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**FILED**

DEC 12 2014

BUREAU OF REAL ESTATE

BY *[Signature]*

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of

12 LILY KAUT, dba Professional Realty Services,

13  
14 Respondent.

) No. H- 39677 LA

) ACCUSATION

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17 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State  
18 of California, for cause of Accusation against LILY KAUT, doing business as Professional  
19 Realty Services, alleges as follows:

20 1.

21 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State  
22 of California, makes this Accusation in her official capacity.

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27 CALBRE ACCUSATION – LILY KAUT

2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

LICENSE HISTORY

3.

A. LILY KAUT

A. Respondent KAUT is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a real estate broker., license ID 01164893 Respondent was originally licensed as a real estate salesperson by the Bureau (then "Department") on or about August 2, 1993 and licensed as a real estate broker since February 22, 1999.

1. On or about March 4, 2004, a Stipulation and Order was signed by Respondent and the Department disposing of the Accusation filed on May 16, 2003 in Department Case No. H-30118 LA against LILY KAUT, dba Professional Realty Services. This Stipulation suspended all licenses and licensing rights of Respondent for 180 days from the effective date of the Decision, March 24, 2004.

2. Respondent has held "Professional Realty Services" (hereinafter "PRS") as an active dba registered with the Bureau since January 11, 2005.

B. Professional Realty Escrow Division (Unlicensed DBA)

Professional Realty Escrow Division (hereinafter "PRED") is not now, and has never been, licensed by the Bureau in any capacity.

C. Professional Escrow Division (Unlicensed DBA)

Professional Escrow Division (hereinafter "PED") is not now, and has never been, licensed by the Bureau in any capacity.

1 D. All further references to "Respondent" herein include the party identified in  
2 Paragraph 3A., above, and also include the officers, directors, employees, agents and real estate  
3 licensees employed by or associated with said party and who at all times herein mentioned were  
4 engaged in the furtherance of the business or operations of said party and who were acting within  
5 the course and scope of their authority and employment

6 BROKERAGE

7 4.

8 At all times mentioned, in the city of Rancho Cucamonga, San Bernardino  
9 County, Respondent acted as a real estate broker, and ordered, caused, authorized or participated  
10 in the conduct of PED and/or PRED, including licensed activities within the meaning of:

11 A. Code Section 10131(a): Respondent engaged in activities relating to selling,  
12 buying, offering to buy, soliciting prospective sellers or purchasers of, soliciting or obtaining  
13 listings of, or negotiating the purchase, sale or exchange of real property or a business  
14 opportunity.

15 FIRST CAUSE FOR DISCIPLINE

16 (Audit of Professional Realty Services – LA 130013)

17 5.

18 Between September 16, 2013 and October 31, 2013, the Bureau attempted to  
19 complete an audit examination of the books and records of Professional Realty Services  
20 pertaining to the activities of Respondent, as described in Paragraph 4, above, which require a  
21 real estate license. An attempt was made to complete an audit examination covering the period  
22 of time beginning on November 1, 2010 to September 30, 2013 (hereinafter "audit examination  
23 period") to determine whether Respondent, dba Professional Realty Services, performed real  
24 estate activities in compliance with the Code and the Regulations.

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Trust Account

6.

Respondent failed to make available for the audit information pertaining to bank accounts maintained to handle real estate trust funds in connection with her real estate activity, the failure of which is in violation of Code Section 10148.

Escrow No. 434-RA

7.

Respondent failed to make available for audit the entirety of documents and records pertaining to Escrow No. 434-RA, the failure of which is in violation of Code Section 10148.

Fictitious Business Name

8.

During the audit examination period, Respondent used the fictitious business name "Professional Escrow Division" without first obtaining a license from the Bureau bearing such fictitious name, in violation of Code Section 10159.5 and Regulation 2731.

Retention of Records

9.

An examination of Respondent's real estate activities could not be completed, as Respondent failed to make available during the audit examination period the records and documents requested by the Bureau, in violation of Code Section 10148.

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1 Disciplinary Statutes

2 10.

3 The conduct of Respondent LILY KAUT described in Paragraphs 6 through 9,  
4 above, violated the Code and the Regulations as set forth below:

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<u>Paragraph</u>	<u>Provisions Violated</u>
6	Code Section 10148;
7	Code Section 10148;
8	Code Section 10159 and Regulation 2731; and
9	Code Section 10148

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16 The foregoing violations, as described in Paragraph 10, constitute cause for  
17 discipline of the real estate license and license rights of Respondent LILY KAUT, as aforesaid,  
18 under the provisions of Code Sections 10176(a) for substantial misrepresentation; 10177(d) for  
19 willful disregard of the Real Estate Law; 10177(g) for negligence; and 10176(i) and 10177(j) for  
20 dishonest dealing.

21 SECOND CAUSE FOR DISCIPLINE

22 (Willful Disregard of the Real Estate Law)

23 11.

24 The overall conduct of Respondent LILY KAUT constitutes a willful disregard  
25 and violation of the Real Estate Law. This conduct and violation are cause for the suspension or  
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1 revocation of the real estate license and license rights of said Respondent pursuant to the  
2 provisions of Code Section 10177(d).

3 THIRD CAUSE FOR DISCIPLINE

4 (Negligence)

5 12.

6 The overall conduct of Respondent LILY KAUT constitutes negligence. This  
7 conduct and violation are cause for the suspension or revocation of the real estate license and  
8 license rights of said Respondent pursuant to the provisions of Code Section 10177(g).

9 FOURTH CAUSE FOR DISCIPLINE

10 (Breach of Fiduciary Duty/ Dishonest Dealing)

11 13.

12 The overall conduct of Respondent LILY KAUT constitutes a breach of fiduciary  
13 duty. This conduct and violation are cause for the suspension or revocation of the real estate  
14 license and license rights of said Respondent pursuant to the provisions of Code Section 10176(i)  
15 and/or 10177(j).

16 COSTS

17 14.

18 Code Section 10106 provides, in pertinent part, that in any order issued in resolution  
19 of a disciplinary proceeding before the Bureau of Real Estate, the Commissioner may request the  
20 administrative law judge to direct a licensee found to have committed a violation of this part to  
21 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1                   WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
3 action against the license and license rights of Respondent LILY KAUT, under the Real Estate  
4 Law (Part 1 of vision 4 of the Business and Professions Code), for the cost of investigation and  
5 enforcement as permitted by law, and for such other and further relief as may be proper under  
6 other provisions of law, and for costs of audit.

7 Dated at Los Angeles, California

8 this 9th day of December, 2014.

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12 MARIA SUAREZ  
13 Deputy Real Estate Commissioner  
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20 cc: LILY KAUT  
21 Professional Realty Services  
22 Maria Suarez  
23 Sacto  
24 Audits – Gina King  
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