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MAR 17 2020

DEPT. OF REAL ESTATE

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9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation against

DRE No. H-41639 LA

13 JAMES W. NARDI, doing business as GRAPEVINE
14 PROPERTIES and GRAPEVINE PROPERTY
MANAGEMENT, and SCOTT H. PARROTT,

ACCUSATION

15 Respondents.

16 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the
17 Department of Real Estate¹ ("Department") of the State of California, for cause of Accusation
18 against JAMES W. NARDI, doing business as GRAPEVINE PROPERTIES and GRAPEVINE
19 PROPERTY MANAGEMENT, and SCOTT H. PARROTT (collectively "Respondents"),
20 alleges as follows:

21 1. The Complainant, Veronica Kilpatrick, acting in her official capacity as a
22 Supervising Special Investigator, makes this Accusation against Respondents.

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24 ¹ Between July 1, 2013 and July 1, 2018, the Department of Real Estate operated as the Bureau of Real Estate under the Department of Consumer Affairs.

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

5 3. Respondents are presently licensed and/or have license rights under the Real
6 Estate Law (Part 1 of Division 4 of the Code).

7 4. On August 27, 2008, the Department issued a real estate broker license to
8 Respondent JAMES W. NARDI (“NARDI”), License ID 01068605. Respondent’s broker
9 license is scheduled to expire on August 26, 2020. Respondent has renewal rights pursuant to
10 Code section 10201. The Department retains jurisdiction pursuant to Code section 10103.

11 5. Respondent NARDI has a Mortgage Loan Originator (MLO) license
12 endorsement, National Mortgage Licensing System and Registry (NMLS) No. 249694.

13 6. The Department licensed Respondent NARDI to do business as “GRAPEVINE
14 PROPERTIES” and “GRAPEVINE PROPERTY MANAGEMENT” as of February 26, 2019.

15 7. On October 28, 1997, the Department issued a real estate salesperson license to
16 Respondent SCOTT H. PARROTT (“PARROTT”), License ID 01229703. Respondent’s
17 salesperson license is scheduled to expire on April 14, 2022. Respondent has renewal rights
18 pursuant to Code section 10201. The Department retains jurisdiction pursuant to Code section
19 10103.

20 8. At all times relevant herein, PARROTT was licensed as a salesperson under
21 broker, Respondent NARDI.

22 9. Diane R. Nardi, aka Diane Nardi, is a salesperson (License ID 01068976) licensed
23 under broker, Respondent NARDI.

24

1 10. Kimberly Ann Nardi, aka Kimberly Parrott, is a salesperson (License ID
2 01873117) licensed under broke, Respondent NARDI.

3 Broker Activities

4 11. At all times mentioned herein, in the State of California, Respondents acted as
5 real estate brokers and conducted licensed activities within the meaning of Code section
6 10131(b) (solicit or offer to negotiate the sale, purchase or exchange of leases, or collects rents
7 from real property or on a business opportunity).

8 Audit SD180037

9 12. On or about August 30, 2019, the Department completed an audit examination of
10 the books and records of Respondent NARDI's property management activities, which require a
11 real estate license pursuant to Code section 10131(b).

12 13. The audit covered the period of time from January 1, 2018 through April 30, 2019
13 ("audit period").

14 14. The audit examination revealed violations of the Code and the Regulations as set
15 forth in the following paragraphs, and more fully discussed in Audit Report SD180037 and the
16 exhibits and work papers attached to said audit report.

17 15. Respondent NARDI and Diane R. Nardi formed Grapevine Mortgage Corp. on or
18 about April 8, 2003. On or about July 7, 2011, Grapevine Mortgage Corp.'s name was changed
19 to Grapevine II, Corp. Respondent NARDI and Diane R. Nardi are officers and directors of
20 Grapevine II, Corp.

21 16. At all times relevant herein, Respondent NARDI was not licensed by the
22 Department to do business as "Grapevine Mortgage Corp." or "Grapevine II, Corp." Said
23 entities are not licensed by the Department.
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1 17. On June 19, 2019, the Department's auditor held an entrance conference with
2 Respondent NARDI, Respondent PARROT, and Kimberly Ann Parrott. Respondent PARROT
3 was the bookkeeper for Respondent NARDI's property management activities.

