

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 137007
5 Sacramento, CA 95813-7007

6 Telephone: (916) 576-8700
7 (916) 576-7847 (Direct)

8 Fax: (916) 263-3767

FILED

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DEPARTMENT OF REAL ESTATE
By B. Nicholas

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of

13 WA FUNDING, INC.;

14 and

15 LINDA JEAN HARDIE, individually and as
16 designated officer of Wa Funding, Inc.,

17 Respondents.

No. H-3501 FR

ACCUSATION

18 The Complainant, RUBEN CORONADO, a Supervising Special Investigator of
19 the State of California, for cause of Accusation against WA FUNDING INC. and LINDA JEAN
20 HARDIE (collectively referred to as "Respondents"), is informed and alleges as follows:

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22 The Complainant, RUBEN CORONADO, a Supervising Special Investigator of
23 the State of California, makes this Accusation in his official capacity.

PRELIMINARY ALLEGATIONS

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25 Respondents are presently licensed and/or have license rights under the Real
26 Estate Law, Part 1 of Division 4 of the Business and Professions Code ("Code").

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2 At all times mentioned, Respondent WA FUNDING, INC. (WFI) was and is
3 licensed by the Department as a real estate broker corporation, License ID 01074711. On or
4 about May 11, 1990, WFI was licensed by the Department as a real estate broker corporation.
5 Unless renewed, WFI's corporate broker license will expire September 6, 2026.

6 At all times mentioned, LINDA JEAN HARDIE (HARDIE) was licensed by the
7 Department as the designated broker officer of WFI. As said designated officer-broker,
8 HARDIE was responsible pursuant to Section 10159.2 of the Code for the supervision of the
9 activities of the officers, agents, real estate licensees, and employees of WFI for which a license
10 is required.

11 At all times mentioned, WFI was and is licensed to do business under the
12 following fictitious business names "Premiere Home Loans," "Realty Unlimited Group,"
13 "Regency Property Management," and "West American Funding."

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15 At all times mentioned, Respondent HARDIE was licensed by the Department
16 individually as a real estate broker, License ID 01883168. HARDIE was licensed as a real estate
17 broker on June 16, 2010. Unless renewed, HARDIE's broker license will expire September 17,
18 2026.

19 At all times mentioned, HARDIE was and is licensed by the Department as the
20 designated broker officer of WFI.

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22 Whenever reference is made in an allegation in this Accusation to an act or
23 omission of WFI, such allegation shall be deemed to mean that the officers, directors, employees,
24 agents and real estate licensees employed by or associated with WFI committed such acts or
25 omissions while engaged in furtherance of the business or operation of WFI and while acting
26 within the course and scope of their corporate authority and employment.

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AUDIT FR21-0077

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On or about November 30, 2022, the Department completed its audit (FR21-0077) of the books and records of WFI's property management activities described in Paragraph 7. The auditor herein examined the records for the period of January 1, 2021, through June 30, 2022.

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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 within the State of California within the meaning of Sections 10131(b) of the Code, including the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents leased or rented and offered to lease or rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

As of the audit examination, Respondents managed six hundred and eighty-seven (687) one-to-four family residences with one thousand two hundred and seventy-seven (2,277) units, and nineteen (19) commercial complexes with one hundred and five (105) units, for four hundred and thirty-eight (438) owners. Respondents collected approximately \$23,332,338 in trust funds annually.

Respondents' property management services include, but not limited to, collecting rents and security deposits for real property and responsibility for repairs and maintenance. For such property management services, Respondents charged a management fee of 2 to 10 percent of collected rents and a flat amount ranging between \$35 and \$100. Respondent also charged a tenant placement fee ranging between \$150 to \$500, and a late fee of \$100.

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While acting as a real estate broker as described in Paragraph 7, Respondents accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in

1 connection with the leasing, renting, and collection of rents on real property or improvements
2 thereon, as alleged herein, and thereafter from time-to-time made disbursements of said trust
3 funds.

4 The trust funds accepted or received by Respondents were deposited or caused to
5 be deposited by Respondents into accounts which were maintained by Respondents for the
6 handling of trust funds, and thereafter from time-to-time Respondents made disbursements of
7 said trust funds. During the audit period, Respondents maintained eighty-four (84) bank
8 accounts to deposit and hold trust funds. Of the total number of accounts, five (5) accounts were
9 randomly selected and sampled, identified as follows:

TRUST ACCOUNT # 1	
11 Bank Name and Location:	Fresno First Bank 7690 N. Palm Fresno, CA 93711
12 Account No.:	XXXXXX4437
13 Account Name:	Wa Funding, Inc. (DBA) Regency Property Management ITF Common Client Trust
14 Signatories:	HARDIE Gina Dobson (Salesperson) Brad Jacob Hardie (Son)
15 Purpose:	Trust Account #1 was a business checking account. Trust 16 account #1 was used for deposits and disbursements related to 17 the management of rental properties for multiple beneficiaries. 18 Deposits consisted of rents and security deposits and 19 disbursements consisted of payments for expenses related to 20 the properties managed, remittances to owners, security 21 deposit refunds, and payment of management fees.

