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FILED

JUN 12 2020

DEPT. OF REAL ESTATE
By John Aguirre

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H-05120 SD
13 DYNAMIC MANAGEMENT)
14 GROUP, INC., SHINN REALTY) ACCUSATION
15 AND MANAGEMENT, INC., SD)
16 REALTY & MANAGEMENT, INC.,)
17 and BRIAN JAMES SHINN,)
18 individually and as designated officer)
19 of Dynamic Management Group, Inc.)
20 Shinn Realty And Management, Inc.,)
21 and SD Realty & Management, Inc.,)
22 Respondents.)

23 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the
24 Department of Real Estate ("Department" or "DRE") of the State of California, for cause of
25 Accusation against DYNAMIC MANAGEMENT GROUP, INC. ("DMG"), SHINN REALTY
26 AND MANAGEMENT, INC. ("SRM"), SD REALTY & MANAGEMENT, INC. ("SD-RM"),
27 and BRIAN JAMES SHINN ("SHINN") (collectively "Respondents"), alleges as follows:

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

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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LICENSE HISTORY

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2 3. Respondent DMG has been licensed by the Department as a real estate corporation,
3 License ID 01943370, from on or about October 31, 2013 through the present, with DMG’s license
4 scheduled to expire on October 30, 2021 unless renewed. DMG is licensed through SHINN’s real
5 estate broker license, ID 01237073, and he is the designated officer (“D.O.”). According to
6 Department records, DMG has no branch offices, no fictitious business names, and employs no
7 salespeople.

8 4. Respondent SRM has been licensed by the Department as a real estate corporation,
9 License ID 02052381, from on or about November 30, 2017 through the present, with SRM’s
10 license scheduled to expire on November 29, 2021 unless renewed. SRM is licensed through
11 SHINN’s real estate broker license, ID 01237073, and he is the D.O. According to Department
12 records to date SRM employs three salespeople and has the following three (3) fictitious business
13 names that are currently active and licensed to SRM:

- 14 a. “AFC Realty,” effective from June 28, 2019;
- 15 b. “The Firm SD,” effective from June 28, 2019; and
- 16 c. “Virtual Home Lending,” effective from June 10, 2019.

17 5. Respondent SHINN has been licensed by the Department as a real estate broker
18 (“REB”), from on or about January 26, 2010, through the present, with his license scheduled to
19 expire on January 25, 2022, unless renewed. SHINN was previously licensed by the Department as
20 a real estate salesperson (“RES”) from April 17, 1998 until January 25, 2010.

21 6. Respondent SD-RM has been licensed by the Department as a real estate
22 corporation, License ID 01978181, from on or about May 5, 2015 through the present, with
23 SD-RM’s license scheduled to expire on May 4, 2023 unless renewed. SD-RM is currently
24 licensed through the real estate broker license of Jessica Anne Kennedy (“Kennedy”), ID
25 01797989, and Kennedy is currently the D.O. for SD-RM. Previously, and at all times relevant to
26 the causes of accusation herein, SHINN was the D.O. for SD-RM from May 5, 2015 to May 4,
27 2019, at which time SHINN’s officer license expired. According to Department records to date,
28 SD-RM employs one salesperson and has no fictitious business names.

1 **BROKERAGES: DMG, SRM, SD-RM**

2 7. At all times mentioned, in the County of San Diego, DMG acted as a real estate
3 broker, conducting licensed activities within the meaning of Code sections 10131(a) and 10131(b):
4 selling or offering to sell, buying or offering to buy, real property for others; and leasing or renting,
5 offering to lease or rent, or collecting rents from real property for others. At all times mentioned,
6 DMG was acting by and through SHINN as its designated officer pursuant to Code section 10159.2
7 who was responsible for ensuring compliance with the Real Estate Law.

8 8. At all times mentioned, in the County of San Diego, SRM acted as a real estate
9 broker, conducting licensed activities within the meaning of Code section 10131(b): leasing or
10 renting, offering to lease or rent, or collecting rents from real property for others. At all times
11 mentioned, SRM was acting by and through SHINN as its designated officer pursuant to Code
12 section 10159.2 who was responsible for ensuring compliance with the Real Estate Law.