4 18. According to Respondents and the audit work papers examined, Respondent
5 NARDI managed approximately 150 residential properties for 128 property owners during the
6 audit period. Respondent NARDI charged a flat-rate management fee of \$75.00 to \$99.00.

7 19. According to Respondents, NARDI maintained two (2) bank accounts for
8 property management activities during the audit period.

9 20. Bank Account #1 (T/A 1)

10 Bank: First Citizens Bank

11 Account Name: Grapevine II Corporation DBA: Grapevine Property
12 Management

13 Account #: xxxxx0847

14 Signatories: Respondent NARDI, Diane R. Nardi, and Kimberly Nardi

15 # of signatures required: One (1)

16 Description: T/A 1 was maintained for handling the receipts and disbursements
17 of security deposits (trust funds) in connection with Respondent NARDI's
18 property management activities for multiple beneficiaries.

19 21. Bank Account #2 (B/A 1)

20 Bank: First Citizens Bank

21 Account Name: Grapevine II Corporation DBA: Grapevine Property
22 Management

23 Account #: xxxxx0855

24 Signatories: Respondent NARDI, Diane R. Nardi, and Kimberly Nardi

1 # of signatures required: One (1)

2 Description: B/A 1 was maintained for handling the receipts and disbursements
3 of rents (trust funds) in connection with Respondent NARDI's property
4 management activities for multiple beneficiaries.

5 Violations

6 22. In the course of its property management activities during the audit examination
7 period, Respondents acted in violation of the Code and the Regulations as follows:

8 23. Issue One (a). Code section 10145 and Regulation 2832.1. Trust fund handling
9 for multiple beneficiaries

10 A bank reconciliation was prepared for T/A 1 with a cut-off date of April 30, 2019. The
11 accountability was determined based on the separate records and the trial balance report provided
12 to the Department's auditor from Respondent PARROT, the bookkeeper for Respondent
13 NARDI's property management activities. The adjusted bank balance was compared to the
14 accountability. As of April 30, 2019, T/A 1 had a minimum shortage of <\$2,247.50>. The
15 shortage causes were due to a negative property balance of <\$935.00> for the property located at
16 32001 Calle Galarza, and a negative property balance of <\$1,312.50> for the property located at
17 34662 Swan Valley Ct. As of April 30, 2019, there was also unidentified or unaccounted for
18 funds totaling \$1,639.11 in T/A 1 due to inadequate record keeping.

19 24. Respondents failed to provide any evidence that the owners of the trust funds had
20 given their written consent to allow Respondent NARDI to reduce the balances of the funds in
21 T/A 1 to an amount less than the existing aggregate trust fund liabilities, in violation of Code
22 section 10145 and Regulation 2832.1.

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1 25. Issue One (b). Code section 10145 and Regulation 2832.1. Trust fund handling
2 for multiple beneficiaries

3 A bank reconciliation was prepared for B/A 1 with a cut-off date of April 30, 2019. The
4 accountability was determined based on limited separate records for January 2019 through April
5 2019 that were provided by Respondent PARROT. The minimum adjusted bank balance was
6 compared to the minimum accountability. As of April 30, 2019, B/A 1 had a minimum shortage
7 of <\$22,496.89>. The causes for the shortage were the following: minimum negative property
8 balances totaling <\$14,120.50>, minimum conversion/unauthorized disbursements totaling
9 <\$5,849.66>, and minimum unidentified shortage totaling <\$2,526.73> due to inadequate record
10 keeping.

11 26. Examples of the negative property balances for B/A 1 include, without limitation,
12 the following:

<u>Property</u>	<u>Amount</u>
27099 Rainbow Creek Dr.	<\$1,720.00>
35124 Azalea Ln.	<\$ 565.00>
40801 Carlana Ln.	<\$ 455.00>
41910 Pacific Grove Way	<\$2,325.00>
29333 Via Espada	<\$ 850.00>

19 27. Respondents failed to provide any evidence that the owners of the trust funds had
20 given their written consent to allow Respondent NARDI to reduce the balances of the funds in
21 B/A 1 to an amount less than the existing aggregate trust fund liabilities, in violation of Code
22 section 10145 and Regulation 2832.1.

