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MAY 14 2020

DEPT. OF REAL ESTATE

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1 LISSETE GARCIA, Counsel (SBN 211552)
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) 576-6914
7 Fax: (213) 576-6917
8 *Attorney for Complainant*

9 **BEFORE THE DEPARTMENT OF REAL ESTATE**

10 **STATE OF CALIFORNIA**

11 * * *

12 In the Matter of the Accusation against

DRE No. H-41667 LA

13 DENA MAE SAM dba L & K Realty and
14 Lock & Key Realty,

ACCUSATION

15 Respondent.

16 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the
17 Department of Real Estate¹ ("Department") of the State of California, for cause of Accusation
18 against DENA MAE SAM, aka Dena Sam, also doing business as L & K Realty and Lock &
19 Key Realty ("Respondent"), alleges as follows:

20 1. The Complainant, Veronica Kilpatrick, acting in her official capacity as a
21 Supervising Special Investigator, makes this Accusation against Respondents.

22 2. All references to the "Code" are to the California Business and Professions Code,
23 all references to the "Real Estate Law" are to Part 1 of Division 4 of the Code, and all references

24 ¹ Between July 1, 2013 and July 1, 2018, the Department of Real Estate operated as the Bureau of Real Estate under the Department of Consumer Affairs.

1 to "Regulations" are to the Regulations of the Real Estate Commissioner, Title 10, Chapter 6,
2 California Code of Regulations.

3 3. Respondent is presently licensed and/or has license rights under the Real Estate
4 Law (Part 1 of Division 4 of the Code).

5 4. On August 15, 2014, the Department issued a real estate broker license to
6 Respondent DENA MAE SAM ("SAM"), License ID 01460960. Respondent SAM's broker
7 license is scheduled to expire on August 14, 2022. Respondent was formerly licensed as a real
8 estate salesperson from November 16, 2004 through August 14, 2014.

9 5. SAM is licensed to do business as L & K Realty and Lock & Key Realty.
10 Respondent SAM is the owner and broker for said entities.

11 6. On September 6, 2012, the Department issued a real estate salesperson license to
12 Alfred Valentine Logan ("Logan"), License ID 01920127. Logan's salesperson license is
13 scheduled to expire on September 23, 2020. Logan has renewal rights pursuant to Code section
14 10201. The Department retains jurisdiction pursuant to Code section 10103.

15 7. Logan was formerly licensed as a salesperson under responsible broker, SAM,
16 from approximately September 24, 2016 through November 29, 2017. Logan is currently
17 licensed under responsible broker, Diane Dames, License ID 01815555.

18 Broker Activities

19 8. At all times relevant herein, in the State of California, Respondent SAM acted as
20 a real estate broker and conducted licensed activities within the meaning of Code section 10131,
21 subdivision (a), (solicit prospective sellers or buyers, obtain listings of, or negotiate the purchase,
22 sale, or exchange of real property or business opportunity), and subdivision (b), (solicit or offer
23 to negotiate the sale, purchase or exchange of leases, or collects rents from real property or
24 business opportunity).

Audit LA190004

1
2 9. On or about September 26, 2019, the Department completed an audit examination
3 of the books and records of Respondent SAM's real estate sales activities, which require a real
4 estate license pursuant to Code section 10131, subdivision (a) and SAM's property management
5 activities, which require a real estate license pursuant to Code section 10131, subdivision (b).

6 10. The audit covered the period of time from January 1, 2016 through June 30, 2019
7 ("audit period").

8 11. The audit examination revealed violations of the Code and the Regulations as set
9 forth in the following paragraphs, and more fully discussed in Audit Report LA190004 and the
10 exhibits and work papers attached to said audit report.

11 12. On or about August 6, 2019, the Department's auditor held an entrance
12 conference with Respondent SAM.

13 13. According to the auditor's discussions with Respondent SAM and the audit
14 records examined, Respondent SAM managed approximately twenty (20) one-to-four family
15 residences and four (4) commercial complexes with four (4) units each for twelve (12) property
16 owners. For compensation, SAM collected trust funds including rents and security deposits, paid
17 expenses, and screened tenants. Respondent SAM charged a management fee of eight to ten
18 percent (8%-10%) of the monthly rents collected.

19 14. According to Respondent SAM, Respondent SAM maintained the following bank
20 account for property management activities.

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

22 Bank: Wells Fargo

23 Account Name: Dena Mae Sam DBA Lock & Key Realty

24 Account #: xxxxx8435

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of signatures required: One (1)

Signatories: Respondent SAM

Description: During the audit period, B/A 1 was maintained for handling of trust fund receipts and disbursements for multiple beneficiaries in connection with SAM's property management activities, while doing business as Lock & Key Realty.