13 9. At all times mentioned, in the County of San Diego, SD-RM acted as a real estate
14 broker, conducting licensed activities within the meaning of Code section 10131(b): leasing or
15 renting, offering to lease or rent, or collecting rents from real property for others. At all times
16 mentioned, SD-RM was acting by and through SHINN as its designated officer pursuant to Code
17 section 10159.2 who was responsible for ensuring compliance with the Real Estate Law.

18 **COMPLAINTS**

19 10. The Department has received multiple complaints from homeowners against DMG,
20 SRM, and SD-RM as alleged below.

21 11. On or about April 30, 2018, the DRE received a complaint from Irene F.^{1/} against
22 DMG, alleging that DMG was the property management company for the property owned by her
23 and her husband. In March 2018, Irene F. terminated the contract with DMG because for the
24 previous few months DMG had been providing the rent three weeks late. DMG never returned the
25 tenant's security deposit for the property, despite SHINN's statements to Irene F. and her husband
26 that he had mailed the security deposit to their new manager.

27 ^{1/} First names and the first initial of the last names are used in place of an individual's full name to protect their privacy.
28 Documents containing the individual's full name will be provided during the discovery phase of this case to Respondents and/or their attorney(s), after service of a timely and proper request for discovery on Complainant's counsel.

1 12. On or about May 15, 2018, the DRE received a complaint from Davin R. against
2 SHINN, alleging that from March 2016 to April 2018, DMG and SD-RM managed Davin R.'s
3 condominium, and that from January through April 2018, SHINN failed to deposit rents collected
4 from the tenants in an amount totaling \$7,600. Since March 2018, SHINN has repeatedly lied to
5 Davin R. and his wife Jackalyn, including multiple statements that funds had been electronically
6 sent to the owners' bank account when they had not. SHINN sent Davin R. a check for a portion of
7 the outstanding rents, but the check bounced because of insufficient funds.

8 13. On or about June 12, 2018, the DRE received a complaint from Irene S. against
9 SD-RM, alleging that SD-RM and DMG had been managing her rental property but failed to
10 provide rents and late fees collected from her tenant for seven months. Irene S. also alleges that
11 SD-RM and DMG both filed 1099-MISC forms for 2017 showing the sum for 12 months' rent plus
12 \$150 worth of late fees, despite the fact that Irene S. had not received several months of payments
13 from SD-RM and DMG. Despite multiple statements from SHINN stating that Irene S. would soon
14 receive the payment, she did not. In May 2018 Shinn deposited a check for \$1,550 and stated he
15 would deposit the remaining balance soon, however, on May 16, 2018 the \$1,550 deposit was
16 reversed for insufficient funds and Irene S. was charged a bank fee. SHINN again made multiple
17 statements to deposit the funds, but did not do so.

18 14. On or about July 8, 2018, the DRE received a complaint from Patrik R. against
19 SHINN and SD-RM, alleging that in December 2014, Patrik R. had retained DMG to manage his
20 rental property. That in December 2015, Patrik R. signed an agreement moving property
21 management to SD-RM as part of its acquisition of DMG. On August 17, 2017, Patrik R. provided
22 a 30-day notice to terminate SD-RM's services. After the tenant's security deposit was not
23 returned to Patrik R., Patrik R. contacted SD-RM in February and March 2018. SD-RM made
24 multiple statements to Patrik R. that payment would be sent, but it did not happen. On May 3,
25 2018, Patrik R. received an update from SHINN that a check would be sent via FedEx, and Patrik
26 R. confirmed his mailing address via email. Patrik R. then received a tracking number, which he
27 then discovered did not exist in FedEx's system, or USPS, or UPS. ON May 16, 2018 after
28 multiple contacts with SHINN, SHINN deposited a check to Patrik R.'s account, but the check was

1 returned for insufficient funds and Patrik R. was charged a bank fee. SHINN then stated he would
2 wire the deposit from Comerica Bank. On May 18, 2018, after Patrik R. informed SHINN the
3 funds were not deposited, SHINN stated funds would be deposited by May 21. On May 21, 2018,
4 Patrik R. informs SHINN there was no deposit, and SHINN stated funds would be deposited on
5 May 22, 2018. After Patrik R. confirmed no funds were deposited on May 22, he emailed SHINN
6 again on May 24 and 29, and June 1, 2018 but received no response.

