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SEP 11 2025
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

No. H-05866-SD

PETER MARX,

ACCUSATION

Respondent.

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the Department of Real Estate ("Department" or "DRE") of the State of California, for cause of Accusation against Respondents PETER MARX ("MARX"), "Respondent," alleges as follows:

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.

LICENSE HISTORY

3. Respondent MARX has been licensed by the DRE as a real estate broker ("REB"), DRE license identification number ("License ID") 01131401, from on or about March 4, 1992, through the present, with MARX's license scheduled to expire on January 14, 2029, unless renewed. MARX has no branch offices, and employs no real estate salespersons. MARX maintains the following fictitious business names ("dba") licensed by the DRE:

- a. "Safe Harbor Asset Management," active as of December 22, 2016.

- b. "Safe Harbor Leasing and Management," active as of May 21, 2012;
- c. "Safe Harbor Management Services," active as of December 22, 2016.
- d. "Safe Harbor Property Management," active as of December 22, 2016.

PRIOR LICENSE DISCIPLINE – DRE CASE NO. H-05117-SD

4. On or about December 26, 2019, in DRE Case No. H-05117-SD, the DRE filed an Accusation against MARX, alleging violations of the Real Estate Law based in part on the audit examination of MARX in Audit No. SD170003, alleging violations of Code sections 10137, 10145(a), 10159.5, and Regulations 2731, 2831, 2831.1, 2831.2, 2832, 2832.1, and 2834.

5. On or about March 30, 2021, in DRE Case No. H-05117-SD, the DRE filed an Amended Decision After Rejection, with an effective date of April 9, 2021, in which the Real Estate Commissioner ordered that all licenses and licensing rights of MARX were suspended for a period of thirty (30) days from the effective date of the Decision, provided, however, that thirty (30) days of the suspension would be stayed for two (2) years upon the following terms and conditions:

a. Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and

b. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years of the effective date of the Decision. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed shall become permanent.

c. Pursuant to Code section 10148, Respondent shall pay the Commissioner's reasonable cost for the audit which led to the disciplinary action in the reduced amount of \$5,334.81. Respondent shall pay such costs within sixty (60) days of receiving an invoice therefor from the Commissioner. Payment of audit costs should not be made until Respondent receives the invoice. If Respondent fails to satisfy this condition in a timely manner as provided, Respondent's real estate licenses shall automatically be suspended until payment

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1 is made in full, or until a decision providing otherwise, is adopted following a hearing held
2 pursuant to this condition.

3 d. Pursuant to Code section 10148, Respondent shall pay the Commissioner's
4 reasonable costs, not to exceed \$13,337.03, for any subsequent audit to determine if
5 Respondent has corrected the violations found in the Determination of Issues. In calculating
6 the amount of the Commissioner's reasonable costs, the Commissioner may use the estimated
7 average hourly salary for all persons performing audits of real estate brokers, and shall include
8 an allocation for travel time to and from the auditor's place of work. Respondent shall pay
9 such costs within sixty (60) days of receiving an invoice therefor from the Commissioner.
10 Payment of the audit costs should not be made until Respondent receives the invoice. If
11 Respondent fails to satisfy this condition in a timely manner as provided, Respondent's real
12 estate licenses shall automatically be suspended until payment is made in full or until a
13 decision providing otherwise is adopted following a hearing held pursuant to this condition.

14 e. All licenses and license rights of Respondent are indefinitely suspended unless
15 or until Respondents pay the reduced amount of \$1,254.58 for the Commissioner's reasonable
16 B costs of the investigation and enforcement, which led to this disciplinary action. Said
17 payment 9 shall be in the form of a cashier's check made payable to the Department of Real
18 Estate. The investigative and enforcement costs must be delivered to the Department of Real
19 Estate, Flag Section, at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective
20 date of the Decision and Order.

21 f. All licenses and licensing rights of Respondent are indefinitely suspended,
22 unless or until Respondent provides proof satisfactory to the Commissioner, of having taken
23 and successfully completed the continuing education course on trust fund accounting and
24 handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and
25 Professions Code. Proof of satisfaction of these requirements includes evidence that
26 Respondent has successfully completed the trust fund account and handling continuing
27 education course, no earlier than 120 days prior to the effective date of the Decision and Order
28 in this matter. Proof of completion of the trust fund accounting and handling course must be

1 delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento,
2 CA 95813-7013 prior to the effective date of this Decision and Order.

