

FILED

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DEPT. OF REAL ESTATE
By 

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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-41533 LA
12 DIAMOND PROPERTY)
13 INVESTMENTS INC, BRIAN) ACCUSATION
14 MOOYOUN KIM, individually and as)
15 designated officer of Diamond Property)
16 Investments Inc, JOSEPH YONG)
17 BUM LEE, and JI YOUN KIM,)
18 Respondents.)

17 The Complainant, Maria Suarez, a Supervising Special Investigator for the
18 Department of Real Estate ("Department" or "DRE") of the State of California, for cause of
19 Accusation against DIAMOND PROPERTY INVESTMENTS INC ("DPI"), BRIAN
20 MOOYOUN KIM ("KIM"), JOSEPH YONG BUM LEE, also known as Yong Bom Lee, also
21 known as Joseph Lee ("LEE"), and JI YOUN KIM, also known as Christine Kim, also known as
22 Christine Kim Lee, also known as Christine Lee ("JY KIM") (collectively "Respondents"),
23 alleges as follows:

- 24 1. The Complainant, Maria Suarez, acting in her official capacity as a Supervising
25 Special Investigator, makes this Accusation against Respondents.
26 2. All references to the "Code" are to the California Business and Professions Code
27 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

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1 LICENSE HISTORY

2 3. Respondent DPI has been licensed by the Department as a real estate corporation,
3 License ID 01810882, from on or about May 26, 2007 through the present, with DPI's license
4 scheduled to expire on May 25, 2023 unless renewed. DPI is licensed through KIM's real estate
5 broker ("REB") license, ID 00850540, and KIM is the designated officer ("D.O."). According to
6 Department records to date, DPI employs 41 licensed real estate salespersons ("RES") and five
7 broker associates. DPI has no branch offices. The following two (2) fictitious business names are
8 currently active and licensed to DPI with the Department:

9 a. "Diamond Escrow, A Non-Independent Broker Escrow," effective from
10 July 31, 2015; and

11 b. "RE/MAX Diamond," effective from May 31, 2007.

12 4. Respondent KIM has been licensed by the Department as a real estate broker, from
13 on or about July 22, 1983 through the present, with KIM's license scheduled to expire on
14 November 7, 2019, unless renewed. According to Department records to date, KIM employs six
15 salespeople under his individual REB license. KIM has no fictitious business names licensed with
16 the Department and no branch offices.

17 5. Respondent LEE has been licensed by the Department as a real estate broker,.
18 License ID 01812590, from on or about July 17, 2007 through the present, with LEE's license
19 scheduled to expire on July 19, 2023, unless renewed. At all relevant times, LEE's employing
20 corporate real estate broker of record has been DPI.

21 6. Respondent JY KIM was first licensed by the Department as a real estate
22 salesperson ("RES"), License ID 01919773, from on or about November 6, 2012 through on or
23 about November 5, 2016, at which time JY KIM's license expired. JY KIM renewed her license
24 on or about May 24, 2018, and her license is scheduled to expire on May 23, 2022, unless
25 renewed. The Department retains jurisdiction over the time period from November 6, 2016
26 through May 23, 2018, during which JY KIM's license had lapsed, pursuant to Code section
27 10103. According to Department records to date, JY KIM's employing corporate real estate broker

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1 of record history from December 14, 2012 through November 5, 2016, and from May 24, 2018
2 through the present has been DPI.

3 **BROKERAGE: DPI**

4 7. At all times mentioned, in the City of Buena Park, County of Orange, DPI acted as
5 a real estate broker, conducting licensed activities within the meaning of Code sections 10131(a)
6 and 10131(b): selling or offering to sell, buying or offering to buy, real property for others; and
7 leasing or renting, offering to lease or rent, or collecting rents from real property for others. In
8 addition, DPI conducted broker-controlled escrows under the exemption set forth in California
9 Financial Code section 17006(a)(4) for real estate brokers performing escrows incidental to a real
10 estate transaction where the broker is a party and where the broker is performing acts for which a
11 real estate license is required. At all times mentioned, DPI was acting by and through KIM as its
12 designated officer pursuant to Code section 10159.2 who was responsible for ensuring compliance
13 with the Real Estate Law.

14 **COMPLAINT**

15 8. On or about July 11, 2017 the Department received a complaint from Deyne C.^u,
16 against LEE and JY KIM. LEE, on behalf of DPI, was the listing agent for the sellers of property
17 located at 33 Sacred Path in Irvine, California. Deyne C. was one of the sellers represented by
18 LEE in the transaction. In the complaint, Deyne C. alleged that LEE's transaction coordinator, JY
19 KIM (also known as Christine Lee), forged the buyers' signatures via DocuSign on an addendum
20 in which the buyers were to pay a \$100 per diem for each day beyond the scheduled close of
21 escrow date, until escrow closed. Deyne C. alleged that when escrow failed to close by the
22 scheduled date, the sellers requested that the buyer be required to pay a per diem for each day after
23 the scheduled closing. Deyne C. further alleged that LEE and JY KIM provided the sellers with a
24 copy of the per diem addendum with the buyers' forged signatures in order to appease the sellers.
25 According to Deyne C., the sellers never received the per diem.

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27 ^u First names and the first initial of the last names are used in place of an individual's full name to protect their
28 privacy. Documents containing the individual's full name will be provided during the discovery phase of this case to
Respondents and/or their attorney(s), after service of a timely and proper request for discovery on Complainant's
counsel.

