

**FILED**

**JUL 25 2019**

**DEPT. OF REAL ESTATE**

By John Aguirre

1 LAURENCE D. HAVESON, Counsel (SBN 152631)  
2 Department of Real Estate  
3 320 West 4th Street, Suite 350  
4 Los Angeles, California 90013-1105  
5 Telephone: (213) 576-6982  
6 Direct: (213) 576-6854  
7 Fax: (213) 576-6917  
8 *Attorney for Complainant*

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\*\*\*

In the Matter of the Accusation of ) No. H-41400 LA  
DRU LINDLEY HAWKINS, and ) ACCUSATION  
MARY WINTER FURNISH, )  
Respondents. )

The Complainant, Brenda Smith, a Supervising Special Investigator for the Department of Real Estate ("Department") of the State of California, for cause of Accusation against DRU LINDLEY HAWKINS and MARY WINTER FURNISH (collectively "Respondents"), alleges as follows:

1. The Complainant, Brenda Smith, acting in her official capacity as a Supervising Special Investigator, makes this Accusation against Respondents.
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. Respondent DRU LINDLEY HAWKINS ("HAWKINS") has been licensed by the Department as a real estate broker, License ID 01294895, from July 28, 2005 through the present.

///

ACCUSATION



1           7.       According to the Department's public records, from January 5, 2017 to July 2,  
2 2018, Shui was doing business under the fictitious business name, "Red Balloon Realty" ("Red  
3 Balloon"). At all times relevant herein, Shui/Red Balloon's business address was 1301 N.  
4 China Lake Blvd., Ridgecrest, CA 93555.

5           8.       Based on a declaration, timeline, and information provided by Respondent  
6 HAWKINS, unless otherwise indicated, the following chronology of events took place:

7           a.       In February 2017, respondents HAWKINS and FURNISH were  
8 colleagues working for Coldwell Banker Best Realty ("CBBR") in Ridgecrest,  
9 California. For approximately four months, from January to April 2017, HAWKINS  
10 was a sales manager for CBBR.

11           b.       In February and/or March 2017, Sparks and HAWKINS discussed the  
12 possibility of HAWKINS purchasing Shui/Red Balloon's property management book of  
13 business from Sparks, and Sparks provided HAWKINS with financial information  
14 regarding Red Balloon.

15           c.       On or about March 31, 2017, HAWKINS forwarded the information  
16 about Red Balloon to Robert Talbot ("Talbot"), real estate salesperson License ID  
17 1736378. At that time, Talbot was employed by Rafeh Corp. ("Rafeh"), real estate  
18 corporation License ID 01378477, doing business as Keller Williams Realty AV  
19 ("KW").

20           d.       On or about April 14, 2017, HAWKINS, Talbot, and Sparks met to  
21 discuss purchasing Shui/Red Balloon from Sparks. Sparks agreed to work for KW when  
22 the sale was complete, and she could rent space to KW and the new owners of Shui/Red  
23 Balloon. Also on or about April 14, 2017, Sparks opened a new bank account for Shui  
24 at Desert Valleys Federal Credit Union.

25           e.       On or about April 18, 2017, HAWKINS offered FURNISH a position as  
26 a property manager with Shui/Red Balloon.

27 ///

1 f. On or about April 20, 2017, HAWKINS entered into a written  
2 independent contractor agreement with Rafeh, doing business as Keller Williams  
3 Antelope Valley, in which the parties agreed HAWKINS would be a broker associate.  
4 This same agreement contains a prohibited activities provision in which HAWKINS  
5 agrees not to engage in property management activities without the express written  
6 consent of Rafeh/KW.

7 g. On or about April 21, 2017, HAWKINS, Talbot, FURNISH, and James  
8 Furnish ("James"; unlicensed husband of FURNISH), met and discussed purchasing  
9 Shui/Red Balloon. FURNISH and her husband decided have an ownership stake in  
10 Shui/Red Balloon. HAWKINS decided not to be an owner of Shui/Red Balloon,  
11 however, HAWKINS agreed to be the broker for Shui/Red Balloon.

12 h. On or about April 26, 2017, HAWKINS and the owners of CBBR  
13 decided that HAWKINS would leave CBBR in order to join KW.

14 i. On or about April 27, 2017:

15 (1) HAWKINS left CBBR and moved into office space at 1301 N.  
16 China Lake Blvd. in Ridgecrest where Sparks and Shui/Red Balloon were  
17 located. At this time, HAWKINS discovered that an auditor from the  
18 Department was conducting an audit at that location. Sparks told HAWKINS  
19 that she was under a routine audit.

