

1 Julie L. To (SBN 219482)
2 Department of Real Estate
3 320 West 4th Street, Suite. 350
4 Los Angeles, California 90013-1105
5 (213) 576-6982 (office)
6 (213) 576-6916 (direct)
7 julie.to@dre.ca.gov
8 *Counsel for Complainant*

FILED

FEB 21 2024

DEPT. OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation against)

No. H-42808 LA

12 JAMES W NARDI)

ACCUSATION

13 Respondent.)
14)

15 The Complainant, Veronica Kilpatrick, acting in her official capacity as a
16 Supervising Special Investigator of the State of California, for cause of Accusation against
17 JAMES W NARDI (Respondent), is informed and alleges as follows:

18 1.

19 All references to the "Code" are to the California Business and Professions
20 Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of
21 Regulations.

22 ///

23 ///

24 ///

25 ///

26
27 H-42808 LA: DRE Accusation against James W Nardi

1 **DEPARTMENT OF REAL ESTATE LICENSE HISTORY**

2 2.

3 According to Department of Real Estate (DRE) records to date and publicly
4 accessible online (https://www2.dre.ca.gov/PublicASP/pplinfo.asp?License_id=01068605),
5 Respondent is presently licensed and/or has license rights under the Real Estate Law (Part 1 of
6 Division 4 of the Code) as a real estate broker (REB), DRE license ID 01068605. Respondent
7 also holds a mortgage loan originator (MLO) license endorsement, Nationwide Mortgage
8 Licensing System (NMLS) ID 249694.

9 3.

10 According to DRE records to date and publicly accessible online: Respondent
11 was originally licensed by the DRE on or about March 21, 1990 as a real estate salesperson
12 (RES) and on or about August 27, 2008 as a REB; his mailing address of record is 31003
13 Corte De Los Santos, Temecula, CA 92592; his main office address of record is 27393 Ynez
14 Road, Ste. 164, Temecula, CA 92591; and he currently has affiliated with his license two (2)
15 active licensed fictitious business names (FBN) ("Grapevine Properties" and "Grapevine
16 Property Management," since both active since February 26, 2019) and two (2) RES (Diane R.
17 Nardi, DRE license 01068976 and Kimberly Ann Nardi, DRE license ID 01873117).

18 4.

19 According to DRE records to date and publicly accessible online, Respondent is
20 currently a broker associate (BA) for Pavia Financial Services Inc, DRE license Id 01391210.

21 5.

22 According to DRE records to date and publicly accessible online, Respondent's
23 DRE license will expire on August 26, 2024. Upon license expiration and pursuant to Code
24 Section 10201, Respondent will retain renewal rights, and pursuant to Code Section 10103, the
25 DRE will retain jurisdiction.
26

6.

1
2 According to DRE records to date and publicly accessible online, Respondent's
3 DRE license was previously suspended for 90 days (stayed for two (2) years), subject to
4 certain terms and conditions, in DRE Accusation Case H-41639 LA pursuant to Code Sections
5 10176(i), 10177(d), 10177(g), 10166.051(a), 10166.051(b), and 10166.05(c) for violation of
6 Code Section 10145 and Regulations 2832.1, 2831, 2831.1., 2831.2, 2832, and 2725.
7 Included in the terms and conditions in the Stipulation and Agreement for DRE Case H-41639
8 LA was the ability of the DRE to perform a chargeable follow-up audit examination to
9 determine whether Respondent was in compliance with the violations cited in the underlying
10 Accusation.

7.

11
12 RESPONDENT'S REAL ESTATE ACTIVITIES

13
14 At all times mentioned, in the State of California, Respondent conducted
15 licensed activities within the meaning of Code Section 10131¹, which require a real estate
16 license, including, but not limited to activities performed by Respondent, RES affiliated
17 with his DRE license, employees and agents.

18 ///

19
20 ¹ Pursuant to Code Section 10131 Broker Defined, "A real estate broker within this meaning of this part is a
21 person who, for a compensation or in expectation of a compensation, regardless of the form or time of payment,
22 does or negotiates to do one or more of the following acts for another or others: (a) Sells or offers to sell, buys or
23 offers to buy, solicits prospective sellers or purchasers of, solicits or obtains listings of, or negotiates the
24 purchase, sale or exchange of real property or a business opportunity. (b) Leases or rents or offers to lease or rent,
25 or places for rent, or solicits listings of places for rent, or solicits for prospective tenants, or negotiates the sale,
26 purchase or exchanges of leases on real property, or on a business opportunity, or collects rents from real
27 property, or improvements thereon, or from business opportunities. (c) Assists or offers to assist in filing an
application for the purchase or lease of, or in locating or entering upon, lands owned by the state or federal
government. (d) Solicits borrowers or lenders for or negotiates loans or collects payments or performs services for
borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real
property or on a business opportunity. (e) Sells or offers to sell, buys or offers to buy, or exchanges or offers to
exchange a real property sales contract, or a promissory note secured directly or collaterally by a lien on real
property or on a business opportunity, and performs services for the holders thereof."