1 **FACTS DISCOVERED BY THE DRE**

2 9. Based on documents and statements obtained by the DRE, the following is the
3 timeline of events regarding the transaction leading to the complaint by Deyne C.

4 10. On or about April 20, 2017, Deyne and Mari C. ("sellers") entered into a
5 Residential Listing Agreement with DPI, doing business as RE/MAX Diamond, for the sale of real
6 property located at 33 Sacred Path in Irvine, California ("33 Sacred Path"). The listing price was
7 \$765,000.

8 11. On or about May 8, 2017, Lee and Sora K. ("buyers") offered to purchase 33
9 Sacred Path for \$745,000, and indicated they would obtain financing in the form of a VA loan.

10 12. On or about May 10, 2017, the sellers made a counter offer of \$750,000, with the
11 escrow company to be DPI, doing business as Diamond Escrow.

12 13. On or about May 11, 2017, the buyers accepted the sellers' counter offer via
13 Docusign. Escrow was opened with Diamond Escrow under Escrow No. 10486-JL.

14 14. In a document containing the Diamond Escrow logo, titled "Supplemental
15 Instructions & General Provisions," and dated May 11, 2017, the following text appears:
16 "DIAMOND ESCROW DIAMOND PROPERTY INVESTMENT, INC. HAS A FINANCIAL
17 INTEREST IN DIAMOND ESCROW, A NON-INDEPENDENT BROKER ESCROW.
18 DIAMOND PROPERTY INVESTMENT, INC. IS LICENSED AS AN ESCROW AGENT BY
19 THE BUREAU OF REAL ESTATE OF THE STATE OF CALIFORNIA, LICENSE
20 #01810882."

21 15. On or about May 12, 2017, the sellers confirmed acceptance.

22 16. Under the terms of the purchase agreement, the close of escrow was to occur 45
23 days after acceptance. According to LEE, the original close of escrow date was to be June 27,
24 2017. According to Deyne C., the original close of escrow date was to be June 26, 2017.

25 17. According to Deyne C., although LEE was the listing agent representing the sellers,
26 the sellers only heard from LEE weekly, and were mostly in contact with JY KIM, who was
27 identified as LEE's transaction coordinator and she is also LEE's wife.

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1 18. According to LEE, because there were two separate homeowners' associations, the
2 lender was having difficulty getting approval of the buyers' VA loan.

3 19. Sometime between approximately June 12 and June 15, 2017, according to LEE,
4 the buyers decided to change their financing from a VA loan to a conventional loan, which
5 required the buyers to make a higher down payment.

6 20. On or about June 14, 2017, the buyers and sellers executed an addendum to the
7 purchase agreement, Addendum No. 1, in which the parties agreed that the buyers would receive a
8 one-time non-recurring credit of \$7,500 at closing from the buyers' agent.

9 21. On or about June 15, 2017, the buyers and an authorized signer for the buyers'
10 broker signed Amended Escrow Instructions in which the buyers' broker, Keller Williams Realty,
11 agreed to credit the buyers with \$7,500 for closing costs, which amount would be deducted from
12 the buyers' broker's commission.

13 22. Also on or about June 15, 2017, the buyers and sellers executed an addendum to the
14 purchase agreement, marked in handwriting as Addendum No. 2, in which the parties agreed that
15 LEE would credit the buyers with \$5,000 towards the buyers' closing costs, and that this amount
16 was to be deducted from LEE's commission. Amended Escrow Instructions were also signed on
17 or about June 15, 2017 by KIM and the buyers. According to LEE, he agreed to deduct the \$5,000
18 from his commission in order to help the buyers in purchasing the property.

19 23. According to Deyne C., when escrow failed to close on June 26, 2017, in
20 accordance with the purchase agreement, the sellers requested that the buyers pay a per diem for
21 each day after the originally scheduled closing.

22 24. On or about June 26, 2017, the listing agent prepared a document marked
23 Addendum No. "Two," and the word "Two" was in a typewritten italic font, in which the buyers
24 and sellers purportedly agreed that: "1) Buyers to pay sellers \$100 per diem until close of escrow.
25 Total per diem charges to be paid through escrow prior to delivery of property possession." The
26 document was signed by the sellers in their own handwriting, and contains the undated DocuSign
27 signatures of the buyers.

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1 25. According to LEE, the buyers' change in financing was causing the lender to have
2 some delays in closing the file by the original close of escrow date. According to LEE, on or
3 about June 30, 2017, his transaction coordinator, JY KIM, "discussed the per diem addendum with
4 the Buyers' agent and understood it was in agreement with the buyers." According to LEE,
5 between June 30 and July 3, 2017, the sellers insisted on the per diem and receiving a per diem for
6 the extra days incurred to close escrow. According to LEE, on or about July 3, 2017, JY KIM
7 signed Addendum No. "Two" on behalf of the buyers regarding the per diem, and sent it to the
8 sellers. According to LEE, he was going to pay the per diem on behalf of the buyers out of his
9 own money if necessary, and stated, "I thought that it would not be necessary to have the buyers
10 sign the addendum since the per diem money will come out of my funds."

