15 constitute failure on the part of RUDNICK, as designated broker-officer for CITYWIDE, to exercise reasonable supervision and control over the licensed activities of CITYWIDE as required by Section 10159.2 of the Code.

The facts described above in the Second Cause of Action constitute cause for the suspension or revocation of the licenses and license rights of Respondent RUDNICK under Section 10177(g) and/or Section 10177(h) of the Code, and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

## COST RECOVERY

The acts and/or omissions of Respondents as alleged above, entitle the Department to reimbursement of the costs of its audit pursuant to Section 10148(b) of the Code.

Section 10106 of the Code 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 committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Code, for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under the provisions of law.

BRENDA SMITH

Supervising Special Investigator

Dated at Fresno, California,

this  $\frac{24}{24}$  day of  $\frac{1}{24}$ , 202

## **DISCOVERY DEMAND**

Pursuant to Sections 11507.6, et seq. of the Government Code, the Department of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the Administrative Procedure Act. Failure to provide Discovery to the Department of Real Estate may result in the exclusion of witnesses and documents at the hearing or other sanctions that the Office of Administrative Hearings deems appropriate.