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**FILED**  
JUN 16 2021  
DEPT. OF REAL ESTATE  
By 

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\*\*\*

In the Matter of the Accusation of ) No. H-41902 LA  
)  
LINDA LAUREEN TOTH, ) FIRST AMENDED  
) ACCUSATION  
)  
Respondent. )  
)

This First Amended Accusation amends the Accusation filed on February 25, 2021. The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, acting in her official capacity, for cause of Accusation against LINDA LAUREEN TOTH ("TOTH") dba Home Sweet Home Property Management, is informed and alleges as follows:

1.

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

2.

All references to the "Code" are to the California Business and Professions Code, and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations unless otherwise specified.

1 3.

2 Respondent TOTH is presently licensed and/or has license rights issued by  
3 the Department of Real Estate as a real estate broker (DRE license no. 00848451). TOTH was  
4 originally licensed as a real estate broker on or about July 3, 2002, and has been so licensed  
5 through the present. Previously, TOTH was licensed as a real estate salesperson. From on or  
6 about July 3, 2002 through the present, Respondent TOTH has had the fictitious business name  
7 of "Home Sweet Home Property Management."

8 4.

9 At all times mentioned, in Ventura County, Respondent TOTH engaged in the  
10 business of a real estate broker conducting licensed activities within the meaning of  
11 Code section 10131(b) ("[l]eases or rents or offers to lease or rent, or places for rent, or solicits  
12 listings of places for rent, or solicits for prospective tenants, or negotiates the sale, purchase, or  
13 exchanges of leases on real property, or on a business opportunity, or collects rents from real  
14 property, or improvements thereon, or from business opportunities").

15  
16 (Trust Fund Audit)

17 5.

18 On or about December 27, 2019, the Department of Real Estate completed  
19 an audit examination of the books and records of Respondent TOTH to determine  
20 whether Respondent TOTH handled and accounted for trust funds and conducted her real estate  
21 activities in accordance with the Real Estate Law and Regulations. The audit examination  
22 covered a period of time beginning on September 1, 2017 and ended on September 30,  
23 2019. The audit examination revealed violations of the Code and the Regulations set forth in  
24 the following paragraphs, and more fully discussed in Audit Report LA190037 and the exhibits  
25 and work papers attached to said audit report.

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First Amended Accusation of Linda Lauren Toth

1 Bank Account/Trust Accounts

2 6.

3 At all times mentioned, in connection with the activities described in Paragraph  
4 4, above, TOTH accepted or received funds including funds in trust ("trust funds") from or on  
5 behalf of actual or prospective parties, such as owners of real property, involved in property  
6 management services, and thereafter made deposits and/or disbursements of such funds. From  
7 time to time herein mentioned, during the audit period, said trust funds were deposited and/or  
8 maintained by TOTH in the bank account as follows:

9 \*\*\*\*\*2814

10 Union Bank  
11 256 West Los Angeles Ave.  
12 Moorpark, CA 93021

(T/A 1)

12 \*\*\*\*2346

13 Union Bank  
14 256 West Los Angeles Ave.  
15 Moorpark, CA 93021

(T/A 2)

15 \*\*\*\*2361

16 Union Bank  
17 256 West Los Angeles Ave.  
18 Moorpark, CA 93021

(B/A 1)

18 7.

19 In the course of activities described in Paragraphs 4 and 6, above, and during  
20 the audit examination period in Paragraph 5, above, Respondent TOTH acted in violation of the  
21 Code and the Regulations as set forth below:

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1 (a) Permitted, allowed, or caused the disbursement of trust funds from bank  
2 accounts T/A 1 where the disbursement of funds reduced the total of aggregate funds in T/A 1,  
3 to a total amount which, on September 30, 2019, was at least \$11,773.56 less than the existing  
4 aggregate trust fund liability to every principal who was an owner of said funds, without first  
5 obtaining the prior written consent of the owners of said funds, in violation of Code section  
6 10145 and Regulations section 2832.1. This shortage in T/A 1 was cured on or about  
7 December 12, 2019.

8 (b) Failed to maintain an accurate control record of all trust funds received,  
9 deposited, and disbursed for T/A 1, in violation of Code section 10145 and Regulations section  
10 2831.

11 (c)(1) Failed to maintain accurate separate beneficiary records with the record  
12 of all trust funds received and disbursed for T/A 1, in violation of Code section 10145 and  
13 Regulations section 2831.1.

14 (c)(2) Failed to maintain a separate record related to deposits and  
15 disbursements made for broker's funds and expenses for T/A 1, in violation of Code section  
16 10145 and Regulations section 2831.1.

17 (d) Failed to perform and maintain an accurate monthly reconciliation  
18 comparing the balance of all separate beneficiary or transaction records (separate records) to  
19 the balance of the record of all trust funds received and disbursed (control record) for T/A 1, in  
20 violation of Code section 10145 and Regulations section 2831.2.

21 (e) Failed to designate BA 1 as a trust account in the name of TOTH despite  
22 using BA 1 to deposit and disburse trust funds, in violation of Code section 10145 and  
23 Regulations section 2832.

24 (f) Permitted TOTH's employee, Scott G. Harthorne, who is an unlicensed and  
25 unbonded person, to be an authorized signatory on T/A 1, in violation of Code section 10145  
26 and Regulations section 2834.

27 ///

1 8.

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

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
4 7(a)	Code section 10145 and Regulations section 2832.1
6 7(b)	Code section 10145 and Regulations section 2831
7 7(c)	Code section 10145 and Regulations section 2831.1
8 7(d)	Code section 10145 and Regulations section 2831.2
9 7(e)	Code section 10145 and Regulations section 2832
10 7(f)	Code section 10145 and Regulations section 2834

11 The foregoing violations constitute cause for discipline of the real estate license and license  
12 rights of Respondent TOTH under the provisions of Code sections 10177(d) and 10177(g).

13 COSTS

14 9.

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

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

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