11 26. According to Deyne C., the sellers contacted the buyers and asked if they were
12 aware of the per diem they were to pay for each day the escrow closing was late and the buyers
13 were surprised to see the addendum with their signatures, stating that they never signed this
14 addendum nor did their agent know this addendum existed.

15 27. On or about July 7, 2017, the buyers executed a new financing amendment to be
16 included in the escrow instructions stating that, "Buyers have qualified for a new Trust Deed loan
17 in favor of Wells Fargo Bank, N.A." Also on July 7, 2017, the buyers and sellers executed a
18 document titled "Addendum No. 3," in which the parties agreed to the following: "FINANCE
19 TERMS: Loan is conventional with balance of down payment of \$150,000 due at closing."

20 28. On or about July 10, 2017, the buyers and sellers signed two extension of time
21 addendums, the first extending the scheduled close of escrow to July 7, 2017, and the second
22 extending the scheduled close of escrow to July 10, 2017.

23 29. According to the buyers' and sellers' final closing statements, escrow closed on
24 Sacred Path on July 10, 2017. According to the buyers' final closing statement, the listing agent,
25 LEE, credited the buyers \$5,000 for closing costs, and the selling agent credited the buyers \$7,500
26 toward closing costs. An examination of the sellers' final closing statement does not reveal that a
27 per diem of \$100 for each day beyond the original close of escrow was provided to the sellers.

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1 Moreover, the escrow instructions do not contain any amended instructions regarding the
2 aforementioned per diem.

3 **AUDIT OF DPI: AUDIT NO. LA180001**

4 30. On September 28, 2018, the Department completed two concurrent audit
5 examinations of the books and records of DPI's real estate activities that require a corporate real
6 estate broker license under Code section 10131. The first audit examination, LA180001, covered
7 the time period January 1, 2016 to June 29, 2018 ("audit period") and was limited to DPI's broker
8 escrow activities. A second, concurrent audit covering the same audit period as Audit NO.
9 LA180001, was performed on DPI's residential sales and lease activities in Audit No. LA180002,
10 and is addressed below under the Second Cause for Accusation.

11 31. The purpose of the audit examinations was to determine whether DPI and KIM
12 handled and accounted for trust funds, and other compliance issues, in accordance with the Real
13 Estate Law and the Regulations.

14 32. Based on discussions between the Department's auditor and KIM, DPI's corporate
15 structure as of July 27, 2018 was as follows:

<u>Name</u>	<u>Title</u>	<u>License</u>	<u>Shareholder %</u>
KIM	President	00850540 (D.O./REB)	40%
Jennifer Kim	Secretary	01334333 (salesperson ("RES"))	40%
Richard Kim	Treasurer	01497832 (RES)	10%
Jacqueline Lee	Escrow Officer	Unlicensed	10%

20 33. According to KIM and records examined, DPI provided broker escrow services to
21 its own clients, closing approximately 199 escrows with total receipts of \$80,705,842.86 during
22 the audit period.

23 34. During the audit period, DPI maintained one (1) bank account (BA1) for handling
24 the receipts and disbursements of trust funds in connection with the broker escrow activity. The
25 information for BA1 is as follows:

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1 **Bank Account #1 ("BA1")**

2 Bank: Bank of Hope
3 1655 W. Redondo Beach Blvd., #300
4 Gardena, CA
5 Account Name: Diamond Property Investment Inc
6 DBA Diamond Escrow
7 Account #: XXXXXXXXXX800
8 Signatories: KIM, President (REB/D.O.)
9 Jennifer Yung Kim, Secretary (RES)
10 Richard Hyungsuk Kim, Signer (RES)
11 Signatures required: One (1) signature

12 **Audit Violations in Audit No. LA180001**

13 35. The audit examination revealed violations of the Code and the Regulations, as set
14 forth in the following paragraphs, and more fully discussed in Audit No. LA180001 and the
15 exhibits and work papers attached to the audit report:

16 **Issue One (1). Code section 10145 and Regulations 2832.1, 2950(g), and 2951: Trust Fund**
17 **Handling for Multiple Beneficiaries; When Broker Handles Escrow**

18 36. As of June 29, 2018, BA1 had a minimum shortage of \$1,738.31. The minimum
19 shortage of \$1,738.31 was caused by negative escrow account balances of \$600.44, bank charges
20 of \$137.87, and an unauthorized disbursement (tele-transfer) of \$1,000.00 as of June 29, 2018.

21 37. The minimum negative escrow balances of \$600.44 were caused by disbursements
22 related to escrows when there were insufficient funds to do so.

23 38. The negative escrow accounts are as follows:

<u>Escrow No.</u>	<u>Buyer/Borrower</u>	<u>Balance</u>
10370-NC	Kimnori USA, Inc.	<\$ 295.00>
10402-NC	Allen and Rosie Bunney	<\$ 305.00>
10448-JL	Chris D'Amico	<\$ 0.44>
	Total:	<\$ 600.44>

24 39. An examination of bank statements covering the period January 1, 2016 to June 29,
25 2018 showed a total of \$137.87 in bank charges incurred. As of June 29, 2018, DPI had not
26 reimbursed BA1 for the bank charges. The minimum bank charges of \$137.87 are as follows:

<u>Date</u>	<u>Amount charged by Bank</u>	<u>Description</u>
12/21/2016	<\$ 57.87>	DLX for Business BUS PROD
01/10/2018	<\$ 40.00>	ONLINE TRANSER TO CHECKING . . . STOP PAYME . . .
01/10/2018	<\$ 40.00>	STOP PAYMENT CHARGE
Total:	<\$ 137.87>	

40. An examination of records showed that the \$1,000 unauthorized disbursement was caused by a tele-transfer/withdrawal from BA1 into DPI's business analysis account, Bank of Hope Account No. XXXXXXXX819, on or about June 5, 2018 without the written instructions of the party or parties paying the money into escrow.

