

FILED

SEP 23 2024

DEPARTMENT OF REAL ESTATE

By Bj dew

MEGAN LEE OLSEN, Counsel, (SBN 272554)
Department of Real Estate
651 Bannon Street, Suite 507
Sacramento, CA 95811

Telephone: (916) 576-8700
(916) 263-3767 (Fax)
(916) 737-4394 (Direct)

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	No. H-7324 SAC
	)	
DONNA ANN BAKER,	)	<u>ACCUSATION</u>
	)	
Respondent.	)	

The Complainant, HEATHER NISHIMURA, acting in her official capacity as a Supervising Special Investigator of the State of California, for cause of Accusation against DONNA ANN BAKER (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

Whenever reference is made to an allegation in this Accusation to an act or omission of Respondent, such allegation shall be deemed to mean that the employees, agents and real estate licensees employed by or associated with Respondent committed such acts or omissions while engaged in furtherance of the business or operation of Respondent's residential

1 resale brokerage and property management business and while acting within the course and
2 scope of their employment.

3 3

4 At all times herein mentioned, Respondent engaged in the business of, acted in
5 the capacity of, advertised, or assumed to act as a real estate broker within the State of
6 California, within the meaning of Section 10131 of the Code as follows:

- 7 (a) Section 10131 (a) of the Code, including the operation and conduct of a
8 residential resale brokerage wherein Respondent bought, sold or offered to
9 buy or sell, solicited prospective sellers or purchasers of, solicited or
10 obtained listings of, or negotiated the purchase, sale or exchange of real
11 property or a business opportunity, in expectation of compensation; and
12 (b) Section 10131 (b) of the Code, including the operation and conduct of a
13 property management business with the public wherein, on behalf of others,
14 for compensation or in expectation of compensation, Respondent leased or
15 rented or offered to lease or rent, or solicited listings of places for rent or
16 solicited for prospective tenants, or negotiated the sale, purchase or exchange
17 of leases on real property, or on a business opportunity, or collected rent
18 from tenants.

19 4

20 At all times herein mentioned, Respondent conducted real estate activity under
21 her individual broker license and the registered fictitious business name, "At Home Real Estate
22 Group".

23 FIRST CAUSE OF ACTION

24 Broker Office Survey

25 5

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

On or about January 17, 2023, a broker office survey (BOS) was conducted regarding the real estate activities of Respondent.

During the BOS, and in the course of the activities described in Paragraph 3, the Department Special Investigator discovered Respondent violated the Code and Chapter 6, Title 10, California Code of Regulations (Regulations) as described below:

- (a) Respondent does not have a written company policy manual or established policies, rules, procedures and systems in place required for reasonable supervision, in violation of Section 10177 (h) of the Code, and Section 2725 of the Regulations;
- (b) Since January 1, 2018, Respondent has employed real estate broker, Christi Bean to perform real estate activities described in paragraph 3, above. Prior to January 10, 2023, Respondent did not obtain a written agreement with Christi Bean, covering the material aspects of the relationship between the parties, including but not limited to supervision of licensed activities, duties and compensation, in accordance with Section 2726 of the Regulations;
- (c) Since January 5, 2011, Respondent has employed real estate salesperson, Anthony Richard Bean to perform real estate activities described in paragraph 3, above. Prior to January 15, 2023, Respondent did not obtain a written agreement with Anthony Richard Bean, covering the material aspects of the relationship between the parties, including but not limited to supervision of licensed activities, duties and compensation, in accordance with Section 2726 of the Regulations;
- (d) Since February 6, 2016, Respondent has employed real estate salesperson, Robin Elizabeth West to perform real estate activities described in

1 paragraph 3, above. Prior to January 12, 2023, Respondent did not obtain
2 a written agreement with Robin Elizabeth West, covering the material
3 aspects of the relationship between the parties, including but not limited to
4 supervision of licensed activities, duties and compensation, in accordance
5 with Section 2726 of the Regulations;

6 (e) Since October 4, 2017, Respondent has employed real estate salesperson,
7 Irene Griselda Woods to perform real estate activities described in
8 paragraph 3, above. Prior to January 12, 2023, Respondent did not obtain
9 a written agreement with Irene Griselda Woods, covering the material
10 aspects of the relationship between the parties, including but not limited to
11 supervision of licensed activities, duties and compensation, in accordance
12 with Section 2726 of the Regulations; and

13 (f) On or about December 9, 2022, Respondent entered into an exclusive
14 Residential Listing Agreement with Jacy K. and Noel K. to sell the
15 property located at 56 Lavender Court, Tracy, California 95376, wherein
16 the agreement did not contain a definite, specified date of final and
17 complete termination. Subsequently, the sale of the property closed and
18 Respondent claimed, demanded, and/or received a commission, in
19 violation of Section 10176 (f) of the Business and Professions Code.

