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FILED

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DEPT. OF REAL ESTATE

By 

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation against

DRE No. H-42190 LA

13 D. A. PETERSON ENTERPRISES, INC. and
14 DENNIS ANTHONY PETERSON, as designated
15 officer for D. A. Peterson Enterprises, Inc.,

ACCUSATION

16 Respondents.

17 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the
18 Department of Real Estate¹ ("Department") of the State of California, for cause of Accusation
19 against D. A. PETERSON ENTERPRISES, INC. and DENNIS ANTHONY PETERSON, as
20 designated officer for D. A. Peterson Enterprises, Inc. (collectively "Respondents"), alleges as
21 follows:

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

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.

2. All references to the "Code" are to the California Business and Professions Code, all references to the "Real Estate Law" are to Part 1 of Division 4 of the Code, and all references to "Regulations" are to the Regulations of the Real Estate Commissioner, Title 10, Chapter 6, California Code of Regulations.

3. Respondents are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Code).

4. On or about October 30, 1979, the Department issued a real estate corporation license to Respondent D. A. PETERSON ENTERPRISES, INC. (DAP), License ID 00753419. On or about December 14, 1992, DAP's license was revoked and the Department issued a restricted license to Respondent DAP. Respondent DAP's restricted license is scheduled to expire on December 13, 2024.

5. From on or about October 30, 1979 through the present, Respondent DENNIS ANTHONY PETERSON ("PETERSON") has been the licensed designated officer for DAP. On or about December 14, 1992, PETERSON's designated officer license was revoked and the Department issued a restricted license to Respondent PETERSON.

6. On or about February 4, 1975, the Department issued a real estate broker license to Respondent PETERSON, License ID 00448675. Respondent PETERSON's broker license expired on February 3, 1983.

7. Respondent PETERSON is the designated officer for Respondent DAP, pursuant to Code section 10211. As the designated officer for DAP, Respondent PETERSON, is responsible for the supervision and control of the activities conducted on behalf of DAP by its officers, agents, real estate licensees, and employees, as necessary to secure full compliance with the provisions of the Real Estate Law, pursuant to Code section 10159.2.

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8. Whenever reference is made in an allegation in this Accusation to an act or omission of Respondent DAP, such allegation shall be deemed to mean that the officers, directors, employees, agents and/or real estate licensees employed by or associated with Respondent DAP, committed such act or omission while engaged in the furtherance of the business or operations of such corporate respondent and while acting within the course and scope of their authority and employment.

9. At all times relevant herein, in the State of California, Respondents engaged in activities that require a real estate broker license within the meaning of Code section 10131, subdivision (b). Respondents' activities included soliciting or offering to negotiate the sale, purchase or exchange of leases for real property and the collection of rents or security deposits on real property or on a business opportunity for others, for compensation or in expectation of compensation.

Prior Discipline

10. On January 31, 1992, the Department filed an Accusation in Department Case No. H-24978 LA against Respondents. The Accusation was based on allegations of trust fund handling violations found during an audit of Respondents' property management activities.

11. On or about November 2, 1992, Respondents and the Department entered into a Stipulation and Agreement to settle the Accusation in Case No. H-24978 LA. Under the Determination of Issues of the Stipulation and Agreement, Respondents were determined to be in violation of Code section 10145 and Regulation 2830.

12. Under the Stipulation and Agreement in Case No. H-24978 LA, Respondents' licenses were revoked with the right to restricted licenses subject to certain terms and conditions set forth in the Order of the Stipulation and Agreement.

1 Causes of Accusation

2 Audit LA200121

3 13. On or about September 30, 2021, the Department completed an audit examination
4 of the books and records of Respondent DAP's property management activities, which require a
5 real estate license pursuant to Code section 10131, subdivision (b).

6 14. The audit examination covered the period from January 1, 2020 through March
7 31, 2021 ("audit period").

8 15. 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 LA200121 and the
10 exhibits and work papers attached to said audit report.

11 16. According to Respondents, PETERSON is the President, Chief Financial Officer,
12 and sole shareholder of DAP. Darren Anthony Peterson is Secretary for DAP and a licensed real
13 estate salesperson, License ID 01373256.

14 17. During the audit period, Respondent DAP reportedly managed approximately 73
15 units for 54 one-to-four family residences, one apartment complex with ten units, ten commercial
16 complexes with 58 units and one self-storage complex with 291 units for approximately 60
17 property owners.

18 18. DAP collected rents, paid expenses, and screened tenants for compensation. DAP
19 charged a management fee of five to six percent (5% - 6%) of collected rents.

