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DEPARTMENT OF REAL ESTATE
BY: C. J.

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8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-38209 LA

12 MICHELLE FRANCY LEVY,)

A C C U S A T I O N

13 Respondent.)
14

15 The Complainant, Robin Trujillo, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against MICHELLE FRANCY LEVY ("Respondent"), alleges as follows:

18 1.

19 The Complainant, Robin Trujillo, acting in her
20 official capacity as a Deputy Real Estate Commissioner of the
21 State of California, makes this Accusation against MICHELLE
22 FRANCY LEVY.

23 2.

24 All references to the "Code" are to the California
25 Business and Professions Code and all references to
26 "Regulations" are to Title 10, Chapter 6, California Code of
27 Regulations.

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From August 2, 2004, through the present, Respondent has been licensed by the Department of Real Estate ("Department") as a real estate broker, license no. 01268115. At all times relevant herein, Respondent was licensed to do business as Allison Enterprises.

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From October 29, 1997, through October 26, 1999, Anthony H. Allison ("Allison") was licensed by the Department as a real estate broker, license no. 00972193. On October 26, 1999, Allison surrendered his real estate broker license with an Accusation pending in Department Case No. H-28141 LA.

5.

Audit LA 090134

On August 2, 2010, the Department completed an audit examination of the books and records of Respondent's dba Allison Enterprises pertaining to Respondent's real estate activities which require a real estate license. The audit examination covered a period of time beginning on April 1, 2007 to February 28, 2010. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 090134 and the exhibits and work papers attached to said Audit Report.

6.

Bank Accounts

During the examination period described in Paragraph 5 above, Allison collected rents in connection with property

1 management activity under Respondent's dba Allison Enterprises.
2 Respondent failed to maintain a trust account for the receipts
3 and disbursements of rents in connection with the property
4 management activity. From time to time herein mentioned during
5 the audit period, said trust funds were deposited and/or
6 maintained by Allison in the bank accounts as follows:

7 Bank Account 1 ("B/A 1")

8 "Anthony Allison DBA Allison Enterprises The Quito Property
9 XXXX1769"

10 US Bank

11 Saint Paul, Minnesota

12 Bank Account 2 ("B/A 2")

13 "Anthony Allison DBA Allison Enterprises Carla Ridge XXXX356"

14 US Bank

15 Saint Paul, Minnesota

16 Bank Account 3 ("B/A 3")

17 "KM Villas LLC c/o Michael Yager XXXX7438"

18 Wells Fargo

19 Portland, Oregon

20 Bank Account 4 ("B/A 4")

21 "K M VILLAS LLC Michael Yager XXXX0554"

22 CalNational Bank

23 Los Angeles, California

24 Bank Account 5 ("B/A 5")

25 "K M VILLAS LLC XXXX3663"

26 CalNational Bank

27 Los Angeles, California

1 Bank Account 6 ("B/A 6")

2 "K M Villas LLC c/o Allison Enterprises XXXX2699"

3 Wells Fargo

4 Portland, Oregon

5 Bank Account 7 ("B/A 7")

6 "Tony H. Allison DBA Allison Enterprises"

7 National Bank of California

8 7.

9 Violations

10 During the examination period described above in
11 Paragraph 5, Respondent acted in violation of the Code and the
12 Regulations as follows:

13 (A) Failed to maintain a trust account for rents
14 collected in connection with the property management activities
15 conducted by Allison under Respondent's dba Allison Enterprises.
16 Respondent permitted, allowed or caused the disbursement of
17 trust funds from the account B/A 3, where the disbursement of
18 funds reduced the total of aggregate funds in the account, to an
19 amount which, on February 28, 2010, was \$0.64 less than the
20 existing aggregate trust fund liability of Respondent to every
21 principal who was an owner of said funds, without first
22 obtaining the prior written consent of the owners of said funds,
23 as required by Code Section 10145 and Regulation Section 2832.1.

24 (B) During the examination period described above in
25 Paragraph 5, Allison acted as a real estate broker and conducted
26 activities that required a real estate license such as
27 soliciting for prospective tenants, negotiating leases on real

1 property and collecting rents from real property while using
2 Respondent's fictitious business name "Allison Enterprises", in
3 violation of Code Section 10130(b). Respondent employed or
4 compensated Allison, directly or indirectly, for performing
5 activities that require a real estate broker license or
6 salesperson license under an employing broker, in violation of
7 Code Section 10137.

8 (C) The control record for all the receipts and
9 disbursements of trust funds in connection with the property
10 management activity was inaccurate including entries missing,
11 incorrect dates and duplicated check numbers, in violation of
12 Code Section 10145 and Regulation 2831.

13 (D) Failed to maintain a written monthly
14 reconciliation of the receipts and disbursements record and the
15 total balance of separate beneficiary records for bank accounts
16 B/A 3, B/A 5, B/A 6, and B/A 7, in violation of Code Section
17 10145 and Regulation 2831.2.

18 (E) Failed to establish and maintain a trust account
19 at a bank or other recognized financial institution in the name
20 of the broker for deposit of escrow trust funds collected, in
21 violation of Code Section 10145 and Regulation 2832.

22 (F) Respondent allowed Allison, an unlicensed person,
23 to sign and make withdrawals from the bank accounts described in
24 Paragraph 6 without fidelity bond coverage, in violation of Code
25 Section 10145 and Regulation 2834.

26 (G) Respondent claimed or received a secret profit or
27 commission in that Respondent overcharged collected management

1 fees based on scheduled monthly rents where the property
2 management agreements called for property management fees based
3 on the gross monthly rents, in violation of Code Section
4 10176(g).

5 (H) Respondent failed to notify the Department of
6 branch office addresses, in violation of Code Section 10162 and
7 Regulation 2715.

8 (I) Respondent failed to exercise reasonable control
9 and supervision over the activities conducted on behalf of
10 Allison Enterprises and its licensees and employees as necessary
11 to secure full compliance with the Real Estate Law, in violation
12 of Code Sections 10159.2, 10177(h) and Regulation 2725.

13 (J) Respondent failed to make available all books and
14 records related to her real estate activities for examination
15 and copying, in violation of Code Section 10148(b).

16 8.

17 The conduct of Respondent described in Paragraph 7,
18 above, violated the Code and the Regulations as set forth below:

19

20 PARAGRAPH	PROVISIONS VIOLATED
21 7(A)	Code Section 10145 and Regulation 2832.1
22 7(B)	Code Section 10137
23 7(C)	Code Section 10145 and Regulation 2831
24 7(D)	Code Section 10145 and Regulation 2831.2
25 7(E)	Code Section 10145 and Regulation 2832
26 7(F)	Code Section 10145 and Regulation 2834
27	

1 H. Allison to conduct activities requiring a real estate license
2 when he was not licensed by the Department is a violation of
3 Code Section 10137 and constitutes cause to revoke or suspend
4 the licenses and license rights of Respondent pursuant to Code
5 Sections 10177(d) and/or 10177(g).

6 12.

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

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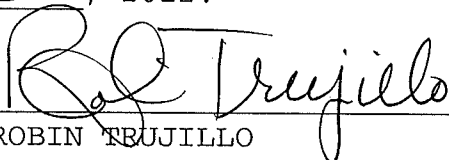
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and/or license rights of Respondent
5 MICHELLE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

10 Dated at Los Angeles, California
11 this 7 day of June, 2012.

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13 _____
14 ROBIN TRUJILLO
15 Deputy Real Estate Commissioner
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22 cc: Michelle Francy Levy
23 Robin Trujillo
24 Sacto
25 Audits - Anna Hartoonian
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