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**FILED**  
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DEPARTMENT OF REAL ESTATE  
By R. Mat

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

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12 In the Matter of the Accusation of )  
13 DICKY & DREW INCORPORATED )  
14 and DENNIS WILLIAM DICKY, )  
15 Respondents. )

NO. H-5893 SAC  
ACCUSATION

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17 The Complainant, TRICIA D. SOMMERS, in her official capacity as a Deputy Real  
18 Estate Commissioner of the State of California, for cause of Accusation against DICKY &  
19 DREW INCORPORATED (hereinafter "DDI"), and DENNIS WILLIAM DICKY (hereinafter  
20 "DICKY") (collectively referred to herein as "Respondents"), is informed and alleges as follows:

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22 DDI is presently licensed by the Department of Real Estate (hereinafter "the  
23 Department") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the  
24 Business and Professions Code (hereafter "the Code"), as a corporate real estate broker, acting by  
25 and through DICKY as its designated broker/officer.

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At all times herein mentioned, until August 17, 2011, DDI conducted business under its own licensed name and the following fictitious business name registered with the Department: "Elite Property Management".

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DICKEY is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code, as a real estate broker.

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At all times herein mentioned, DICKEY was licensed by the Department as the designated broker/officer of DDI. As the designated broker/officer, DICKEY was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of DDI for which a real estate license is required.

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At all times relevant, 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 Section 10131(b) of the Code (Broker Defined – Property Management/Collection of Rent), 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 or 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.

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

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1 FIRST CAUSE OF ACTION  
2 As Against Respondents DDI and DICKEY  
3 Audit Period 10-1-10 through 11-30-11

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5 Each and every allegation in Paragraphs 1 through 6, inclusive, above, is  
6 incorporated by this reference as if fully set forth herein.

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8 On or about December 6, 2011, and continuing intermittently through February 23,  
9 2012, an audit was conducted of DDI at its main office located at 2390 Maritime Drive in Elk  
10 Grove, California, wherein the auditor examined the records of DDI for the period of October 1,  
11 2010 through November 30, 2011 (hereinafter "the audit period").

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13 While acting as a real estate broker as described in Paragraph 5, above, and within  
14 the audit period, Respondents accepted or received funds in trust (hereinafter "trust funds") and  
15 deposited or caused the trust funds to be deposited into two bank accounts maintained by  
16 Respondents, and thereafter, from time-to-time, Respondents made disbursements of said trust  
17 funds, identified as follows:

18 Trust Account #1

19 Bank: Wells Fargo, P.O. Box 6995, Portland, Oregon 97228

20 Account No.: Last 4 Digits: 8820

21 Account Name: Dickey & Drew Inc. DBA Elite Property Management Trust  
22 Account

23 Signatories: Dennis Dickey (DO/REB), Christie Drew (RES), and  
24 Joseph Drew (RES)

25 Purpose: Trust Account #1 was used for deposits and disbursements  
26 related to property management activities, as well as general  
27 business and personal activities. The remaining balance of  
\$447.87 was transferred to Trust Account #2 (below) and this  
account was closed on December 1, 2011.

1 Trust Account #2

2 Bank: Elk Grove Commerce Bank  
3 8150 Laguna Blvd., Elk Grove, CA 95758  
4 Account No.: Last 4 Digits: 3429  
5 Account Name: Dickey & Drew Incorporated Trust Account  
6 Signatories: Dennis Dickey (DO/REB)  
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8 Purpose: Trust Account #2 was used for deposits and disbursements  
9 related to property management activities, as well as general  
10 business and personal activities.

