

FILED

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9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13)
14 FOUNDATION RENTALS AND)
15 RELOCATION INC., a Corporation,)
16 CHRISTOPHER SEAN BARROW, and)
17 ANDREA KATHERINE DAY,)
18)
19 Respondents.)

NO. H-11850 SF

ACCUSATION

20 The Complainant, ROBIN S. TANNER, a Deputy Real Estate Commissioner of
21 the State of California, makes this Accusation in her official capacity for cause of Accusation
22 against FOUNDATION RENTALS AND RELOCATION INC. (herein "FRRRI"),
23 CHRISTOPHER SEAN BARROW (herein "BARROW"), and ANDREA KATHERINE DAY
24 (herein "DAY") (herein collectively "Respondents"), is informed and alleges as follows:

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26 At all times herein mentioned, Respondents were and now are licensed and/or
27 have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and
Professions Code (herein "Code").

2 2

At all times herein mentioned, FRRRI was and now is licensed by the State of
California Bureau of Real Estate (herein "Bureau") as a corporate real estate broker, by and

1 through BARROW as designated officer-broker of FRRI, to qualify said corporation and to act
2 for said corporation as a real estate broker.

3 3

4 At all times herein mentioned, BARROW was and now is licensed by the Bureau
5 individually and as the designated officer-broker of FRRI. As said designated officer-broker,
6 BARROW was at all times mentioned herein responsible pursuant to Section 10159.2 of the
7 Code for the supervision of the activities of the officers, agents, real estate licensees, and
8 employees of FRRI for which a license is required.

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10 At all times herein mentioned, DAY was and now is licensed by the Bureau as
11 a real estate broker effective September 17, 2014 and was licensed as a real estate salesperson
12 from March 27, 2012 to September 16, 2014.

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

20 6

21 At all times herein mentioned, Respondents engaged in the business of, acted in
22 the capacity of, advertised, or assumed to act as real estate brokers for compensation or in the
23 expectation of compensation within the State of California within the meaning of Section
24 10131(b) of the Code, including the operation and conduct of a property management business
25 with the public wherein, on behalf of others, Respondents leased or rented or offered to lease or
26 rent, or placed for rent, or solicited listings or places for rent, or solicited for prospective tenants,
27 or negotiated the sale, purchase or exchanges of leases on real property or on a business

1 opportunity, or collected rents from real property, or improvements thereon, or from business
2 opportunities.

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4 In so acting as real estate brokers, as described in Paragraph 6, above,
5 Respondents FRRI and BARROW accepted or received funds in trust (herein "trust funds")
6 from or on behalf of tenants, owners, and others in connection with real estate leasing, renting,
7 and collection of rents on real property or improvements thereon, and thereafter from time to
8 time made disbursements of said funds.

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10 The aforesaid trust funds accepted or received by Respondents FRRI and BARROW
11 were deposited or caused to be deposited by Respondents into one or more bank accounts (herein
12 "trust fund accounts") maintained by Respondents for the handling of trust funds at the Greenbrae
13 branch of Wells Fargo Bank as follows:

- 14 (a) "Foundation Rentals and Relocation," account number xxxxxx7374
15 (herein "Trust Account #1");
16 (b) "Foundation Rentals and Relocation," account number xxxxxx2231
17 (herein "Trust Account #2"); and
18 (c) "Foundation Rentals and Relocation" account number xxxxxx3491
19 (herein "Trust Account #3").

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21 Between about September 3, 2014, and about October 3, 2014, an audit was
22 conducted of the records of Respondents BARROW and FRRI in connection with the activities
23 described in Paragraphs 6 through 8, above. The auditor herein examined the records for the
24 period between about September 1, 2013, and about August 31, 2014, and found Respondents
25 BARROW and FRRI:

- 26 (a) caused, suffered or permitted the balance of funds in Trust Accounts #1
27 through #3 to be reduced to amounts less than the liability of FRRI without

1 written consent from the owners of the accounts to allow Respondents
2 BARROW and FRRI to reduce the balance of funds in the accounts to less
3 than the existing aggregate trust fund liabilities, which resulted in trust fund
4 shortages, as shown below, in violation of Section 2832.1 of Title 10,
5 Chapter 6 of the California Code of Regulations (herein "Regulations"):

<u>Trust Account</u>	<u>Date</u>	<u>Shortage Amount</u>
Trust Account #1	8/31/14	\$7,518.26
Trust Account #2	8/31/14	\$ 50.00
Trust Account #3	8/31/14	\$4,460.30;

