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FILED

DEC 24 2018

DEPARTMENT OF REAL ESTATE

By S. Krapp

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation of)

12 DIANE JINES,)

13 Respondent.)

No. H-3225 FR

ACCUSATION

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15 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the
16 State of California, for cause of Accusation against DIANE JINES (Respondent), is informed and
17 alleges as follows:

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19 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the
20 State of California, makes this Accusation in her official capacity.

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22 Respondent is presently licensed and/or has license rights under the Real Estate
23 Law, Part 1 of Division 4 of the Business and Professions Code (Code).

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25 At all times mentioned, Respondent was and is licensed by the Department as a
26 real estate broker.

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At all times mentioned, Respondent 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, Respondent 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.

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On or about July 7, 2018, and continuing intermittently through June 21, 2018, an audit was conducted of the records of Respondent. The auditor herein examined the records for the period of January 1, 2017, through August 1, 2017.

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While acting as a real estate broker as described in Paragraph 4, Respondent accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in connection with the leasing, renting, and collection of rents on real property or improvements thereon, as alleged herein, and thereafter from time to time made disbursements of said trust funds.

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The trust funds accepted or received by Respondent as described in Paragraph 6 were deposited or caused to be deposited by Respondent into trust accounts which were maintained by Respondent for the handling of trust funds, and thereafter from time-to-time Respondent made disbursements of said trust funds, identified as follows:

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ACCOUNT # 1	
Bank Name and Location:	United Security Bank 40074 Highway 49 Oakhurst, CA 93644
Account No.:	XXX7975
Entitled:	Diane Jines, Broker Town & County Property Management Trust Account

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In the course of the activities described in Paragraph 4, Respondent:

a) caused, suffered, or permitted the balance of funds in Account #1 to be reduced to an amount which, as of May 31, 2017, was approximately \$45,766.95 less, as of June 30, 2017, was approximately \$44,848.26 less, and as of July 31, 2017, was approximately \$39,854.68 less than the aggregate liability of Account #1 to all owners of such funds in violation of Sections 10145 of the Code and Section 2832.1 of Title 10 of the California Code of Regulations (Regulations);

b) failed to maintain accurate an columnar record in chronological sequence of all trust funds received and disbursed from Account #1 containing all required information, in violation of Section 2831 of the Regulations;

c) failed to keep accurate separate records for each beneficiary or transaction, accounting therein for all funds which were deposited into Account #1 containing all of the information required by Section 2831.1 of the Regulations; and

d) failed to reconcile the balance of separate beneficiary or transaction records with the control record of trust funds received and disbursed at least once a month, and/or failed to maintain a record of such reconciliations for Account #1 as required by Section 2831.2 of the Regulations.

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

1 As to Paragraph 8(a), under Sections 10177(d) and/or 10177(g) of the Code in
2 conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

3 As to Paragraph 8(b), under Sections 10177(d) and/or 10177(g) of the Code in
4 conjunction with Section 2831 of the Regulations;

5 As to Paragraph 8(c), under Sections 10177(d) and/or 10177(g) of the Code in
6 conjunction with Section 10145(g) of the Code and Section 2831.1 of the Regulations; and

7 As to Paragraph 8(d), under Sections 10177(d) and/or 10177(g) of the Code in
8 conjunction with Section 2831.2 of the Regulations.

9 COST RECOVERY

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11 The acts and/or omissions of Respondent as alleged above, entitle the Department
12 to reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund
13 handling violation) of the Code.

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

19 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
20 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
21 action against all licenses and license rights of Respondent under the Code, for the cost of

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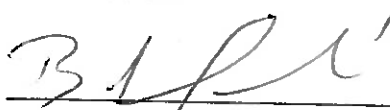
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1 investigation and enforcement as permitted by law, for the cost of the audit, and for such other
2 and further relief as may be proper under other provisions of law.

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5 BREND A SMITH
6 Supervising Special Investigator

7 Dated at Fresno, California,

8 this 12 day of December, 2018

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10 DISCOVERY DEMAND

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