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**FILED**

MAY 17 2017  
BUREAU OF REAL ESTATE  
By B. Nicholas

7  
8 BEFORE THE BUREAU OF REAL ESTATE  
9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of )  
12 JONATHAN DARYL FLEMING, ) No. H-12089 SF  
13 Respondent. ) ACCUSATION

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15 The Complainant, ROBIN S. TANNER, acting in her official capacity as a  
16 Supervising Special Investigator of the State of California, for cause of Accusation against  
17 JONATHAN DARYL FLEMING (Respondent), is informed and alleges as follows:

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19 At all times herein mentioned, Respondent was and is presently licensed and/or  
20 has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and  
21 Professions Code (Code) by the Bureau of Real Estate (the Bureau) as a real estate broker.

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23 At all times herein mentioned, Respondent conducted real estate activity under  
24 his individual broker license and the fictitious business name, "Openworld Properties,"  
25 registered with the Bureau.

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At all times herein mentioned, Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Section 10131(b) of the Code, including the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondent leased or rented or offered to lease or rent, or solicited listings of places for rent or solicited for prospective tenants, or negotiated the sale, purchase or exchange of leases on real property, or on a business opportunity, or collected rent from tenants.

Beginning on August 3, 2016 through September 23, 2016, an audit was conducted of the records of Respondent. The auditor examined the records for the period of September 1, 2015 through August 31, 2016 (the audit period).

Each and every allegation in Paragraphs 1 through 4, inclusive, is incorporated by this reference as if fully set forth herein.

While acting as a real estate broker, as described in Paragraph 3, above, and within the audit period, Respondent accepted or received funds in trust (trust funds) from or on behalf of property owners, lessees and others in connection with property management activities, and deposited or caused to be deposited those funds into bank accounts maintained by Respondent, at Wells Fargo Bank, N.A., P.O. Box 6995, Portland, Oregon 97228-6995:

BANK ACCOUNT #1	
Account No.:	XXXXXX1514
Entitled:	OPEN WORLD COMMUNICATIONS, LLC
	OPENWORLD PROPERTIES TRUST

BANK ACCOUNT #2	
Account No.:	XXXXXXX2458
Entitled:	OPEN WORLD COMMUNICATIONS, LLC OPENWORLD PROPERTIES TRUST

and thereafter from time-to-time made disbursement of said trust funds.

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In the course of the activities described in Paragraph 6, Respondent:

- (a) failed to maintain an accurate columnar record in chronological sequence of all trust funds received and disbursed, containing all required information, in violation of Section 2831 of the California Code of Regulations (Regulations);
- (b) failed to maintain accurate separate records for each beneficiary or property of trust funds accepted or received and disbursed in violation of Section 10145 (g) and 2831.1 of the Regulations;
- (c) failed to reconcile at least once a month, the balance of all separate beneficiary or transaction records, in violation of Section 2831.2 of the Regulations; and
- (d) failed to properly designate Bank Account #1 and #2 in the name of a holder of a license as trustee as required by Section 10145 of the Code and Section 2832 of the Regulations.

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The acts and/or omissions described above constitute violations of Section 2831 (Trust Fund Records to Be Maintained), 2831.1 (Separate Beneficiary Records), 2831.2 (Trust Account Reconciliation), and 2832 (Trust Fund Designation) of the Regulations and of Section 10145 (a) and (g) (Handling of Trust Funds) of the Code, and are grounds for discipline under 10177 (d) (Willful Disregard of Real Estate Laws), and 10177 (g) (Negligence/Incompetence in Acts Requiring a License) of the Code.

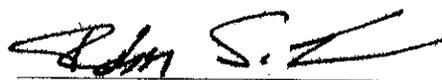
Audit Costs

The acts and/or omissions of Respondents, as alleged above, entitle the Bureau to reimbursement of the costs of its audits pursuant to Section 10148(b) (Audit Costs for Trust Fund Handling Violations) of the Code.

Costs of Investigation and Enforcement

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 Respondents under the Real Estate Law, for the cost of the investigation and enforcement as permitted by law, for the cost of the audit as permitted by law, and for such other and further relief as may be proper under other provisions of law.



ROBIN S. TANNER  
Supervising Special Investigator

Dated at Oakland, California,  
this 2nd day of May, 2017

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.