20 (2) FURNISH entered into a written independent contractor  
21 agreement with HAWKINS, in which the parties agreed FURNISH would be a  
22 real estate salesperson under HAWKINS's brokerage. Although this agreement  
23 also contains a prohibited activities provision, the agreement indicates that  
24 property management is not a prohibited activity: the box for property  
25 management is not marked, but the boxes for loan brokerage and business  
26 brokerage are marked. The agreement thus indicates that the parties intended that  
27 FURNISH could engage in property management activities.

1           j.       On or about May 15, 2017, Sparks, Talbot, FURNISH, James, and  
2 Jonathan Silva (“Silva”), real estate salesperson license ID 962479, agreed to purchase  
3 Shui/Red Balloon, and Talbot and Sparks signed a written agreement.<sup>2</sup> At that time,  
4 Silva, like Talbot, was employed by Rafeh Corp., doing business as KW. According to  
5 respondent FURNISH, upon purchase of Shui, FURNISH became the majority owner of  
6 Shui.

7           k.       A Statement of Information for Shui filed with the California Secretary  
8 of State on May 29, 2017, listed Talbot as Chief Executive Officer, Secretary, Chief  
9 Financial Officer, Director, and agent for service of process for Shui. The Statement of  
10 Information states that it was completed by Sparks, and lists her title as “X-President”  
11 for Shui. According to HAWKINS, he and FURNISH did not discover that Sparks had  
12 changed the name of Shui’s “ownership” until December 2017.

13           l.       At some point prior to the sale of Shui/Red Balloon, Talbot informed  
14 HAWKINS that Sparks would join KW after the sale of Shui, and stay on.

15           m.       In or about May 2017:

16               (1)     According to HAWKINS, Sparks added FURNISH to a bank  
17 account for Shui at Desert Valleys Federal Credit Union, and Sparks apparently  
18 indicated that this account was the “trust account” for Shui. Also in or about  
19 May 2017, Sparks and Talbot agreed that Talbot would take over the lease for  
20 Sparks’s office at 1301 N. China Blvd, and KW and Red Balloon would share  
21 the office building under two separate businesses.

22               (2)     According to a declaration provided by FURNISH, FURNISH  
23 moved her real estate salesperson license under HAWKINS and began receiving  
24 training from Rachel Wander (“Wander”), who is Sparks’s mother and also an  
25 employee of Sparks, on the day-to-day operations of Shui/Red Balloon, and also  
26

27  

---

<sup>2</sup> Sparks did not inform the Department until April 17, 2018 that she had sold Shui (on or about June 1, 2017) and that Sparks was no longer conducting business as that corporation.

1 on the use of the management software, AppFolio. Further according FURNISH,  
2 Sparks took FURNISH to Desert Valleys Federal Credit Union and added  
3 FURNISH as a signatory to Shui's/Red Balloon's bank account there, which  
4 FURNISH was led to believe was the trust account for Shui/Red Balloon.

5 n. On or about June 1, 2017: KW took over the lease for Sparks's office at  
6 1301 N. China Blvd., in Ridgecrest; KW was officially open at that location; and  
7 FURNISH began her duties as property manager for Shui/Red Balloon.

8 o. FURNISH also stated during an interview that during her first days as the  
9 property manager for Shui/Red Balloon, she began learning the operation directly from  
10 Sparks, prior to Sparks leaving in July.

11 p. On or about June 8, 2017, Sparks and FURNISH signed an Account  
12 Change Form for Shui's bank accounts at Desert Valleys Federal Credit Union, adding  
13 FURNISH as a joint owner of the account.

14 q. On or about June 14, 2017, Wander, finished her last day training  
15 FURNISH on operating Shui/Red Balloon's business.

16 r. Also on or about June 14, 2017, Sparks removed herself as a joint owner  
17 of Shui's/Red Balloon's bank accounts at Desert Valleys Federal Credit Union.

18 s. In or about July 2017:

19 (1) On or about July 3, 2017, Sparks sent out an e-mail message  
20 giving notice that she was leaving KW and had opened a new company.

21 (2) In or about July 2017, HAWKINS had his assistant email, then  
22 deliver to Sparks at her new office, a Department form—apparently form RE  
23 204A—to remove Sparks and add HAWKINS, apparently as the designated  
24 officer and broker for Shui/Red Balloon. HAWKINS states Sparks did not  
25 respond. HAWKINS had another email be sent again requesting Sparks's  
26 signature on the form, and also requesting the corporate book to make changes  
27 to the Board of Directors and to add HAWKINS as an officer and be placed on

1 the trust account. Again, HAWKINS states he received no response. At  
2 HAWKINS's request, FURNISH made the same requests of Sparks, but,  
3 according to HAWKINS, she also received no response.