BANK ACCOUNT # 1	
22 Bank Name and Location:	PNC Bank 1015 W. Shaw Avenue Fresno, CA 93711
23 Account No.:	XXXXXX5698
24 Account Name:	Wa Funding, Inc. Regency Property Management ITF Common Client

1	Signatories:	HARDIE Brad Jacob Hardie (Son)
2	Purpose:	Bank Account #1 was a business checking account. Bank
3		Account #1 was used for deposits and disbursements related to
4		the management of rental properties for multiple beneficiaries.
5		Deposits consisted of rents and security deposits and
6		disbursements consisted of payments for expenses related to
7		the properties managed, remittances to owners, security
		deposit refunds, and payment of management fees.
		Bank Account #1 was closed as of September 1, 2022.

8	BANK ACCOUNT #2	
9	Bank Name and Location:	PNC Bank
10		1015 W. Shaw Avenue
11		Fresno, CA 93711
12	Account No.:	XXXXXX6513
13	Account Name:	Wa Funding, Inc.
14		Regency Property Management ITF Xi Shen
15	Signatories:	HARDIE
16		Brad Jacob Hardie (Son)
17	Purpose:	Bank Account #2 was a business checking account. Bank
18		Account #2 was used for deposits and disbursements related to
19		the management of rental properties for property owner Xi
20		Shen. Deposits consisted of rents and security deposits and
21		disbursements consisted of payments for expenses related to
22		the properties managed, remittances to owners, security
23		deposit refunds, and payment of management fees.
24		Bank Account #2 was closed as of August 31, 2022.

25	BANK ACCOUNT #3	
26	Bank Name and Location:	Fresno First Bank
27		7690 N. Palm
		Fresno, CA 93711
	Account No.:	XXXXX8099
	Account Name:	Wa Funding, Inc.
		DBA Regency Property Management IFT Xi-Shen
	Signatories:	HARDIE
		Gina Dobson (Salesperson)
		Brad Jacob Hardie (Son)
	Purpose:	Bank Account #3 was a business checking account. Bank
		Account #3 was used for deposits and disbursements related to

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	the management of rental properties for property owner Xi Shen. Deposits consisted of rents and security deposits and disbursements consisted of payments for expenses related to the properties managed, remittances to owners, security deposit refunds, and payment of management fees.
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BANK ACCOUNT #4	
Bank Name and Location:	PNC Bank 1015 W. Shaw Avenue Fresno, CA 93711
Account No.:	XXXXXX5911
Account Name:	Wa Funding, Inc. Regency Property Management ITF Matthew Stable
Signatories:	HARDIE Brad Jacob Hardie (Son)
Purpose:	Bank Account #4 was a business checking account. Bank Account #4 was used for deposits and disbursements related to the management of rental properties for property owner Matthew Stable. Deposits consisted of rents and security deposits and disbursements consisted of payments for expenses related to the properties managed, remittances to owners, security deposit refunds, and payment of management fees. Bank Account #4 was closed as of August 31, 2022.

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In the course of the property management activities described in Paragraph 7, and during the audit examination period described in Paragraph 6, Respondents violated the Code and Regulations described below:

Trust Account Accountability and Balances

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(Trust Account #1)

Based on the records provided during the audit, a bank reconciliation for Trust Account #1 was prepared for as of June 30, 2022. The adjusted bank balance of Trust Account #1 as of June 30, 2022, was compared to the beneficiaries' accountability for Trust Account #1 as of June 30, 2022.

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Adjusted Bank Balance	\$1,514,064.76
Accountability	<u>\$1,514,889.74</u>
Trust Fund Shortage	<u>(\$824.98)</u>

A shortage of \$824.98 was found in Trust Account #1 as of June 30, 2022. The trust fund shortage was caused by identified negative property balances in three (3) property accounts.

Respondents provided no evidence that the owners of the trust funds had given their written consent to allow Respondents to reduce the balance of the funds in Trust Account #1 to an amount less than the existing aggregate trust fund liabilities, in violation of Section 10145 of the Code and Section 2832.1 of Title 10, Chapter 6, California Code of Regulations (Regulations).

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(Bank Account #1)

Based on the records provided during the audit, a bank reconciliation for Bank Account #1 was prepared for as of March 31, 2022, and June 30, 2022. The adjusted bank balance of Bank Account #1 was compared to the beneficiaries' accountability for Bank Account #1.