1 APPLICABLE SECTIONS OF THE REAL ESTATE LAW

2 Trust Fund Handling

3 (Code Section 10145 and Regulations: 2831; 2831.1; 2831.2; 2832; and 2832.1)

4 8.

5 Pursuant to Code Section 10145 *Handling of Trust Funds* (selected portions):

6 “(a)(1): A real estate broker who accepts funds belonging to others in
7 connection with a transaction subject to this part shall deposit all those funds that are not
8 immediately placed into a neutral escrow depository or into the hands of the broker’s principal,
9 into a trust fund account maintained by the broker in a bank or recognized depository in this
10 state. All funds deposited by the broker in a trust account shall be maintained there until
11 disbursed by the broker in accordance with instructions from the person entitled to the funds.

12 (2) Withdrawals may be made from a trust fund account of an individual
13 broker only upon the signature of that broker, or in the case of a corporate broker, only upon
14 the signature of an officer through whom the corporation is licensed pursuant to Section 10158
15 or 10211, or one, or more, of the following persons if specifically authorized in writing by the
16 individual broker or officer:

17 (A) A real estate salesperson licensed to the broker.

18 (B) Another broker acting pursuant to a written agreement with the
19 individual broker that conforms to the requirements of this part and any
20 regulations promulgated pursuant to this part.

21 (C) An unlicensed employee of the individual broker, if the broker has
22 fidelity bond coverage equal to at least the maximum amount of the
23 trust funds to which the unlicensed employee has access at any time.

24 For purposes of this section, bonds providing coverage may be written
25 with a deductible of up to 5 percent of the coverage amount. For bonds
26

1 with a deductible, the employing broker shall have evidence of financial
2 responsibility that is sufficient to protect members of the public against
3 a loss subject to the deductible amount.

4 Evidence of financial responsibility shall include one or more of the
5 following:

6 (i) Separate fidelity bond coverage adequate to cover the amount
7 of the fidelity bond deductible.

8 (ii) A cash deposit held in a separate account, apart from other
9 funds of the broker, the broker's employees, or the broker's
10 principals, in a bank or recognized depository in this state
11 adequate to cover the amount of the fidelity bond deductible and
12 held exclusively and solely for the purpose of paying the fidelity
13 bond deductible amount.

14 (iii) Any other evidence of financial responsibility approved by
15 the commissioner.

16 (3) An arrangement under which a person enumerated in subparagraph
17 (A),(B), or (C) of paragraph (2) is authorized to make withdrawals from a trust fund account of
18 a broker shall not relieve an individual broker, nor the broker-officer of a corporate broker
19 licensee, from responsibility or liability as provided by law in handling trust funds in the
20 broker's custody.

21
22 (4)(b) A real estate broker acting as a principal pursuant to Section 10131.1²
23 shall place all funds received from others for the purchase of real property sales contracts or
24

25 ²Code Section 10131.1 states, "(a) A real state broker within the meaning of this part is also a person who
26 engages as a principal in the business of making loans or buying from, selling to, or exchanging with the public,
27 real property sales contracts or promissory notes secured directly or collaterally by liens on real property..."

1 promissory notes secured directly or collaterally by liens on real property in a neutral escrow
2 depository unless delivery of the contract or notes is made simultaneously with the receipt of
3 the purchase funds.

4
5 (4)(g) The broker shall maintain a separate record of the receipt and disposition
6 of all funds described in subdivisions (a) and (b), including any interest earned on the
7 funds...”

8 9.

9 Pursuant to Regulation 2831 *Trust Fund Records To Be Maintained:*

10 “(a) Every broker shall keep a record of all trust funds received, including
11 uncashed checks held pursuant to instructions of his or her principal. This record, including
12 records maintained under an automated data processing system, shall set forth in chronological
13 sequence the following information in columnar form:

- 14 (1) Date trust funds received.
- 15 (2) From whom trust funds received.
- 16 (3) Amount received.
- 17 (4) With respect to funds deposited in an account, date of said deposit.
- 18 (5) With respect to trust funds previously deposited to an account, check
19 number and date of related disbursement.
- 20 (6) With respect to trust funds not deposited in an account, identity of other
21 depository and date funds were forwarded.
- 22 (7) Daily balance of said account.

23 (b) For each bank account which contains trust funds, a record of all trust funds
24 received and disbursed shall be maintained in accordance with subdivision (a) or (c).

1 (c) Maintenance of journals of account cash receipts and disbursements, or
2 similar records, or automated data processing systems, including computer systems and
3 electronic storage and manipulation of information and documents, in accordance with
4 generally accepted accounting principles, shall constitute compliance with subdivision (a)
5 provided that such journals, records, or systems contain the elements required by subdivision
6 (a) and that such elements are maintained in a format that will readily enable tracing and
7 reconciliation in accordance with Section 2831.2.

8 (d) Nothing in this section shall be construed to permit a violation of Section
9 10145 of the Code.

