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**FILED**  
**MAY 29 2018**  
**BUREAU OF REAL ESTATE**  
By *Angela Danner*

**BEFORE THE BUREAU OF REAL ESTATE**  
**STATE OF CALIFORNIA**

\*\*\*

In the Matter of the Accusation of  
  
LILLIAN KATHY ARMSBY,  
  
  
Respondent.

No. H-41056 LA  
  
ACCUSATION

The Complainant, Maria Suarez, a Supervising Special Investigator of the State of California, for cause of Accusation against LILLIAN KATHY ARMSBY, alleges as follows:

1.

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

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.

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1 BRE LICENSE HISTORY

2 3.

3 LILLIAN KATHY ARMSBY

4 A. Respondent LILLIAN KATHY ARMSBY ("ARMSBY") is presently licensed  
5 and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a real  
6 estate broker ("REB"), California Bureau of Real Estate ("BRE" or "Bureau" or "CalBRE")  
7 license ID 00810463.

8 B. ARMSBY was originally licensed by the BRE as a REB on or about May 5,  
9 2001. Prior to her REB licensure, ARMSBY was licensed by the BRE as a real estate  
10 salesperson ("RES") on or about March 11, 1981.

11 C. ARMSBY's BRE mailing address of record is: P.O. Box 93, Big Bear Lake,  
12 CA 92315.

13 D. ARMSBY's BRE main address of record is: 42662 Moonridge Rd., Big Bear  
14 Lake, CA 92315.

15 E. According to BRE records to date, ARMSBY has no branch offices under her  
16 BRE license.

17 F. According to BRE records to date, ARMSBY holds four (4) active DBAs  
18 under her BRE license: Village Reservation Service Permanent Rental Division ("VRSPRD")  
19 (active as of June 1, 2001); Pioneer Realty (active as of June 1, 2001); Town & Country Realty  
20 of Big Bear Lake (active as of June 1, 2001); and Village Property Management (active as of  
21 October 31, 2016). From March 16, 2015 to October 30, 2016, ARMSBY held Homesmart  
22 Mountain Realty Group as an active DBA under her BRE license.

23 G. According to BRE records to date, ARMSBY is a broker associate for HSCA,  
24 BRE license ID 01912687.

25 H. ARMSBY's BRE license will expire on May 15, 2021.



1 sufficient to protect members of the public against a loss subject to the deductible amount.

2 Evidence of financial responsibility shall include one or more of the following:

3 (i) Separate fidelity bond coverage adequate to cover the amount  
4 of the fidelity bond deductible.

5 (ii) A cash deposit held in a separate account, apart from other  
6 funds of the broker, the broker's employees, or the broker's  
7 principals, in a bank or recognized depository in this state  
8 adequate to cover the amount of the fidelity bond deductible and  
9 held exclusively and solely for the purpose of paying the fidelity  
10 bond deductible amount.

11 (iii) Any other evidence of financial responsibility approved by the  
12 commissioner.

13 (3) An arrangement under which a person enumerated in subparagraph  
14 (A),(B), or (C) of paragraph (2) is authorized to make withdrawals from a trust fund account of a  
15 broker shall not relieve an individual broker, nor the broker-officer of a corporate broker  
16 licensee, from responsibility or liability as provided by law in handling trust funds in the  
17 broker's custody.

18 . . .  
19 (b) A real estate broker acting as a principal pursuant to Section 10131.1<sup>1</sup> shall  
20 place all funds received from others for the purchase of real property sales contracts or  
21 promissory notes secured directly or collaterally by liens on real property in a neutral escrow  
22 depository unless delivery of the contract or notes is made simultaneously with the receipt of the  
23 purchase funds.

24  
25 <sup>2</sup>Code Section 10131.1 states, "(a) A real state broker within the meaning of this part is also a person who engages  
26 as a principal in the business of making loans or buying from, selling to, or exchanging with the public, real property  
27 sales contracts or promissory notes secured directly or collaterally by liens on real property..."

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...

(g) The broker shall maintain a separate record of the receipt and disposition of all funds described in subdivisions (a) and (b), including any interest earned on the funds..."

5.

