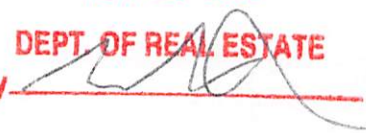


1 KATHY YI, Counsel (SBN 236736)
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105
5 Telephone: (213) 576-6982
6 Direct: (213) 576-6940
7 *Attorney for Complainant*

FILED
JUN 28 2022
DEPT. OF REAL ESTATE
By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-05295 SD
12)
13 DONNA LYNN CHUDZICKI,) **ACCUSATION**
14)
15 Respondent.)
_____)

16
17 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for
18 the Department of Real Estate (“Department” or “DRE”) of the State of California, for cause of
19 Accusation against DONNA LYNN CHUDZICKI (“Respondent”) alleges as follows:

20 1.

21 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
22 State of California, makes this Accusation in her official capacity.

23 2.

24 All references to the “Code” are to the California Business and Professions
25 Code, all references to the “Real Estate Law” are to Part 1 of Division 4 of the Code, and all
26 references to “Regulations” are to the Regulations of the Real Estate Commissioner, Title 10,
27 Chapter 6, California Code of Regulations.

1 LICENSE HISTORY

2 3.

3 a. Respondent DONNA LYNN CHUDZICKI (“Respondent”) is currently
4 licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code,
5 as a real estate broker, DRE License ID 01017739.

6 b. Respondent’s broker license is set to expire on April 27, 2023, unless
7 renewed.

8 c. Respondent was first licensed as a real estate salesperson from
9 approximately February 17, 1989 until Respondent became licensed as a real estate broker on
10 April 28, 2007.

11 d. According to DRE records to date, Respondent’s mailing address is 2055
12 Hamner Avenue, Norco, California 92860.

13 e. According to DRE records to date, Respondent has no branch offices under
14 her DRE license.

15 f. According to DRE records to date, Respondent has no affiliated licensed
16 corporations under her DRE license.

17 g. According to DRE records to date, Respondent has the following active
18 DBAs under her DRE license:

19 (1) Century 21 Gold, active as of June 24, 2010;

20 (2) Hidden Valley Escrow A Non-Independent Broker Escrow, active as
21 of October 30, 2013;

22 (3) Century 21 Old Tyme, active as of May 31, 2016;

23 (4) Gold Property Management, active as of April 17, 2018; and

24 (5) Gold Real Estate, active as of January 15, 2021.

25 h. According to DRE records to date, Respondent has the following two (2)
26 broker associates under her DRE license:

27 (1) Marcie Lynn Campbell, a licensed real estate salesperson, DRE

1 License ID 01152980, whose license is set to expire on February 18, 2025; and

2 (2) Rosemary Anne Foker, a licensed real estate broker, DRE License
3 ID 00639404, whose license expired on June 30, 2020 and has licensing renewal rights for two
4 (2) years thereafter.

5 i. According to DRE records to date, Respondent has twenty-five (25) licensed
6 salesperson employees under her DRE license. One of these salespersons employees includes
7 Shelly Ann Chudzicki-Nagel, a.k.a. "Shelly Ann Chudzicki" and "Shelly Chudzicki." DRE
8 License ID 01371410, whose license is set to expire March 10, 2023.

9 BROKER ACTIVITIES

10 4.

11 At all times relevant herein, Respondent engaged in the business of, acted in the
12 capacity of, advertised or assumed to act as a real estate broker, when she engaged, for a
13 compensation or in expectation of a compensation, in the following activities:

14 a. Selling and offering to sell, buying or offering to buy, soliciting prospective
15 sellers or buyers of, soliciting or obtaining listings of, or negotiating the purchase, sale, or
16 exchange of real property or a business opportunity, within the meaning of section 10131(a) of
17 the Code, and performing non-independent broker escrow services in connection with said
18 activities; and

19 b. Performing the rental and collection of rents for real property on behalf of
20 others, within the meaning of section 10131(b) of the Code.

21 CAUSE FOR ACCUSATION

22 (AUDIT NOS. SD 210016 AND SD210017)

23 5.

