

1 LAURENCE D. HAVESON, Counsel (SBN 152631)
 2 Department of Real Estate
 3 320 West 4th Street, Suite 350
 4 Los Angeles, California 90013-1105
 Telephone: (213) 576-6982
 Direct: (213) 576-6854
 Fax: (213) 576-6917
 Attorney for Complainant

8 BEFORE THE DEPARTMENT OF REAL ESTATE
 9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of) No. H-42193-LA
 12 FRANK HSIU-HSIUNG HUNG,) ACCUSATION
 13 Respondent.)
 14 _____)

15 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the
 16 Department of Real Estate ("Department" or "DRE") of the State of California, for cause of
 17 Accusation against FRANK HSIU-HSIUNG HUNG ("HUNG" or "Respondent"), alleges as
 18 follows:

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

23 **LICENSE HISTORY**

24 3. Respondent HUNG has been licensed by the Department as a real estate broker
 25 ("REB"), License ID 00551934, from on or about December 21, 1977 through the present, with
 26 HUNG's license scheduled to expire on December 20, 2025 unless renewed. HUNG maintains no
 27 branch offices and, as of September 21, 2021, HUNG employed six salespersons. HUNG
 28 maintains the following fictitious business names:

- 1 a. "Property Brokers USA," active as of December 21, 1977;
2 b. "American Mortgage Services," active as of January 4, 1993;
3 c. "American Mortgage Services, a Division of American Realty and
4 Mortgage," active as of June 18, 2007;
5 d. "American Home Realtors, a Division of American Realty and Mortgage,"
6 active as of June 18, 2007.

7 **BROKERAGE: HUNG**

8 4. At all times mentioned, in the County of Los Angeles, HUNG acted as a real estate
9 broker, conducting licensed activities within the meaning of Code section 10131(a) and 10131(b):
10 selling or offering to sell, buying or offering to buy, real property for others; and leasing or
11 renting, offering to lease or rent, or collecting rents from real property for others.

12 **AUDIT OF HUNG: AUDIT NO. LA210025**

13 5. On October 21, 2021, the Department completed an audit examination of the books
14 and records of HUNG's real estate activities that require a real estate broker license under Code
15 section 10131. The audit examination, LA210025, covered the time period March 1, 2019 to July
16 31, 2021 ("audit period") and was limited to HUNG's property management activities.

17 6. The purpose of the audit examination was to determine whether HUNG handled
18 and accounted for trust funds and conducted her real estate activities in accordance with the Real
19 Estate Law and the Regulations.

20 7. According to HUNG and based on an examination of records, HUNG managed
21 four (4) residential properties for four (4) owners. Based on an examination of records, HUNG
22 collected rents ranging from \$2,500 to \$5,700 during the audit period. Based on an examination of
23 records, HUNG collected a total of \$46,980 in rents from August 2020 to July 31, 2021. HUNG
24 charged a management fee of five percent (5%) of monthly rent collected plus a leasing fee of
25 five percent (5%) of annual rent.

26 8. According to HUNG, real estate salesperson ("RES") Sue Jean Hung ("Sue"),
27 License ID 01031510, is HUNG's wife, and Sue has been helping HUNG manage the properties

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1 during the audit period. Based on DRE licensing records, HUNG employed Sue from September
2 13, 2013 to March 24, 2015 and effective September 9, 2021.

3 9. Based on the DRE' auditor's discussion with HUNG and records examined, HUNG
4 maintained one (1) bank account for handling both the receipts and disbursements of trust funds in
5 connection with property management activities during the audit period, and as an operating and
6 personal account, as follows:

7 **Bank Account #1 ("BA1")**

8 Bank: Cathay Bank
9 Account Name: FRANK HSIU-HSIUNG HUNG
10 DBA American Mortgage Services
11 DBA American Home Realtors
12 Account #: XXXXXXXX1799
13 Signatories: HUNG (REB/D.O.)
Sue J. Hung (RES)
14 Signatures required: One (1) signature

15 **Audit Violations in Audit No. LA210025**

16 10. The audit examination revealed violations of the Code and the Regulations, as set
17 forth in the following paragraphs, and as more fully discussed in Audit No. LA210025 and the
18 exhibits and work papers attached to the audit report:

19 **Issue One (1). Code section 10145 and Regulations 2831: Trust Fund Records to be
20 Maintained**

21 11. Based on records examined, HUNG failed to maintain complete and accurate
22 records of all trust funds received and disbursed (control record) for BA1 in connection with
23 HUNG's property management activity. The DRE's auditor found eleven (11) examples of trust
24 funds received and deposited into BA1, totaling \$34,290.00, for which HUNG did not maintain a
25 record.

26 12. HUNG's failure to maintain a complete and accurate control record of trust funds
27 for BA1 in connection with HUNG's property management activity was in violation of Code
28 section 10145 and Regulation 2831.

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1 **Issue Two (2). Code section 10145 and Regulation 2831.1: Separate Record for Each**
2 **Beneficiary or Transaction**

3 13. Based on records examined, HUNG did not maintain an accurate and complete
4 separate record (Rental Statement/Fund Disbursement Statement) of all trust funds received and
5 disbursed for BA1. The separate record did not reflect the date trust funds were deposited into
6 BA1, date of disbursements, check number issued, and balance after posting transaction on any
7 date. The DRE's auditor found seven (7) examples of deposits for which the date of deposit into
8 BA1 was not reflected on the separate record, and three (3) examples of disbursements, totaling
9 \$2,560.00, for which the date of disbursement, check number issued, and balance after posting
10 were not reflected on the separate record. The DRE's auditor also found that HUNG did not
11 provide the separate record maintained for two properties managed by HUNG.

