

Flag - H. DeYoung

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DEPT. OF REAL ESTATE

By \_\_\_\_\_

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8 BEFORE THE DEPARTMENT OF REAL ESTATE  
 9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of 12 INLAND MORTGAGE SERVICE 13 INC., STEPHEN JOSEPH CHIPKAR, 14 individually and as designated officer 15 of Inland Mortgage Service Inc, Respondents.		No. H-41943-LA <u>ACCUSATION</u>
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16 The Complainant, Ruth Corral, a Supervising Special Investigator for the  
 17 Department of Real Estate ("Department" or "DRE") of the State of California, for cause of  
 18 Accusation against INLAND MORTGAGE SERVICE INC. ("IMSI"), and STEPHEN JOSEPH  
 19 CHIPKAR, also known as S. J. Chipkar ("CHIPKAR") (collectively "Respondents"), alleges as  
 20 follows:

- 21 1. The Complainant, Ruth Corral, acting in her official capacity as a Supervising
- 22 Special Investigator, makes this Accusation against Respondents.
- 23 2. All references to the "Code" are to the California Business and Professions Code
- 24 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

25 LICENSE HISTORY

26 3. Respondent IMSI has been licensed by the Department as a real estate corporation,  
 27 License ID 01183987, from on or about October 13, 1994 through the present, with IMSI's license  
 28 scheduled to expire on September 26, 2021, unless renewed. IMSI is licensed through

1 CHIPKAR's real estate broker ("REB") license, ID 00784390, and CHIPKAR is the designated  
2 officer ("D.O."). IMSI was previously licensed through Matthew Edwin Neale's REB license, ID  
3 00795655, from October 13, 1994 to October 12, 2006. William Robert Burkes III ("Burkes") is  
4 currently a licensed officer of IMSI, and is a REB, License ID 00674253. According to  
5 Department records to date, IMSI employs no licensed real estate salespersons ("RES"), no broker  
6 associates, maintains no fictitious business names, and no branch offices.

7 4. Respondent CHIPKAR has been licensed by the Department as a REB from on or  
8 about September 27, 2001 through the present, with CHIPKAR's license scheduled to expire on  
9 July 21, 2022, unless renewed. Previously, CHIPKAR was licensed as a RES, from on or about  
10 June 20, 1984 to September 26, 2001. According to Department records to date, CHIPKAR  
11 employs no salespersons, and maintains no fictitious business names and no branch offices.

12 **BROKERAGE: IMSI**

13 5. At all times mentioned, in Riverside County, California, IMSI acted as a real estate  
14 broker, conducting licensed activities within the meaning of Code section 10131(d): soliciting  
15 borrowers or lenders of or negotiating loans or collecting payments or performing services for  
16 borrowers or lenders or note owners in connection with loans secured directly or collaterally by  
17 liens on real property or on a business opportunity. In addition, IMSI conducted broker-controlled  
18 escrows under the exemption set forth in California Financial Code section 17006(a)(4) for real  
19 estate brokers performing escrows incidental to a real estate transaction where the broker is a party  
20 and where the broker is performing acts for which a real estate license is required. At all times  
21 mentioned, IMSI was acting by and through CHIPKAR as its designated officer pursuant to Code  
22 section 10159.2 who was responsible for ensuring compliance with the Real Estate Law.

23 **AUDITS OF IMSI: AUDIT NOS. SD190040 AND SD190049**

24 6. On August 26, 2020, the Department completed two concurrent audit examinations  
25 of the books and records of IMSI's real estate activities that require a corporate real estate broker  
26 license under Code section 10131. The audit examinations, SD190040 and SD190049, both  
27 covered the time period April 1, 2019 to March 31, 2020 ("audit period"). Audit No. 190040 was

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1 limited to IMSI's mortgage loan servicing, and mortgage loan brokerage activities, and Audit No.  
2 SD190049 was limited to IMSI's broker escrow activities.

3 7. According to CHIPKAR, IMSI's corporate structure as of June 10, 2020 was as  
4 follows:

<u>Name</u>	<u>Title</u>	<u>License</u>	<u>Shareholder %</u>
CHIPKAR	CEO	D.O./REB (ID No. 00784390)	50%
Burkes	CFO/Secretary	REB (ID. No. 00674253)	50%

7 8. According to CHIPKAR, IMSI was engaged in negotiating "hard money loans" for  
8 borrowers and private investors. During the audit period, IMSI closed approximately twenty (20)  
9 non-institutional loans as agent/broker with an aggregate loan amount totaling approximately \$3.1  
10 million. Approximately sixteen (16) investors were involved. IMSI performed the escrows on all  
11 loan transactions referenced above and collected approximately \$2.9 million in escrow trust funds.  
12 According to CHIPKAR, all of the hard money loans negotiated by IMSI were for business and  
13 investment purposes and the properties were non-owner occupied.

14 9. IMSI also performed collection services for borrowers and lenders. During the  
15 audit period, IMSI collected monthly loan payments and principle payoffs for approximately fifty-  
16 six (56) loans with a principal balance of about \$7.9 million for the approximately sixteen (16)  
17 investors. Collections during the audit period totaled approximately \$3.2 million.