24 On or about December 7, 2021, the Department held an entrance conference for
25 an audit examination of the books and records of Respondent DONNA LYNN CHUDZICKI
26 ("Respondent"). The audit examination was performed intermittently to February 8, 2022.
27 The audit was limited to Respondent's broker escrow activities (Audit No. SD210016) and

1 property management activities (Audit No. SD210017), which require a real estate license
2 pursuant to Code section 10131(b). The audit examination covered the period of time from
3 September 1, 2020 to October 29, 2021. The primary purpose of the examination was to
4 determine whether Respondent conducted real estate activities in accordance with the Real
5 Estate Law and the Commissioner's Regulations. The audit examination revealed numerous
6 violations of the Code and the Regulations as set forth in the following paragraphs, and more
7 fully discussed in the consolidated Audit Report Nos. SD210016 and SD210017 and the
8 exhibits and work papers attached to said audit report.

9 6.

10 Based on the examination of records provided for the audit examination and
11 discussions with Respondent, Respondent maintained one (1) trust fund bank account ("T/A 1")
12 at Citizens Business Bank for handling the receipts and disbursements of trust funds in
13 connection with the broker escrow activities during the audit period, and one (1) bank account
14 ("B/A 1") at Wells Fargo Bank for handling the receipts and disbursements of trust funds in
15 connection with the property management activities during the audit period:

16 Trust Fund Bank Account ("T/A 1")

17 Bank: Citizens Business Bank
18 Bank Address: 225 West Sixth Street, Corona, CA 92882
19 Account Name: Donna Lynn Chudzicki
20 DBA Hidden Valley Escrow A Non-Independent Broker Escrow
21 Escrow Trust Account
22 Account Number: xxxxxx7234
23 Signatory: Donna Lynn Chudzicki (REB ID No. 01017739)
24 Signatures required: One (1) signature
25 Purpose: The trust fund bank account, T/A 1, for multiple beneficiaries, was
26 maintained for handling the receipts and disbursements of trust funds in
27 connection with the broker escrow activity during the audit period.

1 Bank Account ("B/A 1")

2 Bank: Wells Fargo Bank
3 Bank Address: 140 Hidden Valley Pkwy., Suite G, Norco, CA 92860
4 Account Name: Gold Property Management
5 Account Number: xxxxxx0762
6 Signatories: Donna Lynn Chudzicki (REB ID No. 01017739)
7 Shelly Chudzicki (REB ID No. 01371410)
8 Signatures required: One (1) signature
9 Purpose: The bank account, B/A 1, for multiple beneficiaries, was maintained for
10 handling the receipts and disbursements of trust funds in connection with
11 the property management activities during the audit period.

12 Violations of the Real Estate Law

13 7.

14 The audit examination revealed violations of the Code and the Regulations, as
15 set forth in the following paragraphs, and more fully discussed in the consolidated Audit Report
16 Nos. SD210016 and SD210017 and the exhibits and work papers attached to the audit report.

17 8.

18 Issue 1. Trust Fund Handling for Multiple Beneficiaries (Code section
19 10145 and Regulations 2832.1, 2950(g), and 2951).

20 a. T/A 1 as of October 29, 2021:

21 During the audit period, T/A 1 was used by Respondent to handle trust fund
22 receipts and disbursements in connection with the broker escrow activities. Bank reconciliation
23 for T/A 1 was prepared with the cut-off date of October 29, 2021. The adjusted bank balance
24 was compared to the total balances of the separate records (accountability), as follows:

25 Adjusted bank balance:	\$ 52,957.11
26 Accountability:	<u>\$ 53,301.51</u>
27 Trust fund shortage:	\$ <344.40>

1 As of October 29, 2021, there was a minimum shortage of <\$344.40> in T/A 1.
2 The cause for the trust fund shortage was negative escrow balances. Said negative balances or
3 shortages were caused by disbursements related to escrows when there were no sufficient funds
4 to do so. Some of the examples include the following:

<u>Escrow No.</u>	<u>Negative Balance Amount</u>
17251-AG	<\$0.40>
17312-AG	<\$45.00>
17387-AG	<\$45.00>
17399-AG	<\$100.00>
17393-AG	<\$99.00>
17397-AG	<\$30.00>

12 On November 19, 2021 and December 14, 2021, Respondent issued seven (7)
13 checks from the general bank account for Hidden Valley Escrow, A Non Independent Broker
14 Escrow (Citizens Business Bank, account no. xxxxx7242), and deposited the seven (7) checks
15 into T/A 1 to cure the total trust fund shortage in T/A 1.