41. On or about July 19, 2018, based on an examination of records, the \$1,000.00 was transferred back to BA1 from DPI's General Account, Bank of Hope Account No. XXXXXXXX556.

42. On or about July 26, 2018, \$295.00 from DPI's General Account, Bank of Hope Account No. XXXXXXXX556, was deposited into BA1 to cure the shortage for Escrow No. 10370-NC, referenced above in paragraph 14.

43. DPI provided no evidence that the owners of the trust funds gave their written consent to allow DPI to reduce the balance of the trust funds in BA1 to an amount less than the existing aggregate trust fund liabilities.

44. DPI's failure to obtain the written consent of the owners of the trust funds to reduce the balance of the funds in BA1 to an amount less than the existing aggregate trust fund liability was in violation of **Code section 10145 and Regulations 2832.1, 2950(g), and 2951.**

Issue Two (2). Code section 10145 and Regulations 2831, 2950(d), and 2951: Trust Fund Records to be Maintained; When Broker Handles Escrow

45. Based on records examined, DPI failed to maintain complete and accurate records of all trust funds received and disbursed (control record) for BA1 in connection with DPI's broker escrow activity. Based on an examination of the control record, the record showed: a trust fund receipt that was not actually deposited into BA1, an amount of trust funds deposited was inaccurately recorded, and a voided disbursement was actually cleared by the bank. (Examples are included under Issue Three below).

1 46. In addition, the running daily balance on the control record for BA1 was inaccurate
2 by a significant amount.

3 47. DPI's failure to maintain a complete and accurate control record of trust funds for
4 BA1 in connection with broker escrow activity was in violation of Code section 10145 and
5 Regulations 2831, 2950(d), and 2951.

6 **Issue Three (3). Code section 10145 and Regulations 2831.1, 2950(d), and 2951: Separate**
7 **Record for Each Beneficiary or Transaction; When Broker Handles Escrow**

8 48. Based on records examined, the separate records maintained for BA1 were
9 inaccurate and incomplete. There were instances where: trust funds recorded as a deposit were not
10 actually deposited into BA1; the trust fund amount deposited was incorrect; and a disbursement
11 recorded as "voided" was actually cleared by Bank of Hope. In addition, there was no running
12 daily balance on the separate records for BA1. Examples are as follows:

<u>Escrow #</u>	<u>Date</u>	<u>Check #</u>	<u>Amount</u>	<u>Description</u>
10370-NC	05/11/2016	13506	\$295.00	Recorded as "Voided" but the check was cleared through B/A 1 on 5/12/16.
<u>Escrow #</u>	<u>Date of Deposit</u>	<u>Deposit Ticket #</u>	<u>Amount</u>	<u>Description</u>
10402-NC	08/22/2016	2208	\$305.00	Recorded a deposit of \$305 on 8/22/16 but there was no deposit of \$305 in B/A 1 on 8/22/16.
<u>Escrow #</u>	<u>Date of Deposit</u>	<u>Deposit Ticket #</u>	<u>Amount Recorded</u>	<u>Actual Amount in BA1</u>
10448-JL	05/4/2017	2423	\$1,518.60	\$1,518.16

19 49. DPI's failure to maintain an accurate separate record for BA1 in connection with
20 broker escrow activity was in violation of Code section 10145 and Regulations 2831.1, 2950(d),
21 and 2951.

22 **Issue Four (4). Code section 10145 and Regulations 2832 and 2951: Trust Fund Handling;**
23 **When Broker Handles Escrow**

24 50. Based on an examination of the bank signature card maintained at Bank of Hope
25 dated July 25, 2018 for BA1, which was used for handling the trust funds received and disbursed
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1 in connection with the broker escrow activity, BA1 was not set up as a trust account, and was not
2 in the name of the broker as trustee.

3 51. DPI's failure to set up BA1 as a trust account was in violation of Code section
4 **10145 and Regulations 2832 and 2951.**

5 **Issue Five (5). Code sections 10145(a), 10176(i), 10177(j), and Regulation 2950(g):**

6 **Unauthorized Disbursements/Handling of Trust Funds; When Broker Handles Escrow**

7 52. Based on an examination of records, on or about June 5, 2018, DPI transferred trust
8 funds of \$1,000.00 from BA1 into DPI's business analysis account, Bank of Hope Account No.
9 XXXXXX819, without the written instruction of the party or parties paying the money into
10 escrow.

11 53. On or about July 19, 2018, the \$1,000.00 was transferred back into BA1 from
12 DPI's General Account, Bank of Hope Account No. XXXXX556.