18 10. During the audit period, IMSI maintained three (3) bank accounts for handling trust  
19 funds in connection with IMSI's mortgage loan servicing, mortgage loan brokerage, and broker  
20 escrow activities, as follows:

21 **Trust Account #1 ("TA1")**

22 Bank: Union Bank  
Riverside, CA

23 Account Name: Inland Mortgage Service Inc.  
Collection Trust Account

24 Account #: XXXXXXXX1544

25 Signatories: CHIPKAR, CEO (REB/D.O.)  
Burkes, CFO/Secretary (REB)

26 Signatures required: One (1) signature

27 Description: TA1 was opened in December 2002. TA1 is a multiple beneficiary trust  
28 account maintained for handling the receipts and disbursements of trust  
funds in connection with IMSI's mortgage loan servicing activity.



1           13. Also as of March 31, 2020, BA1 had a shortage of <\$74.00>. The shortage was  
2 due to bank charges totaling <\$74.00>. In addition, there were unidentified/unaccounted for funds  
3 totaling \$232.00 in BA1 as of March 31, 2020, due to inadequate record keeping.

4           14. IMSI provided no evidence that the owners of the trust funds gave their written  
5 consent to allow IMSI to reduce the balances of the trust funds in TA1 and BA1 to amounts less  
6 than the existing aggregate trust fund liabilities.

7           15. IMSI's failure to obtain the written consent of the owners of the trust funds to  
8 reduce the balance of the funds in TA1 to an amount less than the existing aggregate trust fund  
9 liability was in violation of **Code section 10145 and Regulation 2832.1**.

10           16. IMSI's failure to obtain the written consent of the owners of the trust funds to  
11 reduce the balance of the funds in BA1 to an amount less than the existing aggregate trust fund  
12 liability was in violation of **Code section 10145 and Regulations 2832.1, 2950(g), and 2951**.

13 **Issue Two (2). Code Section 10145 and Regulations 2831, 2950(d), and 2951: Trust Fund**  
14 **Records to be Maintained; When Broker Handles Escrow**

15           17. The control record maintained for BA1 was inaccurate and incomplete. The control  
16 record was missing the date trust funds were received and the daily balance.

17           18. In addition, a receipt in the amount of \$35.00 was recorded twice on the control  
18 record of BA1 on December 10, 2019, but this amount was deposited into BA1 only once. A  
19 disbursement in the amount of \$175.00 was recorded twice on the control record of BA1 on  
20 December 29 and 31, 2019, but was disbursed from BA1 only once.

21           19. IMSI's failure to maintain a complete and accurate control record of trust funds for  
22 BA1 in connection with broker escrow activity was in violation of **Code section 10145 and**  
23 **Regulations 2831, 2950(d), and 2951**.

24 **Issue Three (3). Code Section 10145 and Regulations 2831.1, 2950(d), and 2951: Separate**  
25 **Record for Each Beneficiary or Transaction; When Broker Handles Escrow**

26           20. The separate records maintained for BA1 were inaccurate and incomplete. The  
27 separate records were missing the balance after posting transactions on any date. In addition, some  
28 receipts and disbursements were recorded on the incorrect separate records.

1 21. Examples of receipts recorded on the incorrect separate records are:

<u>Date</u>	<u>Amount</u>	<u>Recorded on Escrow #</u>	<u>Correct Escrow #</u>
04/06/2019	\$57,092.43	2155	2156
12/05/2019	\$130,000.00	2667	2167

4 22. Examples of disbursements were recorded on the incorrect separate records are:

<u>Date</u>	<u>Check #</u>	<u>Amount</u>	<u>Recorded on Escrow #</u>	<u>Correct Escrow #</u>
12/06/2019	Wire	\$123,000.00	2166	2165
12/12/2019	7929	\$105.21	2166	2165
12/12/2019	7927	\$500.00	2167	2165
12/13/2019	7933	\$202.89	2667	2167
12/06/2019	Wire	\$226,125.00	2167	2166
12/19/2019	7935	\$5,285.00	2169J	2169

11 23. IMSI did not maintain a separate record for the "unidentified/unaccounted for  
12 funds" held in BA1 totaling \$232.00 as of March 31, 2020.

13 24. IMSI's failure to maintain an accurate separate record for BA1 in connection with  
14 broker escrow activity was in violation of **Code section 10145 and Regulations 2831.1, 2950(d),  
15 and 2951.**

16 **Issue Four (4). Code Section 10145 and Regulations 2831.2, 2950(d), and 2951: Trust**  
17 **Account Reconciliation; Handling of Trust Funds; When Broker Handles Escrow**

18 25. IMSI did not maintain the monthly reconciliation of all the separate records to the  
19 control records of all trust funds received and disbursed for BA1 in connection with the broker  
20 escrow activity during the audit period.

21 26. IMSI failed to reconcile the "unidentified/unaccounted for funds" held in BA1  
22 totaling \$232.00 as of March 31, 2020.

