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2 At all relevant times herein, BRIGHTEN was doing business under the fictitious  
3 business name of "Brighten Lending – A Non-Independent Broker Escrow."

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5 At all relevant times herein, Respondents engaged in the business of, acted in the  
6 capacity of, advertised or assumed to act as real estate licensees within the State of California within  
7 the meaning of Section 10131(a) of the Code including conducting residential real estate sales  
8 activities, wherein, on behalf of others, for compensation or in expectation of compensation,  
9 Respondents sold or offered to sell, bought or offered to buy, solicited prospective sellers or buyers  
10 of, solicited or obtained listings of, or negotiated the purchase, sale, or exchange of real property or  
11 a business opportunity.

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13 On or about July 13, 2017, Respondents started offering broker escrow services to  
14 their clients. Neither BRIGHTEN nor VON is licensed with the Department of Business Oversight.

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16 Beginning on May 29, 2018, and continuing through July 13, 2018, an audit was  
17 conducted into the real estate business activities of BRIGHTEN, located at 135 E. Huntington Dr.,  
18 Arcadia, CA 91006. Department auditor David Quek examined the business records of BRIGHTEN  
19 for the period of January 1, 2016, through April 30, 2018, ("audit period").

20 **COUNT ONE**

21 (Audit Violations as to Both Respondents)

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23 Each and every allegation made above in Paragraphs 1 through 7, inclusive, is  
24 incorporated by reference as if fully set forth herein.

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While engaging in the real estate activities described above in Paragraphs 5 and 6, and within the audit period, Respondents accepted or received funds in trust (“trust funds”) and deposited or caused the trust funds to be deposited into the following trust account:

Trust Account #1

Bank Name: First Commercial Bank (USA)  
 18725 E. Gale Ave. #150, City of Industry, CA 91748

Account Name: Brighten Lending (Escrow Trust)

Account No.: Last 4 Digits: 1138

Signatories: Huiling Von (REB)  
 Khanthaphixay Lee (RES)  
 Yu Shan (Unlicensed)  
 Sean Lee (Unlicensed)

Description: Trust Account #1 was used for handling deposits and disbursements for escrow activities for multi-beneficiary accounts.

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In the course of the real estate activities described above in Paragraphs 6 and 7, and during the audit period, it was discovered as follows:

a. As of April 30, 2018, Trust Account #1 had a shortage of \$20.00, in violation of Section 10145 of the Code and Sections 2832.1 and 2951, Title 10, California Code of Regulations (“Regulations”);

b. Respondents failed to obtain prior written consent from the owners of the trust funds in Trust Account #1 prior to reducing the balance of the funds to an amount less than the existing aggregate trust fund liabilities, in violation of Section 10145 of the Code and Sections 2832.1 and 2951 of the Regulations;

c. Respondents failed to maintain accurate and/or complete separate beneficiary records in Trust Account #1, in violation of Section 10145 of the Code and Sections 2831.1, 2950(d), and 2951 of the Regulations;

d. Respondents used the unlicensed and unregistered fictitious business name of “Brighten Lending – A Non-Independent Broker Escrow” to perform real estate license activities

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1 without first obtaining a license from the Department, in violation of Section 10159.5 of the Code  
2 and Section 2731 of the Regulations;

3 e. Respondents permitted unlicensed employees Yu Shan Ni and Sean Lee to be  
4 signatories on Trust Account #1, in violation of Section 10145 of the Code and Sections 2834,  
5 2650(d), and 2951 of the Regulations;

6 f. Respondents failed to advise all parties to a transaction, in writing, that as  
7 officer, partner, owner and/or stockholder of BRIGHTEN, VON had a financial interest in  
8 BRIGHTEN holding the escrow, in violation of Section 2950(h) of the Regulations;

9 g. Respondents failed to file with the Department an escrow activity report,  
10 Department form RE890, within 60 days after the end of calendar year 2017, in violation of Section  
11 10141.6 of the Code; and

12 h. Respondents performed broker escrow activities when Respondents were not  
13 agents or a party to the underlying real estate transaction, in violation of Financial Code Sections  
14 10086(a) and 17006(a)(4).

15 **GROUND FOR DISCIPLINE**  
16 (As to both Respondents)

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

21 a. As to Paragraph 10(a), under Sections 10145, 10177(d), and/or 10177(g) of  
22 the Code, in conjunction with Sections 2832.1 and 2951 of the Regulations;

23 b. As to Paragraph 10(b), under Sections 10145, 10177(d), and/or 10177(g) of  
24 the Code, in conjunction Sections 2832.1 and 2951 of the Regulations;

25 c. As to Paragraph 10(c), under Sections 10145, 10177(d), and/or 10177(g) of  
26 the Code, in conjunction with Sections 2831.1, 2950(d), and 2951 of the Regulations;

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1 d. As to Paragraph 10(d), under Sections 10145, 10177(d), 10177(g), and/or  
2 10159.5 of the Code, in conjunction with Section 2731 of the Regulations;

3 e. As to Paragraph 10(e), under Sections 10145, 10177(d), and/or 10177(g) of  
4 the Code, in conjunction with Sections 2834, 2650(d), and 2951 of the Regulations.

5 f. As to Paragraph 10(f), under Sections 10145, 10177(d), and/or 10177(g) of  
6 the Code, in conjunction with Section 2950(h) of the Regulations;

7 g. As to Paragraph 10(g), under Sections 10145, 10177(d), 10177(g), and/or  
8 10141.6 of the Code; and

9 h. As to Paragraph 10(h), under Sections 10177(d), 10177(g), and 10177(h) of  
10 the Code, in conjunction with Section 2950(h) of the Regulations.

11 **COUNT TWO**

12 (Failure to Supervise as to VON)

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

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17 As the designated broker officer for BRIGHTEN, VON was required to exercise  
18 reasonable supervision and control over the activities of BRIGHTEN and/or its employees.

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20 VON failed to exercise reasonable supervision over the acts and/or omissions of  
21 BRIGHTEN and/or its employees in such a manner as to allow the acts and/or omissions described  
22 above in Paragraphs 10 and 11 to occur, which constitutes additional cause for the suspension or  
23 revocation of the license(s) and license rights of VON under Sections 10159.2, 10177(d), 10177(g),  
24 and/or 10177(h) of the Code, in conjunction with Section 2725 of the Regulations.

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1 COST RECOVERY

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3 The acts and/or omissions of Respondents as alleged above in Count One and Count  
4 Two, entitle the Department to reimbursement of the costs of its audit pursuant to Section 10148(b)  
5 (audit costs for trust fund handling violation) of the Code.

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

11 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of  
12 this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action  
13 against all licenses and license rights of Respondent under the Code, for the cost of investigation  
14 and enforcement as permitted by law, for the cost of the audit, and for such other and further relief  
15 as may be proper under other provisions of law.

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17 ROBIN S. TANNER  
18 Supervising Special Investigator

19 Dated at Oakland, California,  
20 this 6<sup>th</sup> day of November, 2019.

21  
22 DISCOVERY DEMAND

23 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the  
24 Department of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth  
25 in the *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate  
26 may result in the exclusion of witnesses and documents at the hearing or other sanctions that the  
27 Office of Administrative Hearings deems appropriate.