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1 28. Issue Two. Rental properties located at 28253 Socorro St. #83, Murrieta, CA;
2 24844 Ambervalley Ave. #2, Murrieta, CA; and 41410 Juniper St., #2723, Murrieta, CA

3 Property owner A.B.¹ filed a complaint against the Respondents with the Department.
4 A.B. owns rental properties located at: 28253 Socorro St. #83, Murrieta, California; 24844
5 Ambervalley Ave. #2, Murrieta, California; and 41410 Juniper St., #2723, Murrieta, California.
6 From approximately 2012 through 2018, Respondents managed A.B.'s rental properties. A.B.
7 entered into property management agreements with Respondents, doing business as "Grapevine
8 Property Management" and "Grapevine Properties." On or about September 13, 2018, A.B.
9 terminated A.B.'s property management agreements with Respondents. A.B. dealt mainly with
10 Respondent PARROTT and Kimberly Parrott regarding the rental properties.

11 29. According to A.B., Respondents were supposed to pay homeowners association
12 ("HOA") fees from rent monies collected from A.B.'s tenants. Respondents failed to timely pay
13 the HOA fees for A.B.'s rental properties and failed to notify A.B. that the HOA fees for the
14 rental properties were in arrears resulting in liens placed against the rental properties. A.B. was
15 also not informed that Respondents withheld deposit funds for the rental properties.

16 30. Issue Three. Code section 10145 and Regulation 2831. Trust fund records to be
17 maintained.

18 During the audit period, Respondent NARDI failed to maintain accurate or complete
19 records of trust funds received and disbursed (control records) for B/A 1, in violation of Code
20 section 10145 and Regulation 2381. The control record for B/A 1 was maintained in a format
21 that did not readily enable tracing and reconciliation in accordance with Regulation 2831.2. The
22 B/A 1 control record did not have an accurate daily balance. Respondent NARDI failed to

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24 ¹ Initials are used in place of individuals' full names to protect their privacy. Documents containing individuals' full names will be provided during the discovery phase of this case to Respondents and/or their attorneys, after service of a timely and proper request for discovery on Complainant's counsel.

1 account for or maintain a record of NARDI's management fees, late fees, and tenant
 2 placement/lease fees earned on the BA 1 control record. Respondent NARDI used B/A 1 to pay
 3 for personal and business expenses against management fees earned/collected. Respondent
 4 NARDI recorded his management fees and other fees earned during the period of January 2019
 5 through April 2019 on the B/A 1 control record during the course of the audit examination.
 6 Some disbursements made from B/A 1 were not recorded on the B/A 1 control record.

7 31. Examples of the inaccurate daily balances on the B/A 1 control record include,
 8 but are not limited to, the following:

<u>Date</u>	<u>Ending Balance</u>	<u>Date</u>	<u>Ending Balance</u>
01/01/2018	\$2,104,715.34	01/31/2018	\$2,049,854.53
08/01/2018	\$2,218,814.45	08/31/2018	\$2,148,848.10
04/01/2019	\$2,300,119.76	04/30/2019	\$2,170,125.94

13 32. Examples of management fees not recorded on the B/A 1 control record include,
 14 but are not limited to, the following:

<u>Month/Year</u>	<u>Amount</u>	<u>Property</u>
January/2018	\$75.00	26484 Arboretum Way #1305
August/2018	\$99.00	33321 Calle Langarica
August/2018	\$99.00	43192 Corte Astorga

19 33. Examples of disbursements not recorded on the B/A 1 control record include, but
 20 are not limited to, the following:

<u>Date</u>	<u>Amount</u>	<u>Payee</u>	<u>Purpose</u>
01/16/2018	\$50.00	Appfolio, Inc.	Business expense
08/31/2018	\$60.00	Appfolio, Inc.	Business expense
04/04/2019	\$225.97	Morris 4x4	Personal expense

1 34. Issue Four. Code section 10145 and Regulation 2831.1. Separate records for
2 each beneficiary or transaction

3 Respondent NARDI failed to maintain a separate record for unidentified/unaccounted for
4 funds totaling \$1,639.11, which were held in T/A 1, as of April 30, 2019.

