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DEPARTMENT OF REAL ESTATE
By L. Krapp

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	No. H-6759 SAC
CARL SAN MIGUEL)	<u>ACCUSATION</u>
Respondent.)	

The Complainant, CHIKA SUNQUIST, a Supervising Special Investigator of the State of California, for cause of Accusation against CARL SAN MIGUEL (Respondent), is informed and alleges as follows:

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The Complainant, CHIKA SUNQUIST, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

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Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (Code).

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At all times mentioned, Respondent was and is licensed by the Department individually as a real estate broker.

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At all times mentioned herein, Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate licensee, in the State of California, within the meaning of:

a) Section 10131(b) of the Code in the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondent leased or rented and offered to lease or rent, and placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon;

b) Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage business with the public wherein Respondent solicited lenders and borrowers for loans secured directly or collaterally by liens on real property or a business opportunity, and wherein such loans were arranged, negotiated, processed, and consummated by Respondent on behalf of others for compensation or in expectation of a compensation; and

From on or about October 3, 2017, to February 7, 2018, the Department conducted an audit of the records of Respondent. The auditor examined the records for the period of January 1, 2016, through January 31, 2018.

In acting as a real estate broker, as described in Paragraph 6, Respondent accepted or received funds in trust (trust funds) from or on behalf of lenders, investors, note purchasers, borrowers, and others in connection with the servicing, solicitation, negotiation, processing, and consummation of mortgage loan investments by Respondent.

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The aforesaid trust funds accepted or received by Respondent was deposited or caused to be deposited by Respondent into one or more bank accounts (trust accounts) maintained by Respondent for the handling of trust funds, including but not limited to the following:

ACCOUNT # 1	
Bank Name and Location:	Valley Business Bank 701 W. Main Street, Visalia, CA 93291
Account No.:	XXX3374
Entitled:	Kaweah Financial Group Inc. Kaweah Mortgage Trust Account

ACCOUNT # 2	
Bank Name and Location:	Valley Business Bank 701 W. Main Street, Visalia, CA 93291
Account No.:	XXX3390
Entitled:	Kaweah Financial Group Inc. Trust Account

In the course of activities described in Paragraph 6, Respondent:

(a) failed to keep accurate separate records for each beneficiary or transaction, accounting therein for all funds which were deposited into Account #2, containing all of the information required by Section 2831.1 of the Regulations; and

(b) failed to reconcile, for Account # 2, the balance of separate beneficiary or transaction records with the control record of trust funds received and disbursed at least once a month, and/or failed to maintain a record of such reconciliations for each account as required by Section 2831.2 of the Regulations.

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The facts alleged in the First Cause of Action are grounds for the suspension or revocation of Respondent's licenses and license rights under the following sections of the Code and Regulations:

As to Paragraph 11(a), under Section 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2831.1 of the Regulations; and

As to Paragraph 11(b), under Section 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2831.2 of the Regulations.

COST RECOVERY

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The acts and/or omissions of Respondents as alleged above, entitle the Department to reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund handling violation) of the Code.

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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 the investigation and enforcement of the case.

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1 WHEREFORE, Complainant prays that a hearing be conducted on the
2 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
3 discipline on all licenses and license rights of Respondents under the Real Estate Law (Part 1 of
4 Division 4 of the Business and Professions Code), for the cost of the investigation and
5 enforcement of this case as permitted by law, for the cost of the Department's audit as permitted
6 by law, and for such other and further relief as may be proper under the provisions of law.

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9 CHIKA SUNQUIST
Supervising Special Investigator

10 Dated at Sacramento, California,
11 this 28th day of NOVEMBER, 2018

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