7 15. On or about July 25, 2018, the DRE received a complaint from Brandon C. against
8 SHINN and SRM, alleging they managed his rental property and that SHINN failed to pay Brandon
9 C. the rent collected from his tenants for April and May 2018. SHINN thereafter tried to make
10 deposits to Brandon C.'s account using checks on four occasions, and each time the check bounced
11 because of insufficient funds and resulted in Brandon C. being charged bank fees. After terminating
12 SHINN as the property manager, Brandon C. still did not receive payment for collected rent plus
13 the tenants' security deposit.

14 16. Table 1 below lists and summarizes the above complaints that DRE received from
15 homeowners who have not received their rental funds and or security deposits from SHINN, DMG,
16 SRM, or SD-RM, and includes the approximate dollar loss amount each complainant believes is
17 owed.

Complainant	Property Address	Loss
Irene F.	5505 Adelaide Ave. #11, San Diego, CA	\$1,650.00
Davin R.	2849 E St., Unit 4, San Diego, CA	\$9,500.00
Irene S.	226 Regency Court #A, Chula Vista, CA	\$9,982.00
Patrik R.	1194 Old Janal Rd., Chula Vista, CA	\$3,295.00
Brandon C.	1626 Paseo Aurora, San Diego, CA	\$4,497.00
Total Losses		\$28,924.00

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24 **AUDIT OF DMG: AUDIT NO. SD180010**

25 17. On February 28, 2019, the Department completed the first of three concurrent audit
26 examinations of the books and records of DMG's, SD-RM's, and SRM's real estate activities that
27 require a corporate real estate broker license under Code section 10131. Each audit examination
28 covered the time period January 1, 2017 to November 30, 2018 ("audit period"). The first

1 completed audit examination, Audit No. SD180010, was performed on DMG and was limited to
2 DMG's property management activities. A second and concurrent audit examination, Audit No.
3 SD180009, was performed on SD-RM and limited to SD-RM's property management activities,
4 was completed on April 22, 2019, and is addressed below beginning at paragraph 37. A third and
5 concurrent audit examination, Audit No. SD180013, was performed on SRM and limited to SRM's
6 property management activities, was completed on April 30, 2019, and is addressed below
7 beginning at paragraph 61

8 18. The purpose of the audit examination in Audit No. SD180010 was to determine
9 whether DMG conducted its real estate activities and handled and accounted for trust funds, and
10 other compliance issues, in accordance with the Real Estate Law and the Regulations. According
11 to the DRE's auditor, SHINN did not attend the audit examination and DMG did not provide any
12 records for the audit. The DRE's auditor could not determine if DMG maintained any trust
13 accounts during the audit period.

14 **Audit Violations in Audit No. SD180010 (DMG)**

15 19. The Complainant realleges and incorporates by reference all of the allegations
16 contained in paragraphs 1 through 18 above, with the same force and effect as though fully set forth
17 herein.

18 20. The audit examination revealed violations of the Code and the Regulations, as set
19 forth in the following paragraphs, and more fully discussed in Audit No. SD180010 and the
20 exhibits and work papers attached to the audit report:

21 **Issue Three (3).^{2/} Code section 10162: Place of Business: Contact Information**

22 21. On or about November 15, 2018, the Department sent an audit appointment letter to
23 DMG's main office address located at 2635 Camino Del Rio South #211, in San Diego, via
24 certified and regular mail advising DMG and SHINN of an audit appointment scheduled on
25 November 30, 2018 at 10:30 a.m. at DRE's San Diego District Office. DMG's main office address
26 of record was the same address of record used by SD-RM and SRM.

27 ^{2/} Issues One (1) and Two (2) were skipped intentionally. In the audit report for SD180010, the DRE's auditor
28 identifies Issues One and Two without citing any violations of the Code or Regulations. Complainant reserves the right
to conduct further investigation and to amend the Accusation should further evidence be acquired in support of Issues
One and Two, as well as potential causes of accusation not alleged in this Accusation at the time of filing.

1 22. On or about November 21, 2018, the audit appointment letter that had been sent to
2 DMG by regular mail^{3/} was returned to the DRE with a yellow label marked:

3 FORWARD TIME EXP RTN TO SEND
4 :DYNAMIC MANAGEMENT GROUP INC
5 5575 LAKE PARK WAY STE 218
6 LA MESA, CA 91942-1684

7 RETURN TO SENDER

8 23. On or about November 28, 2018, the DRE's auditor sent another audit appointment
9 letter to DMG's new address, as marked on the returned audit about letter, at 5575 Lake Park Way
10 Suite 218, in La Mesa, CA.

