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	1 LAURENCE D. HAVESON, Counsel (SBN 152631) DEPT, OF REAL ESTATE
	2 Department of Real Estate 320 West 4th Street, Suite 350
	Los Angeles, California 90013-1105 Telephone: (213) 576-6982
	4 Direct: (213) 576-6854 Fax: (213) 576-6917
	5 Attorney for Complainant
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	8 BEFORE THE DEPARTMENT OF REAL ESTATE
	9 STATE OF CALIFORNIA
	10
	Respondent.)
	15 The Complainant, Maria Suarez, a Supervising Special Investigator for the
	16 Department of Real Estate ("Department" or "DRE") of the State of California, for cause of
	Accusation against IVY HSIANG JU KUNG ("KUNG" or "Respondent"), alleges as follows:
	18 1. The Complainant, Maria Suarez, acting in her official capacity as a Supervising
	9 Special Investigator, makes this Accusation against Respondent.
:	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.
2	12 LICENSE HISTORY
	3. Respondent KUNG has been licensed by the Department as a real estate broker
	4 ("REB"), License ID 01874798, from on or about December 20, 2011 through the present, with
	KUNG's license scheduled to expire on December 19, 2023 unless renewed. KUNG was
	All of about March 8, 2010 through
	 7 December 19, 2011. From on or about December 20, 2011 to October 2, 2019, KUNG maintained 8 the fictitious business name, "Fanster Consulting Services."
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1	4. According to DRE records to date, KUNG is the designated officer ("D.O.") for		
2	real estate corporations ("REC"): Fanster Property Management, Inc., License ID 02103624; Econ		
3	Financial Group, Inc., License ID 01984491; and eCentury Mortgage & Realty, Inc., License ID		
4	01910389. KUNG also has a mortgage loan originator ("MLO") license endorsement through the		
5	National Mortgage Licensing System ("NMLS"), NMLS ID 395881. KUNG's Broker MLO		
6	Endorsement authorizes her to represent Bay-Valley Mortgage Group (NMLS ID 192103) from		
7	April 21, 2015 through 2021, and Econ Financial Group Inc. (NMLS ID 1399024), from August		
8	12, 2015 through 2021.		
9	5. According to DRE records to date, KUNG has no licensed employees, no active		
10	fictitious business names, and no branch offices.		
11	BROKERAGE: KUNG		
12	6. At all times mentioned, in the County of San Bernardino, KUNG acted as a real		
13	estate broker, conducting licensed activities within the meaning of Code section 10131(b): leasing		
14	or renting, offering to lease or rent, or collecting rents from real property for others.		
15	AUDIT OF KUNG: AUDIT NO. LA190105		
16	7. On May 15, 2020, the Department completed an audit examination of the books		
17	and records of KUNG's real estate activities that require a real estate broker license under Code		
18	section 10131. The audit examination, LA190105, covered the time period October 1, 2018 to		
19	November 30, 2019 ("audit period") and was limited to KUNG's property management activities.		
20	8. The purpose of the audit examinations was to determine whether KUNG handled		
21	and accounted for trust funds and conducted her real estate activities in accordance with the Real		
22	Estate Law and the Regulations.		
23	9. According to Kung and the records examined, during the audit period, Kung		
24	managed about fifty-two (52) properties for about forty-nine (49) owners and collected about \$1.4		
25	million in trust funds annually for property management activity. Kung stated that she currently		
26	manages about thirty-eight (38) properties for about thirty-five (35) owners. Kung charged a		
27	management fee of \$60.00 to \$125.00 flat fee per property per month or 3% to 10% of monthly		
28	collected rents, depending on the property management agreement with each property owner.		
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1	10. According to	KUNG, she had	a limited liability comp	any ("LLC") named, "Fanste
2	Property Management, LLC			
3				-
	State on or about April 7, 20			
4	"Fanster Property Management Inc." ("FPMI"). FPMI was not licensed by the DRE during the			
5	audit period. According to DRE licensing records, FPMI became licensed as a real estate			
6	corporation on December 12	2, 2019. Accordi	ng to KUNG, the corpor	ate structure as of February
7	25, 2020 was as follows:		,	
8		Title	License	Shareholder %
9		CEO	REB	50%
0	Rick Fan	CFO/Secretary	Unlicensed	50%
1	11. KUNG main	tained one (1) bar	nk account for handling	the receipts and
2				
3	disbursements of trust funds in connection with property management activities during the audit period as follows:			