10 (e) A broker is not required to keep records pursuant to this section of checks
11 which are written by a principal, given to the broker and made payable to third parties for the
12 provision of services, including but not limited to escrow, credit and appraisal services, when
13 the total amount of such checks for any transaction from that principal does not exceed \$1,000.
14 Upon request of the Department or the maker of such checks, a broker shall account for the
15 receipt and distribution of such checks. A broker shall retain for three years copies of receipts
16 issued or obtained in connection with the receipt and distribution of such checks.”

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26

27

2 Pursuant to Regulation 2831.1 *Separate Record for Each Beneficiary or*
3 *Transaction:*

4 “(a) A broker shall keep a separate record for each beneficiary or transaction,
5 accounting for all funds which have been deposited to the broker’s trust bank account and
6 interest, if any, earned on the funds on deposit. The record shall include information sufficient
7 to identify the transaction and the parties to the transaction. Each record shall set forth in
8 chronological sequence the following information in columnar form:

9 (1) Date of deposit.

10 (2) Amount of deposit.

11 (3) Date of each related disbursement.

12 (4) Check number of each related disbursement.

13 (5) Amount of each related disbursement.

14 (6) If applicable, dates and amounts of interest earned and credited to
15 the account.

16 (7) Balance after posting transactions on any date.

17 (b) Maintenance of trust ledgers of separate beneficiaries or transactions, or
18 similar records, or automated data processing systems, including computer systems and
19 electronic storage and manipulation of information and documents, in accordance with
20 generally accepted accounting principles will constitute compliance with subdivision (a),
21 provided that such ledgers, records, or systems contain the elements required by subdivision
22 (a) and that such elements are maintained in a format that will readily enable tracing and
23 reconciliation in accordance with Section 2831.2.”

24 ///

25 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

11.

Pursuant to Regulation 2831.2 *Trust Account Reconciliation*:

“The balance of all separate beneficiary or transaction records maintained pursuant to the provisions of Section 2831.1 must be reconciled with the record of all trust funds received and disbursed required by Section 2831, at least once a month, except in those months when the bank account did not have any activities. A record of the reconciliation must be maintained, and it must identify the bank account name and number, the date of the reconciliation, the account number or name of the principals or beneficiaries or transactions, and the trust fund liabilities of the broker to each of the principals, beneficiaries or transactions.”

12.

Pursuant to Regulation 2832 *Trust Fund Handling*:

“(a) Compliance with Section 10145 of the Code requires that the broker place funds accepted on behalf of another into the hands of the owner of the funds, into a neutral escrow depository or into a trust fund account in the name of the broker, or in a fictitious name if the broker is the holder of a license bearing such fictitious name, as trustee at a bank or other financial institution not later than three business days following receipt of the funds by the broker or by the broker’s salesperson. (b) Except as expressly provided by subdivision (d) of Section 10145 of the Code or by a regulation in this article, the account into which the trust funds are deposited shall not be an interest-bearing account for which prior written notice can by law or regulation be required by the financial institution as a condition to the withdrawal of funds. (c) A check received from the offeror may be held uncashed by the broker until acceptance of the offer if (1) the check by its terms is not negotiable by the broker or if the offeror has given written instructions that the check shall not be deposited nor cashed until acceptance of the offer and (2) the offeree is informed that the check is being so held before or

1 at the time the offer is presented for acceptance. (d) In these circumstances if the offeror's
2 check was held by the broker in accordance with subdivision (c) until acceptance of the offer,
3 the check shall be placed into a neutral escrow depository or the trust fund account, or into the
4 hands of the offeree if offeror and offeree expressly so provide in writing, not later than three
5 business days following acceptance of the offer unless the broker receives written
6 authorization from the offeree to continue to hold the check. (e) Notwithstanding the
7 provisions of subdivisions (a) and (d), a real estate broker who is not licensed under the
8 Escrow Law (Section 17000, et seq., of the Financial Code) when acting in the capacity of an
9 escrow holder in a real estate purchase and sale, exchange or loan transaction in which the
10 broker is performing acts for which a real estate license is required shall place all funds
11 accepted on behalf of another into the hands of the owner of the funds, into a neutral escrow
12 depository or into a trust fund account in the name of the broker, or in a fictitious name if the
13 broker is the holder of a license bearing such fictitious name, as trustee at a bank or other
14 financial institution not later than the next business day following receipt of the funds by the
15 broker or by the broker's salesperson."

16 13.

17 Pursuant to Regulation 2832.1 *Trust Fund Handling for Multiple Beneficiaries:*

18 "The written consent of every principal who is an owner of the funds in the
19 account shall be obtained by a real estate broker prior to each disbursement if such a
20 disbursement will reduce the balance of funds in the account to an amount less than the
21 existing aggregate trust fund liability of the broker to all owners of the funds."

22 ///

23 ///

24 ///

25 ///

26

27

1 **Broker Supervision**

2 **(Code Section 10159.2 and Regulation 2725)**

3 14.

4 Pursuant to Code Section 10159.2 *Responsibility of Corporate Officer in*

5 *Charge:*

6 “(a) The officer designated by a corporate broker licensee pursuant to Section
7 10211 shall be responsible for the supervision and control of the activities conducted on behalf
8 of the corporation by its officers and employees as necessary to secure full compliance with
9 the provisions of this division, including the supervision of salespersons licensed to the
10 corporation in the performance of acts for which a real estate license is required.