13 54. DPI's unauthorized disbursement from BA1 without written authorization from the
14 owners of the trust funds was in violation of Code sections **10145(a), 10176(i), and 10177(j), and**
15 **Regulation 2950(g).**

16 **Issue Six (6). Code sections 10145 and 10176(e), and Regulations 2832, 2950(g), and 2951:**

17 **Trust Fund Handling; Commingling of Funds; When Broker Handles Escrow**

18 55. Based on an examination of records, on or about June 5, 2018, DPI transferred trust
19 funds of \$1,000.00 from BA1 into DPI's business analysis account, Bank of Hope Account No.
20 XXXXXX819, and commingled said funds with DPI's own funds.

21 56. On or about July 19, 2018, the \$1,000.00 was transferred back into BA1 from
22 DPI's General Account, Bank of Hope Account No. XXXXX556.

23 57. DPI's commingling of escrow trust funds with its own funds in its business analysis
24 account was in violation of Code sections **10145 and 10176(e), and Regulations 2832, 2950(g),**
25 **and 2951.**

26 **Issue Seven (7). Regulation 2950(h): When Broker Handles Escrow**

27 58. Based on an examination of records, and as alleged above in paragraph 14, DPI did
28 not provide a full written disclosure to advise all parties that KIM has an interest as a stockholder,

1 officer, partner, or owner of the agency holding the escrow. Examples of DPI's and KIM's failure
2 to so advise all parties appear in the escrow files for Escrow Numbers 10370-NC, 10402-NC,
3 10429-JL, 10486-JL, 10448-JL, and 10534-JL. In each instance, in the escrow document titled
4 "Supplemental Instructions & General Provisions," DPI provided a statement that "DIAMOND
5 ESCROW DIAMOND PROPERTY INVESTMENT, INC. HAS FINANCIAL INTEREST IN
6 DIAMOND ESCROW, A NON-INDEPENDENT BROKER ESCROW," however, DPI did not
7 provide any such statement regarding KIM.

8 59. DPI's failure to provide a full written disclosure to advise all parties that KIM has
9 an interest as a stockholder, officer, partner, or owner of the agency holding the escrow was in
10 violation of Regulation 2950(h).

11 **Issue Eight (8). Code section 10141.6: Notification of Escrow Activities**

12 60. Code section 10141.6 provides in pertinent part:

13 "(a) A real estate broker who engages in escrow activities for five or more
14 transactions in a calendar year pursuant to the exemption from the Escrow Law
15 contained in Section 17006 of the Financial Code, or whose escrow activities
16 pursuant to that exemption equal or exceed one million dollars (\$1,000,000) in a
17 calendar year, shall file with the department a report, within 60 days following the
18 completion of the calendar year, documenting the number of escrows conducted
19 and the dollar volume escrowed during the calendar year in which the threshold
20 was met. This report shall be made on a form acceptable to the commissioner.

21 ...
22 (c) A real estate broker who fails to submit the report required pursuant to
23 subdivision (a) shall be assessed a penalty of fifty dollars (\$50) per day for each
24 day the report has not been received by the department, up to and including the
25 30th day after the first day of the assessment penalty. On and after the 31st day, the
26 penalty shall be one hundred dollars (\$100) per day, not to exceed a total penalty of
27 ten thousand dollars (\$10,000), regardless of the number of days, until the
28 department receives the report."

61. Based on an examination of records, during the audit period, DPI engaged in
escrow activities for more than five transaction in calendar years 2016 and 2017, and its escrow
activities exceeded \$1 million in calendar years 2016 and 2017, thus triggering the requirement
under Code section 10141.6 that DPI file a report with the Department within 60 days following
the completion of calendar years 2016 and 2017, documenting the number of escrows conducted
and the dollar volume escrowed during the calendar year. However, DPI did not submit escrow

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1 activity reports on form RE 890, or other acceptable form, within 60 days following the
2 completion of calendar years 2016 and 2017, and has not done so to date.

3 62. An examination of records provided to the Department's auditor revealed that:

4 a. From January 1, 2016 to December 31, 2016, DPI closed approximately 82
5 escrow transactions and received in escrows trust funds totaling \$31,524,284.52.

6 Examples of escrow transactions during 2016 that, combined, more than exceed Code
7 section 10141.6's \$1 million threshold in a calendar year are as follows:

<u>Escrow #</u>	<u>Buyer/Borrower</u>	<u>Total Consideration</u>	<u>Close of Escrow</u>
10370-NC	Kimnori USA, Inc.	\$710,000.00	05/10/16
10402-NC	Allen/Rosie Bunney	\$577,000.00	10/06/16
10429-JL	Herman/June Wong	\$720,000.00	12/30/16
	Total	\$2,007,000.00	

12 b. From January 1, 2017 to December 31, 2017, DPI closed approximately 90
13 escrow transactions and received in escrows trust funds totaling \$32,471,065.51. Examples
14 of escrow transactions during 2017 that, combined, more than exceed Code section
15 10141.6's \$1 million threshold in a calendar year are as follows:

<u>Escrow #</u>	<u>Buyer/Borrower</u>	<u>Total Consideration</u>	<u>Close of Escrow</u>
10486-JL	Lee Y. & Sora C. Kim	\$750,000.00	07/10/17
10448-JL	Chris D'Amico	\$560,000.00	05/04/17
10534-JL	Fernando Cabrera/Krystal Bates	\$545,000.00	10/17/17
	Total	\$1,855,000.00	

20 63. Because DPI engaged in escrow activities exceeding more than five transaction in
21 calendar years 2016 and 2017, and because its escrow activities exceeded \$1 million in calendar
22 years 2016 and 2017, DPI's failure to file reports within 60 days following the completion of
23 calendar years 2016 and 2017 was in violation of **Code section 10141.6.**

24 **Issue Nine (9). Code sections 10159.2 and 10177(h) and Regulation 2725: Responsibility of**
25 **Corporate Officer in Charge / Broker Supervision**

26 64. The Complainant realleges and incorporates by reference all of the allegations
27 contained in paragraphs 1 through 63 above, with the same force and effect as though fully set
28 forth herein.