4	Bank Account #1 ("	BA1"		
5	Bank:	JPMorgan Chase	Bank	
6	Account Name:	FPMLLC (based	on card dated 04/18/2018 card dated 09/10/2019))
7	Account #:	XXXXXXX6803		
8	Signatories:	KUNG (REB) Rick Shengyun F	an (Unlicensed)	
9	Signatures required:	One (1) signature		
)	Purpose:	BA1 has multiple	beneficiaries and was ma	intained for handling the
ι		receipts and disb property manage	ursements of trust funds ir	connection with KUNG's
:	Bank Account #2 ("GA1")			
	Bank:	JPMorgan Chase	Bank	
•	Account Name:	FPMI (based on d	ard dated 09/10/2019)	8
	Account #:	XXXXXXXX7373		
	Signatories;	KUNG (REB) Rick Shengyun F	an (Unlicensed)	
	Signatures required:	One (1) signature		
	Purpose:	GA1 was maintail trust funds in con	ned for handling the receip nection with KUNG's gene	ts and disbursements of ral business activities.
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1	Bank Account #3 (<u>"GA2")</u>	
2	Bank:	JPMorgan Chase Bank	
3	Account Name:	Fanster Consulting Services	
	Account #:	XXXXXXXX3882	
4 5	Signatories:	KUNG (REB) Rick Shengyun Fan (Unlicensed)	
5	Signatures required:	One (1) signature	
7	Purpose:	GA2 was maintained for handling the receipts and disbursements trust funds in connection with KUNG's general business activities	s of
3	Bank Account #4 ("		•
	Bank:	JPMorgan Chase Bank	
	Account Name:	eCentury Mortgage & Realty Inc.	
1	Account #:	XXXXXXXX1258	
	Signatories:	KUNG (REB) Rick Shengyun Fan (Unlicensed)	
11	Signatures required:	One (1) signature	
	Purpose:	GA3 was maintained for handling the receipts and disbursements	
		trust funds in connection with KUNG's general business activities.	i ot
	Bank Account #5 ("		
	Bank:	JPMorgan Chase Bank	
	Account Name:	Rick S. Fan OR Ivy Hsiang-Ju Kung	
	Account #:	XXXXXXX5513	
	Signatories:	KUNG (REB) Rick Shengyun Fan (Unlicensed)	
	Signatures required:	One (1) signature	
	Purpose:	GA4 was maintained for handling the receipts and disbursements trust funds in connection with KUNG's personal activities.	of
	Bank Account #6 ("		
	Bank:	JPMorgan Chase Bank	
11	Account Name:	Hsiang-Ju Kung	
	Account #:	XXXXXXX6426	
	Signatories:	KUNG (REB)	
	Signatures required:	One (1) signature	
	Purpose:	GA5 was maintained for handling the receipts and disbursements of trust funds in connection with KUNG's personal activities. Hsiang- Ju Kung is Ivy Hsiang-Ju Kung.	of
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1	Bank Account #7 ("		
2	Bank:	JPMorgan Chase Bank	
3	Account Name: Account #:	Rick S. Fan	
4	Signatories:	XXXXXXX0146 Rick Shengyun Fan (Unlicensed)	
5	Signatures required:	One (1) signature	
6	Purpose:	GA6 was maintained for handling the receipts and disbursements of trust funds in connection with KUNG's personal activities. Kung	
7		stated she is also a signor on GA6.	
8		Audit Violations in Audit No. LA190105	
9	12. The audit exam	mination revealed violations of the Code and the Regulations, as set	
10	forth in the following paragra	aphs, and as more fully discussed in Audit No. LA190105 and the	
11	exhibits and work papers attached to the audit report:		
12	Issue One (1). Code section	10145 and Regulation 2832.1: Trust Fund Handling for Multiple	
13	Beneficiaries		
14	13. As of November 29, 2019, BA1 had a shortage of \$64,428.63. The shortage was		
15	caused by negative property balances totaling \$58,943.36 and an unidentified shortage totaling		
16	\$5,485.27 due to inadequate recordkeeping. Also, as of November 29, 2019, the adjusted bank		
17	balance for BA1 included KUNG's commingled fees/commission totaling \$12,279.58, and the		
18		fees/commission totaling \$5,307.90.	
19	14. The negative p	property balances were caused by disbursements related to properties	
20		funds to do so. A primary portion of the shortage was caused by a	
21		96 Archipelago (\$33,817.78) and at 6542 Gladiola (\$15,137.68).	
22	15. The owner of 9	96 Archipelago transferred \$30,000 into GA4, and the owner of 6542	
23		into GA4, and KUNG used these trust funds to pay for her personal	
24		GA4 without the written consent of the owners/beneficiaries of the	
25	trust funds.		
26	16. On or about Ma	arch 25, 2020, KUNG deposited \$64,428.63 into BA1, transferring	
27	this amount from GA4, to cure		
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1 17. There was no evidence in the files examined that the owners of the trust funds gave
 2 their written consent to allow KUNG to reduce the balance of the trust funds in BA1 to an amount
 3 less than the aggregate trust fund liabilities to all owners of the funds.