11 (b) A corporate broker licensee that has procured additional licenses in
12 accordance with Section 10158 through officers other than the officer designated pursuant to
13 Section 10211 may, by appropriate resolution of its board of directors, assign supervisory
14 responsibility over salespersons licensed to the corporation to its broker-officers.

15 (c) A certified copy of any resolution of the board of directors assigning
16 supervisory responsibility over real estate salespersons licensed to the corporation shall be
17 filed with the Real Estate Commissioner within five days after the adoption or modification
18 thereof.”

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26

27

Pursuant to Regulation 2725 *Broker Supervision*:

“A broker shall exercise reasonable supervision over the activities of his or her salespersons. Reasonable supervision includes, as appropriate, the establishment of policies, rules, procedures and systems to review, oversee, inspect and manage:

- (a) Transactions requiring a real estate license.
- (b) Documents which may have a material effect upon the rights or obligations of a party to the transaction.
- (c) Filing, storage and maintenance of such documents.
- (d) The handling of trust funds.
- (e) Advertising of any service for which a license is required.
- (f) Familiarizing salespersons with the requirements of federal and state laws relating to the prohibition of discrimination.
- (g) Regular and consistent reports of licensed activities of salespersons.

The form and extent of such policies, rules, procedures and systems shall take into consideration the number of salespersons employed and the number and location of branch offices. A broker shall establish a system for monitoring compliance with such policies, rules, procedures and systems. A broker may use the services of brokers and salespersons to assist in administering the provisions of this section so long as the broker does not relinquish overall responsibility for supervision of the acts of salespersons licensed to the broker.”

///
///
///
///
///

Grounds for Revocation or Suspension

(selected portions)

Pursuant to Code Section 10176 *Grounds for Revocation or Suspension*:

“The commissioner may, upon his or her own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate licensee within this state, and he or she may temporarily suspend or permanently revoke a real estate licensee at any time where the licensee, while a real estate licensee, in performing or attempting to perform any of the acts within the scope of this chapter has been guilty of any of the following:

...

(e) Commingling with his or her own money or property the money or other property of others which is received and held by him or her.

...

(i) Any other conduct, whether of the same or of a different character than specified I this section, which constitutes fraud or dishonest dealing...”

///

///

///

///

///

///

///

///

Further Grounds for Disciplinary Action

(Code Section 10177)

Pursuant to Code Section 10177 *Further Grounds for Disciplinary Action*:

“The commissioner may suspend or revoke the license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, delay the renewal of a license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation’s stock has done any of the following:

(a) Procured, or attempted to procure, a real estate license or license renewal, for themselves or a salesperson, by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a real estate license, license renewal, or reinstatement.

(b) (1) Entered a plea of guilty or no contest to, or been found guilty of, or been convicted of, a felony, or a crime substantially related to the qualifications, functions, or duties of a real estate licensee, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing that licensee to withdraw that licensee’s plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

1 (2) Notwithstanding paragraph (1), and with the recognition that
2 sentencing may not occur for months or years following the entry of a
3 guilty plea, the commissioner may suspend the license of a real estate
4 licensee upon the entry by the licensee of a guilty plea to any of the
5 crimes described in paragraph (1). If the guilty plea is withdrawn, the
6 suspension shall be rescinded and the license reinstated to its status prior
7 to the suspension. The department shall notify a person whose license is
8 subject to suspension pursuant to this paragraph of that person's right to
9 have the issue of the suspension heard in accordance with Section
10 10100.

11 (c) Knowingly authorized, directed, connived at, or aided in the
12 publication, advertisement, distribution, or circulation of a material false
13 statement or representation concerning their designation or certification
14 of special education, credential, trade organization membership, or
15 business, or concerning a business opportunity or a land or subdivision,
16 as defined in Chapter 1 (commencing with Section 11000) of Part 2,
17 offered for sale.

18 (d) Willfully disregarded or violated the Real Estate Law (Part 1
19 (commencing with Section 10000)) or Chapter 1 (commencing with
20 Section 11000) of Part 2 or the rules and regulations of the
21 commissioner for the administration and enforcement of the Real Estate
22 Law and Chapter 1 (commencing with Section 11000) of Part 2.

23 (e) Willfully used the term "realtor" or a trade name or insignia of
24 membership in a real estate organization of which the licensee is not a
25 member.
26

1 (f) Acted or conducted themselves in a manner that would have warranted
2 the denial of their application for a real estate license, or either had a
3 license denied or had a license issued by another agency of this state,
4 another state, or the federal government revoked, surrendered, or
5 suspended for acts that, if done by a real estate licensee, would be
6 grounds for the suspension or revocation of a California real estate
7 license, if the action of denial, revocation, surrender, or suspension by
8 the other agency or entity was taken only after giving the licensee or
9 applicant fair notice of the charges, an opportunity for a hearing, and
10 other due process protections comparable to the Administrative
11 Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter
12 4 (commencing with Section 11370), and Chapter 5 (commencing with
13 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
14 Code), and only upon an express finding of a violation of law by the
15 agency or entity.