20 8

21 The acts and/or omissions described above constitute violations of Sections 2725
22 (Broker Supervision) and 2726 (Broker-Salesperson Relationship Agreements) of the
23 Regulations, and Sections 10176 (f) (Exclusive Listing Agreement without Definite Termination
24 Date) and 10177 (h) (Broker Supervision) of the Code, and are grounds for discipline under
25 Sections 10176 (f), 10177(d) (Willful Disregard of Real Estate Laws), 10177(g)
26 (Negligence/Incompetence Licensee), and 10177 (h) (Broker Supervision) of the Code.

27 ///

1 SECOND CAUSE OF ACTION

2 Audit SC 22-0084

3 9

4 Each and every allegation in Paragraphs 1 through 8, inclusive, is incorporated by
5 this reference as if fully set forth herein.

6 10

7 Beginning on April 18, 2023, and continuing intermittently through October 31,
8 2023, an audit was conducted of the records of Respondent. The auditor examined the records
9 for the period of September 1, 2020, through February 28, 2023 (the audit period).

10 11

11 Respondent, while acting as a real estate broker, as described in Paragraph 3,
12 accepted or received funds in trust (trust funds) from or on behalf of owners, lessees and others
13 in connection with property management activities, deposited, caused to be deposited, or
14 directed that the trust funds be deposited into the following bank account maintained by
15 Respondent, at Umpqua Bank, 1300 K Street, Suite C, Modesto, CA 95354, identified as
16 follows:

17 Trust Account #1

18 Account No.: XXXXXX0628

19 Account Name: DONNA A BAKER

DBA AT HOME REAL ESTATE GROUP

CLIENT TRUST ACCOUNT

20 Signatories: Donna Ann Baker; Thomas Baker

21 and thereafter, from time-to-time, disbursed, caused to be disbursed, or directed disbursements of
22 said trust funds.

23 12

24 In the course of the property management activities described in Paragraph
25 3, in connection with the collection and disbursement of trust funds during the audit period,
26 Respondent violated the Real Estate Law as described below:

27 ///

1 (a) Respondent failed to maintain accurate separate records for each beneficiary
2 or transaction, accounting therein for all trust funds which were deposited into
3 Trust Account #1, and containing all required information, in violation of Section
4 10145 (g) of the Code, and Section 2831.1 of the Regulations;
5 (b) Respondent failed to perform and/or maintain records of monthly
6 reconciliations, reconciling the balance of all separate beneficiary or transaction
7 records with the balance of the record of all trust funds received and disbursed for
8 Trust Account #1, in violation of Section 2831.2 of the Regulations;
9 (c) Respondent allowed an unlicensed person to be a signatory on Trust Account
10 #1 without an adequate fidelity bond, in violation of Section 10145 of the Code,
11 and Section 2834 of the Regulations;
12 (d) Respondent collected and retained secret or undisclosed compensation,
13 commission, or profit, and failed to disclose the secret or undisclosed
14 compensation, commission or profit to property owners, in violation of Section
15 10176 (g) of the Code. Specifically, Respondent failed to disclose to property
16 owners rewards points received from credit card transactions related to expenses
17 for properties managed on behalf of the property owners.

18 13

19 The acts and/or omissions described above constitute violations of Sections
20 2831.1 (Separate Records), 2831.2 (Trust Account Reconciliation) and 2834 (Trust Fund
21 Signatories) of the Regulations, and Sections 10145 (Trust Fund Handling) and 10176 (g) (Secret
22 or Undisclosed Compensation) of the Code and are grounds for discipline under Sections 10176
23 (g), 10177 (d) and/or 10177(g) of the Code.

24 ///

25 ///

26 ///

27 ///

1 COST RECOVERY

2 14

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

6 15

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

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

17
18 
19 HEATHER NISHIMURA
20 Supervising Special Investigator

21 Dated at Sacramento, California,
22 this 20th day of September, 2024

23 DISCOVERY DEMAND

24 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the
25 Department of Real Estate hereby makes demand for discovery pursuant to the guidelines set
26 forth in the *Administrative Procedure Act*. Failure to provide Discovery to the Department of
27 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.