



1 present, and previously from June 23, 2006 to November 5, 2009. Currently, BROWN employs  
2 no salespersons or broker associates, and maintains no branch offices.

3 **PRIOR DISCIPLINE: DRE CASE NO. H-35605 LA**

4 4. On or about October 8, 2009, in Case No. H-35605 LA, the DRE filed a Stipulation  
5 and Agreement for BROWN, doing business as The Loan Lady. Under the Stipulation and  
6 Agreement, all licenses and licensing rights of BROWN under the Real Estate Law were  
7 suspended for a period of ninety (90) days from the effective date of the Commissioner's Decision  
8 provided, however, that forty-five (45) days of the suspension would be stayed for two years on  
9 condition that, in part:

10 a. BROWN pay a monetary penalty pursuant to Code section 10175.2 at the  
11 rate of \$66.66 per day for each day of the suspension for a total monetary penalty of  
12 \$3,000.

13 b. No further cause for disciplinary action against BROWN's real estate  
14 license occur within two years from the effective date of the Decision.

15 c. If BROWN paid the monetary penalty and if no further cause for  
16 disciplinary action against BROWN's real estate license occurred within two years from  
17 the effective date of the Decision, the stay of the suspension would become permanent.

18 d. The remaining forty-five (45) days would be stayed for two years upon  
19 terms and conditions, including:

20 (1) BROWN obey all laws, rules, and regulations governing the rights,  
21 duties, and responsibilities of a real estate licensee in the State of California; and

22 (2) No final subsequent determination be made after hearing or upon  
23 stipulation, that cause for disciplinary action occurred within two years from the  
24 effective date of the Decision.

25 e. BROWN successfully complete a continuing education course on trust fund  
26 accounting and handling.

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1 f. BROWN pay the Commissioner's reasonable cost for the underlying audit,  
2 and a subsequent audit to determine if BROWN was then in compliance with the Real  
3 Estate Law, with the amount for the prior and subsequent audits not to exceed \$12,925.44.

4 **BROKERAGE: BROWN**

5 5. At all times mentioned, in San Bernardino County, California, BROWN acted as a  
6 REB, conducting licensed activities within the meaning of Code section 10131(d): soliciting  
7 borrowers or lenders of or negotiating loans or collecting payments or performing services for  
8 borrowers or lenders or note owners in connection with loans secured directly or collaterally by  
9 liens on real property or on a business opportunity. In addition, BROWN conducted broker-  
10 controlled escrows under the exemption set forth in California Financial Code section 17006(a)(4)  
11 for real estate brokers performing escrows incidental to a real estate transaction where the broker  
12 is a party and where the broker is performing acts for which a real estate license is required.

13 **AUDITS OF BROWN: AUDIT NOS. LA190159 AND LA190162**

14 6. On October 7, 2020, the Department completed two concurrent audit examinations  
15 of the books and records of BROWN's real estate activities that require a real estate broker license  
16 under Code section 10131. The audit examinations, LA190159 and LA190162, both covered the  
17 time period June 1, 2019 to May 31, 2020 ("audit period"). Audit No. LA190159 was limited to  
18 BROWN's mortgage loan brokerage activities, and Audit No. LA190162 was limited to  
19 BROWN's broker escrow activities.

20 7. According to BROWN, she was engaged in negotiating "hard money loans" for  
21 borrowers and private investors. During the audit period, BROWN closed approximately sixty-one  
22 (61) non-institutional loans as agent/broker with an aggregate loan amount totaling approximately  
23 \$4.7 million. Approximately sixteen (16) investors were involved. BROWN performed the  
24 escrows on all loan transactions referenced above and collected approximately \$4.2 million in  
25 escrow trust funds during the audit period. According to BROWN, all of the hard money loans  
26 negotiated by her were for business and investment purposes.

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1 8. During the audit period, BROWN maintained one (1) bank account for handling  
2 trust funds in connection with her mortgage loan brokerage and broker escrow activities, as  
3 follows:

4 **Bank Account 1 ("BA1")**

5 Bank: Union Bank  
6 Account Name: Brown, Patricia Gail  
DBA The Loan Lady  
7 Account #: XXXXXXXX9290  
8 Signatories: Patricia Gail Brown (REB)  
9 Signatures required: One (1) signature  
10 Description: BA1 was opened in October 2014. BA1 is a multiple beneficiary account  
11 maintained for handling the receipts and disbursements of trust funds in  
connection with BROWN's mortgage loan brokerage and broker escrow  
activities.

12 9. According to BROWN, the records examined, and the DRE's records, BROWN  
13 meets the threshold criteria and reports to the DRE as a threshold broker.

