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FILED

JUL 11 2018

BUREAU OF REAL ESTATE

[Signature]

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)	No. H-41097 LA
)	
DBMR AND ASSOCIATES, INC., doing)	
business as Coastal Properties Escrow, and)	<u>ACCUSATION</u>
KATHI D. JESSE, individually and as)	
designated officer of DBMR and)	
Associates, Inc.,)	
)	
Respondents.)	
)	
)	

The Complainant, Maria Suarez, a Supervising Special Investigator of the State of California, for cause of Accusation against DBMR AND ASSOCIATES, INC., doing business as Coastal Properties Escrow, and KATHI D. JESSE, individually and as designated officer of DBMR and Associates, Inc., ("Respondents") alleges as follows:

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The Complainant, Maria Suarez, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

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

LICENSE HISTORY

(DBMR AND ASSOCIATES, INC.)

3.

a. Respondent DBMR AND ASSOCIATES, INC. ("DBMR") is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code, as a corporate real estate broker, Bureau of Real Estate ("Bureau") license ID 01910372.

b. Respondent DBMR's corporate license was originally issued on March 20, 2012, and is scheduled to expire on March 19, 2020, unless renewed.

c. According to the Bureau's records to date, Respondent DBMR's main office address is 24582 Del Prado Avenue, Suite G, Dana Point, California.

d. Respondent DBMR's designated officer is Respondent KATHI D. JESSE.

e. According to the Bureau's records to date, Respondent DBMR currently maintains the following fictitious business names under its corporate real estate broker license:

- 1) Coastal Properties Escrow, a non-independent broker escrow
- 2) Re/Max Signature Services
- 3) Team Thunderbird
- 4) Team-Thunderbird
- 5) Team-Thunderbird.com
- 6) Team Thunderbird Only
- 7) Team-Thunderbird Only
- 8) Team ThunderbirdOnly.com
- 9) Thunderbird-Only
- 10) Thunderbird-Only.com

1 (KATHI D. JESSE)

2 4.

3 a. Respondent KATHI D. JESSE ("JESSE") is presently licensed and/or has
4 license rights under the Code, as a real estate broker, Bureau license ID 01140971.

5 b. Respondent JESSE's broker license was originally issued on December 17,
6 1999, and is scheduled to expire on December 16, 2019, unless renewed.

7 c. Respondent JESSE currently maintain the fictitious business names "RE/Max
8 Signature Services" under her real estate broker license.

9 d. Respondent JESSE is the designated officer for Respondent DBMR. Her
10 officer designation is scheduled to expire on March 19, 2020, unless renewed. As designated
11 officer, Respondent JESSE is responsible for the supervision of the activities conducted on
12 behalf of Respondent DBMR by its officers, agents, real estate licensees, and employees
13 pursuant to Section 10159.2 of the Code.

14 REAL ESTATE ACTIVITY

15 5.

16 At all times mentioned herein, Respondent DBMR acted as a real estate broker
17 and conducted licensed activities within the meaning of Code section 10131(d). Respondent
18 DBMR engaged in broker escrow activity, including activities wherein Respondent DBMR
19 solicited borrowers or lenders for or negotiated loans or collected payments or performed
20 services for borrowers or lenders or note owners in connection with loans secured directly or
21 collaterally by liens on real property.

22 CAUSE FOR ACCUSATION

23 (AUDIT NO. LA 17-0069 – BROKER ESCROW)

24 6.

25 On or about January 30, 2018, the Bureau completed an audit examination of the
26 books and records of Respondent DBMR pertaining to its broker escrow real estate activities
27 described in Paragraph 5 above. The audit examination covered the period of time from July 1,

1 2016, through August 31, 2017 (“audit period”), and was performed intermittently between
2 October 11, 2017 and November 16, 2017. The audit examination was limited to Respondent
3 DBMR’s broker escrow activity only. The audit examination revealed violations of the Code
4 and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit
5 Report No. LA 17-0069 and the exhibits and work papers attached to said audit report.

6 7.

7 The examination began on October 11, 2017. The auditor met with Respondent
8 JESSE, Kim Cook, Respondent DBMR’s escrow officer, and Yvette Dendaas, Respondent
9 DBMR’s escrow assistant, at Respondent DBMR’s branch office located at 15550 Main Street,
10 Suite C-13 in Hesperia, California. According to Respondent JESSE and the records examined,
11 Respondent DBMR conducted residential resale and broker escrow activities. Respondent
12 DBMR resale activity was not examined. According to Respondent JESSE and the records
13 examined, as a broker escrow, Respondent DBMR collected earnest money deposits and loan
14 funds and paid expenditures for compensation. For the year ending December 31, 2016,
15 Respondent DBMR closed forty-eight (48) escrow transactions handling trust funds totaling
16 approximately \$20.7 million. According to Respondent JESSE, Respondent DBMR maintained
17 one (1) bank account to handle trust funds during the audit period.

