

FILED

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BUREAU OF REAL ESTATE

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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	BRE No. H-38265 LA
)	OAH No. 2012110555
RPM WESTSIDE, INC. and)	
<u>DAVID MICHAEL KRAUSSE,</u>)	<u>FIRST AMENDED ACCUSATION</u>
individually and as designated)	
officer of RPM Westside, Inc.,)	
)	
Respondents.)	

This First Amended Accusation amends the Accusation filed on July 12, 2012.

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against DAVID MICHAEL KRAUSSE, individually and as designated officer of RPM Westside, Inc., is informed and alleges as follows:

1.

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

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1 2.

2 Respondent DAVID MICHAEL KRAUSSE ("Respondent KRAUSSE") is
3 presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the
4 California Business and Professions Code ("Code")).

5 3.

6 From August 6, 1996, through the present, Respondent KRAUSSE has been
7 licensed as a real estate broker, Bureau License No. 01205538.

8 Prior Discipline

9 4.

10 On or about June 20, 2011, the Bureau suspended the real estate broker license of
11 Respondent KRAUSSE for sixty (60) days, stayed upon certain terms and conditions in Bureau
12 Case No. H-36945 LA. The suspension was released on or about December 13, 2011.

13 RPM Westside, Inc.

14 5.

15 From May 3, 2010, to August 7, 2013, RPM Westside, Inc. ("RPMW") was
16 licensed by the Bureau of Real Estate ("Bureau") as a corporate real estate broker, Bureau
17 License No. 01877673. RPMW surrendered its real estate license effective on August 8, 2013.

18 6.

19 From May 3, 2010, through February 8, 2011, Respondent RPMW was acting by
20 and through Respondent KRAUSSE as its designated broker responsible, pursuant to Code
21 Section 10159.2, for supervising the activities requiring a real estate license conducted on behalf
22 of RPMW by RPMW's officers, agents and employees, as necessary to secure full compliance
23 with the Real Estate Law as set forth Code Section 10159.2.

1 7.

2 RPMW is a California corporation. Edgar Robert Sanchez is the owner and
3 director of RPMW. Edgar Robert Sanchez is presently licensed as a real estate salesperson,
4 License No. 01867433. From May 4, 2010, through February 7, 2011, Edgar Robert Sanchez
5 was licensed under the employment of Respondent RPMW.

6 FIRST CAUSE OF ACCUSATION - Audit No. LA 100064

7 Brokerage

8 8.

9 At all times mentioned, in the County of Los Angeles, RPMW acted as a
10 corporate real estate broker and conducted licensed property management activities within the
11 meaning of Code Section 10131(b).

12 Audit of RPMW

13 9.

14 On June 29, 2011, the Bureau completed an audit examination of the books and
15 records of RPMW pertaining to the property management activities described in Paragraph 8,
16 that require a real estate license. The audit examination covered a period of time beginning on
17 May 3, 2010 to December 31, 2010. The audit examination revealed violations of the Code and
18 the Regulations of the Real Estate Commissioner, California Code of Regulations, Title 10,
19 Chapter 6 ("Regulations") as set forth in the following paragraphs, and more fully set forth in
20 Audit Report LA 100064 and the exhibits and workpapers attached thereto.

21 TRUST ACCOUNT

22 10.

23 At all times mentioned, in connection with the activities described in Paragraph 8,
24 above, RPMW accepted or received funds including funds in trust ("trust funds") from or on

1 behalf of real property owners, lessors or prospective tenants and thereafter made deposits and or
2 disbursements of such funds in a client trust account ("T/A"). From time to time herein
3 mentioned during the audit period, said trust funds were deposited and/or maintained by RPMW
4 in the bank trust account as follows:

5 T/A

6 "RPM Westside, Inc. (T/A) XXXXXX4714"

7 Wells Fargo Bank

8 Portland, OR

9 VIOLATIONS OF THE REAL ESTATE LAW

10 11.

11 In the course of activities described in Paragraph 8, above, and during the
12 examination period described in Paragraph 9, Respondent RPMW, acted in violation of the Code
13 and the Regulations in that it:

14 (a) Failed to maintain a complete and accurate columnar record of all trust funds
15 received and disbursed in connection with RPMW's property management activities, in violation
16 of Code Section 10145(a) and Regulation 2831.

17 (b) Failed to maintain complete and accurate separate record for each beneficiary
18 of the trust funds that were received or disbursed, in violation of Code Section 10145(a) and
19 Regulation 2831.1.