14 **Audit Violations in Audit Nos. LA190159 and LA190162**

15 10. The audit examinations revealed violations of the Code and the Regulations, as set  
16 forth in the following paragraphs, and as more fully discussed in Audit Nos. LA190159 and  
17 LA190162 and the exhibits and work papers attached to the audit report:

18 **Issue One (1). Code Section 10145 and Regulations 2832.1, 2950(g), and 2951: Trust Fund**  
19 **Handling for Multiple Beneficiaries; Handling of Trust Funds; When Broker Handles**  
20 **Escrow**

21 11. As of May 29, 2020, there was a shortage in BA1 of <\$771.11>. The shortage was  
22 due to bank charges totaling <\$770.00> and a negative balance of escrow accounts totaling  
23 <\$1.11>.

24 12. BROWN provided no evidence that the owners of the trust funds gave their written  
25 consent to allow BROWN to reduce the balance of the trust funds in BA1 to an amount less than  
26 the existing aggregate trust fund liabilities.

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1 13. BROWN's failure to obtain the written consent of the owners of the trust funds to  
2 reduce the balance of the funds in BA1 to an amount less than the existing aggregate trust fund  
3 liability was in violation of Code section 10145 and Regulations 2832.1, 2950(g), and 2951.

4 **Issue Two (2). Code Section 10145 and Regulations 2831.1, 2950(d), and 2951: Separate**  
5 **Records for Each Beneficiary or Transaction; When Broker Handles Escrow**

6 14. BROWN did not maintain a separate record for "unidentified/unaccounted for  
7 funds" held in BA1 totaling \$1,390.41, as of May 29, 2020, due to inadequate record keeping, in  
8 violation of Code section 10145 and Regulations 2831.1, 2950(d), and 2951.

9 **Issue Three (3). Code section 10145 and Regulations 2831.2, 2950(d), and 2951: Trust**  
10 **Account Reconciliation; Handling of Trust Funds; When Broker Handles Escrow**

11 15. BROWN did not maintain the monthly reconciliation of all the separate records to  
12 the control records of all trust funds received and disbursed for BA1 in connection with  
13 BROWN's broker escrow activity during the audit period.

14 16. BROWN failed to reconcile the "unidentified/unaccounted for funds" held in BA1,  
15 totaling \$1,390.41, as of May 29, 2020.

16 17. BROWN's acts and/or omissions in failing to maintain the monthly reconciliation  
17 of all the separate records to the control records of all trust funds received and disbursed for BA1  
18 in connection with BROWN's broker escrow activity, and BROWN's failure to reconcile the  
19 "unidentified/unaccounted for funds" held in BA1, is in violation of Code section 10145 and  
20 Regulations 2831.2, 2950(d), and 2951.

21 **Issue Four (4). Code Section 10145(a) and Regulations 2832 and 2951: Trust Fund Handling;**  
22 **Trust Account Designation; Handling of Trust Funds; When Broker Handles Escrow**

23 18. BA1, which account was accused for handling the receipts and disbursements of  
24 trust funds in connection with BROWN'S mortgage loan brokerage and broker escrow activities  
25 during the audit period, was not designated as a trust account in the name of BROWN or TLL as  
26 trustee in violation of Code section 10145(a) and Regulations 2832 and 2951.

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1 **Issue Five (5). Code Section 10141.6: Notification of Escrow Activities**

2 19. Code section 10141.6 provides in pertinent part:

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

11 ...  
12 (c) A real estate broker who fails to submit the report required pursuant to  
13 subdivision (a) shall be assessed a penalty of fifty dollars (\$50) per day for each  
14 day the report has not been received by the department, up to and including the  
15 30th day after the first day of the assessment penalty. On and after the 31st day, the  
16 penalty shall be one hundred dollars (\$100) per day, not to exceed a total penalty of  
17 ten thousand dollars (\$10,000), regardless of the number of days, until the  
18 department receives the report.”

19 20. Based on an examination of records, BROWN met the escrow threshold for the  
20 calendar year ended 2019 by conducting five (5) or escrow transactions and the dollar volume of  
21 escrowed transactions exceeded \$1,000,000 in calendar year 2019, but failed to submit the Escrow  
22 Activity Report (RE 890) which was due within sixty (60) days after the end of the calendar year  
23 2019. Based on the records provided for the audit, BROWN closed approximately fifty (50)  
24 escrow transactions and collected approximately \$3.2 million in escrow trust funds during the  
25 period from June 1, 2019 to December 31, 2019.

