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FEB 09 2024

DEPARTMENT OF REAL ESTATE
By P. dew

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
) No. H-7237 SAC
KURT LAMONT GILBERTSON,)
) ACCUSATION
Respondent.)
)

The Complainant, TRICIA D. PARKHURST, acting in her official capacity as a
Supervising Special Investigator of the State of California, for cause of Accusation against
KURT LAMONT GILBERTSON (Respondent), is informed and alleges as follows:

1

At all times herein mentioned, Respondent 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.

2

At all times herein mentioned, Respondent engaged in the business of, acted in
the capacity of, advertised, or assumed to act as a real estate broker 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

1 compensation or in expectation of compensation, Respondent leased or rented or offered to
2 lease or rent, or solicited listings of places for rent or solicited for prospective tenants, or
3 negotiated the sale, purchase or exchange of leases on real property, or on a business
4 opportunity, or collected rent from tenants.

5 3

6 On or about March 17, 2023, the Department completed an audit of the property
7 management records of Respondent. The auditor examined the records for the period of January
8 1, 2022, through September 30, 2022 (the audit period).

9 4

10 Respondent, while acting as a real estate broker, as described in Paragraph 2,
11 accepted or received funds in trust (trust funds) from or on behalf of owners, lessees and others
12 in connection with property management activities, and deposited those funds into bank accounts
13 maintained by Respondent, at the following financial institutions, including but not limited to the
14 following:

15

BANK ACCOUNT #1	
16 Bank:	JP Morgan Chase Bank, P.O. Box 182051, Columbus, OH 43218-2051
17 Account No.:	XXXXXX3344
18 Entitled:	GILBERTSON GILSON REAL ESTATE

19

20

BANK ACCOUNT #2	
21 Bank:	Wells Fargo Bank, P.O. Box 6995, Portland, OR 97228-6995
22 Account No.:	XXXXXX2154
23 Entitled:	KURT L GILBERTSON 24 DBA GILSON REAL ESTATE

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

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In the course of the activities described in Paragraphs 2 and 4, in connection with the collection and disbursement of trust funds, it was determined that:

- (a) Respondent failed to properly designate Bank Account #1 and Bank Account #2, as a trust account with the broker as trustee, as required by Section 10145 of the Code and Section 2832 of Chapter 6, Title 10, California Code of Regulations (Regulations);
- (b) Respondent failed to maintain a columnar record in chronological sequence of all trust funds received and disbursed (Control Record), containing all required information for Bank Account #1 and Bank Account #2, in violation of Section 2831 of the Regulations;
- (c) Respondent failed to maintain an accurate separate record of the receipt and disposition of all trust funds deposited in Bank Account #1 and Bank Account #2, in violation of Section 10145 (g) of the code, and Section 2831.1 of the Regulations;
- (d) Respondent failed to perform and/or maintain records of monthly reconciliations, reconciling the balance of all separate beneficiary or transaction records with the balance of the record of all trust funds received and disbursed for Bank Account #1 and Bank Account #2, in violation of Section 2831.2 of the Regulations;
- (e) Respondent caused, suffered or permitted funds of others which were received and held by Respondent to be commingled with broker funds in Bank Account #1 and Bank Account #2, in violation of Section 10176 (e) of the Code;
- (f) Respondent failed to maintain written broker-salesperson relationship agreement between Respondent and each salesperson employed by Respondent, in violation of Section 2726 of the Regulations; and

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1 (g) Respondent failed to disclose his license number on solicitation materials
2 intended to be the first point of contact with consumers, including
3 Respondent's business cards, as required by Section 10140.6 (b) (1) of the
4 Code.

5 6

6 The acts and/or omissions described above constitute violations of Sections 2726
7 (Broker-Salesperson Relationship Agreement), 2831 (Control Records), 2831.1 (Separate
8 Records), 2831.2 (Trust Account Reconciliation), and 2832 (Bank Account Not Properly
9 Designated as Trust Account) of the Regulations, and Sections 10140.6 (b) (1) (Disclosure of
10 License Number on Solicitation Materials), 10145 (Trust Fund Handling) and 10176 (e)
11 (Commingling) of the Code, and are grounds for discipline under Sections 10177 (d) (Willful
12 Disregard of Real Estate Laws) and/or 10177(g) (Negligence/Incompetence Licensee) of the
13 Code.

14 COST RECOVERY

15 7

16 Audit Costs

17 The acts and/or omissions of Respondent, as alleged above, entitle the
18 Department to reimbursement of the costs of its audits pursuant to Section 10148 (b) (Audit
19 Costs for Trust Fund Handling Violations) of the Code.

20 8

21 Costs of Investigation and Enforcement

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

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

Tricia D. Pankhurst

TRICIA D. PARKHURST
Supervising Special Investigator

Dated at Sacramento, California,
this 5th day of February, 2024.

DISCOVERY DEMAND

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