- 6
- 7
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- 9
- 10 (b) failed to keep a separate record for each beneficiary or transaction for
- 11 Trust Accounts #1 through #3 containing all the information required by
- 12 Section 10145 of the Code and Section 2831.1 of the Regulations;
- 13 (c) failed to reconcile at least once a month, the balance of all separate
- 14 beneficiary or transaction records with Trust Accounts #1 through #3,
- 15 as required by Section 2831.2 of the Regulations;
- 16 (d) caused, suffered or permitted funds of others which were received and
- 17 held by Respondents BARROW and FRRI in Trust Account #3 to be
- 18 commingled with Respondents' BARROW and FRRI own money, in
- 19 violation of Section 10176(e) of the Code;
- 20 (e) deposited trust funds into an interest bearing account for Trust Account #2,
- 21 in violation of Section 10145(d) of the Code; and
- 22 (f) authorized Darcy J. A., an unlicensed individual without fidelity bond
- 23 coverage to make withdrawals from Trust Accounts #1 and #2, in violation
- 24 of Section 2834 of the Regulations.

26 Between about March 13, 2014, and about September 17, 2014, DAY, without the
27 knowledge and consent of FRRI and BARROW engaged in the business and acted as a real estate

1 broker by performing the acts described in Paragraph 6, above, in that she managed the following
2 properties under fictitious business name of "Andrea Rentals" in violation of Sections 10130,
3 10137 and 10159.5 of the Code and Section 2731 of the Regulations:

<u>Property Address</u>	<u>Date</u>	<u>Property Owner</u>
Spyglass Hill, Oakland, CA	3/13/14	Rob H.;
Filbert St., Oakland, CA	3/27/14	Lawrence D.;
Avon Rd., Kensington, CA	4/24/14	Tamara G.;
Filbert St., Oakland, CA	5/8/14	Basil R.; and
66 th St., Oakland, CA	6/15/14	Karena P.

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11 The facts alleged above are grounds for the suspension or revocation of the
12 licenses and license rights of Respondents under the following provisions of the Code and/or the
13 Regulations:

- 14 (a) as to Paragraph 9(a) and Respondents FRRI and BARROW, under Section
15 2832.1 of the Regulations in conjunction with Section 10177(d) of the Code;
- 16 (b) as to Paragraph 9(b) and Respondents FRRI and BARROW, under Section
17 10145 of the Code and Section 2831.1 of the Regulations in conjunction
18 with Section 10177(d) of the Code;
- 19 (c) as to Paragraph 9(c) and Respondents FRRI and BARROW, under Section
20 2831.2 of the Regulations in conjunction with Section 10177(d) of the Code;
- 21 (d) as to Paragraph 9(d) and Respondents FRRI and BARROW, under Section
22 10176(e) of the Code; and
- 23 (e) as to Paragraph 9(e) and Respondents FRRI and BARROW, under Section
24 10145(d) in conjunction with Section 10177(d) of the Code.
- 25 (f) as to Paragraph 9(f) and Respondents FRRI and BARROW, under Section
26 2834 of the Regulations in conjunction with Section 10177(d) of the Code;
27 and

1 (g) as to Paragraph 10 and Respondent DAY, under Sections 10130, 10137
2 and 10159.5 of the Code and Section 2731 in conjunction with
3 Section 10177(d) of the Code;

4 COST RECOVERY

5 12

6 Audit Costs

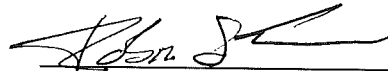
7 The acts and/or omissions of Respondents FRRI and BARROW as alleged above
8 entitle the Bureau to reimbursement of the costs of its audit pursuant to Section 10148(b) of the
9 Code.

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11 Investigation and Enforcement Costs

12 Section 10106 of the Code provides, in pertinent part, that in any order issued in
13 resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the
14 Administrative Law Judge to direct a licensee found to have committed a violation of this part to
15 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

16 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
17 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
18 action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of
19 Division 4 of the Business and Professions Code), for the cost of the investigation and
20 enforcement as permitted by law, and for such other and further relief as may be proper under
21 other applicable provisions of law.

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24 ROBIN TANNER
25 Deputy Real Estate Commissioner

26 Dated at Oakland, California

27 this 4th day of June, 2015.