4 (3) On or about July 7, 2017, FURNISH invited her husband James  
5 to assist HAWKINS and FURNISH in resolving Shui's accounts, which had  
6 discrepancies and appeared to have a shortage. After a thorough review,  
7 including review by Wander, according to FURNISH, it was determined that  
8 there was a shortage of \$47,531.69.

9 (4) On or about July 8, 2017, a formal request was made to Sparks on  
10 behalf of Shui/Red Balloon to provide funds to cover the shortage. Apparently  
11 this request was made by FURNISH and Talbot through a phone call to Sparks.

12 (5) On or about July 11, 2017, Sparks provided part of the shortage.

13 t. On or about October 10, 2017, a "property audit" was completed that  
14 found more discrepancies with Sparks's books.

15 u. In or about December 2017, the "corporate book" is requested from  
16 Sparks, but, according to HAWKINS, Sparks did not respond. HAWKINS and  
17 FURNISH decide to start a new corporation with a new name, and abandon anything  
18 created by Sparks, as "it was apparent she was not going to cooperate and was playing  
19 games" with respondents.

20 v. In or about January 2018:

21 (1) According to HAWKINS, he and FURNISH initiated the  
22 formation of a new corporation with a new fictitious business name. The new  
23 corporation was TFS Investments ("TFS"). HAWKINS tasked FURNISH with  
24 filing TFS's fictitious business name form, with Kern County, using the name  
25 Elite Property Management ("Elite"), but that FURNISH did not know that the  
26 corporation could be started before or at the same time as the DBA.

27 ///

1 (2) On or about January 2, 2018, another request was sent to Sparks  
2 requesting the corporate book for Shui.

3 (3) Also in January 2018, according to HAWKINS, the Department's  
4 Accusation against Sparks and Shui was delivered to 1301 N. China Blvd,  
5 addressed to "Red Balloon Property Management." Upon reading the  
6 Accusation, HAWKINS claims that he and FURNISH learned for the first time  
7 that there was a trust account for Shui at Bank of America. However, according  
8 to Department records, the Accusation against Shui and Sparks was filed and  
9 served in March 2018, not in January 2018. The Accusation was served on  
10 March 23, 2018 by certified and regular mail addressed to Sparks at her  
11 Maturango Street address, and separately to Robert Talbot, as Shui's Officer, at  
12 1301 N. China Street. The Accusation against Shui and Sparks was not served  
13 on "Red Balloon Property Management." Further, based on copies of email  
14 messages and account print outs provided by HAWKINS, FURNISH received an  
15 email message from Sparks on July 8, 2017 in which Sparks refers to a "BofA  
16 account that is now closed," and there are also two pages dated July 8, 2017 that  
17 are titled "Red Balloon Realty: Account Activity Transaction Details," which  
18 include the Bank of America name and logo and appear to be printed from an  
19 online account logged into Bank of America's website, from the web address:  
20 "https://secure.bankofamerica.com."

21 (4) According to records obtained from the California Secretary of  
22 State's website, on or about January 24, 2018, articles of incorporation were filed  
23 for TFS, listing FURNISH as its agent for service of process.

24 w. In or about March 2018, HAWKINS states that, in reaction to the  
25 Department's Accusation against Sparks and Shui, he opened a trust account and  
26 general operating account with Sea Coast Commerce Bank in San Diego under the name  
27 "Dru Hawkins, Broker." HAWKINS and FURNISH contacted each property owner



1 being managed by Shui/Red Balloon and provided new property management  
2 agreements to switch over to "Dru Hawkins, Broker."

3 x. In or about April 2018, TFS's corporate paperwork was sent to the  
4 Department for licensing.

5 y. On or about May 2, 2018, according to records obtained from the  
6 Secretary of State's website, a Statement of Information for TFS was filed which listed  
7 FURNISH as Chief Executive Officer and Chief Financial Officer, Talbot as Secretary,  
8 and James, Silva, and HAWKINS as Directors.

9 z. On June 4, 2018, as noted above, TFS became licensed as a real estate  
10 corporation.

11 aa. On July 2, 2018, according to Department records, Shui's corporate real  
12 estate license was revoked by default decision.

13 bb. It was not until in or about July 2018 that AppFolio completed setting up  
14 software for TFS.