18 8.

19 At all times mentioned herein, and in connection with the broker escrow activity
20 described in Paragraph 5 above, Respondent DBMR accepted or received funds, including
21 funds in trust (“trust funds”) from or on behalf of actual or prospective parties to transactions
22 handled by Respondent DBMR, and thereafter made deposits and/or disbursements of such
23 funds. From time-to-time during the audit period, said trust funds were deposited and/or
24 maintained in the following bank account:

25 Bank Account #1

26 Bank: Citizens Business Bank

27 Bank Address: 701 N. Haven Avenue, Ontario, CA 91764

1 Account Name: Kathi D. Jesse, DBA Coastal Properties Escrow, Escrow Trust Account

2 Account Number: xxxxx1568

3 Signatories: Kathryn Dianne Jesse, D.O.

4 Purpose: Bank Account #1 was used for broker escrow activity related to
5 Respondent DBMR's residential resale activity. Deposits included earnest money deposits and
6 additional funds from buyers, loan funds from lenders, and funds from sellers. Disbursements
7 included expenditures related to properties for sale such as escrow fees, homeowner association
8 dues, property taxes, repairs, and seller proceeds.

9 Violations of the Real Estate Law in Audit No. LA 17-0069

10 9.

11 The audit examination revealed violations of the Code and the Regulations, as
12 set forth in the following paragraphs, and more fully discussed in Audit Report No. LA 17-0069
13 and the exhibits and work papers attached to the audit report:

14 (a) Trust Fund Accountability and Balances (Code section 10145(a) and
15 Regulations sections 2832.1, 2950(g), and 2951). A bank reconciliation was prepared as of
16 August 31, 2017, for Bank Account #1 using the bank statements provided by Respondents.
17 The adjusted bank balance was compared to the aggregate accountability on that date and there
18 was a shortage of \$10,000.00. It was determined that the shortage was attributable to an earnest
19 money deposit that was not timely deposited into Bank Account #1 before the close of escrow
20 on August 1, 2017 for Escrow No. 141259-JC in violation of Code section 10145(a). Based on
21 a review of Bank Account #1's separate record for 25008 Terrace Lantern #38 in Dana Point,
22 an attempt was made on July 6, 2017, to scan and deposit into Bank Account #1 a \$10,000.00
23 earnest money deposit collected from Devan B.¹ According to Respondent DBMR's escrow
24 officer, due to a software glitch, the bank rejected the deposit. According to the Final

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27 ¹ Initials are used in place of individuals' full names to protect their privacy. Documents containing individuals' full names will be provided during the discovery phase of this case to Respondents and/or their attorney, after service of a timely and proper request for discovery on Complainant's counsel.

1 Settlement Statement, escrow closed on August 1, 2017, and all escrow funds were disbursed
2 on August 2, 2017. According to Respondent DBMR's escrow officer, after learning of the
3 software glitch, they rescanned the check to deposit the \$10,000.00 into Bank Account #1 on
4 September 29, 2017.

5 Respondents failed to obtain the written consent of every principal who is an
6 owner of the funds of Bank Account #1 prior to each disbursement if such a disbursement
7 would reduce the balance of funds in the account to an amount less than the existing aggregate
8 trust fund liability of Respondent DBMR to all owners of the funds in violation of Regulations
9 sections 2832.1, 2950(g), and 2951.

10 (b) **Commingling (Code sections 10176(e) and Regulation sections 2835 and**
11 **2951)**. Broker-owned funds in the amount of \$2,800.00 were commingled with trust funds in
12 Bank Account #1 from February 6, 2017, through October 4, 2017, in violation of Code section
13 10176(e) and Regulations sections 2835 and 2951. According to the bank statements for Bank
14 Account #1, broker-owned funds in the amount of \$2,800.00 were wired into Bank Account #1
15 on February 6, 2017. According to Respondent JESSE, she extended a short-term personal loan
16 to Steve P., the seller of 2429 Paseo Circulo in Tustin (Escrow No. 141212-JV). The loan was
17 unrelated to the sale of Steve P.'s property. Respondent JESSE wired out the broker-owned
18 funds on October 4, 2017.