Violations

16. In the course of its property management activities during the audit examination period, Respondent acted in violation of the Code and the Regulations as follows:

17. Code section 10145(a) and Regulation 2832.1. Trust fund handling for multiple beneficiaries

A bank reconciliation was prepared for B/A 1 with a cut-off date of June 30, 2019. As of June 30, 2019, there was a combined minimum shortage of <\$558.18> in B/A 1. Respondent SAM failed to provide any evidence that the owners of the trust funds had given their written consent to allow Respondent SAM to reduce the balances of the funds in B/A 1 to an amount less than the existing aggregate trust fund liabilities, in violation of Code section 10145, subdivision (a), and Regulation 2832.1.

18. The shortage as of June 30, 2019, was due to negative property balances totaling <\$504.91> and an outstanding check no. 1803 for <\$53.27>, dated June 21, 2019, for an unidentified property that was not recorded on SAM's control record or separate records.

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1 19. Negative property balances. The negative property balances include, but are not
2 limited to, the following:

<u>Owner</u>	<u>Property</u>	<u>Balance as of 6/30/2019</u>
A.F. ¹	Appian Ave.	<\$85.00>
	Deborah	<\$89.92>
	<u>Desert Star</u>	<u><\$94.50></u>
	Total	<\$184.32>
M.R.	Culebra Rd.	<\$50.00>
	Emerald Lucerne Valley	<\$50.00>
	402 W. Williams St.	\$590.00
	<u>409 W. Williams St.</u>	<u><\$660.29></u>
	Total	<\$70.92>
M.R.	13409 Mohawk #1	<\$5.30>
	13409 Mohawk #2	<\$60.00>
	13409 Mohawk #3	<\$70.00>
	<u>13409 Mohawk #4</u>	<u>\$70.00</u>
	Total	<\$65.30>
	<u>Unidentified Property</u>	<u><\$53.27></u>
	Totals	<\$558.18>

20 20. Code section 10145 and Regulation 2831. Trust fund records to be maintained.

21 During the audit period from January 1, 2017 through March 5, 2017, Respondent SAM
22 failed to maintain accurate and complete records of trust funds received and disbursed (control

23 _____
24 ¹ Initials are used in place of individuals' full names to protect their privacy. Documents containing individuals' full names will be provided during the discovery phase of this case to Respondents and/or their attorneys, after service of a timely and proper request for discovery on Complainant's counsel.

1 record) for B/A 1, in violation of Code section 10145 and Regulation 2381. SAM's control
 2 record did not reflect an accurate trust fund date of deposits. In one instance, a trust fund deposit
 3 was inaccurately recorded. Some trust fund deposit dates were not recorded on the control
 4 record. The running daily balance of the control record was inaccurate. Examples of the
 5 unrecorded trust fund deposit dates, include, without limitation, the following:

<u>Property Address</u>	<u>Amount</u>	<u>Date of Deposit Recorded</u>	<u>Actual Date of Deposit</u>	<u>W/P Ref.</u>
18190 Larkspur #A	\$580.00	No date of deposit	08/03/2017	B-1.2, B-1.3, C-2a, D-1
18192 Larkspur #A	\$350.00	No date of deposit	08/25/2017	B-1.2, B-1.3, C-2c, D-1
18415 Jonathan #A	\$550.00	No date of deposit	11/06/2017	D-1, B-1.2, B-1.3, C-2e, D-1
13870 Bayberry	\$5,099.00	No date of deposit	06/10/2019	B-1.2, B-1.3, D-1
13742 Woodpecker	\$5,316.67	No date of deposit	04/12/2019	B-1.2, B-1.3, D-1
11506 Cibola Rd.	\$8,575.00	No date of deposit	06/24/2019	B-1.2, B-1.3, D-1
TOTAL	\$23,945.67			

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1 21. The control record did not reflect from whom trust funds were received.