16 (g) Demonstrated negligence or incompetence in performing an act for
17 which the officer, director, or person is required to hold a license.

18 (h) As a broker licensee, failed to exercise reasonable supervision over
19 the activities of that licensee's salespersons, or, as the officer designated
20 by a corporate broker licensee, failed to exercise reasonable supervision
21 and control of the activities of the corporation for which a real estate
22 license is required.

23 (i) Used their employment by a governmental agency in a capacity
24 giving access to records, other than public records, in a manner that
25 violates the confidential nature of the records.
26
27

1 (j) Engaged in any other conduct, whether of the same or of a different
2 character than specified in this section, that constitutes fraud or
3 dishonest dealing.

4 (k) Violated any of the terms, conditions, restrictions, and limitations
5 contained in an order granting a restricted license.

6 (l) (1) Solicited or induced the sale, lease, or listing for sale or lease of
7 residential property on the grounds, wholly or in part, of loss of value,
8 increase in crime, or decline of the quality of the schools due to the
9 present or prospective entry into the neighborhood of a person or
10 persons having a characteristic listed in subdivision (a) or (d) of Section
11 12955 of the Government Code, as those characteristics are defined in
12 Sections 12926 and 12926.1 of, subdivision (m) and paragraph (1) of
13 subdivision (p) of Section 12955 of, and Section 12955.2 of, the
14 Government Code.

15 (2) Notwithstanding paragraph (1), with respect to familial status,
16 paragraph (1) shall not be construed to apply to housing for older
17 persons, as defined in Section 12955.9 of the Government Code. With
18 respect to familial status, nothing in paragraph (1) shall be construed to
19 affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil
20 Code, relating to housing for senior citizens. Subdivision (d) of Section
21 51 and Section 4760 of the Civil Code and subdivisions (n), (o), and (p)
22 of Section 12955 of the Government Code shall apply to paragraph (1).

23 (m) Violated the Franchise Investment Law (Division 5 (commencing
24 with Section 31000) of Title 4 of the Corporations Code) or regulations
25 of the Commissioner of Business Oversight pertaining thereto.
26

1 (n) Violated the Corporate Securities Law of 1968 (Division 1
2 (commencing with Section 25000) of Title 4 of the Corporations Code)
3 or the regulations of the Commissioner of Business Oversight pertaining
4 thereto.

5 (o) Failed to disclose to the buyer of real property, in a transaction in
6 which the licensee is an agent for the buyer, the nature and extent of a
7 licensee's direct or indirect ownership interest in that real property. The
8 direct or indirect ownership interest in the property by a person related
9 to the licensee by blood or marriage, by an entity in which the licensee
10 has an ownership interest, or by any other person with whom the
11 licensee has a special relationship shall be disclosed to the buyer.

12 (p) Violated Article 6 (commencing with Section 10237).

13 (q) Violated or failed to comply with Chapter 2 (commencing with
14 Section 2920) of Title 14 of Part 4 of Division 3 of the Civil Code,
15 relating to mortgages.

16 If a real estate broker that is a corporation has not done any of the foregoing acts, either
17 directly or through its employees, agents, officers, directors, or persons owning or controlling
18 10 percent or more of the corporation's stock, the commissioner may not deny the issuance or
19 delay the renewal of a real estate license to, or suspend or revoke the real estate license of, the
20 corporation, provided that any offending officer, director, or stockholder, who has done any of
21 the foregoing acts individually and not on behalf of the corporation, has been completely
22 disassociated from any affiliation or ownership in the corporation. A decision by the
23 commissioner to delay the renewal of a real estate license shall toll the expiration of that
24 license until the results of any pending disciplinary actions against that licensee are final, or
25 until the licensee voluntarily surrenders the licensee's license, whichever is earlier.”
26

1 **CAUSE FOR DISCIPLINE**

2 **AUDIT SD230015**

3 **(Violations: Follow-Up Audit Examination: January 1, 2022 to June 30, 2023)**

4 18.

5 On January 4, 2024, the DRE completed its audit examination of the books and
6 records of Respondent pertaining to his real estate activities (Audit SD230015), which require
7 a real estate license. The audit examination covered a period of time beginning on January 1,
8 2022 and ending on June 30, 2023 (audit period), and the DRE examination was performed
9 between August 30, 2023 and January 4, 2024 at Respondent's main office address of record
10 and at the DRE's Los Angeles District Office (LADO) located at 320 W. 4th Street, Suite 350,
11 Los Angeles, CA 90013-1105. Respondent, Scott H Parrott (Respondent's son-in-law), his
12 bookkeeper, and RES Kimberly Ann Nardi (Respondent's daughter and property manager)
13 provided books and records for the audit examination.

14 19.

15 The final audit report dated January 4, 2024 revealed violations of the Code and
16 the Regulations as set forth in the following paragraphs, and more fully discussed in Audit
17 Report SD230015 (DRE Form RE 4541 (Rev. 7/18)).