19 (c) **Trust Fund Handling (Regulations sections 2832, 2950(f) and 2951)**. In
20 connection with its broker escrow activity, Respondent DBMR used Bank Account #1 to hold
21 trust funds collected from the public. Bank Account #1 was not designated as a trust fund
22 account in the name of DBMR as trustee in violation of Regulations sections 2832 and 2951.
23 Furthermore, Respondent DBMR failed to deposit all money received as an escrow agent and as
24 part of an escrow transaction in a bank, trust account, or escrow account on or before the close
25 of the full working day after receipt thereof in violation of Regulations section 2950(f). Based
26 on the review of an earnest money deposit receipt for the purchase of 18845 Sahale Lane in
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1 Apple Valley, Respondent DBMR collected a \$5,000.00 check from Ashley B. on July 7, 2016.
2 The \$5,000.00 check was deposited into Bank Account #1 on July 12, 2016.

3 (d) **Trust Account Reconciliation (Regulations sections 2831.2 and 2951).**

4 Respondent DBMR failed to reconcile the balance of all separate beneficiary or transaction
5 records with the record of all trust funds received and disbursed for Bank Account #1 on a
6 monthly basis in violation of Regulations sections 2831.2 and 2951.

7 (e) **Escrow Activity Reporting (Regulations section 10141.6(a)).** After meeting

8 the reporting threshold for broker escrow activities, Respondent DBMR failed to file a timely
9 report within 60 days following completion of the previous calendar year documenting the
10 number of escrows conducted and the dollar volume escrowed during the 2016 calendar year in
11 violation of Regulations section 10141.6(a). During the period from April 16, 2016, through
12 December 31, 2016, Respondent DBMR was exempt from the licensing requirements of the
13 Escrow Law since it was licensed by the Bureau while performing acts in the course of or
14 incidental to a real estate transaction in which the broker is an agent or a party to the transaction
15 and in which the broker is performing an act for which a real estate license is required.

16 (f) **Branch Office (Code section 10163).** Respondent DBMR failed to apply for

17 and procure an additional license for Respondent DBMR's Hesperia branch office located at
18 15550 Main Street, Suite C-13, in violation of Code section 10163. According to Respondents,
19 all escrow activity took place at the Hesperia branch office during the audit period. The
20 Hesperia branch office address was listed on the last page of two Residential Purchase
21 Agreements.

22 (g) **Broker Supervision (Code sections 10159.2(a) and Regulations section**

23 **2725).** Based on the violations set forth in Paragraphs 9(a)-(f) above, Respondent JESSE failed
24 to responsibly supervise and control Respondent DBMR's broker escrow activity. As the
25 designated officer or Respondent DBMR, Respondent JESSE failed to ensure its compliance
26 with the Real Estate Laws and Regulations in violation of Code section 10159.2(a). Respondent
27 JESSE failed to establish and/or implement policies, rules, procedures and system to review,

1 oversee, inspect and manage transactions requiring a real estate license and the handling of trust
2 funds in violation of Regulations section 2725.

3 10.

4 Each of the foregoing violations in Paragraphs 9(a)-(g) above constitutes cause
5 for the suspension or revocation of the real estate license and/or license rights of Respondents
6 DBMR and JESSE under the provisions of Sections 10165, 10176(e), 10177(d), 10177(g),
7 and/or 10177(h).

8 COSTS

9 (AUDIT COSTS)

10 11.

11 Section 10148(b) of the Code, provides, in pertinent part, that the Real Estate
12 Commissioner shall charge a real estate broker for the costs of any audit if the Commissioner
13 has found in a final decision, following a disciplinary hearing, that the broker has violated
14 Section 10145 of the Code or a regulation or rule of the Commissioner interpreting said Code
15 section.

16 (INVESTIGATION AND ENFORCEMENT COSTS)

17 12.

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

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
2 this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
3 against all the licenses and/or license rights of Respondents DBMR AND ASSOCIATES, INC.,
4 doing business as Coastal Properties Escrow, and KATHI D. JESSE, individually and as
5 designated officer of DBMR and Associates, Inc., under the Real Estate Law, for the costs of
6 the audit, investigation, and enforcement, as permitted by law, and for such other and further
7 relief as may be proper under other applicable provisions of law.

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9 Dated at Los Angeles, California this 19th day of June, 2018.

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12 _____
13 Maria Suarez
14 Supervising Special Investigator

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25 cc: DBMR AND ASSOCIATES, INC.
26 KATHI D. JESSE
27 Maria Suarez
Sacto.
Audits – Susie Hseuh