1 71. DPI maintained one bank account at Bank of Hope ("BA2,"^{2/} Account No.
2 XXXXXXXXX792) to handle trust fund receipts and disbursements for its real estate sales and
3 residential leasing activities. During the audit period, DPI handled residential leasing transactions
4 for six (6) properties under BA2 and handled three (3) residential sales transactions under BA2.

5 The information for BA2 is as follows:

6 **Bank Account #2 ("BA2")**

7 Bank: Bank of Hope
8 5300 Beach Blvd., #101
9 Buena Park, CA
10 Account Name: Diamond Property Investment Inc
11 DBA RE/MAX Diamond
12 Account #: XXXXXXXXXXX792
13 Signatories: KIM, President (REB/D.O.)
14 Jennifer Yung Kim, Secretary (RES)
15 Richard Hyungsuk Kim, Signer (RES)
16 Signatures required: One (1) signature
17 Description: This trust account was maintained for handling trust fund
18 receipts and disbursements related to DPI's real estate sales
19 and residential leasing activities.

20 **Audit Violations in Audit No. LA180002**

21 72. The audit examination revealed violations of the Code and the Regulations, as set
22 forth in the following paragraphs, and more fully discussed in Audit No. LA180002 and the
23 exhibits and work papers attached to the audit report:

24 **Issue Three (3).^{3/} Code section 10145 and Regulation 2831: Trust Fund Records to be**
25 **Maintained**

26 73. Based on records examined, during the audit period DPI failed to maintain
27 complete and accurate records of all trust funds received and disbursed (control record) for BA2 in

28 ^{2/} In the audit report for Audit No. LA180002, the bank account designated for handling trust fund receipts and disbursements for its real estate sales and residential leasing activities is referred to as "Bank Account 1" or "B/A 1." Because this Accusation incorporates both audit reports from LA180001 and LA180002, and the bank account in LA180001 is designated "BA1," in order to distinguish the two bank accounts referred to in each audit report, Complainant refers to B/A 1 from Audit No. LA180002 as "Bank Account #2" or "BA2."

^{3/} Issues One (1) and Two (2) were skipped intentionally. In the audit report for LA180002, the Department's auditor addresses Issues One and Two without citing any violations of the Code or Regulations. Complainant reserves the right to conduct further investigation and to amend the accusation should further evidence be acquired in support of Issues One and Two, as well as potential causes of accusation not alleged in this Accusation at the time of filing.

1 connection with DPI's real estate sales and residential leasing activities. The control record
 2 maintained by DPI did not have the date that trust funds were received. For some of the trust
 3 funds received, DPI failed to record from whom such funds were received. Some of the
 4 disbursements of trust funds have the wrong date for when a check was issued/disbursed. As a
 5 result, BA2 did not reflect an accurate running daily balance.

6 74. For the following trust funds collected, DPI failed to record from whom such funds
 7 were received on the control record for BA2:

<u>Date of Deposit</u>	<u>From Whom Trust Fund was Received</u>	<u>Amount</u>	<u>Property Address</u>
02/19/2016	Not recorded	\$3,600.00	12238 S. St.
08/23/2016	Not recorded	\$ 576.00	1039 Creekside Dr. #190
11/18/2016	Not recorded	\$1,872.00	926 Plaza Escondido
12/01/2016	Not recorded	\$646.00	For the Corp. Holiday Calendar
12/06/2016	Not recorded	\$7,300.00	16603 Blackburn Dr.
Total		\$13,994.00	

14 75. For the following disbursements of trust funds, DPI recorded the wrong date on the
 15 control record for when checks were issued:

<u>Check #</u>	<u>Pavee</u>	<u>Property Address</u>	<u>Amount</u>	<u>Date Check Issued</u>	<u>Date Recorded</u>
1167	REMAX Diamond	12238 S. St.	\$2,592.00	02/19/2016	02/22/2016
1166	Prime Propt. Mgmt.	12238 S. St.	\$1,008.00	02/19/2016	02/24/2016
1168	DMC Repair	12238 S. St.	\$180.00	05/19/2016	060/7/2016
1169	Not recorded	1039 Creekside Dr	\$576.00	08/29/2016	Not recorded
1174	REMAX Diamond	926 Plaza Escondido	\$1,248.00	11/18/2016	11/21/2016
1178	Jgrace, LLC	16603 Blackburn Dr.	\$6,300.00	12/05/2016	12/07/2016
1181	Maw Shing Chen	16508 Wain Pl.	\$4,336.00	01/03/2017	01/04/2017
1184	REMAX Diamond	395 Broadway Dr.	\$8,186.05	01/10/2017	01/04/2017
1185	Elite Blinds	395 Broadway Dr.	\$4,313.95	01/10/2017	01/12/2017
1183	Century 21 A	16508 Wain Pl.	\$144.00	01/03/2017	05/08/2017
1187	4535 Ben, LLC	6692 Naomi Ave.	\$4,180.00	09/26/2017	10/04/2017
1191	Lender One	16222 Estella Ave.	\$1,416.00	01/24/2018	02/20/2018
1192	Tony D. Seo	16222 Estella Ave.	\$3,768.00	01/24/2018	02/02/2018
1193	REMAX Diamond	16222 Estella Ave.	\$1,416.00	01/24/2018	01/25/2018
Total			\$39,664.00		