Pursuant to Regulation 2831.1 *Separate Record for Each Beneficiary or Transaction:*

"(a) A broker shall keep a separate record for each beneficiary or transaction, accounting for all funds which have been deposited to the broker's trust bank account and interest, if any, earned on the funds on deposit. The record shall include information sufficient to identify the transaction and the parties to the transaction. Each record shall set forth in chronological sequence the following information in columnar form:

- (1) Date of deposit.
- (2) Amount of deposit.
- (3) Date of each related disbursement.
- (4) Check number of each related disbursement.
- (5) Amount of each related disbursement.
- (6) If applicable, dates and amounts of interest earned and credited to the account.
- (7) Balance after posting transactions on any date.

(b) Maintenance of trust ledgers of separate beneficiaries or transactions, or similar records, or automated data processing systems, including computer systems and electronic storage and manipulation of information and documents, in accordance with generally accepted accounting principles will constitute compliance with subdivision (a), provided that such ledgers, records, or systems contain the elements required by subdivision (a) and that such

1 elements are maintained in a format that will readily enable tracing and reconciliation in  
2 accordance with Section 2831.2.”

3 6.

4 Pursuant to Regulation 2831.2 *Trust Account Reconciliation:*

5 “The balance of all separate beneficiary or transaction records maintained  
6 pursuant to the provisions of Section 2831.1 must be reconciled with the record of all trust funds  
7 received and disbursed required by Section 2831, at least once a month, except in those months  
8 when the bank account did not have any activities. A record of the reconciliation must be  
9 maintained, and it must identify the bank account name and number, the date of the  
10 reconciliation, the account number or name of the principals or beneficiaries or transactions, and  
11 the trust fund liabilities of the broker to each of the principals, beneficiaries or transactions.”

12 7.

13 Pursuant to Regulation 2832.1 *Trust Fund Handling for Multiple Beneficiaries:*

14 “The written consent of every principal who is an owner of the funds in the  
15 account shall be obtained by a real estate broker prior to each disbursement if such a  
16 disbursement will reduce the balance of the funds in the account to an amount less than the  
17 existing aggregate trust fund liability of the broker to all owners of the funds.”

18 8.

19 Pursuant to Regulation 2834 *Trust Account Withdrawals:*

20 “(a) Withdrawals may be made from a trust fund account of an individual broker  
21 only upon the signature of the broker or one or more of the following persons if specifically  
22 authorized in writing by the broker:

23 (1) a salesperson licensed to the broker.

24 (2) a person licensed as a broker who has entered into a written agreement  
25 pursuant to Section 2726 with the broker.

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3 (3) an unlicensed employee of the broker with fidelity bond coverage at least  
4 equal to the maximum amount of the trust funds to which the employee  
5 has access at any time.

6 (b) Withdrawals may be made from the trust fund account of a corporate broker  
7 only upon the signature of:

8 (1) an officer through whom the corporation is licensed pursuant to Section  
9 10158 or 10211 of the Code or

10 (2) one of the persons enumerated in paragraph (1), (2) or (3) of subdivision  
11 (a) above, provided that specific authorization in writing is given by the officer through whom  
12 the corporation is licensed and that the officer is an authorized signatory of the trust fund  
13 account.

14 (c) An arrangement under which a person enumerated in paragraph (1), (2) or (3)  
15 of subdivision (a) above is authorized to make withdrawals from a trust fund account of a broker  
16 shall not relieve an individual broker, nor the broker-officer of a corporate broker licensee, from  
17 responsibility or liability as provided by law in handling trust funds in the broker's custody."

18 **Responsibility of Corporate Officer in Charge – Code Section 10159.2 and Regulation 2725**

19 9.

20 Pursuant to Code Section 10159.2 *Responsibility of Corporate Officer in Charge:*

21 "(a) The officer designated by a corporate broker licensee pursuant to Section  
22 10211 shall be responsible for the supervision and control of the activities conducted on behalf  
23 of the corporation by its officers and employees as necessary to secure full compliance with the  
24 provisions of this division, including the supervision of salespersons licensed to the corporation  
25 in the performance of acts for which a real estate license is required.

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1 (b) A corporate broker licensee that has procured additional licenses in  
2 accordance with Section 10158 through officers other than the officer designated pursuant to  
3 Section 10211 may, by appropriate resolution of its board of directors, assign supervisory  
4 responsibility over salespersons licensed to the corporation to its broker-officers.

5 (c) A certified copy of any resolution of the board of directors assigning  
6 supervisory responsibility over real estate salespersons licensed to the corporation shall be filed  
7 with the Real Estate Commissioner within five days after the adoption or modification thereof.”

8 10.

