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**FILED**

JUL 29 2019

DEPARTMENT OF REAL ESTATE  
By *R. Knapp*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of	)	
	)	NO. H-3238 FR
12 K4 MANAGEMENT, A CALIFORNIA	)	
13 CORPORATION, and	)	
14 JOHN EDWARD KASHIAN,	)	
	)	<u>ACCUSATION</u>
15 Respondents.	)	
	)	

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17 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the  
18 State of California, for Accusation against Respondents K4 MANAGEMENT, A CALIFORNIA  
19 CORPORATION (K4), and JOHN EDWARD KASHIAN (KASHIAN), collectively,  
20 Respondents, is informed and alleges as follows:

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22 The Complainant makes this Accusation against Respondents in her official  
23 capacity.

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25 At all times mentioned herein, K4 was licensed under the Real Estate Law, Part 1  
26 of Division 4 of the California Business and Professions Code (the Code) by the Department of  
27 Real Estate (the Department) as a corporate real estate broker.

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At all times mentioned herein, KASHIAN was licensed as a real estate broker and was the designated officer of K4.

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At all times mentioned, RESPONDENTS engaged in the business of, acted in the capacity of, advertised or assumed to act as, a real estate broker in the State of California, within the meaning of Section 10131(b) of the Code, including the operation and conduct of a property management business wherein Respondent leased, rented, or offered to lease or rent, solicited listings for lease or rent, collected rents from tenants or lessees, or performed other services for real property owners and tenants or lessees, all for or in expectation of compensation.

FIRST CAUSE OF ACTION

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Beginning on July 7, 2018, and continuing intermittently through July 30, 2018, an audit was conducted at Respondents' office at 265 E. River Park Circle, Suite 480, Fresno, California and at the Fresno District Office located at 2550 Mariposa Mall, Suite 3070, Fresno, California, where the auditor examined records for the period of April 1, 2016, through June 30, 2018 (the audit period).

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While acting as a real estate broker as described in Paragraph 4, above, and within the audit period, Respondents accepted or received funds in trust (trust funds) from or on behalf of property owners, lessees and others in connection with property management activities, deposited or caused to be deposited those funds into bank accounts maintained by Respondents, at Premier Valley Bank, 255 E. River Park Circle, #180, Fresno, CA 93720 (Trust Account #1 and Bank Account #2 and at California Bank & Trust, 7060 N. Fresno, Fresno, CA 93720 (Bank Account #1), as described below:

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TRUST ACCOUNT #1	
Account No.:	XXXXXX6210
Entitled:	K4 Management Martinez Family Trust
BANK ACCOUNT #1	
Account No.:	XXXXXX4801
Entitled:	Willow Professional Center Association

BANK ACCOUNT #2	
Account No.:	XXXXXX4749
Entitled:	198-43 LLC

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and thereafter from time to time made disbursement of said trust funds.

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In the course of the activities described in Paragraph 4, in connection with the collection and disbursement of trust funds, RESPONDENTS:

- (a) Failed to designate Bank Account #1 and Bank Account #2 as a trust accounts in the name of the broker, as required by Section 2832 of Chapter 6, Title 10, California Code of Regulations (Regulations);
- (b) Allowed two unlicensed and un-bonded individuals to be signatories on Trust Accounts in violation of Section 2834 of the Regulations and Section 10145 of the Code.

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The acts and/or omissions of RESPONDENTS as alleged above violate Section 2832 (trust fund designation) and 2834 of the Regulations and of Section 10145 (trust fund handing) of the Code and are grounds for discipline under Sections 10177(d) (willful disregard/violation of Real Estate Law) and 10177(g) (negligence/incompetence real estate licensee) of the Code.

1 SECOND CAUSE OF ACTION

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3 Complainant refers to Paragraphs 1 through 8, above, and incorporates them  
4 herein by reference.

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6 At no time mentioned herein, was Jennifer Schuh licensed as a real estate  
7 salesperson or real estate broker.

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9 From and since at least April 18, 2017, Schuh has engaged in property  
10 management activities.

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12 On or about April 18, 2017, Schuh signed a Property Management Contract  
13 between K4 and the Martinez Family Trust to manage that property known as 1843 E. Fir,  
14 Fresno, California. Exhibit D of the Agreement lists Property Management Services, which  
15 includes activities that will be conducted, but is not limited to:

- 16 • Contract and supervise all vendor maintenance and repair on the property
- 17 • Negotiate and enter into vendor service agreement on behalf of Owner
- 18 • Maintain complete and accurate books and records for the property
- 19 • Maintain a bank trust account for deposit of all receipts at a bank to be  
20 selected by Owner
- 21 • Collect Rents and all Additional Rent pursuant to Leases and controlling  
22 documents
- 23 • Prepare and deliver monthly and year to date reports as follows:
- 24 • Cash Receipts Reports
- 25 • Check Register Report
- 26 • Bank Statement and Reconciliation
- 27 • Leasing

- Administer leases to ensure compliance with all Lease provisions by Tenant or parcel owner
- Lease renewals of existing tenants
- Creation of Leases and Amendments

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On about July 1, 2017, Schuh signed a Property Management Contract between K4 and 198/43, LLC to manage that property known as Hanford Market Place, at Highways 198 and 43, Hanford, California. Exhibit B of the Agreement lists Property Management Services, which is identical to Exhibit D to the Property Management Contract mentioned in Paragraph 11, above.

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The acts or omissions alleged in Paragraphs 8 through 13, above, constitute a violation of Sections 10130 (licensed activity) and 10137 (hiring unlicensed persons) of the Code and are cause for the suspension or revocation of the licenses and license rights of Respondents under Sections 10130, 10137, 10177(d), and 10177(g) of the Code

THIRD CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 14, above, and incorporates the same herein.

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At all times herein above mentioned, KASHIAN was responsible, as the supervising designated broker/officer for K4, for the supervision and control of the activities conducted on behalf of K4's business by its employees to ensure its compliance with the Real Estate Law and Regulations. KASHIAN failed to exercise reasonable supervision and control over the property management activities of K4. In particular, KASHIAN permitted, ratified and/or caused the conduct described above to occur, and failed to take reasonable steps, including but not limited to, the handling of trust funds, supervision of employees, and the

1 implementation of policies, rules, and systems to ensure the compliance of the business with the  
2 Real Estate Law and the Regulations.


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4 The above acts and/or omissions of KASHIAN violate Section 2725 (broker  
5 supervision) of the Regulations and Section 10159.2 (responsibility/designated officer) of the  
6 Code and constitute grounds for disciplinary action under the provisions of Sections 10177(d),  
7 10177(g), and 10177(h) (broker supervision) of the Code.

8 18

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

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

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21 BREND A SMITH  
22 Supervising Special Investigator

23 Dated at Fresno, California,  
24 this 24 day of May, 2019.

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DISCOVERY DEMAND

The Department of Real Estate hereby requests discovery pursuant to Section 11507.6 of the California Government Code. Failure to provide discovery to the Department may result in the exclusion of witnesses and/or documents at the hearing, and other sanctions as the Administrative Law Judge deems appropriate.

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