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FILED

APR - 1 2016

BUREAU OF REAL ESTATE

By *Al Selous*

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7
8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-40186 LA

12)

A C C U S A T I O N

13 WINDFALL SPRINGS, INC.;)

14 and BARBARA BAKER)

15 individually and as)

16 designated officer of)

17 Windfall Springs, Inc.,)

18 Respondents,)

19)

20)

21 The Complainant, Veronica Kilpatrick, a Supervising
22 Special Investigator of the State of California, for cause of
23 accusation against WINDFALL SPRINGS, INC., and BARBARA BAKER
24 individually and as designated officer of Windfall Springs, Inc.,
alleges as follows:

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27 Accusation of Windfall Springs, Inc.

1 1. The Complainant, Veronica Kilpatrick, acting in her
2 official capacity as a Supervising Special Investigator of the
3 State of California, makes this Accusation against WINDFALL
4 SPRINGS, INC., and BARBARA BAKER.

5 2. WINDFALL SPRINGS, INC., and BARBARA BAKER
6 individually and as designated officer of Windfall Springs, Inc.
7 (hereinafter referred to as "Respondents") are presently licensed
8 and/or have license rights under the Real Estate Law (Part 1 of
9 Division 4 of the Business and Professions Code, hereinafter
10 Code).

11 3. At all times herein mentioned, Respondents WINDFALL
12 SPRINGS, INC., and BARBARA BAKER were licensed as real estate
13 brokers. Respondent BAKER was the designated officer and
14 pursuant to Code Section 10159.2 was responsible for the
15 supervision and control of the activities conducted on behalf of
16 the corporation by its officers and employees as necessary to
17 secure full compliance with the provisions of the real estate law
18 including supervision of salespersons licensed to the corporation
19 in the performance of acts for which a real estate license is
20 required.

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27 Accusation of Windfall Springs, Inc.

1 4. At all times material herein, Respondents engaged
2 in the business of, acted in the capacity of, advertised or
3 assumed to act as real estate brokers in the State of California
4 within the meaning of Section 10131(a) and (b) of the Code
5 including soliciting owners and renters, negotiating the sale,
6 lease and rental of real property, and collecting rents from real
7 property.

8 5. On or about March 26, 2015, the Bureau completed an
9 examination of Respondent WINDFALL SPRINGS, INC.'s books and
10 records, pertaining to the activities described in Paragraph 4
11 above, covering a period from July 1, 2013, through December 31,
12 2014, which examination revealed violations of the Code and of
13 Title 10, Chapter 6, California Code of Regulations (hereinafter
14 Regulations) as set forth below.

15 6. The examination described in Paragraph 5, above,
16 determined that, in connection with the activities described in
17 Paragraph 4 above, Respondents accepted or received funds,
18 including funds in trust (hereinafter "trust funds") from or on
19 behalf of principals, and thereafter made deposit or disbursement
20 of such funds.

21 7. In the course of activities described in Paragraphs
22 4 through 6 and during the examination period described in
23 Paragraph 5, Respondents WINDFALL SPRINGS, INC., and BARBARA
24 BAKER acted in violation of the Code and the Regulations as
25 follows, and as more specifically set forth in Audit Report No.
26 SD 140031 and 140039 and related exhibits:

27 Accusation of Windfall Springs, Inc.

1 a. Violated Code Section 10145 and Regulation 2832.1
2 by maintaining as of December 31, 2014 a trust account shortage
3 of \$14,583.59.

4 b. Violated Code Section 10145 and Regulation 2831.1
5 by failing to maintain accurate and complete separate records for
6 each beneficiary or property.

7 c. Violated Code Section 10145 and Regulation 2831.2
8 by not maintaining complete and accurate monthly reconciliations
9 of all the separate records to the control record.

10 d. Violated Code Section 10145 and Regulation 2832 by
11 not designating the bank trust accounts as trust accounts.

12 e. Violated Regulation 2834 by allowing unlicensed and
13 unbonded trust account signatories.

14 f. Violated Code Sections 10145, 10176(e), and
15 Regulation 2835(b) by maintaining its own funds in the trust
16 accounts for over 25 days, and disbursed its management fees from
17 the trust accounts beyond 25 days. Respondents transferred trust
18 funds from the trust accounts to the non-trust accounts.

19 g. Violated Regulation 2731 by conducting real estate
20 activities using unlicensed fictitious names Rentsmart Property
21 Management, Homesmart, Homesmart of California and Homesmart Real
22 Estate.

23 h. Violated Code Section 10177(g) by engaging in a
24 earnings credit relationship with banks and failing to disclose
25 the relationship with the owners of the funds.

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27 The Accusation of Windfall Springs, Inc.

1 i. Violated Regulation 2725 by failing to establish
2 policies, rules, procedures and systems to review, oversee, and
3 inspect the handling of trust funds by licensees and employees.

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5 8. The conduct, acts and/or omissions of Respondents
6 WINDFALL SPRINGS, INC., and BARBARA BAKER, as alleged above,
7 subjects their real estate licenses and license rights to
8 suspension or revocation pursuant to Sections 10177(d) and
9 10177(g) of the Code.

10 FAILURE TO SUPERVISE

11 9. The conduct, acts and/or omissions of Respondent
12 BAKER, in failing to ensure full compliance with the Real Estate
13 Law is in violation of Code Section 10159.2 and subjects her real
14 estate licenses and license rights to suspension or revocation
15 pursuant to Sections 10177(d), 10177(g), and 10177(h) of the
16 Code.

17 COST RECOVERY

18 Code Section 10106 provides, in pertinent part, that in
19 any order issued in resolution of a disciplinary proceeding
20 before the bureau, the commissioner may request the
21 administrative law judge to direct a licensee found to have
22 committed a violation of this part to pay a sum not to exceed the
23 reasonable costs of the investigation and enforcement of the
24 case.


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27 The Accusation of Windfall Springs, Inc.

1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondents
5 WINDFALL SPRINGS, INC., and BARBARA BAKER individually and as
6 designated officer of Windfall Springs, Inc. under the Real
7 Estate Law (Part 1 of Division 4 of the Business and Professions
8 Code), for the cost of investigation and enforcement as permitted
9 by law, and for such other and further relief as may be proper
10 under other applicable provisions of law.

11 Dated at San Diego, California
12 this 23 day of March, 2015.

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15 VERONICA KILPATRICK
16 Supervising Special Investigator
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24 cc: Windfall Springs, Inc.
25 Barbara Baker
26 Veronica Kilpatrick
27 Sacto.

Accusation of Windfall Springs, Inc.