11 24. On or about November 30, 2018, at 10:30 a.m., SHINN failed to appear at the
12 DRE's San Diego District Office for DMG's scheduled audit appointment. Also on November 30,
13 2018, the DRE's auditor drove to the main office address of record for DMG located at 2635
14 Camino Del Rio South #211, in San Diego. This same office address was also the office address of
15 record for SD-RM and SRM. Dynamic Management Group Inc. was not listed on the building
16 directory at that address. The DRE's auditor spoke with the receptionist and an employee at Primus
17 Family Law Group, LLP from Suite 204 at 2635 Camino Del Rio South in San Diego. They stated
18 that Suite 211 was given an eviction notice about 1-2 months prior. The DRE's auditor spoke with
19 an employee at Dunhill Insurance Qualified Planning from Suite 210 and he stated that Suite 211
20 had been vacant for at least 3-6 months.

21 25. Based on the DRE auditor's inquiries at DMG's last known address at 2635 Camino
22 Del Rio South in San Diego, it appeared that DMG's main office address location was vacant.
23 DMG and SHINN failed to inform the Department of any change to DMG's main office address
24 within 30 days after making the change, in violation of **Code section 10162.**

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27 ^{3/} On or about December 14, 2018, the audit appointment letter that had been sent to DMG by certified mail on
28 November 15, 2018, to its last known address of 2635 Camino Del Rio South #211, in San Diego, was returned to the
DRE with a yellow label marked:

RETURN TO SENDER
NO SUCH STREET
UNABLE TO FORWARD

1 **Issue Four (4). Code section 10148: Retention of Records; Failure to Provide Records for**
2 **Examination**

3 26. The Complainant realleges and incorporates by reference all of the allegations
4 contained in paragraphs 1 through 25 above, with the same force and effect as though fully set forth
5 herein.

6 27. The DRE's auditor was unable to examine DMG's real estate activities because
7 DMG failed to provide its real estate records for the audit.

8 28. On or about November 2, 6, and 7 2018, the DRE's auditor made telephone calls to
9 the main office phone number of record for DMG, SD-RM, and SRM, all of which used the same
10 phone number. Each time the DRE's auditor called the main office phone number of record for
11 DMG, SD-RM, and SRM, the DRE's auditor left voicemail messages for SHINN to contact the
12 auditor, but SHINN did not return the auditor's calls. The DRE's auditor confirmed that SHINN
13 identified himself on the outgoing message at the main office phone number of record for DMG,
14 SD-RM, and SRM that was called by the DRE's auditor.

15 29. As alleged above in paragraph 21, on or about November 15, 2018, the Department
16 sent an audit appointment letter to DMG's last known office address located at 2635 Camino Del
17 Rio South #211, in San Diego, via certified and regular mail advising DMG and SHINN of an audit
18 appointment scheduled on November 30, 2018 at 10:30 a.m. at DRE's San Diego District Office,
19 and requesting that DMG produce its books and records for the audit examination for the audit
20 period from January 1, 2017 to current as stated on the letter, pursuant to Code section 10148.

21 30. As alleged above in paragraph 22, on or about November 21, 2018, the audit
22 appointment letter that had been sent to DMG by regular mail was returned to the DRE marked
23 "Return to Sender," that the forwarding time had expired, and listing a new address at 5575 Lake
24 Park Way Suite 218, in La Mesa.

25 31. On or about November 28, 2018, the DRE's auditor sent another audit appointment
26 letter to DMG's forwarding address, as marked on the returned audit about letter, at 5575 Lake
27 Park Way Suite 218, in La Mesa, for an audit appointment scheduled on November 30, 2018 at
28 10:30 a.m. at the DRE's San Diego District Office.

1 32. On or about November 30, 2018, at 10:30 a.m., SHINN failed to appear at the
2 DRE's San Diego District Office for DMG's scheduled audit appointment. As alleged above in
3 paragraphs 24 and 25, after driving to DMG's last known main office address location, the DRE's
4 auditor determined that the location was vacant and was not DMG's current address. The DRE's
5 auditor then drove to 5575 Lake Park Way in La Mesa, the address marked on the returned audit
6 appointment letter, but was unable to locate SHINN or a representative of DMG.