9 Pursuant to Regulation 2725 *Broker Supervision*:

10 “A broker shall exercise reasonable supervision over the activities of his or her  
11 salespersons. Reasonable supervision includes, as appropriate, the establishment of policies,  
12 rules, procedures and systems to review, oversee, inspect and manage:

13 (a) Transactions requiring a real estate license.

14 (b) Documents which may have a material effect upon the rights or obligations of  
15 a party to the transaction.

16 (c) Filing, storage and maintenance of such documents.

17 (d) The handling of trust funds.

18 (e) Advertising of any service for which a license is required.

19 (f) Familiarizing salespersons with the requirements of federal and state laws  
20 relating to the prohibition of discrimination.

21 (g) Regular and consistent reports of licensed activities of salespersons.

22 The form and extent of such policies, rules, procedures and systems shall take  
23 into consideration the number of salespersons employed and the number and location of branch  
24 offices.



1 A broker shall establish a system for monitoring compliance with such policies,  
2 rules, procedures and systems. A broker may use the services of brokers and salespersons to  
3 assist in administering the provisions of this section so long as the broker does not relinquish  
4 overall responsibility for supervision of the acts of salespersons licensed to the broker.”

5 **Grounds for Revocation or Suspension – Code Section 10176**

6 11.

7 Pursuant to Code Section 10176, “The commissioner may, upon his or her own  
8 motion, and shall, upon the verified complaint in writing of any person, investigate the actions  
9 of any person engaged in the business or acting in the capacity of a real estate licensee within  
10 this state, and he or she may temporarily suspend or permanently revoke a real estate license at  
11 any time where the licensee, while a real estate licensee, in performing or attempting to perform  
12 any of the acts within the scope of this chapter has been guilty of any of the following:

13 ...

14  
15 (i) Any other conduct, whether of the same or a different character than specified  
16 in this section, which constitutes fraud or dishonest dealing.”

17 **Further Grounds for Disciplinary Action – Code Section 10177**

18 12.

19 Pursuant to Code Section 10177, “The commissioner may suspend or revoke the  
20 license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny  
21 the issuance of a license to an applicant, who has done any of the following:

22 ...

23 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing  
24 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and  
25  
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1 regulations of the commissioner for the administration and enforcement of the Real Estate Law  
2 and Chapter 1 (commencing with Section 11000) of Part 2.”

3 ...

4 (g) Demonstrated negligence or incompetence in performing an act for which he  
5 or she is required to hold a license.

6 (h) As a broker licensee, failed to exercise reasonable supervision over the  
7 activities of his or her salespersons, or, as the officer designated by a corporate broker licensee,  
8 failed to exercise reasonable supervision and control of the activities of the corporation for  
9 which a real estate license is required.”

10 ...

11 (j) Engaged in any other conduct, whether of the same or a different character  
12 than specified in this section, that constitutes fraud or dishonest dealing...”

13 **BRE AUDIT OF LILLIAN KATHY ARMSBY’S**  
14 **PROPERTY MANAGEMENT ACTIVITY (LA150130)**

15 13.

16 On June 16, 2016, the BRE completed its audit examinations of the books and  
17 records of Respondent ARMSBY pertaining to her property management activity (LA150130)  
18 described in Paragraphs 14A. through 14D., below, which require a real estate license. The  
19 audit examination covered a period of time beginning on April 1, 2015 and ending on March 31,  
20 2016 (“audit examination period” or “audit period”), and was performed during the period May  
21 24, 2016 through May 27, 2016 (“audit field work period”). The final report of June 16, 2016  
22 revealed violations of the Code and the Regulations as set forth in the following paragraphs, and  
23 more fully discussed in Audit Report LA150130.

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Business Activities

A. At all times mentioned in San Bernardino County, California, Respondent ARMSBY acted as a REB, and ordered, caused, authorized or participated in licensed activities within the meaning of:

1. Code Section 10131(a), by selling or offering to sell, buying or offering to buy, soliciting prospective sellers or purchasers of, soliciting or obtaining listings of, or negotiating the purchase, sale or exchange of real property or a business opportunity ("real estate sales"), and

2. Code Section 10131(b), wherein ARMSBY engaged in property management activities, and leased or rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or negotiated the sale, purchase or exchanges of leases on real property, or on a business opportunity, or collected rent from real property, or improvements thereon, or from business opportunities ("property management").

