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FILED

AUG 11 2022

DEPARTMENT OF REAL ESTATE
By B. Nicholas

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
MARILYN LAURA GRIFFIN,)
Respondent.)
No. H-12600 SF
ACCUSATION

The Complainant, STEPHANIE YEE, a Supervising Special Investigator of the
State of California, for cause of Accusation against MARILYN LAURA GRIFFIN (Respondent),
is informed and alleges as follows:

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The Complainant, STEPHANIE YEE, a Supervising Special Investigator of the
State of California, makes this Accusation in her official capacity.

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Respondent is presently licensed and/or has license rights under the Real Estate
Law, Part 1 of Division 4 of the Business and Professions Code (Code).

LICENSE HISTORY

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At all times mentioned, Respondent was and is licensed by the Department as a
real estate broker, License ID 01067630. Respondent was licensed by the Department as a real

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estate salesperson on or about March 13, 1990 and as a broker on or about September 25, 1990.

Unless renewed, Respondent's broker license will expire November 2, 2022.

Effective April 29, 2020, in Case No. H-12417 SF before the Department, the Real Estate Commissioner issued an order suspending the real estate broker license of Respondent for 45-days stayed upon terms and conditions, for violation of Business and Professions Code (Code) Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Sections 2832.1, 2832, 2834, 2831.1, and 3831.2 of Title 10, Chapter 6, California Code of Regulations (Regulations).

Respondent was and is licensed to do business under the fictitious business names "Diversified Funds" and "Pyramid Properties."

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At no time mentioned was Gigi Griffin licensed by the Department in any capacity.

AUDIT OK20-0086

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On or about November 19, 2021, the Department completed its audit (OK20-0086) of the books and records of Respondent's property management activities described in Paragraph 6. The auditor herein examined the records for the period of March 1, 2020, through March 31, 2021.

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At all times 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 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, Respondent 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.

As of the audit examination, Respondent managed approximately one hundred (100) one-to-four unit family residences with one hundred and twenty (120) units for seventy (70) owners. Respondent collected approximately \$1,698,312 in trust funds annually.

Respondent's property management services include, but not limited to, collecting rents, paying expenses, and screening tenants. For such property management services, Respondent charged a management fee of between 8 to 10 percent of collected rents.

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While acting as a real estate broker as described in Paragraph 6, Respondent 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 Respondent were deposited or caused to be deposited by Respondent into accounts which were maintained by Respondent for the handling of trust funds, and thereafter from time-to-time Respondent made disbursements of said trust funds.

During the audit period, as described in Paragraph 6, Respondent maintained three (3) bank accounts to hold trust funds, identified as follows:

ACCOUNT # 1	
Bank Name and Location:	Umpqua Bank Forestville, CA
Account No.:	XXXXXXX1659
Account Name:	DBA Diversified Funds Marilyn Griffin Broker Trustee
Signatories:	Marilyn Griffin

	Gigi Griffin
Description:	Account #1 was used for the handling of trust funds from property management activities.

ACCOUNT # 2	
Bank Name and Location:	Umpqua Bank Forestville, CA
Account No.:	XXXXXX9908
Account Name:	DBA Diversified Funds Marilyn Griffin Broker Trustee, Security Deposit Trust
Signatories:	Marilyn Griffin
Description:	Account #2 was used for the handling of trust funds from property management activities.

ACCOUNT # 3	
Bank Name and Location:	Umpqua Bank Forestville, CA
Account No.:	XXXXXX1140
Account Name:	DBA Diversified Funds Marilyn Griffin Broker Trustee, Rental Deposits
Signatories:	Marilyn Griffin Gigi Griffin
Description:	Account #3 was used for the handling of trust funds from property management activities.

In the course of the property management activities described in Paragraph 6, and during the audit examination period described in Paragraph 5, Respondent violated the Code and Regulations described below:

Trust Account Accountability and Balances

Based on the records provided during the audit, a bank reconciliation for Account #1 was prepared for as of March 31, 2021. The adjusted bank balance of Account #1 as of March 31, 2021, was compared to the beneficiaries' accountability for Account #1 as of March 31, 2021.

Adjusted Bank Balance	\$9,727.82
Accountability	<u>\$18,324.58</u>
Trust Fund Shortage	<u>(\$8,596.76)</u>

A shortage of \$8,596.76 was found in Account #1 as of March 31, 2021. The cause of the shortage was unidentified.

Respondent provided no evidence 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 to an amount less than the existing aggregate trust fund liabilities, in violation of Section 10145 of the Code and Section 2832.1 of the Regulations.

Separate Records

Respondent failed to maintain accurate separate records for each beneficiary or transaction, accounting therein for all funds which were deposited into Account #3 containing all of the information required by Section 2831.1 of the Regulations.

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1 Account #3 contained unidentified and/or unaccounted for funds of at least
2 \$2,955. Respondent failed to maintain a separate records for the unidentified funds.

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4 Control Record

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6 Respondent failed to maintain an accurate written control record, for Account #1,
7 Account #2, and/or Account #3, of all trust funds received and disbursed, containing all
8 information required by Section 2831 of the Regulations.

9 Trust Account Reconciliation

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11 Respondent failed to reconcile the balance of separate beneficiary or transaction
12 records with the control record of trust funds received and disbursed at least once a month, and/or
13 failed to maintain a record of such reconciliations for Account #1, Account #2, and/or Account
14 #3 as required by Section 2831.2 of the Regulations.

15 Trust Account Signatory

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17 Respondent caused, permitted, and/or allowed, the possible withdrawal of trust
18 funds from Account #1 and/or Account #3, by Gigi Griffin, who was not licensed by the
19 Department and not covered by a fidelity bond in violation of Section 10145 of the Code and
20 Section 2834 of the Regulations.

21 GROUND FOR DISCIPLINE

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23 The acts and/or omissions of Respondent as alleged above constitute grounds for
24 the suspension or revocation of all licenses and license rights of Respondent, pursuant to the
25 following provisions of the Code and Regulations:

26 As to Paragraph 9, under Sections 10177(d) and/or 10177(g) of the Code in
27 conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

1 As to Paragraph 10, under Sections 10177(d) and/or 10177(g) of the Code in
2 conjunction with Section 10145 of the Code and Section 2831.1 of the Regulations;

3 As to Paragraph 11, under Sections 10177(d) and/or 10177(g) of the Code in
4 conjunction with Section 10145 of the Code and Section 2831 of the Regulations;

5 As to Paragraph 12, under Sections 10177(d) and/or 10177(g) of the Code in
6 conjunction with Section 10145 of the Code and Section 2831.2 of the Regulations; and

7 As to Paragraph 13, under Sections 10177(d) and/or 10177(g) of the Code in
8 conjunction with Section 10145 of the Code and Section 2834 of the Regulations.

9 COST RECOVERY

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11 The acts and/or omissions of Respondent as alleged above, entitle the Department
12 to reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund
13 handling violation) of the Code.

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

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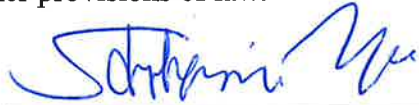
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1 WHEREFORE, Complainant prays that a hearing be conducted on the
2 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
3 disciplinary action against all licenses and license rights of Respondent under the Code,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

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7 STEPHANIE YEE
8 Supervising Special Investigator

9 Dated at Oakland, California,
10 this 3rd day of August, 2022

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21 DISCOVERY DEMAND

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