

**FILED**

MAR -6 2014

DEPARTMENT OF REAL ESTATE  
BY: 

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	No. H-04598 SD
	)	
JOSEPH RICHARD MORSE,	)	<u>ACCUSATION</u>
doing business as	)	
San Diego Realty,	)	
	)	
Respondent,	)	
	)	

The Complainant, Veronica Kilpatrick, a Deputy Real Estate Commissioner of the State of California acting in her official capacity, for cause of Accusation against JOSEPH RICHARD MORSE, doing business as San Diego Realty, is informed and alleges as follows:

1.

The Complainant, Veronica Kilpatrick, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

2.

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.

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3.

At all times mentioned, JOSEPH RICHARD MORSE (MORSE), was licensed or had license rights issued by the Department of Real Estate (Department) as a real estate broker. MORSE was originally licensed as a real estate broker on January 24, 1983.

4.

At all times mentioned, in the City of La Mesa, County of San Diego, MORSE engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker, including the operation and conduct of a property management business within the meaning of Code Section 10131(b), with the public wherein, for or in expectation of compensation, for another or others, Respondent leased or rented or offered to lease or rent, or placed for rent or solicited listings of places for rent, or solicited for prospective tenants, or collected rents from real property, or improvements thereon.

FIRST CAUSE OF ACCUSATION  
(Audit Examination)

5.

On October 10, 2012, the Department completed an audit examination of the books and records of MORSE, pertaining to the property management activities described in Paragraph 3, that require a real estate license. The audit examination covered a period of time beginning on December 1, 2009, and ending on August 31, 2012. The audit examination revealed violations of the Code and the Regulations as set forth below, and more fully discussed in Audit Report SD 120008 and the exhibits and work papers attached.

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6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, MORSE accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties to transactions handled by MORSE, including property owners and tenants rents and security deposits. MORSE maintained the following bank account:

1. T/A 1

Account Name: Morse, Joseph R. dba J R Morse Trust Account aka  
San Diego Realty

Account No.: XXXXXXXX-20151

Bank Name: Union Bank

Bank Address: San Diego, CA 92119

7.

In the course of activities described in Paragraphs 4 and 6, above, and during the audit examination period described in Paragraph 5, Respondent MORSE acted in violation of the Code and the Regulations in which MORSE:

(a) Permitted, allowed or caused the disbursement of trust funds from T/A 1 where the disbursement of funds reduced the total of aggregate funds in T/A 1, MORSE's property management trust account, to an amount which, on August 31, 2012, was \$21,556.03, less than the existing aggregate trust fund liability to every principal who was an owner of said funds, without first obtaining the prior written consent of the owners of said funds, in violation of Code Section 10145 and Regulation 2832.1. On August 31, 2012, \$6,070.16 of the \$21,556.03 shortage was restored to T/A 1, leaving a balance due and owing of \$15,485.87;

1 (b) Failed to maintain an accurate control record in the form of a columnar record  
2 in chronological order of all trust funds including security deposits and rental receipts received,  
3 deposited and disbursed for all properties managed by T/A 1, in violation of Code Section 10145  
4 and Regulation 2831;

5 (c) Failed to maintain an accurate separate record for each beneficiary or  
6 transaction, thereby failing to account for all trust funds including security deposits and rental  
7 receipts received, deposited and disbursed by T/A 1 for each property managed, in violation of  
8 Code Section 10145 and Regulation 2831.1;  
9

10 (d) Failed to perform a monthly reconciliation of the balance of all separate  
11 beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all  
12 trust funds received and disbursed by T/A 1, in violation of Code Section 10145 and Regulation  
13 2831.2;  
14

15 (e) Permitted Linda Morse, MORSE's wife, an unlicensed and unbonded person,  
16 to be an authorized signatory on the trust account, in violation of Code Section 10145 and  
17 Regulation 2834. On September 27, 2012, after the cut off date of the audit examination herein,  
18 Linda Morse was removed as a signatory on trust account TA 1;  
19

20 (f) Received undisclosed compensation by means of an earning credit agreement  
21 with Union Bank. The earnings credit was based on and calculated by trust fund activity in the  
22 trust account. Bank service charges were deducted from the earning credit accrued on the trust  
23 account thus reducing MORSE's cost of doing business. The earnings credit arrangement was  
24 not disclosed by MORSE to the beneficiaries of the trust account, in violation of Code Section  
25 10176(g), and  
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27 ///

1 (g) Failed to exercise reasonable control and supervision over the activities  
2 conducted by his employees and/or licensees as necessary to secure full compliance with the Real  
3 Estate laws, in particular with respect to his trust fund handling for his property management  
4 brokerage, as required by and pursuant to Code Section 10177(h) and Regulation 2725.

5 Disciplinary Statutes and Regulations

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8 The conduct of Respondent MORSE, as alleged and described in Paragraph 7,  
9 above, violated the Code and the Regulations as set forth below:

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<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
11 7(a)	Code Section 10145 and Regulation 2832.1
12 7(b)	Code Section 10145 and Regulation 2831
13 7(c)	Code Section 10145 and Regulation 2831.1
14 7(d)	Code Section 10145 and Regulation 2831.2
15 7(e)	Code Section 10145 and Regulation 2834
16 7(f)	Code Section 10176(g)
17 7(g)	Code Section 10177(h) and Regulation 2725

18 The foregoing violations constitute cause for discipline of the real estate license and license rights  
19 of Respondent MORSE, under the provisions of Code Sections 10177(d) and/or 10177(g) and  
20 10177(h).

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22 SECOND CAUSE OF ACCUSATION  
(Negligence)

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25 The overall conduct of Respondent MORSE constitutes negligence. This conduct  
26 and violation are cause for discipline of the real estate license and license rights of Respondent  
27 pursuant to Code Section 10177(g).

THIRD CAUSE OF ACCUSATION  
(Breach of Fiduciary Duty)

10.

The conduct, acts and omissions of Respondent MORSE constitutes a breach of fiduciary duty of good faith, trust, confidence and candor, within the scope of their contractual relationship, owed to Respondent MORSE's real estate consumers and property management clientele. This conduct and violation are cause for discipline of the real estate license and license rights of Respondent MORSE pursuant to Code Section 10177(g).

FOURTH CAUSE OF ACCUSATION  
(Supervision)

11.

The overall conduct of Respondent MORSE constitutes a failure on his part to exercise reasonable supervision and control over the licensed activities of his brokerage, in violation of Code Section 10177(h) and Regulation 2725. Respondent MORSE failed to keep his brokerage in compliance with the Real Estate Law, and is cause for discipline of the real estate license and license rights of Respondent MORSE pursuant to the provisions of Code Sections 10177(d), 10177(g) and/or 10177(h).

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this  
2 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action  
3 against the license and license rights of Respondent JOSEPH RICHARD MORSE, under the  
4 Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other  
5 and further relief as may be proper under other applicable provisions of law including, but not  
6 limited to (1) cure shortage (2) costs of audit pursuant to Code Section 10148; and (3) costs of  
7 investigation and enforcement pursuant to Code Section 10106, and as pursuant to applicable  
8 provisions of the California Administrative Procedure Act.

9 Dated at Los Angeles, California

10  
11 this January 06, 2014

  
12 VERONICA KILPATRICK  
13 Deputy Real Estate Commissioner  
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23 cc: Joseph Richard Morse  
24 Veronica Kilpatrick  
25 Audits - Zaky Wanis  
26 Sacto  
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