7 33. A DRE special investigator made numerous attempts to serve a subpoena duces
8 tecum on DMG and SHINN, but all attempts were unsuccessful.

9 34. On or about February 27, 2019, the DRE's auditor sent a non-compliance summary
10 both by certified and regular mail to DMG to its last known main office address.

11 35. On or about March 4 and 5, 2019, the noncompliance summary sent by regular and
12 certified mail, respectively, was returned to the DRE with a yellow label marked:

13 RETURN TO SENDER
14 NOT DELIVERABLE AS ADDRESSED
15 UNABLE TO FORWARD

16 36. As of the audit report date, DMG had failed to make its books and records related to
17 its real estate activities available for the audit examination in violation of **Code section 10148.**

18 **AUDIT OF SD-RM: AUDIT NO. SD180009**

19 37. On April 22, 2019, the Department completed the second of three concurrent audit
20 examinations of the books and records of DMG's, SD-RM's, and SRM's real estate activities that
21 require a corporate real estate broker license under Code section 10131. As with Audit No.
22 SD180010, the audit examination in Audit No. SD180009 covered the time period January 1, 2017
23 to November 30, 2018. Audit No. SD180009 was performed on SD-RM and limited to SD-RM's
24 property management activities.

25 38. The purpose of the audit examination in Audit No. SD180009 was to determine
26 whether SD-RM conducted its real estate activities and handled and accounted for trust funds, and
27 other compliance issues, in accordance with the Real Estate Law and the Regulations. According
28 to the DRE's auditor, SHINN did not attend the audit examination scheduled for November 30,

1 2018 at the DRE's San Diego District Office. SHINN was the D.O. for SD-RM as of November 30,
2 2018.

3 39. On November 29, 2018, the DRE served a subpoena duces tecum on Kennedy, who
4 was a RES at the time and is the owner of SD-RM. Kennedy provided documents to the DRE for
5 the examination of SD-RM's records.

6 40. Based on an examination of SD-RM's records as well as statements made by
7 Kennedy during the audit, SD-RM managed approximately forty-five (45) properties with
8 approximately forty-five (45) units for forty-five (45) property owners. SD-RM maintained forty-
9 five (45) single beneficiary bank accounts for handling trust fund receipts and disbursements
10 related to its property management activities.

11 41. The DRE's auditor examined four (4) single beneficiary bank accounts maintained
12 at California Bank & Trust ("CB&T"), as follows:

- 13 a. CB&T Bank Account ending in 5739 ("BA1"), for property owners Patrik &
14 Luiz R.;
- 15 b. CB&T Bank Account ending in 5192 ("BA2"), for property owner Irene S.;
- 16 c. CB&T Bank Account ending in 5143 ("BA3"), for property owner Brandon
17 C.; and,
- 18 d. CB&T Bank Account ending in 5846 ("BA4"), for property owners Chenell
19 and Acela T.

20 42. Based on the DRE auditor's sampling of the above four accounts, he determined
21 that SD-RM collected trust fund receipts of approximately \$101,855.00 during the audit period.
22 According to Kennedy, SD-RM charged a management fee of 8% of monthly rent collected or
23 \$175 per month.

24 **Audit Violations in Audit No. SD180009 (SD-RM)**

25 43. The Complainant realleges and incorporates by reference all of the allegations
26 contained in paragraphs 1 through 42 above, with the same force and effect as though fully set forth
27 herein.

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1 44. The audit examination revealed violations of the Code and the Regulations, as set
2 forth in the following paragraphs, and as more fully discussed in Audit No. SD180009 and the
3 exhibits and work papers attached to the audit report:

4 **Issue One (1). Code section 10145 and Regulation 2832: Trust Fund Designation and Trust**
5 **Fund Handling**

6 45. SD-RM used BA1, BA2, and BA3 for handling property management trust funds,
7 but did not designate these accounts as trust accounts, nor did it designate the accounts in the name
8 of SD-RM, or any licensed fictitious business names licensed to SD-RM, as trustee during the audit
9 period.

10 46. SD-RM's failure to set up BA1, BA2, and BA3 as trust accounts was in violation of
11 **Code section 10145 and Regulation 2832.**

12 **Issue Two (2). Code section 10145 and Regulation 2834: Trust Account Withdrawals**

13 47. Based on an examination of BA2's bank signature card dated February 10, 2016 and
14 copies of checks issued, it showed that Irene S., an unlicensed owner, was authorized to sign and
15 make withdrawals on BA2 during the audit period.

