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FILED

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DEPARTMENT OF REAL ESTATE
By B. Nicholas

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

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12 In the Matter of the Accusation of)
13 SIERRA JUNCTION, INC., and MARILYNN)
14 TAUSCH,) DRE No. H-6816 SAC
15 Respondents.) ACCUSATION

16 The Complainant, TRICIA D. PARKHURST, a Supervising Special Investigator
17 of the State of California, for cause of Accusation against SIERRA JUNCTION, INC., and
18 MARILYNN TAUSCH (collectively "Respondents"), are informed and allege as follows:

19 PRELIMINARY ALLEGATIONS

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21 The Complainant, TRICIA D. PARKHURST, a Supervising Special Investigator
22 of the State of California, makes this Accusation in her official capacity.

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24 Respondents are presently licensed and/or have license rights under the Real
25 Estate Law, Part 1 of Division 4 of the Business and Professions Code (Code).

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At all times mentioned, Respondent SIERRA JUNCTION, INC. (SJI) was and is licensed by the State of California Department of Real Estate (Department) as a real estate broker corporation.

At all times mentioned, Respondent MARILYNN TAUSCH (TAUSCH) was and is licensed by the Department individually as a real estate broker, and as the designated broker officer of SJI. As said designated broker officer, TAUSCH was responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees, and employees of SJI for which a license is required.

Whenever reference is made in an allegation in this Accusation to an act or omission of SJI, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with SJI committed such acts or omissions while engaged in furtherance of the business or operation of SJI and while acting within the course and scope of their corporate authority and employment.

At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers in the State of California, within the meaning of 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, Respondents 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.

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1 FIRST CAUSE OF ACTION

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3 Each and every allegation in Paragraphs 1 through 6, inclusive, is incorporated by
4 this reference as if fully set forth herein.

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6 On or about June 11, 2018, and continuing intermittently through August 30,
7 2018, an audit was conducted of the records of SJI. The auditor herein examined the records for
8 the period of January 1, 2017, through January 31, 2018.

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10 While acting as a real estate broker as described in Paragraph 6, Respondents
11 accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in
12 connection with the leasing, renting, and collection of rents on real property or improvements
13 thereon, as alleged herein, and thereafter from time-to-time made disbursements of said trust
14 funds.

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16 The trust funds accepted or received by Respondents as described in Paragraph 9
17 were deposited or caused to be deposited by Respondents into trust accounts which were
18 maintained by Respondents for the handling of trust funds, and thereafter from time-to-time
19 Respondents made disbursements of said trust funds, identified as follows:

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ACCOUNT # 1	
21 Bank Name and Location:	US Bank 2 S Main Street 22 Colfax, CA 95713
23 Account No.:	X XXX XXXX 8764
24 Entitled:	Cofax Realty 25 Client Trust Account

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

(a) caused, suffered, or permitted the balance of funds in Account #1 to be reduced to an amount which, as of January 31, 2018, was approximately \$102,766.29 less than the aggregate liability of Account #1 to all owners of such funds in violation of Section 10145 of the Code and Section 2832.1 of Title 10 of the California Code of Regulations (Regulations); and

(b) failed to reconcile 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 Account #1 as required by Section 2831.2 of the Regulations.

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

As to Paragraph 11(a), under Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations; and

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

SECOND CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 12, inclusive, is incorporated by this reference as if fully set forth herein.

Respondent TAUSCH failed to exercise reasonable supervision over the acts of SJI in such a manner as to allow the acts and events described above to occur.

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The acts and/or omissions of TAUSCH as described in Paragraph 14, constitutes failure on the part of TAUSCH, as designated broker-officer for SJI, to exercise reasonable supervision and control over the licensed activities of SJI as required by Section 10159.2 of the Code and Section 2725 of the Regulations.

The facts described above as to the Second Cause of Action constitute cause for the suspension or revocation of the licenses and license rights of Respondent TAUSCH under Section 10177(g) and/or Section 10177(h) of the Code, and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

COST RECOVERY

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.

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.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing discipline on all licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of the investigation and enforcement of this case as

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1 permitted by law, for the cost of the Department's audit as permitted by law, and for such other
2 and further relief as may be proper under the provisions of law.

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5 TRICIA D. PARKHURST
Supervising Special Investigator

6 Dated at Sacramento, California,
7 this 6th day of May, 2019

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9 DISCOVERY DEMAND

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11 Pursuant to Sections 11507.6, *et seq.* of the *Government Code*, the Department of Real
12 Estate hereby makes demand for discovery pursuant to the guidelines set forth in the
13 *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate
14 may result in the exclusion of witnesses and documents at the hearing or other sanctions that the
15 Office of Administrative Hearings deems appropriate.