

1 TAYLOR HERRLINGER, Counsel (SBN 314791)
2 Department of Real Estate
3 651 Bannon Street, Suite 507
4 Sacramento, CA 95811
5 Telephone: (916) 737-4498
6 Email: Taylor.Herrlinger@dre.ca.gov



7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of)

12 AGARMARK, INC.)

No. H-7523 SAC

13 and)

ACCUSATION

14 KEVIN W. MARKARIAN, individually and)
15 as designated officer of Agarmark, Inc.,)

16 Respondents.)
17)

18 The Complainant, HEATHER NISHIMURA, a Supervising Special
19 Investigator of the State of California, for cause of Accusation against AGARMARK,
20 INC. and KEVIN W. MARKARIAN (collectively referred to as "Respondents"), is
21 informed and alleges as follows:

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23 The Complainant, HEATHER NISHIMURA, a Supervising Special Investigator
24 of the State of California, makes this Accusation in her official capacity.

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

At all times mentioned, Respondent AGARMARK, INC. ("AGARMARK") was licensed by the Department as a real estate corporation, License ID No. 02162491. AGARMARK's corporate broker license expired November 14, 2025.

At all times mentioned, KEVIN W. MARKARIAN ("MARKARIAN") was licensed by the Department as the designated officer-broker of AGARMARK. As said designated officer-broker, MARKARIAN was responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees, and employees of AGARMARK for which a license is required.

At all times mentioned, Respondent MARKARIAN was and is licensed by the Department individually as a real estate broker, License ID No. 01345078. Unless renewed, MARKARIAN's broker license will expire May 20, 2027.

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

AUDIT SC-24-0013

On or about March 26, 2026, the Department completed its audit (SC-24-0013) of the books and records of AGARMARK's property management activities described in Paragraph 7. The auditor herein examined the records for the period of January 1, 2023, through July 31, 2024 ("audit period").

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At all times mentioned, Respondents 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 Sections 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 and 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.

While acting as a real estate broker as described in Paragraph 7, Respondents accepted or received funds in trust ("trust funds") from or on behalf of owners and tenants in connection with the leasing, renting, and collection of rents on real property or improvements thereon, as alleged herein, and thereafter from time-to-time made disbursements of said trust funds.

The trust funds accepted or received by Respondents were deposited or caused to be deposited by Respondents into accounts which were maintained by Respondents for the handling of trust funds, and thereafter from time-to-time Respondents made disbursements of said trust funds, identified as follows:

TRUST ACCOUNT # 1	
Bank Name and Location:	East West Bank 9300 Flair Drive, 1 st Floor, El Monte, CA 91731
Account No.:	XXXX8054
Account Name:	Agarmark Inc Trust Account

Purpose:	Trust Account #1 was used for the deposits and disbursements related to properties under management and their owners. Deposits consisted of rents, deposits, and any property management related fees. Disbursements consisted of repairs and maintenance, management fees and owner proceeds.
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BANK ACCOUNT # 1	
Bank Name and Location:	Bank of America PO Box 15284 Wilmington, DE 19850
Account No.:	XXXXXXXXX2079
Account Name:	Agarmark, Inc
Purpose:	Bank Account #1 was used for the deposits and disbursements of security deposits related to Agarmark properties under management and their owners.

BANK ACCOUNT # 2	
Bank Name and Location:	Bank of America PO Box 15284 Wilmington, DE 19850
Account No.:	XXXXXXXXX6919
Account Name:	Agarmark, Inc
Purpose:	Bank Account #2 was used for the deposits and disbursements related to Agarmark properties under management and their owners. Deposits consisted of rents, deposits, and any property management related fees. Disbursements consisted of repairs and maintenance, management fees and owner proceeds.

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In the course of the property management activities described in Paragraph 7, and during the audit period described in Paragraph 6, Respondents violated the Code and various sections of the California Code of Regulations, Title 10, Chapter 6 ("Regulations") described below:

Trust Account Accountability and Balances

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Trust Account #1

Based on the records provided during the audit, a bank reconciliation for Trust Account #1 was prepared for as of July 31, 2024. The adjusted bank balance of Trust Account #1 was compared to the total balances of the separate records for Trust Account #1.

Adjusted Bank Balance	\$59,489.60
Accountability	<u>\$93,241.70</u>
Trust Fund Shortage	<u>(\$33,752.10)</u>

A shortage of \$33,752.10 was found in Trust Account #1 as of July 31, 2024. \$7,473.35 of the shortage was due to negative balances and \$26,278.75 of the shortage was unidentified.

Bank Account #1

Based on the records provided during the audit, a bank reconciliation for Bank Account #1 was prepared for as of July 31, 2024. The adjusted bank balance of Bank Account #1 was compared to the total balances of the separate records for Bank Account #1.

Adjusted Bank Balance	\$149.00
Accountability	<u>\$15,237.44</u>
Trust Fund Shortage	<u>(\$15,088.44)</u>

A shortage of \$15,088.44 was found in Bank Account #1 as of July 31, 2024. \$778.50 of the shortage was due to negative balances and \$14,309.94 of the shortage was unidentified.