16 Respondent provided no evidence that the owners of the trust funds had given
17 their written consent to allow Respondent to reduce the balance of the funds in T/A 1 to an
18 amount less than the existing aggregate trust fund liabilities, in violation of Code section 10145
19 and Regulations 2832.1, 2950(g), and 2951.

20 **b. B/A 1 as of October 29, 2021:**

21 During the audit period, B/A 1 was used by Respondent to handle trust fund
22 receipts and disbursements in connection with property management activities. Bank
23 reconciliation for B/A 1 was prepared with a October 29, 2021 cut-off date. The adjusted bank
24 balance was compared to the total balances of the separate records (accountability), as follows:

Adjusted bank balance:	\$ 116,456.37
Accountability:	<u>\$ 152,181.42</u>
Trust fund shortage:	\$ <35,725.05>

1 As of October 29, 2021, there was a minimum shortage of <\$35,725.05> in B/A
2 1. The causes for the trust fund shortage were negative property balance and an unidentified
3 shortage of \$35,065.05. Said negative property balance or shortages was caused by
4 disbursements related to the property located at 1967 S. Belle Avenue for the property owner,
5 Nancie Smith Pepin Family Trust, when there were no sufficient funds to do so. The cause of
6 the unidentified shortage of \$35,065.05 could not be identified.

7 Respondent provided no evidence that the owners of the trust funds had given
8 their written consent to allow Respondent to reduce the balance of the funds in B/A 1 to an
9 amount less than the existing aggregate trust fund liabilities, in violation of Code section 10145
10 and Regulations 2832.1.

11 **c. B/A 1 as of December 30, 2020:**

12 During the audit period, B/A 1 was used by Respondent to handle trust fund
13 receipts and disbursements in connection with property management activities. Bank
14 reconciliation for B/A 1 was prepared with the cut-off date of December 31, 2020. The
15 adjusted bank balance was compared to the total balances of the separate records
16 (accountability), as follows:

17	Adjusted bank balance:	\$ 105,586.16
18	Accountability:	<u>\$ 141,311.21</u>
19	Trust fund shortage:	\$ <35,725.05>

20 As of December 30, 2020, there was a minimum shortage of <\$35,725.05> in
21 B/A 1. The causes for the trust fund shortage were the negative property balance and an
22 unidentified shortage of \$35,065.05. Said negative property balance or shortages was caused by
23 disbursements related to the property located at 1967 S. Belle Avenue for the property owner,
24 Nancie Smith Pepin Family Trust, when there were no sufficient funds to do so. The cause of
25 the unidentified shortage of \$35,065.05 could not be identified.

26 On February 2, 2022, Respondent issued two (2) checks from her real estate
27 sales commission bank account for Gold Real Estate (Wells Fargo Bank, account no.

1 xxxxxx6830) and deposited the two (2) checks, check no. 1170 for \$35,065.05 and check no.
2 1171 for \$660, totaling \$35,725.05, into B/A 1 to cure the trust fund shortage in B/A 1.

3 Respondent provided no evidence that the owners of the trust funds had given
4 their written consent to allow Respondent to reduce the balance of the funds in B/A 1 to an
5 amount less than the existing aggregate trust fund liabilities, in violation of Code section 10145
6 and Regulations 2832.1.