5 35. During the audit period, Respondent NARDI failed to maintain accurate and/or
6 complete separate records for each beneficiary or transaction (separate records) for B/A 1, in
7 violation of Code section 10145(g) and Regulation 2831.1. Respondent's separate records were
8 maintained in a format that that did not readily enable tracing and reconciliation in accordance
9 with Regulation 2831.2. The separate records for B/A 1 failed to have an accurate running/daily
10 balance. Respondent NARDI used B/A 1 to pay for personal and business expenses against
11 management fees earned/collected. Respondent NARDI recorded his management fees and
12 other fees earned during the period of January 2019 through April 2019 on the B/A 1 separate
13 records during the course of the audit examination. Examples of inaccurate entries are similar to
14 the examples noted in Issue Three, above. Examples of the inaccurate running/daily balances for
15 B/A 1 include, but are not limited to, the following:

<u>Date</u>	<u>Ending Balance</u>	<u>Property</u>
01/02/2018	\$46,510.99	33321 Calle Langarcia
04/30/2019	\$47,573.45	33321 Calle Langarcia
01/02/2018	\$ 8,858.50	41686 Monterey Place
04/30/2019	\$10,252.50	41686 Monterey Place
01/02/2018	\$64,159.83	43332 Calle Nacido
04/30/2019	\$69,958.86	43332 Calle Nacido
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1 36. Issue Five. Code section 10145 and Regulation 2831.2. Reconciliation of records

2 Respondent NARDI failed to reconcile the unidentified/unaccounted for funds totaling
3 \$1,639.11, which were held in T/A 1, as of April 30, 2019.

4 37. During the audit period, Respondent NARDI failed to perform and maintain an
5 accurate monthly reconciliation comparing the balance of all separate beneficiary or transaction
6 records (separate records) to the balance of all trust funds received and disbursed (control record)
7 for T/A 1 and B/A 1, in violation of Code section 10145 and Regulation 2831.2.

8 38. Issue Six. Code section 10145 and Regulation 2832. Handling of trust
9 funds/trust account designation.

10 During the audit period, Respondent NARDI used T/A 1 for the handling of security
11 deposits (trust funds) in connection with property management activities. T/A 1 was not
12 designated in Respondent NARDI's name or under a fictitious business name licensed by the
13 Department, as trustee, in violation of Code section 10145 and Regulation 2832. T/A 1 was
14 instead designated as: "Grapevine II Corporation DBA Grapevine Property Management – Trust
15 Account".

16 39. During the audit period, Respondent NARDI used B/A 1 for the handling of rent
17 monies (trust funds) in connection with property management activities. B/A 1 was not
18 designated in Respondent NARDI's name or under a fictitious business name licensed by the
19 Department, as trustee, in violation of Code section 10145 and Regulation 2832. B/A 1 was
20 instead designated as: "Grapevine II Corporation DBA Grapevine Property Management."

21 40. On or about June 19, 2019, B/A 1 was renamed as: "Grapevine II Corporation
22 DBA Grapevine Property Management – Trust Account Rent."

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1 41. Issue Seven. Code section 10145, Code section 10176, subdivision (i), and
2 Regulation 2832. Conversion of trust funds/unauthorized disbursements/ mishandling of trust
3 funds.

4 As of April 30, 2019, there was a minimum conversion of trust funds or unauthorized
5 disbursements from B/A 1 totaling <\$5,849.66>, in violation of Code section 10145 and Code
6 section 10176, subdivision (i) or Code section 10177, subdivision (j). Said funds were disbursed
7 from B/A 1 during the period from January 2019 through April 2019, causing a minimum
8 shortage in B/A 1 as of April 30, 2019. Respondent used B/A 1 to pay for personal and business
9 expenses against management fees earned/collected. Examples of the expenses include, without
10 limitation, the following:

<u>Date</u>	<u>Check No.</u>	<u>Amount</u>	<u>Expense</u>
01/03/2019	8838	\$ 65.00	Lawn service/personal expense
01/04/2019	8844	\$ 90.00	Pool service/personal expense
01/04/2019	Debit	\$244.00	Advertising/business expense
02/01/2019	Debit	\$478.00	Realtor dues/business expense
02/04/2019	Debit	\$ 90.24	4 Wheel Parts/personal expense
02/04/2019	Debit	\$894.00	Appfolio software/business expense
03/07/2019	Debit	\$651.12	Office rent/business expense
03/21/2019	9013	\$ 75.00	Carpet cleaning/personal expense
04/04/2019	Debit	\$225.97	Auto parts/personal expense
04/29/2019	Debit	\$ 53.04	Office supplies/business expense

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1 42. Issue Eight. Code section 10159.5 and Regulation 2731. Use of unlicensed
2 fictitious business name.

