

Kevin H. Sun, Counsel (SBN 276539)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105
Telephone: (213) 576-6982
Fax: (213) 576-6917
Email: Kevin.Sun@dre.ca.gov
Attorney for Complainant

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JAN 07 2021

DEPT. OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	No. H-05197 SD
	)	
KENDRA JEAN WAHLIN,	)	<u>ACCUSATION</u>
doing business as Precise Properties,	)	
	)	
Respondent.	)	

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against KENDRA JEAN WAHLIN alleges as follows:

1.

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator 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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1 LICENSE HISTORY

2 (KENDRA JEAN WAHLIN)

3 3.

4 (a) Respondent KENDRA JEAN WAHLIN ("Respondent") is presently licensed
5 under the Code, as a real estate broker, Department license ID 01031355.

6 (b) The Department originally issued Respondent's broker license on March 14,
7 1997. Respondent's license is scheduled to expire on March 13, 2021, unless renewed.

8 (c) According to the Department's records, Respondent's office address is 28202
9 Cabot Road, Ste 300, Laguna Niguel in Orange County.

10 (d) According to the Department's records, Respondent employs one (1)
11 salesperson (Joseph B Philip - Department ID 00987107) under her real estate license.

12 (d) According to the Department's records, Respondent maintains authorized a
13 fictitious business name of "Precise Properties" as of March 21, 2011.

14 4.

15 (PRIOR DISCIPLINE)

16 On or about April 6, 2016, Respondent and the Department entered into a
17 stipulation and agreement in settlement and order ("stipulation and agreement") for an
18 accusation the Department filed against Respondent in September 2014 (Case No. H-39591
19 LA). Respondent's license was disciplined, among other things, with a 30-day stayed
20 suspension, completing a trust fund handling course, and payment of the Department's
21 investigative, enforcement, and audit costs. The September 2014 accusation alleged that
22 Respondent violated the following real estate laws, pursuant to an audit examination completed
23 on or about April 29, 2014 (Audit LA130081):

24 a. Code Section 10145 and Regulation 2832.1 – Trust Fund Handling for
25 Multiple Beneficiaries (shortages);

26 b. Code Section 10145 and Regulation 2832 – Trust Fund Handling (placing
27 trust fund in accounts not designated as trust accounts);

1 c. Code Section 10145 and Regulation 2831 - Trust Fund Records to be
2 Maintained (inaccurate/incomplete control records)

3 d. Code Section 10145 and Regulation 2831.1 – Separate Records for Each
4 Beneficiary or Transaction (inaccurate/incomplete separate records); and

5 e. Code Section 10145 and Regulation 2831.2 – Bank Account Reconciliation
6 (inaccurate monthly separate records).

7 5.

8 At all times relevant herein Respondent was engaged in the business of, acted in
9 the capacity of, advertised or assumed to act as a real estate corporation, within the meaning of
10 Section 10131 of the Code. Respondents' activities included, but not limited to, the leasing or
11 renting of real property and the collection of rents and security deposits for real property on
12 behalf of others for compensation or in expectation of compensation.

13 (AUDIT LA190047)

14 6.

15 On or about June 30, 2020, the Department completed an audit examination of
16 the books and records of Respondent's pertaining to the real estate activities described in
17 Paragraph 5 above. The audit examination covered the period of time from January 1, 2018,
18 through September 30, 2019 ("audit period"). The primary purpose of the examination was to
19 determine whether Respondent's real estate activities complied with the stipulation and
20 agreement as well as with the Real Estate Law. The audit examination revealed violations of
21 the Code and the Regulations as set forth in the following paragraphs, and more fully discussed
22 in Audit No. LA190047, and the exhibits and work papers attached to said audit report.

23 7.

24 At all times mentioned herein, and in connection with the property management
25 activities described in Paragraph 5, above, Respondent accepted or received funds, including
26 funds in trust ("trust funds") from or on behalf of actual or prospective parties to transactions
27 handled by Respondents and thereafter made deposits and/or disbursements of such funds.

