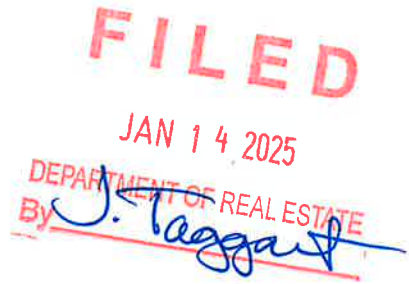


1 TAYLOR HERRLINGER, Counsel (314791)
2 Department of Real Estate
3 651 Bannon Street, Suite 507
4 Sacramento, CA 95811
5 Telephone: (916) 737-4498
6 Email: Taylor.Herrlinger@dre.ca.gov



7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

GALLEGOS DIVERSIFIED, INC.;

and

GUILLERMO A. GALLEGOS, individually
and as designated officer of Gallegos
Diversified, Inc.,

Respondents.

No. H-3582 FR

ACCUSATION

The Complainant, RUBEN CORONADO, a Supervising Special
Investigator of the State of California, for cause of Accusation against GALLEGOS
DIVERSIFIED, INC. and GUILLERMO A. GALLEGOS (collectively referred to as
"Respondents"), is informed and alleges as follows:

1

The Complainant, RUBEN CORONADO, a Supervising Special Investigator of
the State of California, makes this Accusation in his official capacity.

PRELIMINARY ALLEGATIONS

2

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

///

At all times mentioned, Respondent GALLEGOS DIVERSIFIED, INC. ("GDI") was and is licensed by the Department as a real estate broker corporation, License ID 01909642. GDI was licensed by the Department as a real estate broker corporation on or about February 15, 2012. Unless renewed, GDI's corporate broker license will expire February 14, 2028.

At all times mentioned, GUILLERMO A. GALLEGOS ("GALLEGOS") was and is licensed by the Department as the designated officer-broker of GDI. As said designated officer-broker, GALLEGOS was and is responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees, and employees of GDI for which a license is required.

At all times mentioned, Respondent GALLEGOS was and is licensed by the Department individually as a real estate broker, License ID 01206680. GALLEGOS was licensed as a real estate salesperson on March 5, 1996, and as a broker on February 17, 2004. Unless renewed, GALLEGOS's broker license will expire February 16, 2028.

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

AUDIT FR23-0029

On or about September 13, 2024, the Department completed its audit (FR23-0029) of the books and records of GDI's property management activities described in Paragraph 7. The auditor herein examined the records for the period of June 1, 2022, through November 30, 2023 ("audit period").

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.

While acting as a real estate broker as described in Paragraph 7, Respondents 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.

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

TRUST ACCOUNT # 1	
Bank Name and Location:	Chase P2735 S Mooney Boulevard, Visalia, CA 93277
Account No.:	XXXXXX2205
Account Name:	Gallegos Diversified, Inc.
Purpose:	Trust Account #1 was used for deposits and disbursements related to management of properties. Trust Account #1 is a multi-beneficiary account.

TRUST ACCOUNT # 2	
Bank Name and Location:	Chase P2735 S Mooney Boulevard, Visalia, CA 93277
Account No.:	XXXXXX2221
Account Name:	Gallegos Diversified, Inc.
Purpose:	Trust Account #2 was used as a business checking account for deposits and disbursements related to management of properties. Trust Account #2 is a multi-beneficiary account.

9

In the course of the property management activities described in Paragraph 7, and during the audit period described in Paragraph 6, Respondents violated the Code and various sections of the California Code of Regulations, Title 10, Chapter 6 (Regulations) described below:

Trust Account Accountability and Balances

10

Trust Account #1

Based on the records provided during the audit, a bank reconciliation for Trust Account #1 was prepared for as of October 31, 2023. The adjusted bank balance of Trust Account #1 was compared to the total balances of the beneficiary records for Trust Account #1.

Adjusted Bank Balance	(\$36,222.67)
Accountability	<u>\$24,274.76</u>
Trust Fund Shortage	<u>(\$60,497.43)</u>

A shortage of \$60,497.43 was found in Trust Account #1 as of October 31, 2023. The cause of the shortage was due to a bank deficit, negative account balances for seven (7) property owners, a negative balance for properties owned by GALLEGOS, and a shortage which

was unidentified.

Trust Account #2

Based on the records provided during the audit, a bank reconciliation for Trust Account #2 was prepared for as of October 31, 2023. The adjusted bank balance of Trust Account #2 was compared to the total balances of the beneficiary records for Trust Account #2.

Adjusted Bank Balance	(\$3,792.45)
Accountability	<u>\$79,045.00</u>
Trust Fund Shortage	<u>(\$82,837.45)</u>

A shortage of \$82,837.45 was found in Trust Account #1 as of October 31, 2023. The cause of the shortage was due to a bank deficit and a remaining shortage that was unidentified.

Respondents provided no evidence that the owners of Trust Funds had given their written consent to allow Respondents to reduce the balance of the funds in Trust Account #1 and #2 to an amount less than the existing aggregate trust fund liabilities, in violation of Section 10145(a) of the Code and Section 2832.1 of the Regulations.