20 (c) Failed to provide a monthly reconciliation of the control record and total
21 balance of separate beneficiary records in connection with RPMW's property management
22 activities, in violation of Code Section 10145 and Regulation 2831.2.

23 (d) Failed to have designated broker KRAUSSE as an authorized signor for
24 RPMW's bank account (T/A) XXXXXX4714 which held trust funds including rents and security

1 deposits, in violation of Code Section 10145(a) and Regulation 2834.

2 (e) RPMW earned points based from (T/A) XXXXXX4714 which could be
3 redeemed by RPMW's owner, Edgar Robert Sanchez, as merchandise or cash in lieu of
4 merchandise. RPMW failed to disclose to the owners of trust funds held in RPMW's trust
5 account (T/A) XXXXXX4714 that RPMW could benefit from the trust funds handled through
6 (T/A) XXXXXX4714, in violation of Code Section 10176(g).

7 (f) Failed to retain records in connection with its property management activities
8 requested by the Bureau, in violation of Code Section 10148.

9 12.

10 The conduct of Respondent RPMW, described in Paragraph 11, above, violated
11 the Code and the Regulations as set forth below:

12

13 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
14 11(a)	Code Section 10145(a) and Regulation 2831
15 11(b)	Code Section 10145(a) and Regulation 2381.1
16 11(c)	Code Section 10145(a) and Regulation 2831.2
17 11(d)	Code Section 10145(a) and Regulation 2834
18 11(e)	Code Section 10176(g)
19 11(f)	Code Section 10148

20

21 The foregoing violations constitute cause for the suspension or revocation of the
22 real estate licenses and license rights of Respondent RPMW under the provisions of Code Section
23 10177(d).

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13.

The overall conduct of Respondent KRAUSSE constitutes a failure on his part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of RPMW and Edgar Robert Sanchez, as is required by Code Section 10159.2 and Regulation 2725, and to keep RPMW and Edgar Robert Sanchez in compliance with the Real Estate Law, is cause for the suspension or revocation of the real estate license and license rights of KRAUSSE pursuant to the provisions of Code Sections 10177(h), 10177(d) and/or 10177(g).

SECOND CAUSE OF ACCUSATION – Failure to Disclose

14.

There is hereby incorporated in this Second, separate, Cause of Accusation, all of the allegations contained in Paragraphs 1 through 13 above, with the same force and effect as if herein fully set forth.

15.

The Accusation in this matter was filed and served on Respondent KRAUSSE on or about July 17, 2012. On August 14, 2012, the Bureau received a letter from Respondent, wherein he acknowledged receipt of the Accusation in Case No. H-38265 LA.

16.

On October 16, 2012, Respondent KRAUSSE signed a broker license renewal application under penalty of perjury. In response to Question 7 of the license renewal application, to wit: "ARE THERE ANY LICENSE DISCIPLINARY ACTIONS PENDING AGAINST A BUSINESS OR PROFESSIONAL LICENSE YOU HOLD AT THIS TIME?", Respondent marked the box denoted "No" and failed to reveal the pending Accusation filed

1 against him by the Bureau in Case No. H-38265 LA. The license renewal application was
2 submitted to the Bureau on or about April 26, 2013.

3 17.

4 Respondent's failure to disclose the disciplinary action pending against him, as set
5 forth above in Paragraph 16, in his broker license renewal application, constitutes the
6 procurement of a real estate license by fraud, misrepresentation, or deceit, or by making a false
7 statement of material fact in a renewal application, which constitutes cause for the suspension or
8 revocation of the real estate license and license rights of Respondent KRAUSSE pursuant to
9 Code Section 10177(a).

10 18.

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

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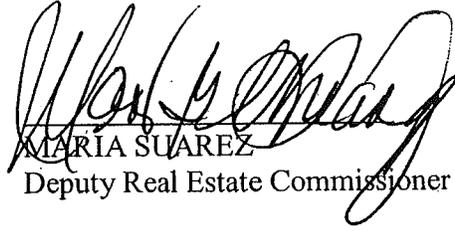
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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all licenses and/or license rights of Respondent DAVID MICHAEL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

8 this 21st day of August, 2013.

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11 
12 MARIA SUAREZ
13 Deputy Real Estate Commissioner
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21 cc: David Michael Krausse
22 Maria Suarez
23 Audits - Manijeh Khazrai
24 Sacto.
 OAH