1 According to the documents provided, Respondent maintained three (3) trust accounts for
2 handling of the receipts and disbursements of funds during the audit period in connection with
3 the property management activities. The bank accounts are as follows:

4 Trust Account 1 ("TA 1")

5 Bank: Farmers and Merchants Bank
6 Account Name: Kendra J Wahlin Precise Property Management (DBA) Client Trust
7 Account TA-1
8 Account Number: xxxxxxxx3903
9 Signatories: Kendra J Wahlin, Joseph B Philip, Bandon Gregory Musselman (non-
10 licensee)
11 Signatures Required: One
12 Purpose: TA 1 was maintained to handle trust funds in the property management
13 activities for multiple beneficiaries.

14 Trust Account 2 ("TA 2")

15 Bank: Farmers and Merchants Bank
16 Account Name: Kendra J Wahlin Precise Property Management (DBA) Client Trust
17 Account TA-4
18 Account Number: xxxxxxxx3946
19 Signatories: Kendra J Wahlin, Joseph B Philip, Bandon Gregory Musselman (non-
20 licensee)
21 Signatures Required: One
22 Purpose: TA 2 was maintained to handle trust funds in the property management
23 activities for multiple beneficiaries.

24 Trust Account 3 ("TA 3")

25 Bank: Farmers and Merchants Bank
26 Account Name: Kendra J Wahlin Precise Property Management (DBA) Client Trust
27 Account

1 Account Number: xxxxxxxx3954

2 Signatories: Kendra J Wahlin, Joseph B Philip, Bandon Gregory Musselman (non-
3 licensee)

4 Signatures Required: One

5 Purpose: TA 3 was maintained to handle trust funds in the property management
6 activities for multiple beneficiaries.

7 Violations of the Real Estate Law

8 8.

9 The audit examination revealed violations of the Code and the Regulations, as
10 set forth in the following paragraphs, and more fully discussed in Audit Report No. LA190047,
11 and the exhibits and work papers attached to the audit report:

12 (a) **Trust Fund Handling For Multiple Beneficiaries (Code section 10145**
13 **and Regulations sections 2832.1).**

14 Based on an examination of TA 1's records, there was a combined minimum
15 trust fund shortage of \$22,778.11 as of September 30, 2019 in violation of Code section 10145
16 and Regulations sections 2832.1. There is no evidence that Respondent was given written
17 consent from the owners of the trust funds to allow Respondent to reduce the balance of the
18 funds in TA 1 to an amount less than the aggregate trust fund liabilities to all owners of the
19 trust funds.

20 Based on an examination of TA 2's records, there was a combined minimum
21 trust fund shortage of \$9,574.55 as of September 30, 2019 in violation of Code section 10145
22 and Regulations sections 2832.1. There is no evidence that Respondent was given written
23 consent from the owners of the trust funds to allow Respondent to reduce the balance of the
24 funds in TA 2 to an amount less than the aggregate trust fund liabilities to all owners of the
25 trust funds. Further, there was unidentified/unaccounted for funds of \$37,834.15 as of
26 September 30, 2019.

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1 Based on an examination of TA 3's records, there was a combined minimum
2 trust fund shortage of \$4,527.46 as of September 30, 2019 in violation of Code section 10145
3 and Regulations sections 2832.1. There is no evidence that Respondent was given written
4 consent from the owners of the trust funds to allow Respondent to reduce the balance of the
5 funds in TA 3 to an amount less than the aggregate trust fund liabilities to all owners of the
6 trust funds.

7 (b) **Failure to Comply with stipulation and agreement (Code section 10145**
8 **and Regulations sections 2831, 2831.1, 2831.2, and 2832.1).** The purpose of the June 30,
9 2020 audit was to determine if Respondent is in compliance with the Real Estate Laws that
10 Respondent was found in violation of during the prior audit (LA130081). Respondent is found
11 to not be in compliance with Code section 10145 and Regulations sections 2831, 2831.1,
12 2831.2, and 2832.1, as seen in this Accusation.

13 (c) **Handling of Trust Funds/Trust Fund Records to be Maintained(Code**
14 **section 10145 and Regulations sections 2831).** Respondent failed to maintain complete and
15 accurate columnar record for all trust funds received and disbursed (control record) for TA 1,
16 which was used for Respondent's property management activities during the audit period in
17 violation of Code section 10145 and Regulations sections 2831. The control record maintained
18 by Respondent had inaccurate daily balances of trust fund and missing entries.

19 Respondent failed to maintain complete and accurate control record for TA 2,
20 which was used for Respondent's property management activities during the audit period in
21 violation of Code section 10145 and Regulations sections 2831. The control record maintained
22 by Respondent had inaccurate daily balances of trust fund and missing entries.