B. According to ARMSBY, as of the audit examination, ARMSBY closed about ten (10) sales transactions and did not collect any Earnest Money Deposits ("EMDs") during the audit period. ARMSBY did not maintain a trust account in connection with the sales activity during the audit period. EMDs were held and delivered directly to escrow by the buyers in connection with the sales activity.

C. According to ARMSBY, she managed approximately ninety-four (94) properties for sixty-three (63) owners, and collected approximately \$966,000 in trust funds. ARMSBY maintained one (1) bank account that handled trust funds in connection with her property management activity.

1 D. According to D.O. RUDNICK, ARMSBY's property management activities  
2 included collecting rents and security deposits for real property; soliciting for tenants;  
3 advertising properties; making mortgage, property tax and insurance payments; and overseeing  
4 repairs and maintenance. For such property management services, ARMSBY charged  
5 management fees between \$35.00 and \$600.00, or between six (6%) to ten (10%) percent of  
6 rents collected per unit per month. ARMSBY also charged ten percent (10%) of the first  
7 month's rent as a lease execution fee for new leases.

8 E. At the time of the audit examination, ARBSY: held four (4) fictitious business  
9 names ("FBN") for Homesmart Mountain Realty Group, Pioneer Realty, Town & Country  
10 Realty of Big Bear, and Village Reservation Service Permanent Rental Division; employed one  
11 BRE licensee; and had no branch offices.

12 15.

13 Bank Account

14 According to ARMSBY, she maintained the following one (1) bank account to  
15 handle trust funds in connection with her property management activities during the audit period:

16 Trust Account # 1 (T/A 1)

17 \* Account Name: "Village Reservation Service Permanent Rental Division Trst  
Acct"

18 \* Bank: First Mountain Bank, 40865 Big Bear Blvd., Big Bear Lake, CA 92315

19 \* Account No. ###6114

20 \* Signatories: ARMSBY, Connie Hutchison (non-BRE licensee)

21 \* Signatures required: one (1)

22 ARMSBY maintained T/A 1 for multiple beneficiaries for the receipts and  
23 disbursements of trust funds in connection with her property management activities. The BRE  
24 Auditor prepared a bank account reconciliation for T/A 1 with the cutoff date of March 31, 2016.  
25 The adjusted bank balance was calculated by using the ending bank balance per the bank  
26 statements provided, plus deposits in transit, minus outstanding checks as identified from the  
27

1 Record of Trust Funds Received and Disbursed (“control record”). The accountability of T/A 1  
2 was determined based on the separate records provided by ARMSBY and bookkeeper Denise  
3 Barber. The adjusted bank balance was then compared with the accountability.

4 **AUDIT FINDINGS: VIOLATIONS OF THE REAL ESTATE LAW**

5 16.

6 The BRE audit was limited to examination of ARMSBY’s property management  
7 activities. In the course of activities as described in Paragraphs 14A., 14.C, and 14D., above,  
8 and during the audit examination period described in Paragraph 13, Respondent ARMSBY  
9 violated the Code and the Regulations, as described below:

10 17.

11 **Trust Fund Handling for Multiple Beneficiaries**

12 **(Code Section 10145 and Regulation 2832.1)**

13 Based on the records provided and the aforementioned prepared bank  
14 reconciliation as of March 31, 2016 for T/A 1, the BRE Auditor found that as of March 31,  
15 2016, T/A 1 contained a shortage in the amount of <\$21,371.91>. This shortage was due to  
16 negative balance of property accounts totaling <\$5,076.64>, unauthorized disbursements totaling  
17 <\$12,171.21>, and unidentified shortage totaling <\$4,124.06>. There was no evidence provided  
18 that the trust fund owners had given ARMSBY or VRSPRD their written consent to reduce the  
19 balance of trust funds in T/A 1 to an amount less than the aggregate trust fund liabilities, in  
20 violation of **Code Section 10145 and Regulation 2832.1**. Subsequent to the audit field work  
21 period, ARMSBY made two deposits into T/A 1 to cure the total trust funds shortage: on or  
22 about May 31, 2016, ARMSBY made a deposit in the amount of \$12,171.21 into T/A 1, and on  
23 or about June 2, 2016, ARMSBY made a deposit in the amount of \$9,200.70 into T/A 1.

24 18.