March 31, 2022

Adjusted Bank Balance	\$1,404,931.27
Accountability	<u>\$1,409,812.43</u>
Trust Fund Shortage	<u>(\$4,881.16)</u>

A shortage of \$4,881.16 was found in Bank Account #1 as of March 31, 2022. Of the total shortage, \$3,046.12 was caused by negative balances in three (3) property accounts, \$421.52 was caused by a bank transfer to Trust Account #1, and the remaining shortage of \$1,413.52 was unidentified.

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1 **June 30, 2022**

2 Adjusted Bank Balance \$31,403.89
3 Accountability \$34,194.19
4 Trust Fund Shortage (\$2,790.30)

5 A shortage of \$2790.30 was found in Bank Account #1 as of June 30, 2022. Of
6 the total shortage, \$297.09 was caused by a negative balance in one property account and the
7 remaining shortage of \$2,493.21 was unidentified.

8 Respondents provided no evidence that the owners of the trust funds had given
9 their written consent to allow Respondents to reduce the balance of the funds in Trust Account
10 #1 to an amount less than the existing aggregate trust fund liabilities, in violation of Section
11 10145 of the Code and Section 2832.1 of the Regulations.

12 Trust Account Designation

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14 During the audit period, Bank Account #1, Bank Account #2, Bank Account #3,
15 and Bank Account #4, accounts used to hold trust funds, were not designated as trust accounts in
16 the name of the broker or the broker's fictitious business name as trustee, in violation of Section
17 10145 of the Code and Section 2832 of the Regulations.

18 Deposit Trust Funds in a Timely Manner

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20 During the audit period, Respondents collected trust funds in the form of rent
21 receipts and owner deposits and failed to place said funds in Bank Account #1 within three (3)
22 business days in violation of Section 10145 of the Code and Section 2832 of the Regulations.

23 Examination of the control record, bank deposit slips, and the bank statements
24 showed:

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Owner	Property	Amount Received	Date Received	Date Deposited
Multiple Owners	Multiple Properties, one deposit	\$15,930.00	2/24/2022	4/19/2022

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1	J. & J. Denham	5708 E. Buckingham	\$51.62	2/24/2022	4/19/2022
	D. McLaurin	32 N. Clark	\$25.30	3/23/2022	4/19/2022
2	J. Mandella	611 N. Van Ness	\$168.63	3/23/2022	4/19/2022

3 Trust Account Signatory

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5 Respondents caused, permitted, and/or allowed, the possible withdrawal of trust
6 funds from Account #1, by Jacob Hardie, who was not licensed by the Department. Respondents
7 provided evidence of a fidelity bond; however, Respondents failed to maintain the adequate
8 deductible amount in a separate bank account in violation of Section 10145 of the Code and
9 Section 2834 of the Regulations.

10 Commingling

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12 Respondent commingled with its own money or property, the money or property
13 of others which was received or held by Respondent in trust in violation of Section 10176(e) of
14 the Code.

15 As of June 30, 2022, there was \$386.15 of Broker's Funds in excess of \$200 in
16 Trust Account #1.

17 FAILURE TO SUPERVISE

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19 Respondent HARDIE failed to exercise reasonable supervision over the acts of
20 WFI in such a manner as to allow the acts and events described above to occur.

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22 The acts and/or omissions of HARDIE as described in Paragraph 16, constitutes
23 failure on the part of HARDIE, as designated broker-officer for WFI, to exercise reasonable
24 supervision and control over the licensed activities of WFI as required by Section 10159.2 of the
25 Code and Section 2725 of the Regulations.

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GROUNDS FOR DISCIPLINE

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The acts and/or omissions of Respondents as alleged in the above constitute grounds for the suspension or revocation of all licenses and license rights of Respondents, pursuant to the following provisions of the Code and Regulations:

As to Paragraphs 10 and 11, under Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

As to Paragraphs 12 and 13, under Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

As to Paragraph 14, under Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2834 of the Regulations; and

As to Paragraph 15, under Section 10176(e) of the Code.

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The acts and/or omissions of HARDIE as alleged in Paragraphs 16 and 17 constitute grounds for the suspension or revocation of all licenses and license rights of HARDIE under Sections 10177(g) and/or 10177(h) of the Code, and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

COST RECOVERY

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The acts and/or omissions of Respondents as alleged above, entitle the Department to reimbursement of the costs of its audit pursuant to Section 10148(b) of the Code.

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

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary WFI
3 against all licenses and license rights of Respondent under the Code, for the cost of investigation
4 and enforcement as permitted by law, and for such other and further relief as may be proper
5 under the provisions of law.

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10 RUBEN CORONADO
11 Supervising Special Investigator

12 Dated at Fresno, California,
13 this 24th day of July, 2023

14 DISCOVERY DEMAND

15 Pursuant to Sections 11507.6, *et seq.* of the *Government Code*, the Department of
16 Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the
17 *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate
18 may result in the exclusion of witnesses and documents at the hearing or other sanctions that the
19 Office of Administrative Hearings deems appropriate.