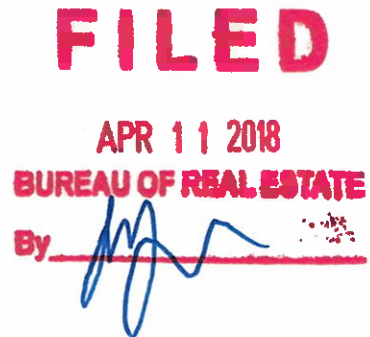


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9 BEFORE THE BUREAU OF REAL ESTATE
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation against

13 MASA SERVICES, INC.,
14 ALLIE M. HARAGELY, individually and as
designated officer of Masa Services, Inc.,
15 KRAIG KNAPHUS, and
BRIAN MICHAEL REIFEISS;

16 Respondents.

No. H-04988 SD

ACCUSATION

17 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the Bureau
18 of Real Estate ("Bureau") of the State of California, for cause of Accusation against MASA
19 SERVICES, INC., ALLIE M. HARAGELY, individually and as designated officer of Masa
20 Services, Inc., KRAIG KNAPHUS, and BRIAN MICHAEL REIFEISS (collectively
21 "Respondents"), alleges as follows:

22 1.

23 The Complainant, Veronica Kilpatrick, acting in her official capacity as a Supervising
24 Special Investigator, makes this Accusation against Respondents.

1 2.

2 All references to the "Code" are to the California Business and Professions Code,
3 all references to the "Real Estate Law" are to Part 1 of Division 4 of the Code, and all references
4 to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

5 3.

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

8 4.

9 From March 2, 2004 through the present, Respondent MASA SERVICES, INC. ("MSI")
10 has been licensed by the Bureau as a real estate corporation, License ID 01417221.

11 5.

12 From April 23, 2003 through the present, Respondent ALLIE M. HARAGELY
13 ("HARAGELY") has been licensed by the Bureau as a real estate broker, License ID 01343075.
14 HARAGELY was formerly licensed by the Bureau as a real estate salesperson from June 17,
15 2002 through April 22, 2003.

16 6.

17 From March 2, 2004 through the present, MSI has acted as a corporate real estate broker
18 by and through HARAGELY, as MSI's designated officer and broker responsible pursuant to
19 Code section 10159.2 for supervising the activities requiring a real estate license conducted on
20 behalf MSI by its officers, agents and employees.

21 7.

22 Respondent MSI is licensed to do business as several fictitious business names including,
23 but not limited to, REMAX Associates, ReMax Associates Poway, ReMax of Rancho Bernardo,
24 ReMax Ranch & Beach, and ReMax RB.

1 8.

2 On or about April 22, 1975, Bureau originally issued a real estate salesperson license to
3 Respondent KRAIG KNAPHUS ("KNAPHUS"), License ID 00516397. From June 21, 1999
4 through the present, Respondent KNAPHUS has held a restricted real estate salesperson license.

5 9.

6 On October 26, 1998, the Bureau filed an Accusation against KNAPHUS in Bureau Case
7 No. H-2448 SD. On October 7, 1998, the Bureau also filed an Order to Desist and Refrain
8 against KNAPHUS in Bureau Case No. H-2447 SD. On April 16, 1999, the Bureau and
9 Respondent KNAPHUS entered into a Stipulation and Agreement in Case No. H-2448 SD,
10 wherein KNAPHUS' real estate salesperson license was revoked with the right to issuance of a
11 restricted real estate salesperson license subject to the terms, conditions, and restrictions set forth
12 in the Stipulation and Agreement, which became effective on May 17, 1999. On August 25,
13 2003, Respondent KNAPHUS petitioned the Bureau for reinstatement of Respondent
14 KNAPHUS' plenary real estate salesperson license. On June 25, 2004, the Bureau denied
15 Respondent KNAPHUS' petition for reinstatement.

16 10.

17 Respondent KNAPHUS has been licensed as a restricted salesperson under the
18 employment of MSI since on or about January 27, 2015.

19 11.

20 From March 3, 2001 through the present, Respondent BRIAN MICHAEL REIFEISS
21 ("REIFEISS") has been licensed by the Bureau as a real estate salesperson, License ID
22 01305433. Respondent REIFEISS has been licensed as a salesperson under the employment of
23 MSI since on or about February 11, 2009.
24

Audit SD 160033

12.

On October 27, 2017, the Bureau completed an audit examination of the books and records of Respondents' MSI's, KNAPHUS', and REIFEISS' property management activities which require a real estate broker license pursuant to Code section 10131(b). The audit examination covered a period of time from January 1, 2016 through April 30, 2017 ("audit period"). The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report SD 160033 and the exhibits and work papers attached to said audit report.

13.

