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FILED

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DEPARTMENT OF REAL ESTATE
By B. Nicholas

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

12 JUANITA BENNETT and MICHELLE)
13 SHERMAN,)

14 Respondents.)

No. H-6978 SAC

ACCUSATION

15 The Complainant, TRICIA D. PARKHURST, a Supervising Special Investigator
16 of the State of California, for cause of Accusation against JUANITA BENNETT and
17 MICHELLE SHERMAN (Respondents), is informed and alleges as follows:

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

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

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25 At all times mentioned, Respondent JUANITA BENNETT (BENNETT) was and
26 is licensed by the Department of Real Estate (Department) as a real estate broker.

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At all times mentioned, Respondent MICHELLE SHERMAN (SHERMAN) was and is licensed by the Department as a real estate salesperson. At all times mentioned, SHERMAN's salesperson license was affiliated under the brokerage of BENNETT.

At all times mentioned, Respondents 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 Section 10131(a) of the Code, including the operation and conduct of a real estate resale brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents sold and offered to sell, bought and offered to buy, solicited prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the

On or about June 29, 2018, SHERMAN, acting on behalf of BENNETT, represented buyers Frank and Irma Marin (buyers) in a Residential Purchase Agreement (agreement) with seller Roopa Delapena (seller) to purchase the property located at 26100 N. State Route E. Frontage Rod, Acampo (property). The agreement called for buyer to pay a \$6,500 initial deposit into an escrow account at North American Title Company.

On or about July 2, 2018, buyer's deposited a check in the amount of \$6,500 into escrow at North American Title Company.

On or about August 25, 2018, buyers and seller signed Addendum No. 6, requiring "buyers to deposit \$10,000 not refundable do to the fact sellers its customize the new home to their needs."

On or about September 5, 2018, buyers wrote a check in the amount of \$3,500 payable to North American Title Company. Buyers delivered the check to SHERMAN, acting on

1 behalf of BENNETT. SHERMAN received and accepted the \$3,500 check. The check was
2 logged into BENNETT's log of Trust Funds Received and Not Deposited into Trust Account. At
3 no time was the \$3,500 check deposited into escrow at North American Title Company.

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5 On or about October 31, 2018, buyers and sellers entered into Addendum No. 8
6 which provided in pertinent part, "9. Should escrow fail to close by November 9, 2018, buyer
7 may cancel this escrow and buyer's deposit of \$10,000 shall immediately be refunded to buyer."

8 On or about October 31, 2018, buyers and sellers entered into Addendum No. 9,
9 which provides in pertinent part, "5. Buyer must remove contingency by November 6th at 5:00,
10 seller will kept the buyer's deposit of \$10,000.00."

11 Respondents were aware that at the time of the addendums the \$3,500 check had
12 not been deposited into escrow, and failed to notify seller or seller's agent.

13 11

14 On or about November 6, 2019, SHERMAN, acting on behalf of BENNETT, sent
15 seller's agent a cancellation of contract signed by the buyers. Seller rejected the cancelation as it
16 called for the deposit to be returned to the seller.

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18 On or about November 20, 2019, Seller's agent delivered to SHERMAN a
19 separate cancellation of contract. Buyers rejected the cancellation as it called for the deposit to
20 be returned to the sellers.

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22 On or about January 22, 2019, buyers and seller agreed to and signed an
23 agreement to cancel escrow. The agreement called for \$1,500 of the \$6,500 deposit in escrow to
24 be returned to buyers and the remaining \$5,000 to be given to the seller.

25 Around the same time, seller and seller's agent learned for the first time that the
26 \$3,500 check was never deposited into escrow.

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Respondents' conduct described above, constitute grounds for the suspension or revocation of the licenses and license rights of Respondent under Sections 10177(g) of the Code.

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BENNETT failed to deposit the \$3,500 deposit check, trust funds, into a trust account in the name of BENNETT or a neutral escrow account not later than three business days following receipt of the funds. BENNETT's conduct constitutes grounds for the suspension or revocation of the licenses and license rights of BENNETT under Section 10177(d) of the Code in conjunction with Section 2832 of the Regulations and Section 10145 of the Code.

COST RECOVERY

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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.

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 and enforcement as permitted by law, and for such other and further relief as may be proper under the provisions of law.



TRICIA D. PARKHURST
Supervising Special Investigator

Dated at Sacramento, California,
this 2nd day of September, 2020

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