18 20.

19 **Business Activities**

20 At the time of Audit SD230015, according to DRE records dated September 7,
21 2023, Respondent managed about 150 properties for about 125 owners and collected about
22 \$4.4 million in trust funds annually relating to his property management activity, charging a
23 management fee of \$99.00 to \$125 flat fee per property per month depending on the property
24 management agreement with each property owner. According to Respondent, he had a
25
26

1 corporation named "Grapevine Mortgage Corp" that was incorporated on April 8, 2003, but
2 that on April 7, 2011, he changed the name to "Grapevine II Corp" (GIIC).

3 21.

4 GIIC is not licensed by the DRE. According to the prior DRE audit completed
5 in August 2019 (Audit SD180037), Respondent stated to the auditor that he had applied for
6 GIIC's corporation license and had mailed the Corporate License Application (DRE Form
7 RE201) to the DRE on July 15, 2019.

8 22.

9 According to Respondent, he closed one (1) real estate sales transaction valued
10 at \$595,000 and did not collect any Earnest Money Deposits (EMDs) during the audit period,
11 and he did not maintain a trust account or columnar record of trust funds received not placed in
12 broker's trust account in connection with the sales activities during the audit period. EMDs
13 were held and delivered directly to escrow by the buyers in connection with the sales activity.

14 23.

15 Corporate Structure

16 According to the DRE auditor's discussions with Respondent, the corporate
17 structure of GIIC is as follows:

| <u>Name</u> | <u>Corporate Title</u> | <u>License</u> | <u>Shareholder %</u> |
|-------------|------------------------|----------------|----------------------|
| JAMES NARDI | CEO/CFO | REB | 50% |
| Diane Nardi | Secretary | RES | 50% |

21 ///

22 ///

23 ///

24 ///

25 ///

26

27

Bank Accounts

According to Respondent, during the subject audit period and in connection with his property management activities, he maintained two (2) bank accounts for handling receipts and disbursements of trust funds and one (1) general business account:

A. Trust Account 1: T/A 1

- * Bank: First Citizens Bank
- * Bank Address: 44575 Avenida De Misiones, Temecula, CA 92592
- * Account Name: Grapevine II Corp
DBA Grapevine Property Management Trust Account
- * Account No. #####0847
- * Signature(s) Required: 1
- * Signatories: Respondent, Diane R. Nardi, Kimberly Nardi

T/A 1 for multiple beneficiaries was maintained for handling the receipts and disbursements of trust funds (security deposits) in connection with Respondent's property management activities. RES Diane R. Nardi is Respondent's wife. RES Kimberly Nardi is Respondent's daughter.

B. Bank Account 1: B/A 1

- * Bank: First Citizens Bank
- * Bank Address: 44575 Avenida De Misiones, Temecula, CA 92592
- * Account Name: Grapevine II Corp
DBA Grapevine Property Management
- * Account No. #####0855
- * Signature(s) Required: 1
- * Signatories: Respondent, Diane R. Nardi, Kimberly Nardi

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

///

///

///

///

///

1 **CAUSE FOR DISCIPLINE**

2 **AUDIT FINDINGS: VIOLATIONS OF THE REAL ESTATE LAW**

3 25.

4 In the course of the real estate activities described in paragraphs 20 through 22
5 during the subject audit period described in paragraph 18 above, the DRE auditor made
6 findings that Respondent violated the Code and the Regulations, as described below, and more
7 fully discussed in the DRE's Audit Report for Audit SD230015 dated January 4, 2024.

8 26.

9 **Audit SD230015 - Issue One:**

10 **Trust Fund Handling for Multiple Beneficiaries**

11 **(Code Section 10145 and Regulation 2832.1)**

12 A. T/A 1: A bank reconciliation for T/A 1 was prepared as of June 30, 2023
13 (audit cut-off date). The accountability was determined based on the tenants' rental/lease
14 agreements provided by Kimberly Nardi, and the minimum adjusted bank balance was
15 compared to the minimum accountability. There was a minimum shortage in T/A 1 of
16 <\$198,900.39> as of June 30, 2023, due to minimum unauthorized
17 disbursements/commingling/conversion of trust funds totaling <\$19,310.00> and the
18 remaining cause(s) of the minimum shortage totaling <\$179,590.39> could not be identified.

19 B. T/A 1: There was a minimum shortage in T/A 1 of <\$193,230.39> as of July
20 31, 2022, the cause(s) of the minimum shortage totaling <\$193,230.39> could not be
21 identified.

22 C. B/A 1: There was a minimum shortage in B/A 1 of <\$25,976.00> as of June
23 30, the cause(s) of the 2023. The minimum shortage was due to minimum negative property
24 balances totaling <\$21,252.36> and the remaining cause(s) of the minimum shortage totaling
25 <\$4,723.64> could not be identified.

1 D. Respondent provided no evidence that all the owners of the trust funds had
2 provided their written consent to allow him to reduce the balance of the funds in T/A 1 and
3 B/A 1 to an amount less than the existing aggregate trust fund liabilities, in violation of **Code**
4 **Section 10145 and Regulation 2832.1.**

5 27.