23 27. IMSI did not maintain the monthly reconciliation of all the separate records to the  
24 control records of all trust funds received and disbursed for TA1 in connection with the mortgage  
25 loan servicing activity during the audit period.

26 28. IMSI's failure to maintain the monthly reconciliation of all the separate records to  
27 the control records for BA1 during the audit period, and IMSI's failure to reconcile the

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1 "unidentified/unaccounted for funds" held in BA1 totaling \$232.00 as of March 31, 2020 was in  
2 violation of **Code section 10145 and Regulations 2831.2, 2950(d), and 2951.**

3 29. IMSI's failure to maintain the monthly reconciliation of all the separate records to  
4 the control records for TA1 was in violation of **Code section 10145 and Regulation 2831.2.**

5 **Issue Five (5). Code Section 10145(a) and Regulations 2832 and 2951: Trust Fund Handling /**  
6 **Trust Account Designation; When Broker Handles Escrow**

7 30. According to the bank signature card maintained at Union Bank for BA1, used for  
8 handling the receipts and disbursements of trust funds in connection with IMSI's broker escrow  
9 activity during the audit period, BA1 was not designated as a trust account in the name of IMSI as  
10 trustee.

11 31. IMSI's failure to set up BA1 as a trust account in the name of IMSI as trustee was  
12 in violation of **Code section 10145 and Regulations 2832 and 2951.**

13 **Issue Six (6). Code Section 10141.6: Notification of Escrow Activities**

14 32. Code section 10141.6 provides in pertinent part:

15 "(a) A real estate broker who engages in escrow activities for five or more  
16 transactions in a calendar year pursuant to the exemption from the Escrow Law  
17 contained in Section 17006 of the Financial Code, or whose escrow activities  
18 pursuant to that exemption equal or exceed one million dollars (\$1,000,000) in a  
19 calendar year, shall file with the department a report, within 60 days following the  
20 completion of the calendar year, documenting the number of escrows conducted  
21 and the dollar volume escrowed during the calendar year in which the threshold  
22 was met. This report shall be made on a form acceptable to the commissioner.

23 ...  
24 (c) A real estate broker who fails to submit the report required pursuant to  
25 subdivision (a) shall be assessed a penalty of fifty dollars (\$50) per day for each  
26 day the report has not been received by the department, up to and including the  
27 30th day after the first day of the assessment penalty. On and after the 31st day, the  
28 penalty shall be one hundred dollars (\$100) per day, not to exceed a total penalty of  
ten thousand dollars (\$10,000), regardless of the number of days, until the  
department receives the report."

33. Based on the records examined for the audit, IMSI closed approximately fifteen  
(15) escrow transactions and collected approximately \$2.4 million in escrow trust funds during the  
period from April 1, 2019 to December 31, 2019. IMSI thus met the escrow threshold for the  
calendar year ended 2019 by conducting at least five (5) escrow transactions, with an aggregate  
total exceeding \$1,000,000 that IMSI closed during the 2019 calendar year.



<u>Issue No.</u>	<u>Paragraphs</u>	<u>Violations</u>
1	12-16	Code section 10145; Regulations 2832.1, 2950(g), and 2951
2	17-19	Code section 10145; Regulations 2831, 2950(d), and 2951
3	20-24	Code section 10145; Regulations 2831.1, 2950(d), and 2951
4	25-29	Code section 10145; Regulations 2831.2, 2950(d), and 2951
5	30-31	Code sections 10145(a); Regulations 2832 and 2951
6	32-34	Code section 10141.6
7	35	Regulation 2950(h)
8	36	Code section 10140.6 and Regulation 2773

39. The foregoing violations constitute cause for the suspension or revocation of IMSI's real estate license and license rights under the provisions of **Code sections 10177(d) and or 10177(g)**.

40. In addition, the violation of **Code section 10141.6** in failing to file a report for calendar year 2019, as alleged in paragraphs 32 to 34 above, constitute cause for assessment of penalties against IMSI as provided under **Code section 10141.6(c)**.

#### **SECOND CAUSE OF ACCUSATION**

#### **RESPONSIBILITY OF CORPORATE OFFICER IN CHARGE; BROKER SUPERVISION**

41. The Complainant realleges and incorporates by reference all of the allegations contained in paragraphs 1 through 40 above, with the same force and effect as though fully set forth herein.

42. Based on the findings in Issues One (1) through Eight (8) above, as the broker and designated officer of IMSI, CHIPKAR did not exercise adequate supervision and control over the real estate activities conducted on behalf of IMSI and by its employees and licensees to ensure compliance with the Real Estate Laws and Regulations. CHIPKAR failed to establish policies, rules, procedures, and systems to review, oversee, inspect, and manage transactions requiring a real estate license and the handling of trust funds by IMSI's licensees and employees.

43. CHIPKAR's acts and/or omissions were in violation of **Code sections 10159.2, 10177(h) and Regulation 2725** and constitute cause for the suspension or revocation of CHIPKAR's real estate license and license rights under the provisions of **Code sections 10177(h) and 10177(d) and/or 10177(g)**.