According to Respondent HARAGELY and the audit work papers examined, Respondent MSI listed and sold real properties during the audit period. Earnest money deposits were sent directly to escrow by potential buyers. MSI also permitted Respondents KNAPHUS and REIFEISS to engage in property management activities while doing business as ReMax Ranch & Beach, REMAX Associates, or in their own individual names. MSI, KNAPHUS, and REIFEISS collectively managed a total of 48 one-to-four residential properties with a total of 48 units for 47 owners. Approximately \$450,060 was collected in rent receipts from May 1, 2016 to April 30, 2017.

14.

During the audit period, Respondent REIFEISS managed 35 properties and collected trust funds for five (5) of the properties; the rent receipts were to be deposited into the property owner's bank account and/or mailed to the property owners. The rent receipts for the other 30 properties were paid by direct deposit into the property owners' bank accounts.

15.

During the audit period, Respondent KNAPHUS managed 13 properties for others. KNAPHUS received checks from tenants payable to the property owners and KNAPHUS would deposit the rent checks into the property owner's bank accounts.

16.

Respondents did not maintain a trust account for handling the receipts and disbursements of trust funds during the audit period.

17.

Violations

In the course of the property management activities described above in Paragraphs 12 through 16, Respondents acted in violation of the Code and the Regulations as follows:

17(a). Code section 10145 and Regulation 2831. Trust fund handling/Trust fund records to be maintained

During the audit period, Respondent MSI failed to maintain records of trust funds received and disbursed (control records) for the property management activities conducted by MSI's salespersons' KNAPHUS and REIFEISS, in violation of Code section 10145 and Regulation 2381.

During the audit period, Respondent MSI failed to maintain accurate or complete control records for REIFEISS' property management activities, in violation of Code section 10145 and Regulation 2381. Respondents failed to maintain accurate or complete control records for the five (5) properties for which REIFEISS received trust funds, which are: 8550 Sugarman Dr., 3135 Olive Knoll Pl., 5976 Baja Dr., 14119 Ipava Dr., and 14718 Carmel Ridge Rd.

During the audit period, Respondent MSI failed to maintain accurate or complete control records for KNAPHUS' property management activities, in violation of Code section 10145 and

Regulation 2381. Examples of the inaccuracies and omissions include, without limitation, the following: The trust funds received were not recorded on one record in chronological order. The records failed to record the date of receipt of trust funds collected. The dates of deposits into property owners' bank accounts were not recorded. Respondents failed to record receipt of late fees collected on July 15, 2016 and August 5, 2016 for the property located at Calston Way. The records failed to include trust funds received in December of 2016 for Calston Way.

17(b). Code section 10145 and Regulation 2832. Trust fund handling

During the audit period, Respondents received trust funds in connection with property management activities and failed to deposit said trust funds within three (3) business days of receipt, in violation of Code section 10145 and Regulation 2832. Out of 31 deposits examined, KNAPHUS failed to deposit 21 within three business days. Examples of the 21 deposits include, without limitation:

<u>Property</u>	<u>Rent Received</u>	<u>Date of Receipt</u>	<u>Date of Deposit</u>
Aguamiel Rd.	\$2,250.00	1/02/2016	1/07/2016
Edgewater Dr.	\$2,880.00	4/05/2016	4/11/2016
Maturin Dr.	\$1,800.00	8/01/2016	8/06/2016
Aguamiel Dr.	\$2,350.00	10/01/2016	10/11/2016
Calston Way	\$2,300.00	2/01/17	2/08/2017

17(c). Code section 10145(a) and 10176(g). Handling of trust funds/Secret profit

During the audit period, MSI failed to collect management fees in accordance with instructions in the Property Management Agreements ("PMA") with property owners. Respondent KNAPHUS collected management fees directly from property owners in advance of receiving rent payments from tenants although the PMAs stated the fees were to be paid when

rents were collected. Respondent KNAPHUS also charged property owners management fees ranging from six to ten percent during the months that rents were not collected. Said acts are in violation of Code sections 10145 and 10176(g). Examples of the management fees paid to KNAPHUS include, without limitation, the following:

<u>Property</u>	<u>Check No.</u>	<u>Amount of Management Fee</u>	<u>Date Management Fee Paid</u>	<u>Date Rent Received</u>
Maturin Way	64237753	\$180.00	04/29/2016	5/01/2016
Glenda Way	13839294	\$180.00	10/07/2016	10/19/2016
Calston Way	456357974	\$168.00	07/29/2016	8/05/2016
Edgewater Dr.	21622512	\$162.00	5/11/2016	n/a-no rent collected
Edgewater Dr.	31456369	\$162.00	7/12/2016	n/a-no rent collected
Edgewater Dr.	50901010	\$162.00	11/14/2016	n/a-no rent collected
Aguamiel Rd.	2446813450	\$180.00	3/01/2016	3/08/2016

17(d). Code section 10137. Unlawful employment or payment of compensation-penalty

During the audit period, MSI's salespersons' REIFEISS and KNAPHUS performed property management activities, which require a broker license, and were compensated by property owners, other than MSI - the broker under whom REIFEISS and KNAPHUS were licensed at the time, in violation of Code section 10137.

