

ADRIANA Z. BADILAS, Counsel (SBN 283331)  
Department of Real Estate  
P. O. Box 137007  
Sacramento, CA 95813-7007  
Fax: (916) 263-3767  
Telephone: (916) 576-8700  
-or- (916) 576-5755 (Direct)

**FILED**

**FEB 02 2022**

DEPARTMENT OF REAL ESTATE  
By B. Nicholas

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of:	)	
	)	No. H-7081 SAC
WILLIAM JAMES JACKSON and	)	
CARLLA JEAN WAGNER,	)	<u>ACCUSATION</u>
	)	
Respondents.	)	

The Complainant, TRICIA PARKHURST, in her official capacity as a Supervising Special Investigator of the State of California, Department of Real Estate ("Department"), brings this Accusation against WILLIAM JAMES JACKSON ("JACKSON") and CARLLA JEAN WAGNER ("WAGNER"), (collectively "Respondents"), and is informed and alleges as follows:

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JACKSON is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code"), as real estate broker, License No. 00813943.

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At all relevant times, JACKSON was doing business under the fictitious business names of Asurent Property Management Red Bluff ("Asurent").

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At all relevant times, Asurent was not a licensed fictitious business name under JACKSON's real estate broker license.

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WAGNER is presently licensed by the Department and/or has rights under the Real Estate Law as a real estate salesperson, License No. 01212172. WAGNER was working under the supervision of JACKSON from December 20, 2017 to June 24, 2019, and from April 30, 2020 to the present.

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At all relevant times, 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.

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On or about July 6, 2020, the Department received a consumer complaint against Respondents, which prompted the Department's audit investigation. The complaint alleged that real estate salesperson WAGNER, while working under JACKSON d.b.a. Asurent, signed leases, collected rental applications, and collected the \$90 fee associated with the rental applications. The complaint further alleged that, while Asurent was under management contract with real estate corporate broker Asurent Holdings, Inc., WAGNER instructed tenants to make rent checks payable to her and not to Asurent.

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1 FIRST CAUSE OF ACTION  
2 (Audit Violations as to Respondents)

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

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7 From on or about April 8, 2021 through June 22, 2021, an audit was conducted of the  
8 real estate activities of Respondents located at 235 Treasure Drive, Red Bluff, CA 96080. The  
9 Department's auditor examined the business records of Respondents for the period of January 1,  
10 2019 through February 28, 2021, ("audit period").

11 9

12 While engaging in the real estate activities described in Paragraph 5 and within the  
13 audit period, Respondents accepted or received funds in trust ("trust funds") and deposited or  
14 caused the trust funds to be deposited into the accounts maintained as follows:

15 Bank Account #1:

16 Bank Name: Wells Fargo  
555 Walnut Street  
17 Red Bluff, CA 96080  
Account No.: Last 4 Digits: 8200  
18 Account Name: Equity Property Management  
Signatories: Carlla Wagner (RES)  
19 Description: Handling of trust funds related to property management.

20  
21 Bank Account #2:

22 Bank Name: Wells Fargo  
555 Walnut Street  
23 Red Bluff, CA 96080  
Account No.: Last 4 Digits: 8218  
24 Account Name: Equity Property Management  
Signatories: Carlla Wagner (RES)  
25 Description: Handling of trust funds related to property management.

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In the course of the real estate activities described in Paragraph 5, above, and during the audit period, the following violations were discovered:

(a) As of February 28, 2021, Bank Account #1 contained a shortage in the amount of \$6,421.87. The shortage was caused by a negative bank balance found in the separate records for multiple beneficiaries, which totaled \$6,398.27. The remaining \$23.60 was caused by service charges from August 2020 to October 2020. Respondents provided no evidence that the owners of the trust funds had given written consent to allow Respondents to reduce the balance of the funds in the trust account to an amount less than the existing trust fund liability, in violation of Section 10145 of the Code and Section 2832.1 of Chapter 6, Title 10, California Code of Regulations ("Regulations");

(b) As of February 28, 2021, Bank Account # 1 contained unidentified and/or unaccounted for funds in the amount of \$4,678.10. This was caused by Respondents failing to maintain a separate record of the receipt and disbursement of all trust funds deposited into Bank Account #1 from January 1, 2019 through February 28, 2021, in violation of Section 10145 of the Code and Sections 2831.1 of the Regulations;

(c) Respondents did not accurately reconcile at least once a month the balance of all separate records or transaction records for all trust funds received and disbursed from Bank Account #1, in violation of Section 10145 of the Code and Section 2831.2 of the Regulations;

(d) As of February 28, 2021, Equity Property Management was not registered as a fictitious business name under JACKSON's real estate broker license, in violation of Section 10159.5 of the Code and Section 2731 of the Regulations;

(e) As of February 28, 2021, neither Bank Account #1 nor Bank Account #2 were designated as trust accounts and were not in JACKSON's name as trustee, in violation of Section 10145 of the Code and Section 2832 of the Regulations; and

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1 (f) JACKSON did not exercise adequate supervision over the real estate  
2 activities conducted under his license. The bank signature cards for both Bank Account #1 and  
3 Bank Account #2 showed WAGNER as the sole signatory on both accounts.

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5 The acts and/or omissions of Respondents, as described above, constitute grounds for  
6 discipline pursuant to Sections 10145, 10159.5, 10177(d), and 10177(g) of the Code, in conjunction  
7 with Sections 2731, 2831.1, 2831.2, 2832, and 2832.1 of the Regulations.

8 SECOND CAUSE OF ACTION  
9 (Failure to Supervise as to JACKSON)

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

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14 As WAGNER's employing broker, JACKSON was required to exercise reasonable  
15 supervision and control over the activities of WAGNER and/or all other employees working under  
16 Asurent.

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18 JACKSON failed to exercise reasonable supervision over the acts and/or omissions  
19 of WAGNER in such a manner as to allow the audit violations described above to occur. This  
20 constitutes additional cause for the suspension or revocation of JACKSON's real estate broker  
21 license under Sections 10177(d), 10177(g), and/or 10177(h) of the Code, in conjunction with  
22 Section 2725 of the Regulations.

23 THIRD CAUSE OF ACTION  
24 (Breach of Fiduciary Duties as to Respondents)

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26 Each and every allegation made in Paragraphs 1 through 14, inclusive, is  
27 incorporated by reference as if fully set forth herein.

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At all relevant times, while acting as real estate agents, Respondents owed clients and/or beneficiaries those fiduciary duties that are inherent in a position of trust as created by the agent/principal relationship, including, but not limited to the following duties: the duty of reasonable care and skill, the duty of honesty, the duty of good faith and fair dealings, the duty of loyalty, and duty of diligence.

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JACKSON breached his fiduciary duties by engaging in the acts and/or omissions described above in the FIRST and SECOND CAUSES OF ACTION.

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WAGNER breached her fiduciary duties by engaging in the acts and/or omissions described above in the FIRST CAUSE OF ACTION.

#### AUDIT COSTS

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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 violations) of the Code.

#### COST OF INVESTIGATION AND ENFORCEMENT

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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 revoking all licenses and license rights of Respondents under the Real Estate Law, for the cost of investigation and enforcement as

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

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5 TRICIA PARKHURST  
Supervising Special Investigator

6 Dated at Sacramento, California,  
7 this 21<sup>st</sup> day of January, 2022.

8 DISCOVERY DEMAND

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