23 Respondent failed to maintain complete and accurate control record for TA 3,
24 which was used for Respondent's property management activities during the audit period in
25 violation of Code section 10145 and Regulations sections 2831. Respondent failed to provide
26 any control records for TA 3 to the Department.

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1 (d) **Handling of Trust Funds/Separate Records for Each Beneficiary (Code**
2 **section 10145 and Regulations sections 2831.1).** Respondent failed to maintain complete and
3 accurate separate records for each beneficiary or transaction of all trust fund receipts and
4 disbursements for TA 1 in connection with Respondent's property management activities
5 during the audit period in violation of Code section 10145 and Regulations section 2831.1. The
6 separate records maintained by Respondent had inaccurate daily balances of trust fund and
7 missing entries.

8 Respondent failed to maintain complete and accurate separate records for each
9 beneficiary or transaction of all trust fund receipts and disbursements for TA 2 in connection
10 with Respondent's property management activities during the audit period in violation of Code
11 section 10145 and Regulations section 2831.1. The separate records maintained by Respondent
12 had inaccurate daily balances of trust fund and missing entries.

13 Respondent failed to maintain complete and accurate separate records for each
14 beneficiary or transaction of all trust fund receipts and disbursements for TA 3 in connection
15 with Respondent's property management activities during the audit period in violation of Code
16 section 10145 and Regulations section 2831.1. The separate records maintained by Respondent
17 had inaccurate daily balances of trust fund, missing entries, and incorrect entries. Respondent
18 failed to provide the Department with all separate records for TA 3.

19 (e) **Trust Account Reconciliation (Code section 10145 and Regulations**
20 **section 2831.2).** Based on an examination of TA 1, TA 2, and TA 3's records, as of September
21 30, 2019, Respondent failed to accurately perform monthly reconciliation for TA 1, TA 2, and
22 TA3 during the audit period, which led to an inaccurate monthly balance.

23 (f) **Handling of Trust Funds (Code section 10145).** During the audit period,
24 Respondent made minimum trust fund disbursements from TA 1 and TA 3 to clients of
25 Respondent that did not have trust fund in the respective trust accounts in violation of Code
26 section 10145.

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(g) **Handling of Trust Funds/Trust Account Withdrawal (Code section 10145 and Regulations section 2834)**. Respondent's bank signature card contained the signatory Brandon Gregory Musselman (Respondent's son who was not a licensee or Respondent's employee), who was allowed to sign and make withdrawals from TA 1, TA 2, and TA 3. Respondent did not maintain insurance equal to at least the maximum amount of the trust funds to which Musselman has access.

(h) **Use of False or Unlicensed Fictitious Name (Code section 10159.5 and Regulations section 2731)**. During the audit period, Respondent used the unlicensed fictitious business name of "Precise Property Management" without first obtaining permission from the Department. This name does not show up in the Department's records as licensed fictitious business names associated with Respondent.

(i) **Disclosure of License Number in Advertisement (Code section 10140.6 and Regulations section 2773)**. Respondent did not include her Department license information on the “About” and “Contact” pages of her website (<http://www.preciseprop.com>).

(j) Broker Supervision (Code section 10177(h) and Regulations section 2725). Based on the violations in Paragraphs 8 (a)-(i) above, Respondent failed to provide established policies, rules, procedures, and systems to review, oversee, inspect, and manage transactions requiring a real estate license and the handling of trust funds in violation of Code section 10177(h) and Regulations section 2725.

Additional Violations of the Real Estate Law

9.

The overall conduct of Respondent violates the Real Estate Law and constitutes cause for the suspension or revocation of their real estate license and license rights under the provisions of **Code Section 10177(g)** for negligence and **Code Section 10177(d)** for willful disregard of the Real Estate Law.

III

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10.

Each of the foregoing violations in Paragraphs 8 (a)-(j) above constitute cause for the suspension or revocation of the real estate license and/or license rights of Respondent under the provisions of Code sections 10177(d), 10177(g), and 10177(h).

COSTS

(AUDIT COSTS)

11.

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

(INVESTIGATION AND ENFORCEMENT COSTS)

12.

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

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Dated at San Diego, California this 30 day of December, 2021.

cc: KENDRA JEAN WAHLIN
Veronica Kilpatrick
Sacto.
Audits – Kelly Kuboniwa