REIFEISS failed to maintain records of the management fees collected during the audit period. Based on the PMAs, property owners were to pay REIFEISS management fees of eight to ten percent of rents collected. Management fees were to be paid to REIFEISS on the 5th of each month.

///

1 17(e). Code section 10148. Retention of records

2 According to Respondents HARAGELY and REIFEISS, Respondent REIFEISS received
3 compensation directly from property owners. Respondent MSI failed to maintain records of the
4 management fees received by REIFEISS. The management fees were not recorded and copies of
5 checks received from owners were not made available to the Bureau's auditor during the audit
6 examination period, in violation of Code section 10148.

7 Respondent MSI also failed to maintain a copy a copy of check for \$145.00 for late fees
8 received by KNAPHUS, who endorsed and forwarded the payment to the property owner for the
9 property located at Calston Way.

10 17(f). Regulation 2726. Broker-Salesperson Relationship Agreements

11 During the audit examination period, Respondent MSI failed to provide the Bureau's
12 auditor with the Broker-Salesperson Agreements for two of MSI's salespersons, Sikander Jain
13 and Mary Haragely, in violation of Regulation 2726.

14 17(g). Code sections 10159.2, 10177(h) and Regulation 2725. Responsibility of
15 corporate officer in charge/Broker supervision

16 Respondent HARAGELY failed to adequately supervise the activities of MSI's
17 salespersons, employees, or agents and failed to establish policies, rules, procedures, and systems
18 to review, oversee, inspect, and manage transactions requiring a real estate license and the
19 handling of trust funds, in violation of Code sections 10159.2, 10177(h) and Regulation 2725.

20 ///

21 ///

22 ///

23 ///

18.

The conduct of Respondents as described above in Paragraphs 17(a) through 17(f), violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
17(a)	Code section 10145 and Regulation 2831
17(b)	Code section 10145 and Regulation 2832
17(c)	Code sections 10145 and 10176(g)
17(d)	Code section 10137
17(e)	Code section 10148
17(f)	Regulation 2726

19.

The foregoing violations constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondents MSI under the provisions of Code sections 10177(d), 10176(g), and/or 10177(g) for violation of Code sections 10145, 10148, 10176(g), and Regulations 2831 and 2832.

20.

The foregoing violations constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondent REIFEISS under the provisions of Code sections 10177(d), 10176(g), and/or 10177(g) for violation of Code sections 10145(c), 10137, and 10130.

21.

The foregoing violations constitute cause for the suspension or revocation of the restricted real estate license and license rights of Respondent KNAPHUS under the provisions of Code sections 10177(k), 10177(d), 10176(g), and/or 10177(g) for violation of Code sections 10145(c), 10176(g), 10137, and 10130.

1 22.

2 The overall conduct of Respondent HARAGELY constitutes a failure to exercise
3 reasonable supervision and control over the licensed activities of MSI, KNAPHUS, and
4 REIFEISS, as required by Code Section 10159.2, to ensure compliance with the Real Estate
5 Law, and is cause for the suspension or revocation of the real estate license and license rights of
6 HARAGELY pursuant to the provisions of Code sections 10177(h), 10177(d) and/or 10177(d).

7 Audit Costs

8 23.

9 Code section 10148(b) provides, in pertinent part, that the Commissioner shall charge a
10 real estate broker for the cost of any audit, if the Commissioner has found in a final decision
11 following a disciplinary hearing that the broker has violated Code section 10145 or a regulation
12 or rule of the Commissioner interpreting said section.

13 Investigation/Enforcement Costs

14 24.

15 Code section 10106 provides, in pertinent part, that in any order issued in resolution of a
16 disciplinary proceeding before the Bureau of Real Estate, 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.

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22 ///

23 ///

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 all licenses and/or license rights of Respondents under the Real Estate Law (Part 1 of
4 Division 4 of the Business and Professions Code), for the costs of the audit, investigation, and
5 enforcement as permitted by law, and for such other and further relief as may be proper under
6 other provisions of law.

7 Dated at San Diego, California this 28 day of February, 2018.

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9 
10 VERONICA KILPATRICK
11 Supervising Special Investigator
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19

20 cc: Masa Services, Inc.
21 Allie M. Haragely
22 Kraig Knaphus
23 Brian Michael Reifeiss
24 Veronica Kilpatrick
Sacto
Audits/Linda Davies