25 **Trust Fund Handling – Separate Record For Each Beneficiary or Transaction**

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**(Code Section 10145 and Regulation 2831.1)**

During the audit period, while ARMSBY used T/A 1 for the receipts and disbursements of trust funds in connection with her property management activities, ARMSBY failed to maintain accurate and complete separate records for T/A 1, in violation of **Code Section 10145 and Regulation 2831.1**. ARMSBY's records were maintained in a format that did not readily enable tracing and reconciliation in accordance with Regulation 2831.2; ARMSBY maintained three (3) subaccounts, which resulted in separate records not chronologically ordered and inaccurate running balances after transactions were posted. Additionally, the separate records lacked the check numbers of the management fees disbursed.

19.

**Trust Fund Handling – Trust Account Reconciliation**

**(Code Section 10145 and Regulation 2831.2)**

During the audit period, ARMSBY did not maintain the monthly reconciliation of all the separate records to the control record of all trust funds received and disbursed for T/A 1 in connection with her property management activities, in violation of **Code Section 10145 and Regulation 2831.2**.

20.

**Trust Account Withdrawals**

**(Code Section 10145 and Regulation 2834)**

According to the bank signature cards maintained at First Mountain Bank for T/A 1, ARMSBY allowed Connie Hutchison ("Hutchison"), who was an office clerk employee unlicensed by the BRE, to be a signer on said account without fidelity bond coverage, in violation of **Code Section 10145 and Regulation 2834**. At the end of the audit field work period, on or about May 27, 2016, Hutchison was removed as a signer on T/A 1.

///

1 21.

2 **Mishandling of Trust Funds – Unauthorized Withdrawals**

3 **(Code Sections 10145, 10176(i), and 10177(j))**

4 During the audit period, there were unauthorized disbursements of trust funds  
5 totaling <\$12,171.21> as of March 31, 2016. Said funds were disbursed from T/A 1 on May 4,  
6 2015 to pay for the transient occupancy tax for ARMSBY's short-term vacation rental services.  
7 Said unauthorized disbursement caused a shortage in T/A 1 up to the March 31, 2016 audit cut-  
8 off date, in violation of **Code Sections 10145, 10176(i) and 10177(j)**. .

9 22.

10 **Broker Supervision**

11 **(Code Section 10177(h) and Regulation 2725)**

12 The acts and/or omissions of ARMSBY during the audit period, demonstrate a  
13 failure to adequately supervise and control the real estate activities conducted by her licensees  
14 and employees to ensure compliance with the Real Estate Law and Regulations. ARMSBY  
15 failed to maintain complete and accurate separate records and failed to maintain trust account  
16 reconciliations for her property management activity. ARMSBY allowed Hutchison, who was  
17 employed as an office clerk but not licensed by the BRE, to be a signer on T/A 1 without  
18 obtaining fidelity bond coverage. ARMSBY disbursed trust funds, without written  
19 authorization from the owners of the trust funds, to pay for the transient occupancy tax for her  
20 short-term vacation rental services. ARMSBY reduced the balance of the trust funds in T/A 1  
21 as of March 31, 2016 to an amount less than the aggregate trust fund liabilities of  
22 ARMSBY/VRSPRD to all the owners of the funds without first obtaining their written consent  
23 to do so. ARMSBY failed to establish and maintain policies, rules, procedures, and systems for  
24 the review, inspection and management of transactions which required a real estate license and  
25 the handling of trust funds, in violation of **Code Section 10177(h) and Regulation 2725**.

1 Additional Violations of the Real Estate Law

2 23.

3 The overall conduct of Respondent LILLIAN KATHY ARMSBY is violative of  
4 the Real Estate Law and constitutes cause for the suspension or revocation of her real estate  
5 licenses and license rights under the provisions of Code Section 10177(g) for negligence and  
6 Code Section 10177(d) for willful disregard of the Real Estate Law.

7 COSTS

8 Investigation and Enforcement Costs

9 24.

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

15 Audit Costs

16 25.

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

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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 the licenses and license rights of Respondents LILLIAN KATHY ARMSBY under the Real Estate Law (Part 1 of vision 4 of the Business and Professions Code), for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other provisions of law, and for costs of audit.

Dated at Los Angeles, California

this 24<sup>th</sup> day of May, 2018.

  
Maria Suarez  
Supervising Special Investigator

cc: LILLIAN KATHY ARMSBY  
Enforcement – P. Cheung, M. Suarez  
Audits – Z. Wanis, D. Cheng, J. Lin  
Sacto.