15 cc. In or about August 2018, TFS, doing business as Elite, began operating  
16 its property management business with its new AppFolio software.

17 dd. It was not until September 26, 2018, according to Department records,  
18 that FURNISH became employed as a salesperson under TFS.

19 ee. As of November 29, 2018, based on an interview of HAWKINS,  
20 HAWKINS and FURNISH were still in the process of changing all property  
21 management agreements from Red Balloon to Elite.

22 AUDIT: HAWKINS, FR 17-0117

23 9. On August 17, 2018, the Department completed an audit examination of the  
24 books and records of HAWKINS's real estate activities that require a real estate broker license  
25 under Code section 10131. The audit examination covered the time period January 1, 2017 to  
26 April 30, 2018 ("audit period").

27 ///

1           10.     The purpose of the audit examination was to determine whether HAWKINS  
2 handled and accounted for trust funds and otherwise conducted activities requiring a real estate  
3 license in accordance with the Real Estate Law and the Commissioner's Regulations.

4           11.     Respondents provided Shui's records to the Departments auditor, and provided  
5 further documents and evidence to one of the Department's special investigators.

6           12.     While operating Shui's property management business, FURNISH collected  
7 annualized trust funds of approximately \$900,000. Approximately eighty-one (81) properties  
8 were managed for approximately sixty-four (64) owners. FURNISH advertised properties,  
9 screened and placed tenants, made mortgage payments, made property tax and insurance  
10 payments, ordered, supervised and made disbursements for repairs and maintenance, and made  
11 disbursements for some utilities. Management fees were calculated as a flat fee ranging from  
12 \$150.00 to \$200.00 per unit per month or as a percentage, ranging from six percent (6%) to ten  
13 percent (10%) of collected rents.

14           13.     According to HAWKINS he did not receive any compensation from Shui's  
15 property management activity. FURNISH was compensated by checks she disbursed from a  
16 Shui bank account at Desert Valleys Federal Credit Union that was used to hold trust funds.

17           14.     According to HAWKINS, two (2) bank accounts were maintained to hold Shui's  
18 trust funds during the audit period:

19           15.     Bank Account #1 (B/A 1)

20           Bank:                 Desert Valleys Federal Credit Union

21           Account Name:         Shui Investments Inc.

22           Account #:                Member Number xxx05 Share #xxx

23           Signatories                Sparks (beginning April 14, 2017 through June 16, 2017 only)  
24                                    FURNISH  
25                                    Silva

26           Signature(s) needed:     One

27           Description:            B/A 1 was used to hold approximately forty (40) security  
deposits. B/A 1 earned "dividends" (interest). Deposits to B/A 1 included security  
deposits and interest earned. Disbursements from B/A 1 included transfers of security  
deposits to Bank Account #2.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

16. Bank Account #2 (B/A 2)  
Bank: Desert Valleys Federal Credit Union  
Account Name: Shui Investments Inc.  
Account #: Member Number xxx05 Share #xxx  
Signatories Sparks (beginning April 14, 2017 through June 16, 2017 only)  
FURNISH  
Silva

Signature(s) needed: One  
Description: B/A 2 was used for deposits and disbursements related to the management of approximately eighty (80) properties for sixty-four (64) owners. Deposits to B/A 2 included rent payments, security deposits, tenant application fees, and owner contributions. Disbursements from B/A 2 included payments of proceeds to owners, payments of compensation to FURNISH, payments of compensation to unlicensed assistant Scott Harris, payroll tax payments to the IRS and EDD, returns of security deposits to tenants, and payments of repair and maintenance expenses,

17. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and as more fully discussed in Audit Report FR 17-0117 and the exhibits and work papers attached to this audit report.

**VIOLATIONS OF THE REAL ESTATE LAW**

18. In the course of their property management activities during the examination period of January 1, 2017 to April 30, 2018, Respondents HAWKINS and FURNISH acted in violation of the Code and the Regulations as follows:

FIRST CAUSE OF ACCUSATION

UNLICENSED ACTIVITIES OF FURNISH.

19. The Complainant realleges and incorporates by reference paragraphs 1 through 18, inclusive, as though fully set forth herein.

20. For an unknown period of time, including from on or about June 1, 2017 through on or about November 29, 2018, FURNISH engaged in the business of, acted in the capacity of, or assumed to act as a real estate broker in the State of California within the meaning of Code section 10131(b) of the Code, for or in expectation of compensation, by leasing or renting or

///

1 offering to lease or to rent or soliciting for prospective tenants or collecting rents from real  
2 property.