4 18. KUNG's failure to obtain the written consent of the owners of the trust funds to
5 reduce the balance of the funds in BA1 to an amount less than the existing aggregate trust fund
6 liability was in violation of Code section 10145 and Regulation 2832.1.

7 <u>Issue Two (2). Code section 10145 and Regulations 2831: Trust Fund Records to be</u>
 8 <u>Maintained</u>

9 19. Based on records examined, KUNG failed to maintain complete and accurate
10 records of all trust funds received and disbursed (control record) for BA1 in connection with
11 KUNG's property management activity. The control record was not in chronological sequence by
12 date and thus it did not have an accurate daily balance. In addition, in some instances, the control
13 record did not contain information regarding who the trust funds were received from.

14 20. KUNG's failure to maintain a complete and accurate control record of trust funds
 15 for BA1 in connection with KUNG's property management activity was in violation of Code
 16 section 10145 and Regulation 2831.

17 <u>Issue Three (3). Code section 10145 and Regulation 2831.1: Separate Record for Each</u>
 18 <u>Beneficiary or Transaction</u>

Based on records examined, the separate records maintained for BA1, which were
 used for handling the receipts and disbursements of trust funds in connection with KUNG's
 property management activity, were inaccurate and incomplete. Some receipts were recorded on
 the separate records of BA1 but were not deposited into BA1. In addition, some disbursements
 were recorded on the separate records of BA1 but were not disbursed from BA1. Furthermore,
 KUNG recorded her management fees on the separate records of BA1 but such fees were not
 disbursed from BA1 during the audit period until November 1, 2019.

26 22. KUNG's failure to maintain an accurate separate record for BA1 in connection with
27 property management activity was in violation of Code section 10145 and Regulation 2831.1.
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1	Issue Four (4). Code section 10145 and Regulation 2831.2: Trust Account Reconciliation			
2	23. KUNG did not maintain the monthly reconciliation of all the separate records with			
3	the control record of all trust funds received and disbursed for BA1 in connection with the			
4	property management activity during the audit period in violation of Code section 10145 and			
5	Regulation 2831.2.			
6	Issue Five (5). Code section 10145 and Regulation 2832: Trust Fund Handling / Trust			
7	Account Designation			
8	24. Based on an examination of the bank signature card maintained at JPMorgan Chase			
9	Bank for BA1, BA1, used to handle property management trust funds, was not designated as a			
10	trust account and was not set up in KUNG's name as trustee. BA was first set up in the name of			
11	"Fanster Property Management, LLC" and subsequently as "Fanster Property Management, Inc."			
12	25. KUNG's failure to designate BA1 as a trust account in KUNG's name as trustee			
13	was in violation of Code section 10145 and Regulation 2832.			
14	Issue Six (6). Code section 10145 and Regulation 2834: Trust Account Withdrawals			
15	26. Based on an examination of the bank signature card maintained at JPMorgan Chase			
16	Bank for BA1, KUNG allowed Rick Shengyun Fan, who was an unlicensed employee, to be a			
17	signer on BA1 without fidelity bond or insurance coverage, in violation of Code section 10145			
18	and Regulation 2834.			
19	Issue Seven (7). Code sections 10145 and 10176(e), and Regulation 2835(b): Commingling /			
20	Broker's Funds Held Longer Than Twenty-Five (25) Days / Handling of Trust Funds			
21	27. As of November 29, 2019, KUNG had kept \$12,279.58 of commingled			
22	fees/commissions in BA1 for over twenty-five (25) days after their deposit in violation of Code			
23	sections 10145 and 10176(e), and Regulation 2835(b).			
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Issue Eight (8). Code sections 10145 and 10176(e), and Regulation 2832: Commingling / 1 2 Trust Funds Deposited into Broker's General Business and Personal Bank Accounts / 3 Handling of Trust Funds KUNG commingled trust funds with her general business funds and with her 4 28. personal funds by depositing trust funds collected into GA2, GA3, and GA4, in violation of Code 5 sections 10145 and 10176(e), and Regulation 2832. 6 Issue Nine (9). Code sections 10145 and 10176(i), and Regulation 2832: Conversion of Trust 7 8 Funds / Unauthorized Disbursements / Handling of Trust Funds 9 KUNG converted trust funds from GA4, her personal bank account. KUNG 29. deposited trust funds into GA4 and used these trust funds to pay for her personal and financial 10 obligations from GA4 without the written consent of the owners/beneficiaries of the trust funds. 11 As of November 29, 2019, a total of \$56,000 in trust funds had been deposited into GA4. The 12 13 bank balance of GA4 as of November 29, 2019 was reduced to an amount that was less than the total amount of trust funds deposited into GA4. The ending bank balance of GA4 as of November 14 15 29, 2019 was \$7,804.23. 16 KUNG's conversion of trust funds to pay for her personal and financial obligations 30. without the written consent of the owners/beneficiaries of the trust funds was in violation of Code 17 18 sections 10145 and 10176(i), and Regulation 2832. Issue Ten (10). Code section 10159.5 and Regulation 2731: Use of False or Fictitious Name 19 20 KUNG used the unlicensed fictitious business name "Fanster Consulting Services" 31. in connection with KUNG's property management activity during the period from October 3, 21 2019 to November 30, 2019, without first obtaining a license from the Department bearing the 22 fictitious business name. KUNG also used unlicensed fictitious business names "Fanster Property 23 Management, LLC," "Fanster Property Management, Inc.," and "eCentury Mortgage & Realty, 24 Inc." in connection with KUNG's property management activity during the audit period when 25 26 KUNG was not the holder of a license bearing these fictitious business names. 27 111 28 111

