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DEPARTMENT OF REAL ESTATE

By R. dew

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA
* * *

In the Matter of the Accusation of
D+S MANAGEMENT SERVICES, INC and
STACY LYNN FIELDS,
Respondents.

No. H-7146 SAC
ACCUSATION

The Complainant, RUTH CORRAL, acting in her official capacity as a
Supervising Special Investigator of the State of California, for cause of Accusation against
Respondents D+S MANAGEMENT SERVICES, INC (DSMSI) and STACY LYNN FIELDS
(FIELDS), sometimes collectively referred to as Respondents, is informed and alleges as
follows:

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Respondents are presently licensed and/or have 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, DSMSI was and is licensed by the State of California
Department of Real Estate (Department) as a real estate broker corporation.

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At all times herein mentioned, FIELDS was and is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (Code) by the Department of Real Estate (the Department) as a real estate broker. Effective June 28, 2022, FIELDS' real estate license expired. Pursuant to Section 10201 of the Code, FIELDS retains renewal rights for 2 years. Pursuant to Section 10103 of the Code, the Department retains jurisdiction.

At all times herein mentioned, FIELDS is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code by the Department as the designated broker officer of DSMSI. As the designated broker officer, FIELDS' was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of officers, agents, real estate licensees and employees of DSMSI for which a real estate license is required to ensure the compliance of the corporation with the Real Estate Law and Regulations.

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

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers 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, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or negotiated the sale, purchase or exchanges of leases on real property, or on a business

1 opportunity, or collected rents from real property, or improvements thereon, or from business
2 opportunities.

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4 At all times herein mentioned, Respondents conducted real estate activity under
5 DSMSI's real estate broker corporation license and the registered fictitious business name,
6 "California Investor".

7 FIRST CAUSE OF ACTION

8 Audit SC 20-0071

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

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13 Beginning on January 27, 2021, and continuing intermittently through July 12,
14 2021, an audit was conducted of the records of DSMSI. The auditor examined the records for
15 the period of May 1, 2020, through December 31, 2020 (the audit period).

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17 While acting as real estate brokers as described in Paragraph 5, above, and within
18 the audit period, Respondents accepted or received funds in trust (trust funds) from or on behalf
19 of property owners, lessees and others in connection with property management activities, and
20 deposited or caused to be deposited those funds into the following bank account maintained by
21 DSMSI, at American River Bank, 2510 Douglas Boulevard, Suite 100, Roseville, CA 95661:

TRUST ACCOUNT #1	
Account No.:	XXXXXX5601
Entitled:	D & S MANAGEMENT SERVICES, INC. DBA CALIFORNIA INVESTOR TRUST ACCOUNT
Signatories:	(1) Debbie Nunn (2) Windy Traverse

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27 and thereafter from time-to-time made disbursement of said trust funds.

In the course of the property management activities described in Paragraph 5, in connection with the collection and disbursement of trust funds during the audit period, Respondents violated the Real Estate Law as described below:

- (a) An accountability was performed on Trust Account #1, and as of December 31, 2020, there was a minimum shortage of at least \$4,318.19 revealed, in violation of Section 10145 of the Code;
- (b) Respondents failed to obtain written permission from owners of trust funds in Trust Account #1, to allow the balances to drop below accountability, in violation of Section 2832.1 of Chapter 6, Title 10, California Code of Regulations (Regulations);
- (c) Trust Account #1 contained unidentified and/or unaccounted for funds of at \$10,593.00 for which no separate record was maintained, in violation of Section 10145 (g) of the Code and Section 2831.1 of the Regulations;
- (d) Respondents failed to maintain an accurate separate record of the receipt and disposition of all trust funds deposited into Trust Account #1, in violation of Section 10145 (g) of the Code and Section 2831.1 of the Regulations;
- (e) Respondents allowed an unlicensed person to be a signatory on Trust Account #1 without an adequate fidelity bond, in violation of Section 10145 of the Code, and Section 2834 of the Regulations;
- (f) Respondents allowed salespersons who were not licensed under DSMSI to be a signatory on Trust Account #1, in violation of Section 2834 of the Regulations; and
- (g) DSMSI employed salesperson, Windy Traverse, to perform property management activities, and failed to notify the Department within 5 days of employment, in violation of Section 10161.8 of the Code and Section 2752 of the Regulations.

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The acts and/or omissions described above constitute violations of Sections 2752 (Notice of Change of Broker), 2831.1 (Separate Records), 2832.1 (Written Permission for Balance Below Accountability), 2834 (Trust Fund Signatory) of the Regulations, and of Sections 10145 (Trust Fund Handling), and 10161.8 (Salesperson Retention) of the Code, and are grounds for discipline under Sections 10177(d) (Willful Disregard of Real Estate Laws) and/or 10177(g) (Negligence/Incompetence Licensee) of the Code.

SECOND CAUSE OF ACTION

Failure to Supervise

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

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Respondent FIELDS failed to exercise reasonable supervision and control over the property management activities of DSMSI. In particular, FIELDS permitted, ratified and/or caused the conduct described above to occur, and failed to take reasonable steps, including but not limited to, the handling of trust funds, supervision of employees, and the implementation of policies, rules and systems to ensure the compliance of the business with the Real Estate Law and the Regulations.

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The above acts and/or omissions of FIELDS violate Section 2725 (Broker Supervision) of the Regulations and Section 10159.2 (Responsibility/Designated Officer) of the Code and constitutes grounds for disciplinary action under the provisions of Sections 10177(d), 10177(g) and/or 10177(h) (Broker Supervision) of the Code.

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1 COST RECOVERY

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3 Audit Costs

4 The acts and/or omissions of Respondents, as alleged above, entitle the
5 Department to reimbursement of the cost of its audit pursuant to Section 10148 (b) (Audit Costs
6 for Trust Fund Handling Violations) of the Code.

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8 Costs of Investigation and Enforcement

9 Section 10106 of the Code provides, in pertinent part, that in any order issued in
10 resolution of a disciplinary proceeding before the Department, the Real Estate Commissioner
11 may request the Administrative Law Judge to direct a licensee found to have committed a
12 violation of this part to pay a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case.

14 WHEREFORE, Complainant prays that a hearing be conducted on the
15 allegations of this Accusation and that upon proof thereof a decision be rendered imposing
16 disciplinary action against all licenses and license rights of Respondents under the Real Estate
17 Law, for the cost of the investigation and enforcement as permitted by law, for the cost of the
18 audit as permitted by law, and for such other and further relief as may be proper under other
19 provisions of law.

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22 RUTH CORRAL
Supervising Special Investigator

23 Dated at Sacramento, California,
24 this 21st day of December, 2023.

1 DISCOVERY DEMAND

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