2 Examples including the following, without limitation:

<u>Property Address</u>	<u>Amount</u>	<u>Actual Date of Deposit</u>	<u>Funds Received From</u>	<u>W/P Ref.</u>
18190 Larkspur #A	\$580.00	08/03/2017	Not recorded	B-1.2, B-1.3, C-2a, D-1
18192 Larkspur #A	\$350.00	08/25/2017	Not recorded	B-1.2, B-1.3, C-2c, D-1
18415 Jonathan #A	\$550.00	11/06/2017	Not recorded	B-1.2, B-1.3, C-2e, D-1
18415 Jonathan #B	\$565.00	09/05/2017	Not recorded	B-1.2, B-1.3, C-2f, D-1

12 22. The control record did not reflect an accurate recording of dates of disbursements
13 for trust funds. Therefore, the running daily balance of the control record is inaccurate. Examples
14 include the following, without limitation:

<u>Property Address</u>	<u>Check #</u>	<u>Amount</u>	<u>Recorded date of disbursement</u>	<u>Actual date of Disbursement</u>	<u>W/P Ref.</u>
18192 Larkspur #A	1475	\$304.80	10/16/2017	09/08/2017	B-1.2, B-1.3, C-2c, D-3
18192 Larkspur #B	1485	\$435.00	10/16/2017	09/22/2017	B-1.2, B-1.3, C-2d, D-3
18415 Jonathan #B	1484	\$4,299.00	10/16/2017	09/22/2017	B-1.2, B-1.3, C-2f, D-3
11506 Cibola Rd.	Online Transfer	\$8,575.00	6/24/2019	06/26/2019	B-1.2, B-1.3, D-3

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1 23. Code section 10145 and Regulation 2831.1. Separate records for each beneficiary
 2 or transaction.

3 During the audit period, Respondent SAM failed to maintain accurate and/or complete
 4 separate records for each beneficiary or transaction for B/A 1, in violation of Code section 10145
 5 and Regulation 2831.1. SAM's separate records did not reflect an accurate running daily balance
 6 for B/A 1.

7 24. SAM's separate records did not reflect accurate dates of deposits for trust funds.
 8 Examples of inaccurate trust fund dates of deposit include the following, without limitation:

<u>Property Address</u>	<u>Amount</u>	<u>Recorded date of deposit</u>	<u>Actual date of deposit</u>	<u>W/P Ref.</u>
18190 Larkspur #A	\$320.00	07/13/2017	07/31/2017	B-1.2, B-1.4, C-2a, D-1
18415 Jonathan #A	\$550.00	08/01/2017	08/03/2017	B-1.2, B-1.4, C-2e D-1
18415 Jonathan #A	\$550.00	11/01/2017	11/06/2017	B-1.2, B-1.4, C-2e, D-1

15 25. SAM's separate records did not reflect an accurate recording of trust fund dates of
 16 disbursements. Examples of inaccurate trust fund dates of disbursements include the following,
 17 without limitations:

<u>Property Address</u>	<u>Check #</u>	<u>Amount</u>	<u>Recorded date of disbursement</u>	<u>Actual date of disbursement</u>	<u>W/P Ref.</u>
18190 Larkspur #A	Online Transfer	\$45.20	08/01/2017	08/04/2017	B-1.2, B-1.4, C-2a, D-1
18192 Larkspur #B	1485	\$35.00	09/18/2017	09/22/2017	B-1.2, B-1.4, C-2d D-3
18415 Jonathan #A	Online Transfer	\$44.00	09/01/2017	09/06/2017	B-1.2, B-1.4, C-2e, D-1

1 26. SAM's separate records did not reflect an accurate recording of trust fund
 2 disbursement amounts. Examples of inaccurate recordings of trust fund disbursements include
 3 the following, without limitations:

<u>Property Address</u>	<u>Check #</u>	<u>Recorded amount</u>	<u>Actual amount</u>	<u>Actual date of disbursement</u>	<u>W/P Ref.</u>
18190 Larkspur #A	Online Transfer	Not recorded	\$39.62	02/07/2017	B-1.2, B-1.4, C-2a, D-3
18190 Larkspur #A	Online Transfer	Not recorded	\$282.50	5/12/2017	B-1.2, B-1.4, C-2a, D-3

9 27. There were instances where the check numbers of disbursements were not posted
 10 on SAM's separate records. Examples of check numbers of disbursements not posted on the
 11 separate records include the following, without limitation:

<u>Property Address</u>	<u>Recorded check #</u>	<u>Actual check #</u>	<u>Amount</u>	<u>Actual date of disbursement</u>	<u>W/P Ref.</u>
18190 Larkspur #A	Not recorded	1458	\$422.10	08/15/2017	B-1.2, B-1.4, C-2a, D-3
18192 Larkspur #B	Not recorded	1570	\$586.00	01/19/2018	B-1.2, B-1.4, C-2d, D-3
18415 Jonathan #B	Not recorded	1484	\$4,299.00	09/22/2017	B-1.2, B-1.4, C-2f, D-3
409 Williams	Not recorded	1785	\$240.29	04/24/2019	B-1.2, B-1.4, D-3

