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BUREAU OF REAL ESTATE

By S. Black

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11
12 BEFORE THE BUREAU OF REAL ESTATE
13 STATE OF CALIFORNIA
14

15 * * *

16 In the Matter of the Accusation of)
17)
18 ROBERT MORRIS STEWART,) No. H-11815 SF
19)
20 Respondent.) ACCUSATION
21)
22)

23 The Complainant, ROBIN S. TANNER, a Deputy Real Estate Commissioner of
24 the State of California, for cause of Accusation against ROBERT MORRIS STEWART
25 (Respondent), is informed and alleges as follows:

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27 The Complainant, ROBIN S. TANNER, a Deputy Real Estate Commissioner of
the State of California, makes this Accusation in her official capacity.

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

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At all times mentioned, Respondent was and is licensed by the Bureau
individually as a real estate broker.

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

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11 On or about October 17, 2014, and continuing intermittently through
12 November 25, 2014, an audit was conducted of the records of Respondent. The auditor herein
13 examined the records for the period of September 1, 2011, through August 31, 2014.

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15 While acting as a real estate broker as described in Paragraph 4, Respondent
16 accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in
17 connection with the leasing, renting, and collection of rents on real property or improvements
18 thereon, as alleged herein, and thereafter from time to time made disbursements of said trust
19 funds.

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21 The trust funds accepted or received by Respondent as described in Paragraph 6
22 were deposited or caused to be deposited by Respondent into a trust account which was
23 maintained by Respondent for the handling of trust funds, and thereafter from time-to-time
24 Respondent made disbursements of said trust funds, identified as follows:

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ACCOUNT # 1	
Bank Name and Location:	Bank of America 2650 Berryessa Road San Jose, CA 95132
Account No.:	XXX-XXXX-1673
Entitled:	IAV Inc. Real Estate Broker Trust Account

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In the course of the activities described in Paragraph 4, Respondent:

(a) caused, suffered, or permitted the balance of funds in Account #1 to be reduced to an amount which, as of August 31, 2014, was approximately \$53,775.00 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 Title 10 of the California Code of Regulations (Regulations);

(b) failed to deposit trust funds into a trust fund account in the name of Respondent as trustee at a bank or other financial institution, in conformance with Section 10145 of the Code and Section 2832 of the Regulations;

(c) caused, permitted, and/or allowed, the possible withdrawal of trust funds from Account #1 by a person who was not licensed by the Bureau and not covered by a fidelity bond in violation of Section 2834 of the Regulations; and

(d) failed to keep accurate separate records for each beneficiary or transaction, accounting therein for all funds which were deposited into Account #1, containing all of the information required by Section 2831.1 of the Regulations;

(e) failed to reconcile the balance of separate beneficiary or transaction records with the control record of trust funds received and disbursed at least once a month, and/or failed to maintain a record of such reconciliations for Account #1 as required by Section 2831.2 of the Regulations;

(f) commingled with his own money or property, the money or property of others which was received or held by Respondent in trust in violation of Section 10176(e) of the Code; and

1 (g) operated his real estate business, under the fictitious business name of
2 "United Mortgage Resolutions, LLC" without obtaining a license bearing
3 said fictitious business name in violation of Section 10159.5 (fictitious name)
4 of the Code and Section 2731 (use of fictitious name) of the Regulations.

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6 The facts alleged above are grounds for the suspension or revocation of
7 Respondent's license and license rights under the following sections of the Code and
8 Regulations:

9 (1) As to Paragraph 8(a), under Section 10177(d) of the Code in conjunction
10 with Section 10145 of the Code and Section 2832.1 of the Regulations;

11 (2) As to Paragraph 8(b), under Section 10177(d) of the Code in conjunction
12 with Section 2832 of the Regulations and Section 10145 of the Code;

13 (3) As to Paragraph 8(c), under Section 10177(d) of the Code in conjunction
14 with Section 2834 of the Regulations;

15 (4) As to Paragraph 8(d), under Section 10177(d) of the Code in conjunction
16 with Section 2831.1 of the Regulations;

17 (5) As to Paragraph 8(e), under Section 10177(d) of the Code in conjunction
18 with Section 2831.2 of the Regulations;

19 (6) As to Paragraph 8(f), under Section 10176(e) of the Code;

20 (7) As to Paragraph 8(g), under Section 10177(d) of the Code in conjunction
21 with Section 2731 of the Regulations and Section 10159.5 of the Code;

22 COST RECOVERY

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24 The acts and/or omissions of Respondent as alleged above, entitle the Bureau to
25 reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund
26 handling violation) of the Code.

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Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, 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.

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.



ROBIN S. TANNER
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 6th day of February, 2015

DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Bureau 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 Bureau 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.