26 21. Because BROWN engaged in escrow activities exceeding more than five  
27 transaction in calendar year 2019, and because BROWN’s escrow activities exceeded \$1 million  
28 in calendar year 2019, BROWN’s failure to file a report within 60 days following the completion  
of calendar year 2019 was in violation of **Code section 10141.6.**

23 **Issue Six (6). Code Section 10232.3: Lender’s Signed Statement Indicating Percentage of**  
24 **Investment**

25 22. BROWN failed to retain a lender’s signed statement indicating that the purchaser’s  
26 investment in the transaction does not exceed either 10% of his/her net worth or 10% of his/her  
27 adjusted gross income in all of the loan files sampled for examination by DRE’s auditor, in  
28 violation of **Code section 10232.3(b).**

1 **Issue Seven (7). Code Sections 10232.3(a)(4)(A), (B) and (E): Safeguards for Single-Lender**  
2 **Construction Loans**

3 23. In two (2) loan files examined by DRE's auditor, BROWN failed to meet the  
4 following safeguards as required on single-lender construction/rehabilitation loans that exceed  
5 \$100,000 if the value of the project after completion is disclosed as the current market value to the  
6 lenders in the project: BROWN failed to use an independent neutral third-party escrow holder to  
7 handle all receipts and disbursements relating to the construction/rehabilitation of the secured  
8 property, the entire loan amount was not deposited in escrow prior to the recording of the deed of  
9 trust, and an appraisal was not completed by a qualified and licensed appraiser. BROWN provided  
10 the lenders a Broker Price Opinion (BPO) instead. According to BROWN, funds withheld for  
11 construction/ rehabilitation were held by the lenders and draws were made by the lenders directly  
12 to the borrowers.

13 24. BROWN's acts and/or omissions in failing to meet the above-referenced  
14 safeguards, as required on single-lender construction/rehabilitation loans that exceed \$100,000 if  
15 the value of the project after completion is disclosed as the current market value to the lenders in  
16 the project, violated **Code sections 10232.3(a)(4)(A), (B) and (E)**.

17 **Issue Eight (8). Code Sections 10232.25(a) and (b), and Regulation 2846.8: Quarterly Trust**  
18 **Fund Status Report**

19 25. BROWN failed to file with the DRE, the Quarterly Threshold Reports within 30  
20 days after the end of the first, second, and third fiscal quarters of her fiscal year ended June 2020,  
21 for the quarters ending September 30, 2019, December 31, 2019, and March 31, 2020 respectively,  
22 in violation of **Code sections 10232.25(a) and (b), and Regulation 2846.8**.

23 **Issue Nine (9). Code Section 10232.2(a) and Regulations 2846.5 and 2846.7: Filing Fiscal**  
24 **Year Reports; Accounting Criteria; Report of Annual Trust Fund Accounts Review;**  
25 **Delayed Filing of Annual Trust Account Report (Failure to Submit Independent Audit**  
26 **Report in a Timely Manner)**

27 26. BROWN failed to file the Annual Report of a Review of Trust Fund Financial  
28 Statements (TAR) with the DRE for the fiscal year ended 2019 within 90 days after the end of



1 BROWN's fiscal year, June 30, 2019, which was due on September 30, 2019, in violation of  
2 **Code section 10232.2(a) and Regulations 2846.5 and 2846.7.**

3 **Issue Ten (10). Code Section 10232.2(c) and Regulation 2849.01: Filing Fiscal Year Reports;**  
4 **Accounting Criteria; Annual Report Format (Failure to submit Mortgage Loan/Trust Deed**  
5 **Annual Report in a Timely Manner)**

6 27. BROWN failed to file the Mortgage Loan/Trust Deed Annual Report (Business  
7 Activity Report) with the DRE for the fiscal year ended 2019 within 90 days after the end of  
8 Brown's fiscal year, June 30, 2019, which was due on September 30, 2019, in violation of **Code**  
9 **section 10232.2(c) and Regulation 2849.01.**

10 **CAUSE OF ACCUSATION**

11 **AUDIT VIOLATIONS IN AUDIT NOS. LA190159 AND LA190162**

12 28. The Complainant realleges and incorporates by reference all of the allegations  
13 contained in paragraphs 1 through 26 above, with the same force and effect as though fully set  
14 forth herein.

15 29. BROWN's acts and/or omissions as described above in paragraphs 10 through 26  
16 violated the Code and the Regulations as set forth below:

<u>Issue No.</u>	<u>Paragraphs</u>	<u>Violations</u>
1	10-12	Code section 10145; Regulations 2832.1, 2950(g), and 2951
2	13	Code section 10145; Regulations 2831.1, 2950(d), and 2951
3	14-16	Code section 10145; Regulations 2831.2, 2950(d), and 2951
4	17	Code section 10145(a); Regulations 2832 and 2951
5	18-20	Code section 10141.6
6	21	Code section 10232.3(b)
7	22-23	Code sections 10232.3(a)(4)(A), (B) and (E)
8	24	Code sections 10232.25(a) and (b); Regulation 2846.8
9	25	Code section 10232.2(a); Regulations 2846.5 and 2846.7
10	26	Code section 10232.2(c); Regulation 2849.01

25 30. The foregoing violations constitute cause for the suspension or revocation of  
26 BROWN's real estate license and license rights under the provisions of **Code sections 10177(d)**  
27 **and/or 10177(g).**

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