16 48. Based on an examination of BA3's bank signature card dated March 10, 2016, it
17 stated that Brandon C., an unlicensed owner, was authorized to sign and make withdrawals on BA3
18 during the audit period.

19 49. SD-RM did not maintain fidelity bond coverage or insurance coverage for Irene S.
20 or Brandon C. during the audit period.

21 50. SHINN, who was the D.O. for SD-RM during the audit period, was not authorized
22 to sign and make withdrawals on BA1, BA2, and BA3 during the audit period.

23 51. SD-RM's failure to obtain an authorization for SHINN, and the authorization of
24 unlicensed individuals for Irene S. and Brandon C. without fidelity bonds to make withdrawals on
25 BA2 and BA3 during the audit period was in violation of **Code Section 10145 and Regulation**
26 **2834.**

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1 **Issue Three (3). Code section 10162: Place of Business: Contact Information**

2 52. On or about November 15, 2018, the Department sent an audit appointment letter to
3 SD-RM's main office address of record at the time located at 2635 Camino Del Rio South #211, in
4 San Diego, via certified and regular mail advising SD-RM and SHINN of an audit appointment
5 scheduled on November 30, 2018 at 10:30 a.m. at the DRE's San Diego District Office

6 53. On or about November 21, 2018, the audit appointment letter that had been sent to
7 SD-RM by regular mail^{4/} was returned to the DRE with a yellow label marked:

8 FORWARD TIME EXP RTN TO SEND
9 :SD REALTY AND MANAGEMENT INC
10 5575 LAKE PARK WAY STE 218
11 LA MESA, CA 91942-1684

12 RETURN TO SENDER

13 54. On or about November 30, 2018, at 10:30 a.m., SHINN failed to appear at the
14 DRE's San Diego District Office for SD-RM's scheduled audit appointment. Also on November
15 30, 2018, the DRE's auditor drove to the main office address of record for SD-RM, located at 2635
16 Camino Del Rio South #211, in San Diego. The DRE's auditor did not see SD-RM listed on the
17 building directory. The DRE's auditor spoke with the receptionist and an employee at Primus
18 Family Law Group, LLP from Suite 204 at 2635 Camino Del Rio South in San Diego. They stated
19 that Suite 211 was given an eviction notice about 1-2 months prior. The DRE's auditor spoke with
20 an employee at Dunhill Insurance Qualified Planning from Suite 210 and he stated that Suite 211
21 had been vacant for at least 3-6 months.

22 55. Based on the DRE auditor's inquiries at 2635 Camino Del Rio South in San Diego,
23 it appeared that SD-RM's main office address location was vacant.

24 56. On or about April 12, 2019, the DRE's auditor sent a non-compliance summary both
25 by certified and regular mail to SD-RM to its last known main office address as well as the address
26 listed on the yellow label attached to the previously returned audit appointment letter, at 5575 Lake

27 ^{4/} On or about December 14, 2018, the audit appointment letter that had been sent to SD-RM by certified mail on
28 November 15, 2018, to its last known address of 2635 Camino Del Rio South #211, in San Diego, was returned to the
DRE with a yellow label marked:

RETURN TO SENDER
NO SUCH STREET
UNABLE TO FORWARD

1 Park Way #111 in La Mesa. On or about April 22, 2019, the noncompliance summary sent by
2 certified mail was returned to the DRE with a yellow label marked:

3 RETURN TO SENDER
4 ATTEMPTED – NOT KNOWN
5 UNABLE TO FORWARD

6 57. SD-RM and SHINN failed to inform the Department of any change to SD-RM's
7 main office address within 30 days after making the change, in violation of Code section 10162.

8 **Issue Four (4). Code section sections 10159.2 and 10177(h) and Regulation 2725:**

9 **Responsibility of Corporate Officer in Charge; Broker Supervision**

10 58. The Complainant realleges and incorporates by reference all of the allegations
11 contained in paragraphs 45 through 57 above, with the same force and effect as though fully set
12 forth herein.