26 76. DPI's failure to maintain a complete and accurate control record of trust funds for
 27 BA2 in connection with DPI's real estate sales and residential leasing activities was in violation of
 28 **Code section 10145 and Regulation 2831.**

1 **Issue Four (4). Code section 10145 and Regulation 2831.1: Separate Record for Each**

2 **Beneficiary or Transaction**

3 77. Based on records examined, DPI did not maintain separate records for each
4 beneficiary or transaction for BA2 during the audit period. The Department's auditor
5 reconstructed the separate records for BA2 based on BA2's bank statements, cancelled checks,
6 deposit receipts, and sales and residential leasing transactions. Examples are as follows:

7

<u>Date</u>	<u>Seller/Owner</u>	<u>Property Address</u>	<u>Amount</u>	<u>Date of Deposit</u>
01/09/2017	Civic Central Park LLC	395 Broadway Dr.	\$12,500.00	01/09/2017
08/23/2016	Bob Park	1039 Creekside Dr.	\$576.00	08/23/2016
01/24/2018	Tony D. Seo	16222 Estella Ave.	\$6,600.00	01/24/2018
09/25/2017	4535 Ben, LLC	6692 Naomi Ave.	\$5,950.00	09/25/2017
01/04/2017	Maw Shing Cheng	16508 Wain Pl.	\$5,200.00	01/04/2017
12/06/2016	Jong/Sung Lim	16603 Blackburn Dr.	\$7,300.00	12/06/2016
11/18/2016	Jefferey/Jason Hung	926 Plaza Escondido	\$1,872.00	11/18/2016
02/19/2016	Prime Property Mgmt., LLC	12238 S. St.	\$3,600.00	02/19/2016
01/04/2017	April Kim	15715 El Tiro Dr.	\$382.50	01/04/2017
		Total:	\$43,980.50	

13

14 78. DPI's failure to maintain separate records for each beneficiary or transaction for
15 BA2 during the audit period was in violation of **Code section 10145 and Regulation 2831.1.**

16 **Issue Five (5). Code section 10145 and Regulation 2831.2: Trust Account Reconciliation**

17 79. During the audit period, DPI failed to perform and maintain a monthly
18 reconciliation comparing the balance of all separate records to the balance of the control record of
19 all trust funds received and disbursed for BA2 in connection with DPI's real estate sales and
20 residential leasing activities in violation of **Code section 10145 and Regulation 2831.2.**

21 **FIRST CAUSE OF ACCUSATION**

22 **AUDIT VIOLATIONS IN AUDIT NO. LA180001**

23 80. The Complainant realleges and incorporates by reference all of the allegations
24 contained in paragraphs 1 through 66 above, with the same force and effect as though fully set
25 forth herein.

26 81. DPI's and KIM's conduct as described above in paragraphs 36 through 66 above
27 violated the Code and the Regulations as set forth below:

28 ///

<u>Issue No.</u>	<u>Paragraphs</u>	<u>Violations</u>
1	15-23	Code section 10145; Regulations 2832.1, 2950(g), and 2951
2	24-26	Code section 10145; Regulations 2831, 2950(d), and 2951
3	27-28	Code section 10145; Regulations 2831.1, 2950(d), and 2951
4	29-30	Code section 10145; Regulations 2832 and 2951
5	31-33	Code sections 10145(a), 10176(i), and 10177(j); Regulation 2950(g)
6	34-36	Code sections 10145 and 10176(e); Regulations 2832, 2950(g), and 2951
7	37-38	Regulation 2950(h)
8	39-42	Code section 10141.6
9	43-45	Code sections 10159.2 and 10177(h), and Regulation 2725

82. The foregoing violations constitute cause for the suspension or revocation of DPI's and KIM's real estate licenses and license rights under the provisions of **Code sections 10176(e), 10176(i), 10177(h), and 10177(j).**

83. In addition, the violations of **Code section 10141.6** in failing to file reports for calendar years 2016 and 2017, as alleged in paragraphs 61-63 above, constitute cause for assessment of penalties against DPI as provided under **Code section 10141.6(c).**

SECOND CAUSE OF ACCUSATION

AUDIT VIOLATIONS IN AUDIT NO. LA180002

84. The Complainant realleges and incorporates by reference all of the allegations contained in paragraphs 1 through 83 above, with the same force and effect as though fully set forth herein.

85. DPI's and KIM's conduct as described above in paragraphs 73 through 79 above violated the Code and the Regulations as set forth below:

<u>Issue No.</u>	<u>Paragraphs</u>	<u>Violations</u>
3 ⁴	52-55	Code section 10145; Regulation 2831
4	56-57	Code section 10145; Regulation 2831.1
5	58	Code section 10145; Regulation 2831.2

86. The foregoing violations constitute cause for the suspension or revocation of DPI's and KIM's real estate licenses and license rights under the provisions of **Code sections 10177(g) and 10177(h).**

⁴ As noted above, Issues One (1) and Two (2) in Audit No. LA180002 were skipped intentionally. Moreover, Complainant is skipping Issue Six (6) was skipped intentionally. Complainant is alleging the violations addressed in Issue Six below, in the Fourth Cause of Accusation.