Separate Records

11

Respondents failed to maintain accurate separate records for each beneficiary or transaction, accounting therein for all funds which were deposited into Trust Account #1 containing all the information required by Section 2831.1 of the Regulations. Specifically, Respondent's did not maintain, or provide proof thereof, check numbers for each related disbursement in the separate records for Trust Account #1 and failed to maintain separate records for Trust Account #2, in violation of section 10145(a) of the Code and section 2831.1 of the Regulations.

///

///

1 Trust Account Reconciliation

2 12

3 Respondents failed to reconcile the balance of separate beneficiary or transaction
4 records with the control record of trust funds received and disbursed at least once a month,
5 and/or failed to maintain a record of such reconciliations for each bank account holding trust
6 funds as required by section 10145(a) of the Code and 2831.2 of the Regulations.

7 Unlicensed Broker Activity

8 13

9 Respondents performed property management activities pursuant to section
10 10131(b) of the Code, including, but not limited to, signing lease agreements and receiving rental
11 payments, by and through an unlicensed broker entity "TREC, Inc.," in violation of section
12 10130(a) of the Code.

13 Failure to Designate Trust Accounts

14 14

15 Respondents failed to properly designate Trust Accounts #1 and #2 as Trust
16 Accounts in the name of Respondents or in the name of Respondents' fictitious business name in
17 violation of section 10145(a) of the Code and section 2832 of the Regulations.

18 Unlicensed Bank Account Signatory

19 15

20 Respondents' bank signature cards used to hold trust funds for both Trust Account
21 #1 and #2 listed an unlicensed, uninsured, and unbonded individual R. Gallegos as a signatory in
22 violation of section 10145(a) of the Code and section 2834 of the Regulations.

23 Unlicensed Fictitious Business Names

24 16

25 Respondents performed real estate activities, including, but not limited to,
26 collecting rent and signing lease agreements, using unlicensed fictitious business names "TREC
27 Virtual Property Management" and "Real Estate Services and Property Management", in

1 violation of section 10159.5 of the Code and section 2731 of the Regulations.

2 FAILURE TO SUPERVISE

3 17

4 Respondent GALLEGOS failed to exercise reasonable supervision over the acts
5 of GDI. GALLEGOS permitted, ratified and/or caused the conduct described above, to occur,
6 and failed to take reasonable steps, including, but not limited to, the handling of trust funds,
7 supervision of employees, and the implementation of policies, rules, procedures, and systems to
8 ensure the compliance of the corporation with the Real Estate Law and the Regulations.

9 18

10 The acts and/or omissions of GALLEGOS as described in Paragraph 17,
11 constitutes failure on the part of GALLEGOS, as designated officer-broker for GDI, to exercise
12 reasonable supervision and control over the licensed activities of GDI as required by Section
13 10159.2 of the Code and Section 2725 of the Regulations.

14 GROUND FOR DISCIPLINE

15 19

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

19 As to Paragraph 10, under sections 10177(d) and/or 10177(g) of the Code in
20 conjunction with Section 10145(a) of the Code and section 2832.1 of the Regulations; and

21 As to Paragraph 11, under sections 10177(d) and/or 10177(g) of the Code in
22 conjunction with section 10145(a) of the Code and 2831.1 of the Regulations.

23 As to Paragraph 12, under sections 10177(d) and/or 10177(g) of the Code in
24 conjunction with section 10145(a) of the Code and 2831.2 of the Regulations.

25 As to Paragraph 13, under sections 10177(d) and/or 10177(g) of the Code in
26 conjunction with sections 10130/10131 of the Code.

27 ///

1 As to Paragraph 14, under sections 10177(d) and/or 10177(g) of the Code in
2 conjunction with section 10145(a) of the Code and 2832 of the Regulations.

3 As to Paragraph 15, under sections 10177(d) and/or 10177(g) of the Code in
4 conjunction with section 10145(a) of the Code and 2834 of the Regulations.

5 As to Paragraph 16, under sections 10177(d) and/or 10177(g) of the Code in
6 conjunction with section 10159.5 of the Code and section 2731 of the Regulations.

7 20

8 The acts and/or omissions of GALLEGOS as alleged in Paragraphs 17 and 18
9 constitute grounds for the suspension or revocation of all licenses and license rights of
10 GALLEGOS under Sections 10177(g) and/or 10177(h) of the Code, and Section 10159.2 of the
11 Code in conjunction with Section 10177(d) of the Code.

12 COST RECOVERY

13 21

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

16 22

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

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

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

6
7 

8 RUBEN CORONADO

9 Supervising Special Investigator

10 Dated at Fresno, California,

11 This 8th day of January, 2025
12
13
14
15

16 DISCOVERY DEMAND

17 Pursuant to Sections 11507.6, *et seq.* of the *Government Code*, the Department of
18 Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the
19 *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate
20 may result in the exclusion of witnesses and documents at the hearing or other sanctions that the
21 Office of Administrative Hearings deems appropriate.
22
23
24
25
26
27