3 g. Respondent shall, within six (6) months from the effective date of the
4 Decision, take and pass the Professional Responsibility Examination administered by the
5 Department including the payment of the appropriate examination fee. If Respondent fails to
6 satisfy this condition, Respondent's real estate license shall automatically be suspended until
7 Respondent passes the examination.

8 **BROKERAGE: MARX**

9 6. At all times mentioned, in the County of San Diego, MARX acted as a real estate
10 broker, conducting property management activities requiring a license in expectation of
11 compensation within the meaning of Code 10131(b): leasing or renting, or offering to lease or rent,
12 or placing for rent, or soliciting listings of places for rent, or soliciting for prospective tenants, or
13 collecting rents from real property for others.

14 **AUDIT OF MARX: AUDIT NO. SD240008**

15 7. On November 15, 2024, the DRE completed an audit examination of the books and
16 records of MARX's real estate activities that require a real estate broker license under Code Section
17 10131. The audit examination in Audit No. SD240008 covered the time period from August 1, 2023,
18 to July 31, 2024 ("audit period") and was limited to MARX's property management activities.

19 8. The purpose of the audit examinations was to determine whether MARX conducted
20 their real estate activities and handled and accounted for trust funds in accordance with the Real
21 Estate Law and the Regulations.

22 9. As of July 31, 2024, MARX managed twenty-one (21) one-to-four unit family
23 residences and five (5) apartment complexes for twenty-one (21) owners during the audit period.
24 Marx collected rents of \$1,825,670.00 annually. According to MARX: MARX was previously the
25 controller for former real estate corporation Genmar Real Estate Corporation ("GREC"), License ID
26 01316630, which license was revoked by the DRE on April 2, 2012; MARX took over GREC's
27 property management operation in 2010.

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10. As of July 31, 2024, MARX maintained one (1) multiple beneficiary trust account for handling the receipts and disbursements of trust funds in connection with his property management activities during the audit period, as follows:

Trust Account 1 ("TA1")

Bank:	U.S. Bank
Account Name:	Peter Marx DBA Safe Harbor Asset Management
Account #:	XXXXXXXX2201 (previously XXXXXXXX7255) ^{1/}
Signatories:	MARX (REB, 100% owner)
Signatures required:	One (1) signature
Purpose:	TA1 is used as a rent operation account. Deposits made to TA1 included rent and security deposit receipts collected from tenants. Disbursements from TA1 included property expenditures, security deposit refund, owner distribution, and management fees/leasing commissions.

Audit Violations in Audit No. SD240008

11. Complainant realleges and incorporates by reference all of the allegations contained in the previous paragraphs as though fully set forth herein.

12. The audit examination revealed violations of the Code and the Regulations, as set forth in the following paragraphs, and more fully discussed in Audit No. SD240008 and the exhibits and work papers attached to the audit report:

Issue One (1). Code Section 10145(a) and Regulation 2832.1: Trust Fund Balance and Accountability

13. As of July 31, 2024, TA1 had a trust fund shortage of <\$346,456.86> caused by a combination of a negative ledger balance for "SAFE HARBOR TEN T" in the amount of <\$208,752.46>, undeposited trust funds totaling <\$3,270.00>, and a remaining shortage in the amount of <\$134,434.40> which could not be identified.

^{1/} Based on records obtained by the DRE, on or about August 28, 2020, MARX signed a Bank-Depositor Agreement with MUFG Union Bank, N.A., for the bank account ending in 7255, which account was used to maintain trust funds for MARX's property management activities. Based on a Form 8-K filed by U.S. Bancorp with the U.S. Securities and Exchange Commission, in or about December 2022, U.S. Bancorp acquired MUFG Union Bank N.A. ("MUB"), and MUB merged with and into U.S. Bank National Association ("U.S. Bank"). On information and belief, after U.S. Bank's acquisition of MUB, the trust funds that were maintained by MARX in MUB account ending in 7255, were either transferred to a U.S. Bank account ending in 2201, or the MUB account ending in 7255 was assigned U.S. Bank account number ending in 2201.

1 14. The DRE's auditor prepared a second bank reconciliation with a cutoff of August 21,
2 2023, to confirm that part of TA1's shortage as of July 31, 2024, was carried forward from prior to
3 the audit period ending on July 31, 2024. As of August 31, 2023, TA1 had a trust fund shortage of
4 <\$343,186.86> caused by a negative ledger balance for "SAFE HARBOR TEN T" in the amount of
5 <\$208,752.46> and an unidentified shortage in the amount of <\$134,434.40>.

