

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**  
**APR 19 2022**  
DEPARTMENT OF REAL ESTATE  
By J. Taggart

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of )

13 KENDALL & POTTER PROPERTY )  
14 MANAGEMENT, INC.; )

15 and )

16 RITA M. LAW, individually and as designated )  
17 officer of Kendall & Potter Property )  
18 Management Inc., )

19 Respondents. )

No. H-3387 FR

ACCUSATION

20 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the  
21 State of California, for cause of Accusation against KENDALL & POTTER PROPERTY  
22 MANAGEMENT, INC. and RITA M. LAW (collectively referred to as "Respondents"), is  
23 informed and alleges as follows:

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

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1 PRELIMINARY ALLEGATIONS

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

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6 At all times mentioned, Respondent KENDALL & POTTER PROPERTY  
7 MANAGEMENT, INC. (KPPMI) was and is licensed by the Department as a real estate broker,  
8 License ID 00420520. KPPMI was licensed by the Department as a real estate corporation on or  
9 about June 26, 1972. Unless renewed, KPPMI's corporate broker license will expire June 25,  
10 2024.

11 At all times mentioned RITA M. LAW (LAW) was licensed by the Department  
12 as the designated broker officer of KPPMI. As said designated officer-broker, LAW was  
13 responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the  
14 officers, agents, real estate licensees, and employees of KPPMI for which a license is required.

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16 At all times mentioned, Respondent LAW was licensed by the Department  
17 individually as a real estate broker, License ID 00756074, and as the designated officer of  
18 KPPMI. LAW was licensed as a real estate salesperson on June 29, 1984, and as a broker on  
19 November 24, 1992. Unless renewed, LAW's broker license will expire November 23, 2024.

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21 At all times mentioned, Cynthia Jane Naber (Naber) was licensed by the  
22 Department as a real estate salesperson, License ID 02012081. Naber was originally licensed as  
23 a real estate salesperson on August 16, 2016.

24 At all times relevant, Naber's real estate salesperson license was affiliated under  
25 the following brokers:

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<b>Start Date</b>	<b>End Date</b>	<b>Employing Broker</b>
August 16, 2016	May 18, 2020	LAW
May 19, 2020	September 20, 2020	No Broker Affiliation
September 21, 2020	Present	KPPMI

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

AUDIT OK20-0063

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On or about March 10, 2021, the Department completed its audit (OK20-0063) of the books and records of KPPMI's property management activities described in Paragraph 8. The auditor herein examined the records for the period of October 1, 2019, through September 30, 2020.

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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.

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1 As of the audit examination, Respondents managed 247 one-to-four family  
2 residences, four (4) apartment complexes, and two (2) commercial complexes for 237 owners.  
3 In addition, Respondents managed thirty-eight (38) short term rentals for 44 owners.  
4 Respondents collected approximately \$8,925,308 in trust funds annually.

5 Respondents' property management services include, but not limited to, collecting  
6 rents, paying expenses, and screening tenants. For such property management services,  
7 Respondents charged a management fee of 8 to 10 percent of collected rents, and/or a flat fee of  
8 \$50 to \$250 per month. Respondents also charged a lease execution fee of 60 percent of the first  
9 month's rent.

10 9

11 While acting as a real estate broker as described in Paragraph 8, Respondents  
12 accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in  
13 connection with the leasing, renting, and collection of rents on real property or improvements  
14 thereon, as alleged herein, and thereafter from time to time made disbursements of said trust  
15 funds.

16 The trust funds accepted or received by Respondents were deposited or caused to  
17 be deposited by Respondents into accounts which were maintained by Respondents for the  
18 handling of trust funds, and thereafter from time-to-time Respondents made disbursements of  
19 said trust funds, identified as follows:

TRUST ACCOUNT # 1	
Bank Name and Location:	Bank of America P.O. Box 15284 Wilmington, DE
Account No.:	XXXX XXXX 3334
Account Name:	Kendall & Potter Property Management Inc Trust Account

1	Signatories:	Rita M. Law
2		John Thomas Law
3		Christa Joy Taylor
4	Purpose:	To hold trust funds for multiple beneficiaries.

5	BANK ACCOUNT # 1	
6		
7	Bank Name and Location:	Chase Bank
8		P.O. Box 182051
9		Columbus, OH 43218
10	Account No.:	XXXXXX9917
11	Account Name:	Kendall & Potter Property Management Inc
12	Signatories:	Rita M. Law
13		John Thomas Law
14		Christa Joy Taylor
15	Purpose:	To hold trust funds for multiple beneficiaries.

16	BANK ACCOUNT # 2	
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18	Bank Name and Location:	Bank of America
19		P.O. Box 15284
20		Wilmington, DE
21	Account No.:	XXXX XXXX 6029
22	Account Name:	Kendall & Potter
23	Signatories:	Rita M. Law
24		Christa Joy Taylor
25	Purpose:	To hold trust funds for multiple beneficiaries.