20 19. According to Respondents, DAP maintained two trust accounts to hold and collect
21 trust funds for multiple beneficiaries in connection with DAP's property management activities
22 during the audit period:

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1 20. Trust Account 1 (TA1)

2 Bank: Mechanics Bank

3 Account #: xxxxx075

4 21. Trust Account 2 (TA2)

5 Bank: First Bank

6 Account #: xxxxx896

7 Violations

8 22. In the course of its property management activities during the audit period,
9 Respondent DAP acted in violation of the Code and the Regulations as follows:

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

11 23. During the audit period, Respondent DAP failed to maintain accurate and/or
12 complete records of trust funds received and disbursed (general ledger /control record) for TA1
13 and TA2, in violation of Code section 10145 and Regulation 2381.

14 24. Based on examination of DAP's TA1 control records, bank statements, and
15 reconciliation records, DAP failed to record all trust fund receipts when some funds were
16 deposited into TA1. Examples include the following, without limitation:

<u>Amount</u>	<u>Description</u>	<u>Date Received</u>	<u>General Ledger Date</u>
\$1,989.19	Santa Barbara Co.	03/23/2021	04/01/2021
\$1,989.19	Santa Barbara Co.	02/19/2021	03/01/2021
\$1,989.19	Santa Barbara Co.	01/20/2021	03/01/2021

21 25. DAP failed to maintain records of all trust fund receipts and disbursements for
22 TA2 as required by Code section 10145, subdivision (g), and Regulation 2831, in that TA2
23 contained unidentified/unaccounted for funds of a t least \$75.00 as of March 31, 2021.

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

2 26. During the audit period, Respondent DAP failed to maintain accurate and
3 complete separate records for each beneficiary or property related to its property management
4 activities (owner statements / separate records) for TA 1, in violation of Code section 10145(g)
5 and Regulation 2831.1.

6 27. As of March 31, 2021, the balances reflected in DAP's separate records (trust
7 account detail) and trust account balance (cash balance) were different and inaccurate. Examples
8 include the following, without limitation:

<u>Property</u>	<u>Balance on separate records</u>	<u>Trust Account Balance</u>
325 Megan Way #104.	\$ 31.00	\$3,598.75
2665 Puesta Del Sol	\$ 11.40	\$2,511.40
3230 Lucinda Lane	\$1,873.22	\$5,073.22
407 East Sola Street	\$2,819.43	\$6,169.43

14 28. During the audit period, DAP failed to maintain separate records of the receipt
15 and disbursement of trust funds deposited into TA1 as required by Code section 10145,
16 subdivision (g), and Regulation 2831.1. TA1 contained unidentified/unaccounted for funds of at
17 least \$16,754.79 as of March 31, 2021.

18 Code section 10145 and Regulation 2831.2. Trust account reconciliation

19 29. During the audit period, DAP failed to maintain complete and accurate monthly
20 reconciliations 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 TA1, in
22 violation of Code section 10145 and Regulation 2831.2.

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1 Code section 10159.2 and Regulation 2725. Responsibility of Corporate Officer in
2 Charge/Broker supervision.

3 30. Respondent PETERSON failed to adequately supervise the activities of DAP's
4 salespersons, employees, or agents and failed to establish policies, rules, procedures, and systems
5 to review, oversee, inspect, and manage transactions requiring a real estate license and the
6 handling of trust funds to ensure compliance with the Real Estate Law, in violation of Code
7 section 10159.2 and Regulation 2725.

8 31. The conduct of Respondent DAP as described above in Paragraphs 23 through 29,
9 violated the Code and the Regulations as set forth below:

<u>Paragraph(s)</u>	<u>Violations</u>
23-25	Code section 10145 and Regulation 2831
26-28	Code section 10145 and Regulation 2831.1
29	Code section 10145 and Regulation 2831.2

14 32. The foregoing violations, as described above in Paragraphs 23 through 29,
15 constitute cause for the suspension or revocation of the real estate licenses and license rights of
16 Respondent DAP under the provisions of Code section 10177, subdivisions (d) and/or (g) for
17 violation of Code section 10145 and Regulations 2831, 2831.1, and 2831.2.

18 Respondent PETERSON-- Officer - Broker Supervision

19 Code sections 10159.2, 10177(h), and Regulation 2725. Broker supervision.

20 33. The conduct, acts and/or omissions of Respondent PETERSON constitutes a
21 failure to exercise the supervision and control over the activities of DAP to ensure compliance
22 with the Real Estate Law and Regulations, as required by Code section 10159.2 and Regulation
23 2725. Said conduct, acts, or omissions constitute cause to suspend or revoke the real estate
24

1 licenses and license rights of Respondent PETERSON pursuant to Code section 10177,
2 subdivisions (h), (d), and/or (g).

3 Audit Costs

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

8 Investigation/Enforcement Costs

9 35. Code section 10106 provides, in pertinent part, that in any order issued in
10 resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner
11 may request the administrative law judge to direct a licensee found to have committed a violation
12 of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement
13 of the case.

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

20 Dated this 24 day of January, 2022.

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23 VERONICA KILPATRICK
24 Supervising Special Investigator

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1 cc: D. A. Peterson Enterprises, Inc.
2 Dennis Anthony Peterson
3 Veronica Kilpatrick
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Audits/Godswill Keraoru

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