13 59. Based on the above audit findings of Audit No. SD180009 in Issues 1 through 3
14 above, as alleged in paragraphs 46 through 57 above, as the broker and designated officer of SD-
15 RM, SHINN did not exercise adequate supervision and control over the real estate activities
16 conducted on behalf of SD-RM by its employees and licensees to ensure compliance with the Real
17 Estate Laws and Regulations. SHINN failed to establish policies, rules and systems to review,
18 oversee, inspect, and manage transactions requiring a real estate license and the handling of trust
19 funds.

20 60. SHINN's acts and/or omissions, as alleged above in paragraphs 34 through 42 above
21 were in violation of Code sections 10159.2 and 10177(h), and Regulation 2725.

22 **AUDIT OF SRM: AUDIT NO. SD180013**

23 61. On April 30, 2019, the Department completed the third of three concurrent audit
24 examinations of the books and records of DMG's, SD-RM's, and SRM's real estate activities that
25 require a corporate real estate broker license under Code section 10131. As with Audit Nos.
26 SD180010 and SD180009, the audit examination in Audit No. SD180013 covered the time period
27 January 1, 2017 to November 30, 2018. Audit No. SD180013 was performed on SRM and limited
28 to SRM's property management activities.

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1 62. The purpose of the audit examination in Audit No. SD180013 was to determine
2 whether SRM conducted its real estate activities and handled and accounted for trust funds, and
3 other compliance issues, in accordance with the Real Estate Law and the Regulations. According
4 to the DRE's auditor, SHINN did not attend the audit examination and SRM did not provide any
5 records for the audit. The DRE's auditor could not determine if SRM maintained any trust
6 accounts during the audit period.

7 **Audit Violations in Audit No. SD180013 (SRM)**

8 63. The Complainant realleges and incorporates by reference all of the allegations
9 contained in paragraphs 1 through 62 above, with the same force and effect as though fully set forth
10 herein.

11 64. The audit examination revealed violations of the Code and the Regulations, as set
12 forth in the following paragraphs, and more fully discussed in Audit No. SD180013 and the
13 exhibits and work papers attached to the audit report:

14 **Issue Three (3).⁵¹ Code section 10162: Place of Business: Contact Information**

15 65. As alleged above in paragraph 28, on or about November 2, 6, and 7 2018, the
16 DRE's auditor made telephone calls to the main office phone number of record for DMG, SD-RM,
17 and SRM, all of which used the same phone number. Each time the DRE's auditor called the main
18 office phone number of record for DMG, SD-RM, and SRM, the DRE's auditor left voicemail
19 messages for SHINN to contact the auditor, but SHINN did not return the auditor's calls.

20 66. As alleged above in paragraphs 21 and 52, on or about November 15, 2018, the
21 Department sent an audit appointment letter to DMG's and SD-RM's last known office address
22 located at 2635 Camino Del Rio South #211, in San Diego, via certified and regular mail advising
23 DMG, SD-RM, and SHINN of an audit appointment scheduled on November 30, 2018 at 10:30
24 a.m. at the DRE's San Diego District Office.

25 67. As alleged above in paragraphs 22 and 53, on or about November 21, 2018, the
26 audit appointment letters that had been sent to DMG and SD-RM by regular mail were returned to

27 ⁵¹ Issues One (1) and Two (2) were skipped intentionally. In the audit report for SD180013, the DRE's auditor
28 identifies Issues One and Two without citing any violations of the Code or Regulations. Complainant reserves the right
to conduct further investigation and to amend the Accusation should further evidence be acquired in support of Issues
One and Two, as well as potential causes of accusation not alleged in this Accusation at the time of filing.

1 the DRE marked "Return to Sender," that the forwarding time had expired, and listing a new
2 address at 5575 Lake Park Way Suite 218, in La Mesa.

3 68. On or about November 30, 2018, at 10:30 a.m., SHINN failed to appear at the
4 DRE's San Diego District Office for DMG's and SD-RM's scheduled audit appointment. Also on
5 November 30, 2018, the DRE's auditor drove to SRM's main office address of record located at
6 2635 Camino Del Rio South #211, in San Diego. Shinn Realty & Management, Inc. was not listed
7 on the building directory at that address. The DRE's auditor spoke with the receptionist and an
8 employee at Primus Family Law Group, LLP from Suite 204 at 2635 Camino Del Rio South in San
9 Diego. They stated that Suite 211 was given an eviction notice about 1-2 months prior. The DRE's
10 auditor spoke with an employee at Dunhill Insurance Qualified Planning from Suite 210 and he
11 stated that Suite 211 had been vacant for at least 3-6 months.