7 **Issue 2. Trust Fund Records to be Maintained / When Broker Handles**
8 **Escrow (Code section 10145 and Regulation 2831, 2950(d), and 2951).**

9 a. **Trust Fund Records to be maintained when broker handles escrow:**

10 During the audit period, T/A 1 was used by Respondent to handle trust fund receipts and
11 disbursements in connection with the broker escrow activities. Respondent failed to maintain a
12 complete and accurate records of all trust funds received and disbursed (control records) for
13 T/A 1, in violation of Code section 10145 and Regulations 2831, 2950(d), and 2951.

14 Respondent deposited some receipts into T/A 1 in 2014 but did not record them
15 on the control record (receipts report) of T/A 1. Therefore, the control record of T/A 1 did not
16 have accurate daily balances during the audit period and as of the audit cut-off date of October
17 29, 2021. Some of the examples include, but are not limited to:

<u>Date of deposit:</u>	<u>Amount:</u>	<u>Escrow No.:</u>
03/27/2014	\$5,000.00	14114-MV
05/27/2014	\$1,067.16	14111-MV
07/07/2014	\$ 615.00	14126-MV

22 b. **Trust Fund Records to be maintained:** During the audit period, B/A 1
23 was used by Respondent to handle trust fund receipts and disbursements in connection with the
24 property management activities. Respondent failed to maintain a complete and accurate records
25 of all trust funds received and disbursed (control records) for B/A 1, in violation of Code
26 section 10145 and Regulation 2381.

27 ///

1 Respondent failed to record in the control records the date that trust funds were
2 deposited, from whom the trust funds were received, and the daily balance. Some of the
3 examples include, but are not limited to:

<u>Date received:</u>	<u>Date deposited:</u>	<u>Amount:</u>	<u>Tenant:</u>	<u>Property:</u>
10/02/2020	10/02/2020	\$1,800.00	C.M.	1002 Redwood Ct.
06/07/2021	06/07/2021	\$1,450.00	M.B.	10563 Latour Ln.
07/02/2021	07/02/2021	\$2,300.00	R.D.L.	5090 Viceroy Ave.
10/04/2021	10/04/2021	\$1,815.00	M.S.	341 Andes Way

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9 **Issue 3. Separate Record for Each Beneficiary of Transaction / When**
10 **Broker Handles Escrow (Code section 10145 and Regulations 2831.1, 2950(d), and 2951).**

11 a. **Separate record for each beneficiary of transaction when broker**
12 **handles escrow.** During the audit period, T/A 1 was used by Respondent to handle trust fund
13 receipts and disbursements in connection with the broker escrow activities. Respondent failed
14 to maintain a complete and/or accurate separate records for each beneficiary or transaction for
15 T/A 1, in violation of Code section 10145 and Regulations 2831.1, 2950(d), and 2951.

16 Most of the separate records sampled for examination by the Department's
17 auditor showed that only the net amount between the rents received and deposited into B/A 1
18 and the owners' proceeds disbursed from B/A 1 were recorded on the separate records, which
19 did not affect the running balance on the separate records. However, the actual rent received
20 and deposited into B/A 1 and the owners' proceeds disbursed from B/A 1 should have been
21 recorded on the separate records.

22 Some receipts were deposited into T/A 1 for year 2014 but were not recorded on
23 the separate records of T/A 1, resulting in separate records not have accurate running balances
24 during the audit period and as of the audit cut-off date of October 29, 2021. Some of the
25 examples include, but are not limited to:

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	<u>Date of deposit:</u>	<u>Amount:</u>	<u>Escrow No.:</u>
1			
2	03/27/2014	\$5,000.00	14114-MV
3	05/28/2014	\$1,979.41	14113-MV
4	07/07/2014	\$ 615.00	14126-MV

5 **b. Separate record for each beneficiary of transaction:** During the audit
6 period, B/A 1 was used by Respondent to handle trust fund receipts and disbursements in
7 connection with the property management activities. Respondent failed to maintain a complete
8 and/or accurate separate records for each beneficiary or transaction for B/A 1, in violation of
9 Code section 10145 and Regulation 2831.1. Some receipts were deposited into B/A 1 but were
10 not recorded on the separate records of B/A 1. Some of the examples include, but are not
11 limited to:

	<u>Date of deposit:</u>	<u>Amount:</u>	<u>Property:</u>
12			
13	10/05/2020	\$2,400.00	1030 Morning Sun Ln.
14	07/02/2021	\$2,600.00	2948 Sierra Ave.
15	10/05/2021	\$2,350.00	7795 Corte Castillo

16 In addition, some disbursements were disbursed from B/A 1, but were not
17 recorded on the separate records of B/A 1. Some of the examples include, but are not limited
18 to:

	<u>Date:</u>	<u>Amount:</u>	<u>Property:</u>
19			
20	10/02/2020	\$2,256.00	1030 Morning Sun Ln.
21	04/02/2021	\$2,162.00	19538 Brisbane Dr.
22	07/08/2021	\$2,254.00	5106 Trail Canyon

23 **Issue 4. Trust Account Reconciliation / When Broker Handles Escrow**
24 **(Code section 10145 and Regulation 2831.2, 2950(d), and 2951).**

25 **a. Trust Account Reconciliation when broker handles escrow.** During the
26 audit period, Respondent failed to perform and maintain an accurate monthly reconciliation
27 comparing the balance of all the separate beneficiary or transaction records (separate records) to

1 the balance of all trust funds received and disbursed (control records) for T/A 1 as required in
2 connection with the broker escrow activities, in violation of Code section 10145 and Regulation
3 2831.2, 2950(d), and 2951.

4 **b. Trust Account Reconciliation.** During the audit period, Respondent failed
5 to perform and maintain an accurate monthly reconciliation comparing the balance of all the
6 separate beneficiary or transaction records (separate records) to the balance of all trust funds
7 received and disbursed (control records) for B/A 1 as required in connection with the property
8 management activities, in violation of Code section 10145 and Regulation 2831.2.

9 **Issue 5. Trust Fund Handling / Trust Account Designation (Code section**
10 **10145(a) and Regulation 2832).** Based on an examination of the most recent bank signature
11 card/addendum to certificate of authority dated July 6, 2018 maintained at Wells Fargo Bank
12 for B/A 1, which was used for handling of receipts and disbursements of trust funds in
13 connection with Respondent’s property management activities during the audit period, B/A 1
14 was not designated as a trust account, in violation of Code section 10145(a) and Regulation
15 2832.

16 **Issue 6. Commingling – Personal Funds Deposited into B/A 1 (Code**
17 **sections 10145 and 10176(e) and Regulation 2832).** During the audit period, Respondent
18 owned a property located at 10563 Latour Lane in Jurupa Valley, California (“Latour Lane
19 property”). Based on an examination of records, Respondent commingled personal funds with
20 trust funds by depositing rents collected on the Latour Lane property into B/A 1, which was
21 used for handling the receipts and disbursements of trust funds in connection with
22 Respondent’s property management activities, in violation of Code sections 10145 and
23 10176(e) and Regulation 2832. Some examples of rents collected on the Latour Lane property
24 that were deposited into B/A 1 are:

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1	<u>Date of deposit:</u>	<u>Amount:</u>
2	04/05/2021	\$1,450.00
3	06/07/2021	\$1,450.00
4	08/17/2021	\$1,595.00
5	10/14/2021	\$1,595.00

6 **Issue 7. Notification of Escrow Activities (Code sections 10141.6).** Based on
7 an examination records and discussions with Respondent, Respondent closed about thirty-seven
8 (37) escrow transactions and the dollar volume of escrowed transactions was about \$14.2
9 million in the 2020 calendar year. Therefore, Respondent met the escrow threshold for the
10 calendar year of 2020 when she conducted five (5) or more escrow transactions and the dollar
11 volume of escrowed transactions exceeded \$1,000,000 in the 2020 calendar year. Some of the
12 examples include:

13	<u>Escrow No.:</u>	<u>Date Escrow Closed:</u>
14	17360-AG	10/08/2020
15	17364-AG	11/13/2020
16	17-366-AG	12/18/2020

17 However, Respondent failed to submit to the Department the Escrow Activity
18 Report (RE 890) which was due within sixty (60) days after the end of the 2020 calendar year,
19 in violation of Code section 10141.6. Instead, Respondent submitted the Escrow Activity
20 Report (RE 890) for the 2020 calendar year to the Department on November 24, 2021.

