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DEPARTMENT OF REAL ESTATE
By B. McW/ao

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
PAMELA LYNN KELLEY,)
Respondent.)
No. H-12663 SF
ACCUSATION

The Complainant, STEPHANIE YEE, a Supervising Special Investigator of the State of California, for cause of Accusation against PAMELA LYNN KELLEY ("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.

2

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 01824381. Respondent was licensed by the Department as a real

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1 estate salesperson on or about November 6, 2007, and as a real estate broker on or about May
2 27, 2014. Unless renewed, Respondent's broker license will expire May 26, 2026.

3 Beginning March 2, 2023, Respondent was licensed to do business under the
4 fictitious business name "Home 2 San Francisco".

5 AUDIT OK22-0034

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7 On or about January 24, 2023, the Department completed its audit (OK22-034) of
8 the books and records of Respondent's property management activities described in Paragraph 5.
9 The auditor herein examined the records for the period of October 1, 2020, through June 30,
10 2022.

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12 At all times mentioned, Respondent engaged in the business of, acted in the
13 capacity of, advertised, or assumed to act as a real estate broker within the State of California
14 within the meaning of Sections 10131(b) of the Code, including the operation and conduct of a
15 property management business with the public wherein, on behalf of others, for compensation or
16 in expectation of compensation, Respondent leased or rented and offered to lease or rent, and
17 solicited for prospective tenants of real property or improvements thereon, and collected rents
18 from real property or improvements thereon.

19 As of the audit examination, Respondent managed twelve (12) one-to-four unit
20 family residence for ten (10) owners. Respondent collected approximately \$1,200,000 in trust
21 funds annually.

22 Respondent's property management services include, but not limited to, collecting
23 rents and security deposits; soliciting tenants; advertising properties; making mortgage, property
24 tax, and insurance payments; and responsibility for repairs and maintenance. For such property
25 management services, Respondent charged a management fee between 15 and 20 percent of
26 collected rents and/or a flat management fee of \$500 per month.

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While acting as a real estate broker as described in Paragraph 5, 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, identified as follows:

ACCOUNT # 1	
Bank Name and Location:	Wells Fargo Bank P.O. Box 6995 Portland, OR 97228
Account No.:	XXXXXX8399
Account Name:	Pamela L. Kelley Home 2 San Francisco
Description:	Account #1 was used for deposit and disbursements related to the management of rental properties.

In the course of the property management activities described in Paragraph 5, and during the audit examination period described in Paragraph 4, Respondent violated the Code and Regulations described below:

Trust Account Designation

During the audit period, Account #1, an account used to hold trust funds, was not

1 designated as trust accounts in the name of the broker or the broker's fictitious business name as
2 trustee, in violation of Section 10145 of the Code and Section 2832 of the Regulations. The
3 account was titled "Pamela L. Kelley Home 2 San Francisco."

4 Separate Records

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6 Respondent failed to maintain accurate separate records for each beneficiary or
7 transaction, accounting therein for all funds which were deposited into Account #1 containing all
8 of the information required by Section 2831.1 of the Regulations.

9 Respondent failed to maintain a separate record for broker funds of \$44,965.73
10 maintained in Account #1 as of June 30, 2022.

11 Respondent provided Customer Balance Detail and Profit and Loss Detail Reports
12 as separate records. The elements contained in the Customer Balance Detail Reports were not
13 maintained in a format that would readily enable tracing and reconciliation. The Profit and Loss
14 Detail Report was generated on an accrual basis.

15 Respondent also provided owner statements as separate records. The owner
16 statements provided for the audit were not accurate to determine accountability because the
17 deposits and disbursements were not accurately recorded on the owner statements.

18 Trust Account Reconciliation

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

24 Commingling

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26 Respondent commingled with its own money or property, the money or property
27 of others which was received or held by Respondent in trust in violation of Section 10176(e) of

1 the Code. As of June 30, 2022, Respondent maintained \$44,965.73 of undisbursed management
2 fees in Account #1. Records provided during the audit did not show Respondent's earned fees
3 were disbursed from Account #1. Respondent admitted that earned management
4 fees/commissions were maintained in Account #1 and were used to pay Respondent's personal
5 expenses.

6 Unlicensed Fictitious Business Name

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8 Respondent failed to obtain a real estate license bearing the fictitious business
9 name "Home 2 San Francisco," while conducting activities for which a license was required, in
10 violation of Section 10159.5 of the Code and Section 2731 of the Regulations.

11 Prior to March 2, 2023, property management services were being performed
12 under the fictitious business name of "Home 2 San Francisco."

13 GROUND'S FOR DISCIPLINE

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

18 As to Paragraph 8, under Sections 10177(d) and/or 10177(g) of the Code in
19 conjunction with Section 10145 of the Code and Section 2832 of the Regulations.

20 As to Paragraph 9, under Sections 10177(d) and/or 10177(g) of the Code in
21 conjunction with Section 10145 of the Code and Section 2831.1 of the Regulations;

22 As to Paragraph 10, under Sections 10177(d) and/or 10177(g) of the Code in
23 conjunction with Section 10145 of the Code and Section 2831.2 of the Regulations;

24 As to Paragraph 11, under Sections 10176(e) of the Code; and

25 As to Paragraph 12, under Sections 10177(d) and/or 10177(g) of the Code in
26 conjunction with Section 10159.5 of the Code and Section 2731 of the Regulations.

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1 COST RECOVERY

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

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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 Commissioner may request the
9 Administrative Law Judge to direct a licensee found to have committed a violation of this part to
10 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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

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17 STEPHANIE YEE
18 Supervising Special Investigator

19 Dated at Oakland, California,
20 this 8th day of May, 2023

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.