

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 14 2023

DEPARTMENT OF REAL ESTATE

By B. A. Duval

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

11 In the Matter of the Accusation of)
12 JOHANNA RUE DUVAL-ALVAREZ,)
13 Respondent.)

No. H-3483 FR

ACCUSATION

14 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the
15 State of California, for cause of Accusation against JOHANNA RUE DUVAL-ALVAREZ
16 ("Respondent"), is informed and alleges as follows:

1

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

2

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

23 LICENSE HISTORY

3

25 At all times mentioned, Respondent was and is licensed by the Department as a
26 real estate broker, License ID 01719510. Respondent was licensed by the Department as a real

27 ///

1 estate salesperson on or about January 27, 2006, and as a real estate broker on or about March
2 28, 2014. Unless renewed, Respondent's broker license will expire March 27, 2026.

3 Respondent was and is licensed to do business under the fictitious business name
4 "Golden Hills Real Estate."

5 AUDIT FR21-0072

6 4

7 On or about July 21, 2022, the Department completed its audit (FR21-0072) of the
8 books and records of Respondent's property management activities described in Paragraph 5.
9 The auditor herein examined the records for the period of November 1, 2020, through April 30,
10 2022.

11 5

12 At all times mentioned, Respondent engaged in the business of, acted in the
13 capacity of, advertised, or assumed to act as a real estate broker within the State of California
14 within the meaning of Sections 10131(b) of the Code, including the operation and conduct of a
15 property management business with the public wherein, on behalf of others, for compensation or
16 in expectation of compensation, Respondent leased or rented and offered to lease or rent, and
17 solicited for prospective tenants of real property or improvements thereon, and collected rents
18 from real property or improvements thereon.

19 As of the audit examination, Respondent managed approximately one hundred
20 and twenty-four (124) one-to-four unit family residences with one hundred and twenty-nine
21 (129) units, two (2) apartment complexes with sixteen (16) units, and six (6) commercial
22 complexes with nine (9) units for eighty-six (86) owners. Respondent collected approximately
23 \$1,800,500 in trust funds annually.

24 Respondent's property management services include, but not limited to, collecting
25 rents and security deposits; soliciting tenants; advertising properties; making mortgage, property
26 tax, and insurance payments; and responsibility for repairs and maintenance. For such property

27 ///

1 management services, Respondent charged a management fee between 6 and 10 percent of
2 collected rents. Respondent also charged a late fee of 8 percent of rents collected.

3 6

4 While acting as a real estate broker as described in Paragraph 5, Respondent
5 accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in
6 connection with the leasing, renting, and collection of rents on real property or improvements
7 thereon, as alleged herein, and thereafter from time-to-time made disbursements of said trust
8 funds.

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

TRUST ACCOUNT # 1	
Bank Name and Location:	United Security Bank 145 E. Durian Street Coalinga, CA 93210
Account No.:	XXX1279
Account Name:	Johanna Duval-Alvarez DBA Golden Hills Real Estate Property Management Trust Acct
Description:	Trust Account #1 was used for deposit and disbursements related to the management of rental properties. Deposits consisted of rents and security deposits and disbursements consisted of payments for expenses related to the properties managed, remittances to owners, and payment of management fees.

In the course of the property management activities described in Paragraph 5, and during the audit examination period described in Paragraph 4, Respondent violated the Code and Regulations described below:

Trust Account Accountability and Balances

Based on the records provided during the audit, a bank reconciliation for Trust Account #1 was prepared for as of March 31, 2022. The adjusted bank balance of Trust Account #1 as of March 31, 2022, was compared to the beneficiaries' accountability for Trust Account #1 as of March 31, 2022.

Adjusted Bank Balance	\$147,478.15
Accountability	<u>\$215,907.48</u>
Trust Fund Shortage	<u>(\$68,429.33)</u>

As of March 31, 2022, Trust Account #1 contained a shortage in the amount of \$68,429.33. \$64,161.90 of the shortage was caused by negative balances in forty-two (42) property accounts, \$2,467.43 was caused by a number of bank fees recorded on the Duval-Alvarez's account ledger, and the remaining shortage of \$1,800 was unidentified.

GROUND FOR DISCIPLINE

The acts and/or omissions of Respondent as alleged above 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:

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

///

///

1 COST RECOVERY

2 10

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

6 11

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

16 

17 BREND A SMITH
18 Supervising Special Investigator

19 Dated at Fresno, California,
20 this 3 day of April, 2023

DISCOVERY DEMAND

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