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1	32. KUNG's aforementioned use of unlicensed fictitious business names in connection
2	with KUNG's property management activity without first obtaining a license for such names from
3	the Department was in violation of Code section 10159.5 and Regulation 2731.
4	Issue Eleven (11). Code section 10177(h) and Regulation 2725: Broker Supervision
5	33. Complainant realleges and incorporates by reference all of the allegations contained
6	in paragraphs 1 through 32 above, with the same force and effect as though fully set forth herein.
7	34. Based on the above findings in Issues One (1) through Ten (10) above, as the
8	responsible broker, KUNG did not exercise adequate supervision and control over her property
9	management activity conducted by her employees to ensure compliance with the Real Estate Law.
10	KUNG failed to establish policies, rules, procedures, and systems to review, oversee, inspect, and
11	manage transactions requiring a real estate license and the handling of trust funds.
12	35. KUNG's acts and/or omissions were in violation of Code section 10177(h) and
13	Regulation 2725,
14	CAUSE OF ACCUSATION
15	AUDIT VIOLATIONS IN AUDIT NO. LA190105
16	36. The Complainant realleges and incorporates by reference all of the allegations
17	contained in paragraphs 1 through 35 above, with the same force and effect as though fully set
18	forth herein.
19	37. KUNG's conduct as described above in paragraphs 12 through 35 above violated
20	the Code and the Regulations as set forth below:
21	Issue No.ParagraphsViolations113-18Code section 10145; Regulation 2832.1
22	2 19-20 Code section 10145; Regulation 2831 3 21-22 Code section 10145; Regulation 2831.1
23	4 23 Code section 10145; Regulation 2831.2 5 24-25 Code section 10145; Regulation 2822
24	026Code section 10145; Regulation 2834727Code sections 10145 and 10176(e); Regulation 2835(b)
25	Code sections 10145 and 10176(e); Regulation 2832
26	10 31-32 Code section 10159.5; Regulation 2832
27	code section 10177(n), Regulation 2725
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1	38. The foregoing violations constitute cause for the suspension or revocation of		
2	KUNG's real estate license and license rights under the provisions of Code sections 10176(e),		
3	10176(i), 10177(h), and 10177(d) and/or (g).		
4	INVESTIGATION AND ENFORCEMENT COSTS		
5	39. Code section 10106 provides that in any order issued in resolution of a disciplinary		
6	proceeding before the Department of Real Estate, the Commissioner may request the		
7	administrative law judge to direct a licensee found to have committed a violation of this part to		
8	pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.		
9	AUDIT COSTS		
10	40. Code section 10148(b) provides, in pertinent part, the Commissioner shall charge a		
11	real estate broker for the cost of any audit, if the Commissioner has found in a final decision		
12	following a disciplinary hearing that the broker has violated Code section 10145 or a regulation or		
13	rule of the Commissioner interpreting said section.		
14	WHEREFORE, Complainant prays that a hearing be conducted on the allegations		
15	of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action		
16	against the license and license rights of IVY HSIANG JU KUNG under the Real Estate Law, for		
17	the costs of investigation and enforcement, and audit as permitted by law, and for such other and		
18	further relief as may be proper under other applicable provisions of law, and for costs of audit.		
19			
20	Dated at Los Angeles, California this 22nd day of April , 2021.		
21	· · · · ·		
22	Jack - S		
23 24	Maria Suarez Maria Suarez Supervising Special Investigator		
25	cc: IVY HSIANG JU KUNG		
26	Fanster Property Management, Inc. Econ Financial Group, Inc. eCentury Mortgage & Realty, Inc.		
27 28	Maria Suarez Sacto.		
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