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In the course of the property management activities described in Paragraph 8, and during the audit examination period described in Paragraph 7, Respondents violated the Code and Regulations described below:

Advance Fees  
(Eviction Protection Plan)

Respondents, engaged in the business of claiming, demanding, charging, receiving, collecting, or contracting for the collection of advance fees within the meaning of Sections 10026 and 10131.2 (advance fees) of the Code in the amount of \$8 per month for an Eviction Protection Plan (EPP), including but not limited to the following:

<b>Property Owner</b>	<b>Property Address</b>
Irene D.	105 Sea Terrace, Aptos
Jerry G. & Cecelia R.	317 Chace Street, Santa Cruz
Kristyna & Matt M.	1003 Lewis Circle, Santa Cruz
Jean & Joyce R.	105 Granada Drive, Aptos
Paula T.	111 Bean Creek #151, Scotts Valley
Mark & Lisa R.	1925 46 <sup>th</sup> Avenue #93, Capitola
Paula & Thomas L.	205 Via Trinita, Aptos
The William and Janet Heller Family Trust	510 Sumner, Aptos
Jean T.	320 5 <sup>th</sup> Avenue, Santa Cruz

Respondents failed to cause the advance fee contract and all materials used in obtaining the advance fee agreement to be submitted to the Department of Real Estate prior to use as required by Section 10085 of the Code and Section 2970 of Title 10, Chapter 6, California Code of Regulations (Regulations).

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Respondents failed to immediately deliver said trust funds into a neutral escrow depository, or into a trust fund account in violation of Sections 10146 and 10145 of the Code. Trust funds for EPP were first deposited into Trust Account #1 and then transferred to KPPMI's operating account, Bank of America #XXXX XXXX 6957.

14

Respondents failed to furnish the principal a verified accounting with respect to advance fees at the end of each calendar quarter and when the contract was completely performed as required by Section 10146 of the Code and Section 2972 of the Regulations.

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Respondents commingled with its own money or property, the money or property of others which was received or held by Respondents in trust in violation of Section 10176(e) of the Code. The trust funds collected, in the amount of \$10,192.00, in the form of EPP funds were deposited and mixed with KPPMI's general funds in KPPMI's operating account.

Trust Account Designation

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Bank Account #1 and Bank Account #2 were not designated as trust accounts in the name of the broker or the broker's fictitious business name as trustee, in violation of Section 10145 of the Code and Section 2832 of the Regulations. During the audit period, Bank Account #1 and Bank Account #2 were used to hold trust funds. Bank Account #1 was titled "Kendall & Potter Property Management Inc." Bank Account #2 was titled "Kendall and Potter."

Commingling

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Respondent commingled with its own money or property, the money or property of others which was received or held by Respondent in trust in violation of Section 10176(e) of the Code. Trust Account #1 and Bank Account #1 each held more than \$200 of broker funds.

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1 Notification of Salesperson Affiliation

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3 Sometime in 2016, KPPMI entered into an independent contractor agreement with Naber,  
4 but Respondents failed to immediately notify the Department of her employment until September  
5 21, 2020, which constitutes a violation of Section 10161.8 of the Code and Section 2752 of the  
6 Regulations

7 FAILURE TO SUPERVISE

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9 Respondent LAW failed to exercise reasonable supervision over the acts of  
10 KPPMI in such a manner as to allow the acts and events described above to occur.

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12 The acts and/or omissions of LAW as described in Paragraph 19, constitutes  
13 failure on the part of LAW, as designated broker-officer for KPPMI, to exercise reasonable  
14 supervision and control over the licensed activities of KPPMI as required by Section 10159.2 of  
15 the Code and Section 2725 of the Regulations.

16 GROUND FOR DISCIPLINE

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18 The acts and/or omissions of Respondents as alleged in the above constitute  
19 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 As to Paragraphs 11 and 12, under Sections 10177(d) and/or 10177(g) of the  
22 Code in conjunction with Section 10085 of the Code and Section 2970 of the Regulations;

23 As to Paragraphs 11 and 13, under Sections 10177(d) and/or 10177(g) of the  
24 Code in conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

25 As to Paragraphs 11 and 14, under Sections 10177(d) and/or 10177(g) of the  
26 Code in conjunction with Section 10146 of the Code and Section 2972 of the Regulations;

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1 As to Paragraphs 11 and 15, and 17, under Section 10176(e) of the Code;

2 As to Paragraph 16, under Sections 10177(d) and/or 10177(g) of the Code in  
3 conjunction with Section 10145 of the Code and Section 2832 of the Regulations; and

4 As to Paragraph 18, under Sections 10177(d) and/or 10177(g) of the Code in  
5 conjunction with Section 10161.8 of the Code and Section 2752 of the Regulations;

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7 The acts and/or omissions of LAW as alleged in Paragraphs 19 and 20 constitute  
8 grounds for the suspension or revocation of all licenses and license rights of LAW under Sections  
9 10177(g) and/or 10177(h) of the Code, and Section 10159.2 of the Code in conjunction with  
10 Section 10177(d) of the Code.

11 COST RECOVERY

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

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

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

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8 BRENDA SMITH  
9 Supervising Special Investigator

10 Dated at Fresno, California,  
11 this 11 day of April, 2022

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13 DISCOVERY DEMAND

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