6 **Audit SD230015 - Issue Two:**

7 **Unauthorized Disbursements/Commingling/Conversion of Trust Funds/**
8 **Dishonest Dealing/ Mishandling of Trust Funds**
9 **(Code Sections 10145, 10176(e), 10176(i) and Regulation 2832)**

10 There were minimum unauthorized disbursements//commingling/conversion of
11 trust funds totaling \$19,310.00 from T/A 1 as of June 30, 2023. Said minimum unauthorized
12 disbursements caused part of the minimum shortage in T/A 1 as of June 30, 2023. Respondent
13 deposited/commingled trust funds into the company's general business account (G/A 1), which
14 was used for the company's general business activities and was also used to pay for
15 Respondent's personal and financial obligations. The balance of G/A 1 was reduced
16 throughout the audit period to an amount that was less than the amount of trust funds
17 transferred/deposited from T/A 1 into G/A 1. The ending bank balance of G/A 1 as of June
18 30, 2023 was \$3,784.86, in violation of **Code Sections 10145, 10176(e), 10176(i) and**
19 **Regulation 2832.**

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26

27

1 28.

2 **Audit SD230015 - Issue Three:**

3 **Commingling/Trust Funds Deposited into Broker's General Business Bank**

4 **Account/Mishandling of Trust Funds**

5 **(Code Sections 10145 and 10176(e) and Regulation 2832)**

6 Respondent commingled trust funds with the company's general funds by
7 transferring/depositing trust funds totaling \$19,310.00 from T/A 1, which was used for
8 handling the receipts and disbursements of security deposit trust funds in connection with his
9 property management activities to his general business account (G/A 1), which was used for
10 his general business activities, in violation of **Code Sections 10145 and 10176(e) and**
11 **Regulation 2832.**

12 29.

13 **Audit SD230015 - Issue Four:**

14 **Trust Fund Records To Be Maintained**

15 **(Code Section 10145 and Regulation 2831)**

16 A. T/A 1: Respondent did not maintain a control record for T/A 1, which was
17 used for handling the receipts and disbursements of the security deposit trust funds in
18 connection with his property management activities during the audit period, in violation of
19 **Code Section 10145 and Regulation 2831.**

20 B. B/A 1: The control record maintained for B/A 1, which was used for
21 handling the receipts and disbursements of the rent trust funds in connection with the property
22 management activities was inaccurate and incomplete, in violation of **Code Section 10145**
23 **and Regulation 2831.** The control record of B/A 1 was not maintained in a format that
24 readily enabled tracing and reconciliation in accordance with Regulation 2831.2. The control
25 record of B/A 1 did not have an accurate daily balance. Respondent transferred lump sum
26

1 amounts/payments from B/A 1 to his general business account (G/A 1) to disburse against the
2 management fees, late fees, and leasing fees earned. Respondent did not cut a check or
3 disburse a specific amount each month for the management fees, leasing fees, and late fees
4 earned. In addition, Nardi used B/A 1 to pay for some of his personal and financial obligations
5 against he management fees earned/collected. Some receipts were also not recorded on the
6 control record of B/A 1.

7 30.

8 **Audit SD230015 - Issue Five**

9 **Separate Record for Each Beneficiary or Transaction**

10 **(Code Section 10145 and Regulation 2831.1)**

11 A. T/A 1: Respondent did not maintain separate records for T/A 1, which was
12 used for handling the receipts and disbursements of the security deposit trust funds in
13 connection with the property management activities during the audit period, in violation of
14 **Code Section 10145 and Regulation 2831.1.**

15 B. B/A 1: Respondent did not maintain accurate and complete separate records
16 for B/A 1, which was used for handling the receipts and disbursements of the rent trust funds
17 in connection with the property management activities during the audit period, in violation of
18 **Code Section 10145 and Regulation 2831.1.** Said separate records were not maintained in a
19 format that readily enabled tracing of transactions and performance of a reconciliation in
20 accordance with Regulation 2831.2. The B/A 1 separate records did not have accurate
21 running/daily balances. Respondent transferred lump sum amounts/payments from B/A 1 to
22 his general business account (G/A 1) to disburse against the management fees, late fees, and
23 leasing fees earned. Respondent did not cut a check or disburse a specific amount each month
24 for the management fees, leasing fees, and late fees earned. In addition, Nardi used B/A 1 to
25 pay for some of his personal and financial obligations against the management fees
26

1 earned/collected. Some receipts were also not recorded on the separate record of the property
2 located at 31017 Camino Verde. Furthermore, the separate record maintained for the broker's
3 fees was inaccurate and incomplete. The broker's fees ledger did not have date of deposit/date
4 management fees collected, date of disbursements, and balance after posting transactions on
5 any date.

6 31.