12 69. Based on the DRE auditor's inquiries at 2635 Camino Del Rio South in San Diego,
13 it appeared that SRM's main office address location was vacant.

14 70. SRM and SHINN failed to inform the Department of any change to SRM's main
15 office address within 30 days after making the change, in violation of **Code section 10162.**

16 **Issue Four (4). Code section 10148: Retention of Records; Failure to Provide Records for**
17 **Examination**

18 71. The Complainant realleges and incorporates by reference all of the allegations
19 contained in paragraphs 1 through 70 above, with the same force and effect as though fully set forth
20 herein.

21 72. The DRE's auditor was unable to examine SRM's real estate activities because
22 SRM failed to provide its real estate records for the audit. The DRE's auditor made telephone calls
23 to SRM's main office phone number, leaving voicemail messages for SHINN to contact the
24 auditor, but SHINN did not return the auditor's calls.

25 73. On or about November 30, 2018, at 10:30 a.m., SHINN failed to appear at the
26 DRE's San Diego District Office for DMG's and SD-RM's scheduled audit appointment. As
27 alleged above, after driving to DMG's, SD-RM's, and SRM's last known main office address
28 location, the DRE's auditor determined that the location was vacant and was not SRM's current

1 address. The DRE's auditor then drove to 5575 Lake Park Way in La Mesa, the address marked on
2 the returned audit appointment letter sent by regular mail to DMG and SD-RM, but was unable to
3 locate SHINN or a representative of DMG, SD-RM, or SRM.

4 74. A DRE special investigator made numerous attempts to serve a subpoena duces
5 tecum on SRM and SHINN, but all attempts were unsuccessful.

6 75. On or about April 12, 2019, the DRE's auditor sent a non-compliance summary both
7 by certified and regular mail to SRM to its last known main office address. On or about April 22,
8 2019, the noncompliance summary sent by certified mail was returned to the DRE with a yellow
9 label marked:

10 RETURN TO SENDER
11 ATTEMPTED - NOT KNOWN
12 UNABLE TO FORWARD

13 76. As of the audit report date, SRM had failed to make its books and records related to
14 its real estate activities available for the audit examination in violation of **Code section 10148.**

15 **ADDITIONAL VIOLATIONS OF THE REAL ESTATE LAW**
16 **NEGLIGENCE AND WILLFUL DISREGARD OF THE REAL ESTATE LAW**

17 77. The Complainant realleges and incorporates by reference all of the allegations
18 contained in paragraphs 1 through 76 above, with the same force and effect as though fully set forth
19 herein.

20 78. The overall conduct of SHINN is violative of the Real Estate Law and constitutes
21 cause for the suspension or revocation of the real estate license and license rights of SHINN under
22 the provisions of **Code sections 10177(g) for negligence and 10177(d) for willful disregard of**
23 **the Real Estate Law.**

24 **INVESTIGATION AND ENFORCEMENT COSTS**

25 79. Code section 10106 provides that in any order issued in resolution of a disciplinary
26 proceeding before the Department of Real Estate, the Commissioner may request the administrative
27 law judge to direct a licensee found to have committed a violation of this part to pay a sum not to
28 exceed the reasonable costs of the investigation and enforcement of the case.

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1 **AUDIT COSTS**

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

6 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
7 this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
8 against all the licenses and license rights of DYNAMIC MANAGEMENT GROUP, INC., SHINN
9 REALTY AND MANAGEMENT, INC., SD REALTY & MANAGEMENT, INC., and BRIAN
10 JAMES SHINN under the Real Estate Law, for the costs of investigation and enforcement, and
11 audit as permitted by law, and for such other and further relief as may be proper under other
12 applicable provisions of law, and for costs of audit.

13
14 Dated at San Diego, California this 5 day of June^{uk}, 2020.

15
16 V. Kilpatrick
17 Veronica Kilpatrick
18 Supervising Special Investigator

19
20 cc: DYNAMIC MANAGEMENT GROUP, INC.
21 SHINN REALTY AND MANAGEMENT, INC.
22 SD REALTY & MANAGEMENT, INC.
23 BRIAN JAMES SHINN
24 Veronica Kilpatrick
25 Sacto.
26
27
28