1 **ADDITIONAL VIOLATIONS OF THE REAL ESTATE LAW**

2 **THIRD CAUSE OF ACCUSATION:**

3 **CAUSES FOR DISCIPLINE AGAINST LEE AND JY KIM**

4 87. The Complainant realleges and incorporates by reference all of the allegations
5 contained in paragraphs 1 through 86 above, with the same force and effect as though fully set
6 forth herein.

7 88. In the course of the activities described above in Paragraph 8, and based on the
8 facts discovered by the DRE, as described in Paragraphs 9 through 29 above, Respondent
9 JOSEPH YONG BUM LEE's acts or omissions are in violation of Code sections 10176(a),
10 10176(d), 10176(i), 10177(g), and 10177(j), and constitute cause for the suspension or revocation
11 of all licenses and license rights of JOSEPH YONG BUM LEE under the Real Estate Law.

12 89. In the course of the activities described above in Paragraph 8, and based on the
13 facts discovered by the DRE, as described in Paragraphs 9 through 29 above, Respondent JI
14 YOUN KIM's acts or omissions are in violation of Code sections 10130, 10176(a), 10176(d),
15 10176(i), 10177(f), 10177(g), and 10177(j), and constitute cause for the suspension or revocation
16 of all licenses and license rights of JI YOUN KIM under the Real Estate Law.

17 **FOURTH CAUSE OF ACCUSATION:**

18 **DPI'S USE OF FALSE OR FICTITIOUS BUSINESS NAME**

19 90. The Complainant realleges and incorporates by reference all of the allegations
20 contained in paragraphs 1 through 89 above, with the same force and effect as though fully set
21 forth herein.

22 91. DPI used and continues to use the unlicensed fictitious business name, "Pioneer
23 Realty Management Company" to conduct property management activities. DPI is using the
24 unlicensed fictitious business name "Pioneer Realty Management Company" on the website
25 located at www.remaxdiamondhomes.com, and advertises this name as being in business since
26 1986 and as part of DPI. "Pioneer Realty Management Company" is not listed in the
27 Department's current licensing records, and is not licensed to DPI or KIM or attached to DPI's or
28 KIM's licenses.

1 92. DPI thus used an unlicensed fictitious business name to conduct its property
2 management activities in violation of **Code section 10159.5 and Regulation 2731.**

3 **FIFTH CAUSE OF ACCUSATION: RESPONSIBILITY OF**
4 **CORPORATE OFFICER IN CHARGE / BROKER SUPERVISION**

5 93. The Complainant realleges and incorporates by reference all of the allegations
6 contained in paragraphs 1 through 92 above, with the same force and effect as though fully set
7 forth herein.

8 94. Based on the audit findings in Audit No. LA180002 in Issues 3 through 5 as
9 alleged in paragraphs 73 through 79 above, and on the Third and Fourth Causes of Accusation as
10 alleged in paragraphs 88 through 92 above, as the broker and designated officer of DPI, KIM
11 failed to adequately supervise DPI's real estate activities conducted by DPI's broker associates,
12 salespersons, and employees, and failed to establish policies, rules, procedures, and systems to
13 review, oversee, inspect, and manage transactions requiring a real estate license and the handling
14 of trust funds, in violation of **Code sections 10159.2 and 10177(h), and Regulation 2725.**

15 **INVESTIGATION AND ENFORCEMENT COSTS**

16 95. Code section 10106 provides that in any order issued in resolution of a disciplinary
17 proceeding before the Department of Real Estate, the Commissioner may request the
18 administrative law judge to direct a licensee found to have committed a violation of this part to
19 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

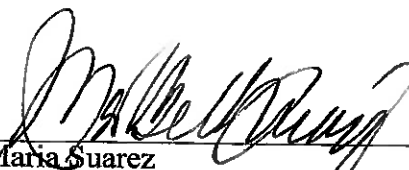
20 **AUDIT COSTS**

21 96. Code section 10148(b) provides, in pertinent part, the Commissioner shall charge a
22 real estate broker for the cost of any audit, if the Commissioner has found in a final decision
23 following a disciplinary hearing that the broker has violated Code section 10145 or a regulation or
24 rule of the Commissioner interpreting said section.

25 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
26 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
27 against all the licenses and license rights of DIAMOND PROPERTY INVESTMENTS INC,
28 BRIAN MOOYOUN KIM, JOSEPH YONG BUM LEE, and JI YOUN KIM under the Real

1 Estate Law, for the costs of investigation and enforcement, and audit as permitted by law, and for
2 such other and further relief as may be proper under other applicable provisions of law, and for
3 costs of audit.

4
5 Dated at Los Angeles, California this 14th day of May, 2020.

6
7
8 
9 Maria Suarez
Supervising Special Investigator

10
11 cc: DIAMOND PROPERTY INVESTMENTS INC
12 BRIAN MOOYOUN KIM
13 JOSEPH YONG BUM LEE
14 JI YOUN KIM
15 Maria Suarez
16 Sacto.

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