3 During the audit period, Respondent NARDI used the unlicensed fictitious business
4 names: "Grapevine Property Management," "Grapevine Properties," "Grapevine II,
5 Corporation," and/or "Grapevine II, Corp." for property management activities, without first
6 obtaining a license from the Department bearing the fictitious business name, in violation of
7 Code section 10159.5 and Regulation 2731.

8 43. Issue Nine. Regulation 2725. Broker supervision.

9 Respondent NARDI failed to adequately supervise the activities of Respondent NARDI's
10 salespersons, employees, or agents and failed to establish policies, rules, procedures, and systems
11 to review, oversee, inspect, and manage transactions requiring a real estate license and the
12 handling of trust funds to ensure compliance with the Real Estate Law, in violation of Regulation
13 2725.

14 44. The conduct, acts, and/or omissions of Respondents as described above in
15 Paragraphs 23 through 43, violated the Code and the Regulations as set forth below:

<u>Issue</u>	<u>Violations</u>
1	Code section 10145 and Regulation 2832.1
2	None cited in audit report / 10177, subdivision (g) (negligence)
3	Code section 10145 and Regulation 2831
4	Code section 10145 and Regulation 2831.1
5	Code section 10145 and Regulation 2831.2
6	Code section 10145 and Regulation 2832
7	Code sections 10145, 10176, subdivision (i), and Regulation 2832

1 Issue Violations

2 8 Code section 10159.5 and Regulation 2731

3 9 Regulation 2725

4 45. The foregoing violations constitute cause for the suspension or revocation of the
5 real estate licenses, MLO license endorsement, and license rights of Respondent NARDI under
6 the provisions of Code sections 10177, subdivision (d), 10176, subdivision (i), 10177,
7 subdivision (g), 10166.051, subdivision (a), and 10166.051, subdivision (b) and 10166.05,
8 subdivision (c).

9 Issue Two

10 46. The conduct, acts, omissions, and violations described in Issue Two, Paragraphs
11 28 and 29, above, constitute cause for the suspension or revocation of the real estate license and
12 license rights of Respondent PARROTT under the provisions of Code section 10177, subdivision
13 (g).

14 47. The conduct, acts, omissions, and violations described in Issue Two, Paragraphs
15 28 and 29, above, constitute cause for the suspension or revocation of the real estate license,
16 MLO license endorsement, and license rights of Respondent NARDI under the provisions of
17 Code section 10177, subdivision (g), Code section 10166.051, subdivision (a), and Code section
18 10166.051, subdivision (b) and Code section 10166.05, subdivision (c).

19 Issue Nine - Broker Supervision - Respondent NARDI

20 48. Based on the audit violations noted above in Paragraphs 22 through 47,
21 Respondent NARDI failed to adequately supervise the activities of NARDI's salespersons,
22 employees, or agents and failed to establish policies, rules, procedures, and systems to review,
23 oversee, inspect, and manage transactions requiring a real estate license and the handling of trust
24 funds to ensure compliance with the Real Estate Law and Regulations, in violation of Regulation

1 2725, which constitutes cause to suspend or revoke the real estate licenses and license rights of
2 Respondent NARDI pursuant to Code section 10177, subdivisions (d) and/or (g), for violation of
3 Regulation 2725.

4 Audit Costs

5 49. Code section 10148, subdivision (b) provides, in pertinent part, that the
6 Commissioner shall charge a real estate broker for the cost of any audit, if the Commissioner has
7 found in a final decision following a disciplinary hearing that the broker has violated Code
8 section 10145 or a regulation or rule of the Commissioner interpreting said section.

9 Investigation/Enforcement Costs

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

15 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this
16 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
17 against all licenses and/or license rights of Respondents under the Real Estate Law (Part 1 of
18 Division 4 of the Business and Professions Code), for the costs of the audit, investigation, and
19 enforcement as permitted by law, and for such other and further relief as may be proper under
20 other provisions of law.

21 Dated at San Diego, California this 11 day of March, 2020.

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24 VERONICA KILPATRICK
Supervising Special Investigator

1 cc: James W. Nardi
2 Scott H. Parrott
3 Veronica Kilpatrick
4 Sacto
5 Audits/Zaky Wanis
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