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11 In the course of the real estate activities described in Paragraph 5, above, and during  
12 the audit period, Respondents:

13 (a) caused, suffered, or permitted the combined balance of funds in Trust  
14 Account #1 and Trust Account #2 to be reduced to an amount which as of October 31, 2011 was  
15 approximately \$104,548.99, and as of November 30, 2011 was approximately \$57,189.04, less  
16 than the combined aggregate liability of Trust Account #1 and Trust Account #2 to all owners of  
17 such funds, without the prior written consent of each and every owner of such funds, in violation  
18 of Section 10145 (handling of trust funds) of the Code and Section 2832.1 (written authorization of  
19 all beneficiaries required to reduce funds to below liability) of Title 10 of the California Code of  
20 Regulations (hereinafter "the Regulations");

21 (b) failed to reconcile the total of separate beneficiary/property records with a  
22 control record on at least a monthly basis for Trust Account #1 and Trust Account #2, in violation  
23 of Section 2831.2 (trust fund reconciliation requirement);

24 (c) failed to maintain or keep an accurate record in chronological sequence of  
25 all trust funds received and disbursed (control record) for Trust Account #1 and Trust Account #2,  
26 containing all of the information required by Section 2831 of the Regulations; and

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1 (d) from August 17, 2011 through at least the end of the audit period on  
2 November 30, 2011, Respondents permitted Christie Drew, a licensed real estate salesperson who  
3 was not an employee of Respondents, to appear as a signatory and to make withdrawals from Trust  
4 Account #1, without first obtaining fidelity bond coverage at least equal to the maximum amount  
5 of the trust funds to which Christie Drew had access at any time, in violation of Section 2834 of  
6 the Regulations.

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8 The acts and/or omissions of Respondents as alleged in Paragraph 10, above,  
9 constitute grounds for the suspension or revocation of all licenses and license rights of  
10 Respondents pursuant to the following provisions of the Code and Regulations:

11 As to Paragraph 10(a), under Section 10177(d) (willful disregard or violation of  
12 Real Estate Law) and/or 10177(g) (negligence or incompetence in performing licensed act) of the  
13 Code, in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

14 As to Paragraph 10(b), under Section 10177(d) and/or 10177(g) of the Code, in  
15 conjunction with Section 2831.2 of the Regulations;

16 As to Paragraph 10(c), under Section 10177(d) and/or 10177(g) of the Code, in  
17 conjunction with Section 2831 of the Regulations; and,

18 As to Paragraph 10(d), under Section 10177(d) and/or 10177(g) of the Code, in  
19 conjunction with Section 2834 of the Regulations.

20 SECOND CAUSE OF ACTION  
21 (As Against Respondent DICKEY)

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23 Each and every allegation in Paragraphs 1 through 11, inclusive, above, is  
24 incorporated by this reference as if fully set forth herein.

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As the designated broker/officer for DDI, DICKEY was responsible for the supervision and control of the activities conducted on behalf of DDI by its officers and employees, and others acting on behalf of DDI. DICKEY failed to exercise reasonable supervision and control over the property management activities of DDI. In particular, DICKEY permitted, ratified and/or caused the conduct described in the First Cause of Action, Paragraph 10, above, to occur, and failed to take reasonable steps, including, but not limited to, the handling of trust funds, supervision of employees and the implementation of policies, rules, procedures and systems to ensure the compliance of DDI with the Real Estate Law and the Regulations.

The acts and/or omissions of DICKEY as set forth in Paragraph 13, above, violate Section 10159.2 (designated broker/officer supervision) of the Code and Section 2725 (broker supervision) of the Regulations, and are grounds for the suspension or revocation of all licenses and license rights of DICKEY under the Real Estate Law pursuant to Sections 10177(d) and/or 10177(g), and 10177(h) (broker supervision) of the Code.

COST RECOVERY


AUDIT COSTS

The acts and/or omissions of Respondents as alleged in the First Cause of Action, Paragraph 10, above, entitle the Department to reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund handling violations) of the Code.

INVESTIGATION AND ENFORCEMENT COSTS

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 revoking all licenses and  
3 license rights of all Respondents named herein under the Real Estate Law (Part 1 of Division 4 of  
4 the Business and Professions Code), for the cost of investigation and enforcement as permitted by  
5 law, for the cost of the audit as permitted by law, and for such other and further relief as may be  
6 proper under other provisions of law.

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9 TRICIA D. SOMMERS  
10 Deputy Real Estate Commissioner

11 Dated at Sacramento, California,  
12 this 18<sup>th</sup> day of October, 2012.