7 **Audit SD230015 - Issue Six:**

8 **Trust Account Reconciliation**

9 **(Code Section 10145 and Regulation 2831.2)**

10 A. T/A 1: Respondent did not maintain the monthly reconciliation of all the
11 separate records to the control record of all trust funds received and disbursed for T/A 1 in
12 connection with the property management activities during the audit period, in violation of
13 **Code Section 10145 and Regulation 2831.2.**

14 B. B/A 1: Respondent did perform the monthly reconciliation comparing the
15 balance of all the separate records to the balance of the control record for B/A 1 as required in
16 connection with the property management activities during the audit period, in violation of
17 **Code Section 10145 and Regulation 2831.2.**

18 32.

19 **Audit SD230015 - Issue Seven:**

20 **Trust Fund Handling/Trust Account Designation**

21 **(Code Section 10145(a) and Regulation 2832)**

22 A. T/A 1: According to the bank signature card maintained at First Citizens
23 Bank for T/A 1, which was used for handling the receipts and disbursements of security
24 deposit trust funds in connection with the property management activities during the audit
25 period, the bank account T/A 1 was not set up in the name of James W. Nardi as trustee. T/A
26

1 I was instead set up under the name of “Grapevine II Corp DBA Grapevine Property
2 Management – Trust Account,” in violation of **Code Section 10145(a) and Regulation 2832.**

3 B. B/A 1: According to the bank signature card maintained at First Citizens
4 Bank for B/A 1, which was used for handling the receipts and disbursements of rent trust funds
5 in connection with the property management activities during the audit period, the bank
6 account B/A 1 was not set up in the name of James W. Nardi as trustee. B/A 1 was instead set
7 up under the name of “Grapevine II Corp DBA Grapevine Property Management – Trust
8 Account,” in violation of **Code Section 10145(a) and Regulation 2832.**

9 33.

10 **Audit SD230015 - Issue Eight:**

11 **Broker Supervision**

12 **(Regulation 2725)**

13 On September 6, 2023, the DRE auditor conducted an entrance interview with
14 Respondent over the phone. Kimberly Nardi also attended said entrance interview and
15 answered all the questions on behalf of Respondent, who stated that he assigned supervisory
16 responsibilities to Kimberley Nardi, and that she was the one who oversaw the day-to-day
17 operation of the property management activities that Parrot worked on bookkeeping
18 exclusively. The policies and procedures manual was requested in the DRE’s subpoena to
19 Respondent, but it was not provided for the audit examination. Based on the above findings,
20 Respondent did not exercise adequate supervision and control over property management
21 activities conducted by his licensees and employees to ensure compliance with the Real Estate
22 Laws and Regulations. Respondent failed to establish policies, rules, procedures, and systems
23 to review, oversee, inspect, and manage transactions requiring a real estate license and the
24 handling of trust funds, in violation of **Regulation 2725.**

1 34.

2 **Audit SD230015 - Issue Nine:**

3 **Compliance with Stipulation and Agreement in DRE Case H-41639 LA**

4 A. Based on an examination of the records provided for Audit SD230015,
5 Respondent was in compliance with Sections 10159.5 of the Code and Regulation 2731, as
6 cited in the Accusation and Stipulation and Agreement in Case H-41639 LA, the Stipulation of
7 which became effective November 6, 2020. The violations were disclosed to Respondent in
8 the prior audit completed in August 2019 (DRE Audit SD180037).

9 B. Respondent was not in compliance with Code Sections 10145, 10176(e), and
10 10176(i) and Regulations 2831, 2831.1, 2831.2, 2832, 2832.1, and 2725.

11 35.

12 **Additional Violations of the Real Estate Law**

13 **(Code Sections 10177(d) and (h))**

14 The overall conduct of Respondent is in violation of the Real Estate Law and
15 constitutes cause for the suspension or revocation of his real estate licenses and license rights
16 under the provisions of **Code Section 10177(d)** (for willful disregard of the Real Estate Law)
17 and **Code Section 10177(h)** (failure to exercise reasonable supervision).

18 **COSTS**

19 36.

20 **Investigation & Enforcement Costs**

21 **(Code Section 10106)**

22 Code Section 10106 provides, in pertinent part, that in any order issued in
23 resolution of a disciplinary proceeding before the Department of Real Estate, the
24 Commissioner may request the administrative law judge to direct a licensee found to have
25
26

1 committed a violation of this part to pay a sum not to exceed the reasonable costs of the
2 investigation and enforcement of the case.

3 37.

4 **Audit Costs**


5 **(Code Section 10148)**

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

10 WHEREFORE, Complainant prays that a hearing be conducted on the
11 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
12 disciplinary action against the license and license rights of Respondent **JAMES W NARDI**
13 under the Real Estate Law (Part 1 of vision 4 of the Business and Professions Code), for the
14 cost of investigation and enforcement as permitted by law, and for such other and further relief
15 as may be proper under other provisions of law, and for costs of audit.

16 Dated at San Diego, California

17 this 20 day of February, 2024.

18
19 
20 _____
21 Veronica Kilpatrick
22 Supervising Special Investigator

23 cc: James W Nardi
24 Enforcement – V. Kilpatrick
25 Audits – Los Angeles
26 Sacto.