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8	BEFORE THE BUREAU OF REAL ESTATE	
9	STATE OF CALIFORNIA	
10	***	
11	In the Matter of the Accusation of:) No. H-6609 SAC	
12	CHRISTINE M. KUTZKEY and) LUANN M. WIEGELE,)	
13) <u>ACCUSATION</u>	
14	Respondents.)	
15		
16	The Complainant, TRICIA D. PARKHURST, in her official capacity as a	
17	Supervising Special Investigator of the State of California, Bureau of Real Estate ("Bureau"), brin	_
18	this Accusation against CHRISTINE M. KUTZKEY ("KUTZKEY") and LUANN M. WIEGELE	
19	("WIEGELE") (collectively "Respondents"), and is informed and alleges as follows:	
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21	At all times mentioned herein, KUTZKEY was and is presently licensed by the	
22	Bureau and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California	
23	Business and Professions Code ("Code"), as a real estate broker.	
24	2	
25	At all times mentioned herein, WIEGELE was and is presently licensed by the	
26	Bureau and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code, as a	
27	real estate salesperson.	

Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate licensees within the State of California within the meaning of Section 10131(b) of the Code including the operation and conduct of a property management business with the public, wherein, on behalf of others, for compensation or in expectation of compensation, Respondents leased or rented or offered to lease or rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

From October 1, 2008, through February 25, 2013, WIEGELE was performing property management activities for approximately five properties while under KUTZKEY's employment.

In the course and scope of WIEGELE's property management activities, WIEGELE collected rents and security deposits from real property; sent rent and security checks to real property owners; and was responsible for organizing repairs and maintenance on real property.

In the course and scope of WIEGELE's property management activities, WIEGELE collected property management fees in the amount of approximately \$50 to \$60 per unit.

In the course and scope of WIEGELE's property management activities, neither WIEGELE nor KUTZKEY maintained a trust account.

Complainant is informed, believes, and thereon alleges that KUTZKEY knew of should have known about WIEGELE's property management activities, as described above in Paragraphs 3 through 7.

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but not limited to WIEGELE.

At all times herein mentioned, while engaging in the real estate activities described above in Paragraphs 3 through 7, pursuant to the requirements of Section 2725 of Title 10 of the Regulations of the Real Estate Commissioner ("Regulations"), KUTZKEY was responsible for exercising reasonable supervision over the activities of her employees and/or associates, including,

On or about May 17, 2016, the Bureau received an Enforcement Online Complaint against the real estate salesperson license of WIEGELE alleging that WIEGELE was unlawfully conducting property management activities.

Beginning on or about May 17, 2017, and continuing through June 27, 2017, an audit was conducted of KUTZKEY's business activities at KUTZKEY's main office location, 300 S.

Broadway, Yreka, CA 96097, wherein the auditor examined KUTZKEY's records for the period of January 1, 2015, through May 31, 2017 ("audit period").

AUDIT FINDINGS

Each and every allegation in Paragraphs 1 through 11, inclusive, is incorporated by this reference as if fully set forth herein.

In the course of the real estate broker activities described above in Paragraphs 3 through 7, and during the audit period, it was discovered:

- (a) Compensation received by WIEGELE for her property management activities was paid directly to WIEGELE and not to WIEGELE's employing broker as required by Section 10137 of the Code; and
- (b) KUTZKEY did not exercise reasonable supervision over the activities of WIEGELE as required by Section 2725 of the Regulations.

GROUNDS FOR DISCIPLINE

The acts and/or omissions of KUTZKEY, as alleged above in Paragraph 13(b), constitute grounds for the suspension or revocation of the license and license rights of KUTZKEY under Sections 10177(d) (willful disregard of real estate laws) and 10177(g) (demonstrated negligence of incompetence in performing an act for which a license is required) of the Code, in conjunction with Section 2725 (failure to exercise reasonable supervision) of the Regulations.

The acts and/or omissions of WIEGELE, as alleged above in Paragraph 13(a), constitute grounds for the suspension or revocation of the license and license rights of WIEGELE under Sections 10137 (no real estate salesperson shall accept compensation for activities requiring a real estate license from any person other than the employing broker), 10177(d) (willful disregard of real estate laws), and 10177(g) (demonstrated negligence of incompetence in performing an act for which a license is required) of the Code.

COST RECOVERY

The acts and/or omissions of Respondents, as alleged above in Paragraphs 14 and 15, entitle the Bureau to reimbursement of the costs of its audit pursuant to Section 10148(b) of the Code.

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, 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 the investigation and enforcement of the case.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Code, for the cost of investigation

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1	and enforcement as permitted by law, for the cost of the audit, and for such other and further relief
2	as may be proper under other provisions of law.
3	(1) A D 1/11 10 A
4	TRICIA D. PARKHÜRST
5	Supervising Special Investigator
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7	Dated at Sacramento, California,
8	this May of Many , 2018.
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10	DIGGOVEDAVA
11	DISCOVERY DEMAND
	Pursuant to Sections 11507.6, et seq. of the Administrative Procedure Act, the
13	Bureau hereby makes demand for discovery pursuant to the guidelines set forth in the
14	Administrative Procedure Act. Failure to provide Discovery to the Bureau may result in the
15	exclusion of witnesses and documents at the hearing or other sanctions that the Office of
16	Administrative Hearings deems appropriate.
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