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Bank Account #2

Based on the records provided during the audit, a bank reconciliation for Bank Account #2 was prepared for as of July 31, 2024. The adjusted bank balance of Bank Account #2 was compared to the total balances of the separate records for Bank Account #2.

Adjusted Bank Balance	\$830.13
Accountability	<u>\$66,066.02</u>
Trust Fund Shortage	<u>(\$65,235.89)</u>

A shortage caused by negative balances of \$65,235.89 was found in Bank Account #2 as of July 31, 2024.

Respondents provided no evidence during the audit that the owners of the trust funds had given their written consent to allow Respondents to reduce the balance of the funds in Trust Account #1, Bank Account #1 or Bank Account #2 to an amount less than its existing aggregate trust fund liabilities, in violation of Section 10145(a) of the Code and Section 2832.1 of the Regulations.

Control Records

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Respondents failed to maintain an accurate and complete control record for Bank Account #2 by failing to record check numbers related to payments during the audit period as required by section 10145 of the Code and section 2831 of the Regulations.

Separate Records

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Respondents failed to maintain a separate record of the receipt and disposition of all trust funds deposited into Bank Account #2, resulting in \$40,457.05 of unidentified funds, as required by section 10145(g) of the Code and section 2831.1 of the Regulations.

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1 Trust Account Reconciliation

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3 Respondents failed to reconcile the balance of separate beneficiary or transaction
4 records with the control record of trust funds received and disbursed for Bank Account #2 at
5 least once a month, and/or failed to maintain a record of such reconciliations for each bank
6 account holding trust funds as required by section 10145(a) of the Code and 2831.2 of the
7 Regulations.

8 Failure to Designate Trust Accounts

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10 Respondents failed to properly designate Bank Accounts #1 and #2 as trust
11 accounts in the name of AGARMARK as trustee in violation of Code section 10145(a) and
12 section 2832 of the Regulations.

13 Unlicensed Bank Account Signatory

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15 Respondents' bank signature cards for Bank Accounts #1 and #2 listed
16 individuals unaffiliated with AGARMARK as signatories during the audit period. Additionally,
17 no written broker authorization was provided for individual salespersons to be lawful signatories
18 and the unaffiliated individuals remained uninsured and unbonded signatories in violation of
19 section 10145(a) of the Code and section 2834 of the Regulations.

20 Unlicensed Fictitious Business Name

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22 Respondents conducted property management activities including executing lease
23 and management agreements through its DBA Golden State Luxury Properties ("GSLP").
24 Respondents failed to license GSLP as its DBA under AGARMARK's real estate license, in
25 violation of section 10159.5 of the Code and section 2731 of the Regulations.

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1 FAILURE TO SUPERVISE

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3 Respondent MARKARIAN failed to exercise reasonable supervision over the acts
4 of AGARMARK. MARKARIAN permitted, ratified and/or caused the conduct described above,
5 to occur, and failed to take reasonable steps, including, but not limited to, the handling of trust
6 funds, supervision of employees, and the implementation of policies, rules, procedures, and
7 systems to ensure the compliance of the corporation with the Real Estate Law and the
8 Regulations.

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10 The acts and/or omissions of MARKARIAN as described in Paragraph 17,
11 constitute failure on the part of MARKARIAN, as designated officer-broker for AGARMARK,
12 to exercise reasonable supervision and control over the licensed activities of AGARMARK as
13 required by Section 10159.2 of the Code and Section 2725 of the Regulations.

14 PRIOR ADMINISTRATIVE ACTIONS

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16 Case No. H-05777 SD

17 Effective April 7, 2025, in Department Case No. H-05777 SD, the Real Estate
18 Commissioner imposed a thirty (30) day stayed suspension on MARKARIAN's real estate
19 broker license pursuant to Code sections 10177(d) (violations of real estate law), 10177(g)
20 (negligence or incompetence), and 10177(h) (failure to supervise).

21 GROUND FOR DISCIPLINE

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23 The acts and/or omissions of Respondents as alleged in the above paragraphs
24 constitute grounds for the suspension or revocation of all licenses and license rights of
25 Respondents under sections 10177(d) (violations of real estate law) and/or 10177(g) (negligence
26 or incompetence) of the Code.

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The acts and/or omissions of MARKARIAN as alleged in Paragraphs 17 and 18 constitute grounds for the suspension or revocation of all licenses and license rights of MARKARIAN under Sections 10177(d) (violations of real estate law), 10177(g) (negligence or incompetence), and 10159.2/10177(h) (failure to reasonably supervise) of the Code.

COST RECOVERY

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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) of the Code.

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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 Respondents under the Code, for the 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 the provisions of law.



HEATHER NISHIMURA

Supervising Special Investigator

Dated at Sacramento, California,

This 15th day of September, 2026

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DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Government Code*, 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.