21 28. Respondent SAM did not create separate records for trust funds in B/A 1 related
 22 to SAM's sales transactions, tenant placements, security, and dog deposits. Examples of trust
 23 funds of sales transactions and tenant placement deposits into B/A 1 that were not recorded
 24 include the following, without limitation:

<u>Property Address</u>	<u>Amount</u>	<u>Recorded date of deposit</u>	<u>Actual date of deposit</u>	<u>W/P Ref.</u>
13870 Bayberry	\$5,099.00	No separate record	06/10/2019	B-1.2, B-1.4, D-1
13870 Bayberry	\$100.00	No separate record	06/05/2019	B-1.2, B-1.4, D-1
13742 Woodpecker	\$5,316.67	No separate record	04/12/2019	B-1.2, B-1.4, D-1
11506 Cibola Rd.	\$8,575.00	No separate record	06/242019	B-1.2, B-1.4, D-1
TOTAL	\$19,090.67			

29. Examples of trust funds of sales transactions and tenant placement deposits disbursed from B/A 1 that were not recorded include the following, without limitation:

<u>Property Address</u>	<u>Check #</u>	<u>Amount</u>	<u>Recorded date of disbursement</u>	<u>Actual date of disbursement</u>	<u>W/P Ref.</u>
13870 Bayberry	Online Transfer	\$847.50	No separate record	06/12/2019	B-1.2, B-1.4, D-3
13870 Bayberry	1801	\$4,251.50	No separate record	06/13/2019	B-1.2, B-1.4, D-3
13742 Woodpecker	Online Transfer	\$500.00	No separate record	04/15/2019	B-1.2, B-1.4, D-3
13742 Woodpecker	1783	\$4,474.00	No separate record	04/12/2019	B-1.2, B-1.4, D-3
13742 Woodpecker	Online Transfer	\$147.67	No separate record	04/11/2019	B-1.2, B-1.4, D-3
11506 Cibola Rd.	Online Transfer	\$8,575.00	No separate record	06/26/2019	B-1.2, B-1.4, D-3
	TOTAL	\$18,795.67			

1 30. Examples of security and dog deposits deposited into B/A 1 that were not
2 recorded include the following, without limitation:

<u>Property Address</u>	<u>Date of deposit</u>	<u>Amount</u>	<u>Description</u>	<u>W/P Ref.</u>
13498 Merry Oaks	03/20/2018	\$1,500.00	Security deposit	B-1.2, B-1.4, D-3
10976 Wilson	09/02/2016	\$1,450.00	Security deposit	B-1.2, B-1.4, D-3
Ave.				
14155 Sepulveda	05/02/2018	\$200.00	Dog deposit	B-1.2, B-1.4, D-3

8 31. During the audit period, Respondent SAM failed to maintain a separate record of
9 the receipt and disposition of all trust funds deposited into B/A 1 as required by Code section
10 10145, subdivision (g) and Regulation 2831.1 in that B/A 1 contained unidentified and/or
11 unaccounted for funds of at least \$2,336.55 as of June 30, 2019.

12 32. Code section 10145 and Regulation 2832. Trust account designation/Trust fund
13 handling.

14 During the audit period, SAM used B/A 1 for the handling of trust funds in connection
15 with property management activities but the account was not designated as a trust account or in
16 Respondent SAM's name or Respondent's licensed fictitious business names, as trustee, in
17 violation of Code section 10145 and Regulation 2832.

18 33. Code section 10145 and Regulation 2831.2. Trust account reconciliation

19 During the audit period, Respondent SAM failed to perform and maintain a monthly
20 reconciliation comparing the balance of all separate beneficiary or transaction records (separate
21 records) to the balance of all trust funds received and disbursed (control record) for B/A 1, in
22 violation of Code section 10145 and Regulation 2831.2.

1 34. Code sections 10145, 10176(e), and Regulation 2832. Handling of Trust
2 Funds/Commingling.

3 As of June 30, 2019, security deposit trust funds were commingled with Respondent
4 SAM's own funds in SAM's general accounts, in violation of Code sections 10145 and 10176,
5 subdivision (e), and Regulation 2832.

6 35. As of June 30, 2019, Respondent SAM kept the security deposit trust of
7 \$2,690.00 in SAM's general account 1 (G/A 1, Account No. XXXX6735). The security deposit
8 of \$2,690.00 was deposited into G/A 1 on February 2, 2018 for the property located at 1876
9 Irene St., Wrightwood, California.