21 **Issue 8. Failure to Disclose Interest in the Agency Holding the Escrow –**
22 **When Broker Handles Escrow (Regulation 2950(h)).** Based on an examination of records
23 and discussions with Respondent, Respondent failed to advise all parties in writing that she has
24 a financial interest as the owner of the agency holding the escrow in all of the escrow files
25 sampled for examination, in violation of Regulation 2950(h). Some of the examples include:
26 Escrow Nos. 17360-AG, 17364-AG, 17367-AG, 17375-AG, 17405-SH, and 17-410-SH.

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1 **Issue 9. Broker Supervision (Code section 10177(h), (d), and/or (g) and**
2 **Regulation 2725).** Respondent failed to exercise adequate supervision and control over her
3 broker escrow and property management activities conducted by her licensees and employees
4 and failed to establish policies, rules, procedures, and systems to review, oversee, inspect, and
5 manage transactions requiring a real estate license and the handling of trust funds to ensure
6 compliance with the Real Estate Law, in violation of Regulation 2725.

7 Some of the examples of Respondent's failure to adequately supervise as a
8 broker include:

- 9 • Failure to maintain complete and accurate control records, separate
10 records, and trust account reconciliations for her broker escrow and
11 property management activities;
- 12 • Failure to designate B/A 1 as a trust account during the audit period;
- 13 • Commingling personal funds with trust funds by depositing rents
14 collected on broker-owned property located at 10563 Latour Lane in
15 Jurupa Valley into B/A 1;
- 16 • Failure to submit to the Department the 2020 calendar year Escrow
17 Activity Report (RE 890) which was due within sixty (60) days after the
18 end of 2020 calendar year;
- 19 • Mishandling of trust funds and reducing the balance of trust funds in T/A
20 1 as of October 29, 2021 and in B/A 1 as of October 29, 2021 and as of
21 December 31, 2020, to an amount less than the aggregate trust fund
22 liabilities to all the owners of the funds without their written consent.
23 There was a shortage in T/A 1 of <\$344,40> as of October 29, 2021.
24 There was a shortage in B/A 1 of <\$35,725.05> as of October 29, 2021
25 and as of December 21, 2020.

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1 Said conduct, acts, or omissions constitute cause to suspend or revoke the real
2 estate license and license rights of Respondent pursuant to Code section 10177(h), (d), and/or
3 (g).

4 9.

5 The conduct of Respondent described in Paragraph 8 above, violated the Code
6 and Regulations as set forth below:

<u>Issue</u>	<u>PROVISIONS VIOLATED</u>
1a	Code section 10145 and Regulations 2832.1, 2950(g), and 2951
1b	Code section 10145 and Regulation 2832.1
1c	Code section 10145 and Regulation 2832.1
2a	Code section 10145 and Regulations 2831, 2950(d), and 2951
2b	Code section 10145 and Regulation 2831
3a	Code section 10145 and Regulations 2831.1, 2950(d), and 2951
3b	Code section 10145 and Regulation 2381.1
4a	Code section 10145 and Regulations 2831.2, 2950(d), and 2951'
4b	Code section 10145 and Regulation 2831.2
5	Code section 10145(a) and Regulation 2832
6	Code sections 10145 and 10176(e) and Regulation 2832
7	Code section 10141.6
8	Regulation 2950(h)
9	Code sections 10177(h), 10177(d), and/or (g) and Regulation 2725

23 Each of the foregoing violations constitute cause for the suspension or
24 revocation of the real estate license and/or license rights of Respondents under the provisions of
25 Code sections 10177(d) and/or 10177(g).

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cc: DONNA LYNN CHUDZICKI
Veronica Kilpatrick
Sacto.
Audits – Zaky Wanis