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BUREAU OF REAL ESTATE

By *[Signature]*

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9 **BEFORE THE BUREAU OF REAL ESTATE**

10 **STATE OF CALIFORNIA**

11 * * *

12 In the Matter of the Accusation of) No. H-40518 LA
13 MELVIN KIM BISH,) SECOND AMENDED
14 Respondent.) ACCUSATION
15 _____)

16 This Accusation amends the First Amended Accusation filed on
17 November 15, 2017. The Complainant, Maria Suarez, a Supervising Special Investigator of the
18 State of California, for cause of Accusation against MELVIN KIM BISH ("Respondent"), is
19 informed and alleges as follows:

20 1.

21 The Complainant, Maria Suarez, acting in her official capacity as a Supervising
22 Special Investigator of the State of California, makes this Accusation against MELVIN KIM
23 BISH.

24 2.

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

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1 LICENSE HISTORY

2 3.

3 At all times mentioned, Respondent was licensed and/or had license rights
4 issued by the Bureau of Real Estate ("Bureau") as a real estate broker. Respondent was
5 originally licensed as a real estate broker on August 3, 1978.

6 BROKERAGE

7 MELVIN KIM BISH

8 4.

9 At all times mentioned, in the City of Santa Barbara, County of Santa Barbara,
10 Respondent acted as a real estate broker, conducting licensed activities within the meaning of
11 Code Section 10131(b): leasing or renting real property for others.

12 FIRST CAUSE OF ACTION

13 AUDIT

14 MELVIN KIM BISH

15 5.

16 On April 29, 2016, the Bureau completed an audit examination of the books and
17 records of Respondent pertaining to the activities described in Paragraph 4 which require a real
18 estate license. The audit examination covered a period of time from January 1, 2014, to
19 March 23, 2016. The audit examination revealed violations of the Code and the Regulations as
20 set forth in the following paragraphs, and as more fully discussed in Audit Report LA 150123
21 and the exhibits and workpapers attached to said audit report.

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1 VIOLATIONS OF THE REAL ESTATE LAW

2 6.

3 In the course of activities described in Paragraph 4 above and during the
4 examination period described in Paragraph 5 above, Respondent acted in violation of the Code
5 and the Regulations in that:

6 (a) As of January 29, 2016, Respondent had a trust fund shortage in one trust
7 fund account in the amount of \$231.00. The shortage was due to withdrawals of unearned fees
8 or commissions. There was no evidence that Respondent had written consent from the owners
9 of the trust funds to reduce the balance of trust funds to an amount less than the aggregate trust
10 fund liabilities, in violation of Code Section 10145 and Regulation 2832.1.

11 (b) As of March 23, 2016, Respondent had a trust fund shortage in another
12 trust fund account in the amount of \$80.00. The shortage was due to a withdrawal from an
13 automated teller machine. There was no evidence that Respondent had written consent from
14 the owners of the trust funds to reduce the balance of trust funds to an amount less than the
15 aggregate trust fund liabilities, in violation of Code Section 10145 and Regulation 2832.1.

16 (c) Respondent did not maintain a complete and accurate control record or
17 general ledger of all trust funds received and disbursed in connection with Respondent's
18 property management activities, in violation of Code Section 10145 and Regulation 2831.

19 (d) Respondent did not maintain a complete and accurate separate record of
20 all trust funds received and disbursed for each beneficiary in connection with Respondent's
21 property management activities, in violation of Code Section 10145 and Regulation 2831.1.

22 (e) Respondent did not perform and maintain a monthly reconciliation of all
23 the separate records with the control record of all trust funds received and disbursed, in
24 violation of Code Section 10145 and Regulation 2831.2.

25 (f) Respondent withdrew unearned fees or commissions from trust funds in
26 the amount of \$1,675.00 without written consent from the owner of the trust funds, in violation
27 of Code Sections 10145, 10176(i), and 10177(j).

Second Amended Accusation of Melvin Kim Bish

7.

The conduct, acts, or omissions of Respondent, described in Paragraph 6 above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
6(a)	Code Section 10145 and Regulation 2832.1
6(b)	Code Section 10145 and Regulation 2832.1
6(c)	Code Section 10145 and Regulation 2831
6(d)	Code Section 10145 and Regulation 2831.1
6(e)	Code Section 10145 and Regulation 2831.2
6(f)	Code Sections 10145, 10176(i), and 10177(j)

The foregoing violations constitute cause for the suspension or revocation of all the real estate licenses and license rights of Respondent pursuant to the provisions of Code Sections 10176(i), 10177(d), 10177(g), and/or 10177(j).

SECOND CAUSE OF ACTION

RECEIVING COMMISSION UNDER AGREEMENT WITHOUT SPECIFIED END DATE

8.

On or about March 10, 2013, Respondent entered into a Commission Agreement with Marion Sanborn to lease real property located at 272 Carlo Street, Goleta, CA 93117. The Commission Agreement did not contain a definite, specified date of final and complete termination. The Commission Agreement provided that Respondent receive five percent (5%) commission from the actual monthly rent paid. On September 16, 2014, Respondent claimed or demanded a fee, compensation, or commission under the Commission Agreement. Respondent received a fee, compensation, or commission under the Commission Agreement on or about October 19, 2014, November 8, 2014, December 8, 2014, January 9, 2015, February 4, 2015, and February 19, 2015.

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1 9.

2 The conduct, acts, and omissions of Respondent, as described in Paragraph 8
3 above, constitute cause for the suspension or revocation of all the real estate licenses and
4 license rights of Respondent pursuant to the provisions of Code Section 10176(f).

5 THIRD CAUSE OF ACTION

6 COMMINGLING

7 10.

8 On or about February 19, 2015, Respondent withdrew more than \$200 of his
9 own money from a trust fund account that contained trust funds.

10 11.

11 On or about November 2, 2015, Respondent deposited more than \$200 of his
12 own money into a trust fund account. On or about December 29, 2015, Respondent deposited
13 trust funds into the trust fund account containing more than \$200.00 of his own money.

14 12.

15 The conduct, acts, and omissions of Respondent, as described in Paragraphs 10
16 and 11 above, constitute cause for the suspension or revocation of all the real estate licenses and
17 license rights of Respondent pursuant to the provisions of Code Section 10176(e) and
18 Regulation 2835.

19 13.

20 Code Section 10148(b) provides, in pertinent part, that the Real Estate
21 Commissioner shall charge a real estate broker for the cost of any audit if the Commissioner has
22 found in a final decision, following a disciplinary hearing, that the broker has violated Code
23 Section 10145 or a Regulation or rule of the Commissioner interpreting said Code section.

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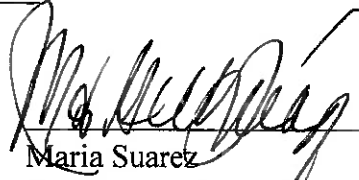
14.

Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau of Real Estate, 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 the real estate licenses and license rights of Respondent MELVIN KIM BISH under the Real Estate Law, for the cost of audit, investigation, and enforcement as permitted by law, and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California

this 20th day of November, 20



Maria Suarez
Supervising Special Investigator

cc: MELVIN KIM BISH
Maria Suarez
Sacto.
Audits