6 15. MARX provided no evidence that the owners of the trust funds provided written
7 consent to allow MARX to reduce the balance of funds in TA1 to an amount less than the existing
8 aggregate trust fund liabilities.

9 16. MARX's reduction of the balance of funds in TA1 to an amount less than the existing
10 aggregate trust fund liabilities was in violation of **Code section 10145(a) and Regulation 2832.1.**
11 **Issue Two (2). Code Section 10145(a) and Regulation 2832: Handling of Trust Funds; Timely**
12 **Deposit**

13 17. Based on records examined, and on three examples provided by the DRE's auditor,
14 MARX failed to deposit trust funds collected in the form of rents into TA1 within three (3) business
15 days of receipt of such funds, in violation of **Code section 10145(a) and Regulation 2832.**

16 **Issue Three (3). Code Section 10145(a) and Regulation 2831: Trust Fund Records to be**
17 **Maintained**

18 18. MARX failed to maintain an accurate control record maintained for the trust funds
19 handled through TA1 during the audit period. MARX failed to include the "date deposited" for
20 deposit transactions recorded on TA1's control record. In addition, not all deposit transactions were
21 recorded on TA1's control record with the correct "date received," which date was determined by
22 the date stamped on the checks received and, as a result, the daily running balance on TA1's control
23 record was incorrect. Examination of at least three (3) deposits showed that date deposited was not
24 recorded on TA1's control record. In two (2) of the deposits, the "date received" recorded on TA1's
25 control record was not the actual date received.

26 19. MARX's failure to maintain complete and accurate control records for trust funds
27 received and disbursed for TA1 was in violation of **Code section 10145(a) and Regulation 2831.**

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Issue Four (4). Code Section 10145(a) and Regulation 2831.1: Separate Record for Each Beneficiary or Transaction

20. MARX failed to maintain accurate separate records for the trust funds handled through TA1 during the audit period. MARX failed to include the “date deposited” for deposit transactions recorded on TA1’s separate records. In addition, not all deposit transactions were recorded on TA1’s separate records with the correct “date received” and, as a result, the daily running balance on TA1’s separate records was incorrect.

21. MARX’s failure to maintain accurate separate records of the receipts and disbursements of all trust funds deposited into TA1 was in violation of **Code section 10145(a) and Regulation 2831.1.**

Issue Five (5). Code Section 10145(a) and Regulation 2831.2: Trust Account Reconciliation

22. During the audit period, MARX failed to reconcile at least once a month the balance of all separate records (Summary of Separate Records) with the record of all trust funds received and disbursed (Control Record) for TA1, in violation of **Code section 10145(a) and Regulation 2831.2.**

CAUSE OF ACCUSATION: AUDIT VIOLATIONS IN AUDIT NO. SD240008

23. Complainant realleges and incorporates by reference all of the allegations contained in the previous paragraphs as though fully set forth herein.

24. MARX’s conduct as alleged above in Paragraphs 13 through 22, and in Issues One (1) through Five (5), violated the Code and the Regulations set forth below:

<u>Issue No.</u>	<u>Paragraphs</u>	<u>Violations</u>
1	13-16	Code section 10145(a); Regulation 2832.1
2	17	Code section 10145(a); Regulation 2832
3	18-19	Code section 10145(a); Regulation 2831
4	20-21	Code section 10145(a); Regulation 2831.1
5	22	Code section 10145(a); Regulation 2831.2

25. The violations alleged above in Paragraphs 13 through 22, and in Issues One (1) through Five (5), constitute cause for the suspension or revocation of MARX’s real estate licenses and license rights under the provisions of **Code sections 10177(d) and/or 10177(g).**

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1 **INVESTIGATION AND ENFORCEMENT COSTS**

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

6 **AUDIT COSTS**

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

11 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
12 this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
13 against all the licenses and license rights of PETER MARX under the Real Estate Law, for the costs
14 of investigation and enforcement, and audit as permitted by law, and for such other and further relief
15 as may be proper under other applicable provisions of law.

16 Dated at San Diego, California September 11, 2025.

17 
18 Veronica Kilpatrick
19 Supervising Special Investigator

20 cc: PETER MARX
21 Veronica Kilpatrick
22 Sacto.