3 21. On or about May 15, 2017, FURNISH, her husband James, Talbot, and agreed to  
4 purchase Shui/Red Balloon from Sparks. From on or about April 28, 2007 to on or about April  
5 17, 2018, Shui was licensed by the Department as a corporate real estate broker by and through  
6 Sparks as the designated officer and broker responsible.

7 22. According to FURNISH, upon purchase of Shui/Red Balloon, FURNISH  
8 became the majority owner of Shui/Red Balloon.

9 23. From on or about June 1, 2017 through on or about July 2, 2018, when Shui's  
10 corporate real estate license was revoked, Shui was operated by FURNISH, a real estate  
11 salesperson, without supervision by a designated broker-officer, even though from June 1, 2017  
12 until April 16, 2018 Shui was licensed to do business with Sparks as its designated broker-  
13 officer. As of June 1, 2017, Sparks was not actually involved with or conducting business as  
14 Shui.

15 24. From on or about June 1, 2017 through in or about November 2018, or beyond,  
16 while FURNISH was operating Shui/Red Balloon without supervision by a designated broker-  
17 officer, FURNISH was licensed as a real estate salesperson under HAWKINS and/or TFS (as of  
18 September 26, 2018). At no time was Shui registered under HAWKINS's real estate broker  
19 license, and at no time was the fictitious business name of Red Balloon registered to  
20 HAWKINS or TFS.

21 25. According to a document provided by HAWKINS, on or about May 31, 2018,  
22 Talbot verified and signed a Certificate of Dissolution, dissolving Shui, and this certificate was  
23 filed with the California Secretary of State on or about December 6, 2018.

24 26. As of November 29, 2018, based on an interview of HAWKINS, HAWKINS  
25 and FURNISH were still in the process of changing all property management agreements from  
26 Red Balloon to Elite.

27 ///



1 Balloon's B/A 2, which checks and direct deposits were designated in Shui's/Red Balloon's  
2 ledger as "Salaries & Wages," and "Payroll Check."

3 32. The acts and conduct of FURNISH in making payment to herself from Shui/Red  
4 Balloon bank accounts and in accepting compensation for her activities in operating Shui/Red  
5 Balloon, and not receiving such payment and compensation from the broker under whom she  
6 was licensed at the time to conduct activities requiring a real estate license, are in violation of  
7 Sections 10130 and 10137 and constitute cause to revoke or suspend the licenses and license  
8 rights of FURNISH pursuant to Sections 10177(d) and/or 10177(g) of the Code.

9 THIRD CAUSE OF ACCUSATION

10 INADEQUATE BROKER SUPERVISION BY HAWKINS

11 33. The Complainant realleges and incorporates by reference paragraphs 1 through  
12 32, inclusive, as though fully set forth herein.

13 34. Based on the violations alleged above in Paragraphs 19 through 32 above,  
14 HAWKINS failed to adequately supervise the activities of his salesperson, FURNISH, and  
15 failed to establish policies, rules, procedures, and systems to review, oversee, inspect, and  
16 manage transactions requiring a real estate license and the handling of trust funds to ensure  
17 compliance with the Real Estate Law and Regulations, in violation of Code sections 10177(h)  
18 and Regulation 2725.

19 35. HAWKINS's failure to adequately supervise the activities of FURNISH to  
20 ensure compliance with the Real Estate Law, constitutes cause to suspend or revoke the real  
21 estate license and license rights of HAWKINS pursuant to Code sections 10177(h), 10177(d)  
22 and/or 10177(g).

23 36. Code Section 10106, provides, in pertinent part, that in any order issued in  
24 resolution of a disciplinary proceeding before the Department, the Commissioner may request  
25 the administrative law judge to direct a licensee found to have committed a violation of this part  
26 to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the  
27 case.

ACCUSATION

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 the licenses and license rights of Respondents DRU LINDLEY  
4 HAWKINS and MARY WINTER FURNISH under the Real Estate Law, for the costs of  
5 investigation and enforcement as permitted by law, and for such other and further relief as may  
6 be proper under other applicable provisions of law.

7  
8 Dated at Fresno, California this   8   day of   July  , 2019.

9  
10  
11   
12 Brenda Smith  
13 Supervising Special Investigator

14 cc: DRU LINDLEY HAWKINS  
15 MARY WINTER FURNISH  
16 TFS investments.  
17 Rafeh Corp.  
18 Brenda Smith  
19 Sacto.  
20  
21  
22  
23  
24  
25  
26  
27