10 36. As of June 30, 2019, SAM kept the security deposit trust funds of \$1495.00 in
11 general account 2 (G/A 2, Account No. XXXX8715). The security deposit of \$1,495.00 was
12 deposited into G/A 2 on April 26, 2018 for the property located at 14155 Sepulveda Dr.,
13 Victorville, California.

14 37. Regulation 2725. Broker supervision.

15 During the audit period, Respondent SAM failed to adequately supervise the activities of
16 Respondent SAM's salespersons, employees, or agents and failed to establish policies, rules,
17 procedures, and systems to review, oversee, inspect, and manage transactions requiring a real
18 estate license and the handling of trust funds to ensure compliance with the Real Estate Law, in
19 violation of Regulation 2725.

20 38. The conduct, acts, and/or omissions of Respondent SAM as described above in
21 Paragraphs 17 through 37, violated the Code and the Regulations as set forth below:

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<u>Paragraphs</u>	<u>Violations</u>
17-19	Code section 10145 and Regulation 2832.1
20-22	Code section 10145 and Regulation 2831
23-31	Code section 10145 and Regulation 2831.1
32	Code section 10145 and Regulation 2832
33	Code sections 10145 and Regulation 2831.2
34-36	Code sections 10145, 10176(e), and Regulation 2832
37	Regulation 2725

39. The foregoing violations constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondent SAM under the provisions of Code section 10177, subdivisions (d) and/or (g), and Code section 10176, subdivision (e).

Management of J.A. properties

40. During the audit period, SAM and Logan managed eight units for rental properties owned by property owner, J.A. The rental properties were located at 18190 Larkspur Rd. #A and #B, Adelanto, California; 18192 Larkspur #A and #B, Adelanto, California; and 18415 Jonathan #A, #B, #C, and #D (collectively "J.A. properties").

41. Based on the Department auditor's examination of sampled deposits and disbursements for all eight units of the J.A. properties, SAM's control record and separate records related to J.A.'s properties were incomplete and inaccurate. There were instances where SAM was not able to provide to the auditor records of the deposit tickets, checks and online transfer verifications related to each deposit and disbursement recorded on the separate records for each of the units of the J.A. properties.

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42. There were three (3) management fees that were charged higher than what was contracted for the property located at 18190 Larkspur #A and two (2) management fees that were charged higher than what was contracted for the property located at 18192 Larkspur #A.

Examples of the management fee overcharges include the following:

<u>Date</u>	<u>Check No.</u>	<u>Rent</u>	<u>Management Fee</u>	<u>Management Fee Charged to J.A.</u>	<u>Management Fee Overcharge Amount</u>
02/02/2017	Online Transfer	\$200.00	\$16.00	\$45.20	\$29.20
02/07/2017	Online Transfer	\$330.00	\$26.40	\$39.62	\$13.22
06/05/2017	Online Transfer	\$500.00	\$40.00	\$45.20	\$5.20
	TOTALS	\$1,030.00	\$82.40	\$130.02	(\$47.62)
08/10/2017	Online Transfer	\$450.00	\$36.00	\$45.20	9.20
09/06/2017	Online Transfer	\$350.00	\$28.00	\$45.20	\$17.20
	TOTALS	\$800.00	\$64.00	\$90.40	(\$26.40)

43. The Department's auditor was unable to verify all the receipts, fees, and commissions due to inaccurate separate records for 18190 Larkspur #A and 18192 Larkspur #A.

44. The conduct, acts, omissions, and violations described above, constitute cause for the suspension or revocation of the real estate license and license rights of Respondent SAM under the provisions of Code section 10177, subdivisions (d) and/or (g), for violation of Code section 10145 and Regulations 2831 and 2831.1.

Audit Costs

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

1 Investigation/Enforcement Costs

2 46. Code section 10106 provides, in pertinent part, that in any order issued in
3 resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner
4 may request the administrative law judge to direct a licensee found to have committed a violation
5 of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement
6 of the case.

7 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this
8 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
9 against all licenses and/or license rights of Respondent under the Real Estate Law (Part 1 of
10 Division 4 of the Business and Professions Code), for the costs of the audit, investigation, and
11 enforcement as permitted by law, and for such other and further relief as may be proper under
12 other provisions of law.

13 Dated at San Diego, California this 8 day of May, 2020.

14
15 V. Kilpatrick
16 VERONICA KILPATRICK
Supervising Special Investigator

17 cc: Dena Mae Sam
18 Veronica Kilpatrick
19 Sacto
Audits/David Quek
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