12 14. HUNG's failure to maintain an accurate separate record for BA1 in connection with
13 property management activity was in violation of **Code section 10145 and Regulation 2831.1.**

14 **Issue Three (3). Code section 10145 and Regulation 2832: Handling of Trust Funds / Trust**
15 **Fund Handling**

16 15. Based on an examination of the bank signature card for BA1 maintained at Cathay
17 Bank, BA1, used for handling property management trust funds, was not designated as a trust
18 account HUNG's name or one of his fictitious business names as trustee. HUNG's failure to
19 designate BA1 as a trust account in HUNG's name or one of HUNG's fictitious business names as
20 trustee was in violation of **Code section 10145 and Regulation 2832.**

21 **Issue Four (4). Code sections 10145 and 10176(e), and Regulation 2832: Handling of Trust**
22 **Funds / Commingling**

23 16. Based on the DRE auditor's discussion with HUNG and records examined, all trust
24 fund receipts and disbursements related to HUNG's property management activity were deposited
25 into HUNG's operating/personal bank account maintained at Cathay Bank (BA1). Such trust funds
26 were commingled with HUNG's own funds in his operating/personal account. HUNG's depositing
27 of trust funds related to HUNG's property management activity into BA1, which was also used as

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1 HUNG's operating/personal bank account, is in violation of **Code sections 10145 and 10176(e),**
2 **and Regulation 2832.**

3 **Issue Five (5). Code section 10145 and Regulation 2831.2: Trust Account Reconciliation**

4 17. Based on the DRE auditor's discussions with HUNG and records examined,
5 HUNG did not perform and maintain a monthly reconciliation comparing the balance of all
6 separate beneficiary or transaction records (separate records) to the balance of the record of all
7 trust funds received and disbursed (control record) for BA1 during the audit period, in violation of
8 **Code section 10145 and Regulation 2831.2.**

9 **Issue Six (6). Code section 10159.5 and Regulation 2731: Use of False or Fictitious Name**

10 18. During the audit period, HUNG used the unlicensed fictitious business name,
11 "American Home Realty" to conduct real estate activity. HUNG used this unlicensed fictitious
12 business name on one or more property management agreements, residential leases, and month-to-
13 month rental agreements prior to first obtaining a license from the DRE for such fictitious name in
14 violation of **Code section 10159.5 and Regulation 2731.**

15 **FIRST CAUSE OF ACCUSATION**

16 **AUDIT VIOLATIONS IN AUDIT NO. LA210025**

17 19. The Complainant realleges and incorporates by reference all of the allegations
18 contained in paragraphs 1 through 18 above, with the same force and effect as though fully set
19 forth herein.

20 20. HUNG's conduct as described above in paragraphs 10 through 18 above violated
21 the Code and the Regulations as set forth below:

<u>Issue No.</u>	<u>Paragraphs</u>	<u>Violations</u>
22 1	11-12	Code section 10145; Regulation 2831
23 2	13-14	Code section 10145; Regulation 2831.1
24 3	15	Code section 10145; Regulation 2832
25 4	16	Code sections 10145 and 10176(e); Regulation 2832
26 5	17	Code section 10145; Regulation 2831.2
27 6	18	Code section 10159.5; Regulation 2731

28 21. The foregoing violations constitute cause for the suspension or revocation of
HUNG's real estate license and license rights under the provisions of **Code sections 10176(e),**
and 10177(d) and/or 10177(g).

1 **SECOND CAUSE OF ACCUSATION**

2 **BROKER SUPERVISION**

3 22. The Complainant realleges and incorporates by reference all of the allegations
4 contained in paragraphs 1 through 21 above, with the same force and effect as though fully set
5 forth herein.

6 23. Based on the above findings in the First Cause of Accusation in Issues One (1)
7 through Six (6) above, as the responsible broker, HUNG did not exercise adequate supervision and
8 control over her property management activity conducted by his employees to ensure compliance
9 with the Real Estate Law. HUNG failed to establish policies, rules, procedures, and systems to
10 review, oversee, inspect, and manage transactions requiring a real estate license and the handling
11 of trust funds.

12 24. HUNG's acts and/or omissions were in violation of **Code section 10177(h) and**
13 **Regulation 2725**, and constitute cause for the suspension or revocation of HUNG's real estate
14 license and license rights under the provisions of **Code sections 10177(h), and 10177(d) and/or**
15 **10177(g)**.

16 **INVESTIGATION AND ENFORCEMENT COSTS**

17 25. Code section 10106 provides that in any order issued in resolution of a disciplinary
18 proceeding before the Department of Real Estate, the Commissioner may request the
19 administrative law judge to direct a licensee found to have committed a violation of this part to
20 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

21 **AUDIT COSTS**

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

26 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
27 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
28 against the license and license rights of FRANK HSIU-HSIUNG HUNG under the Real Estate

1 Law, for the costs of investigation and enforcement, and audit as permitted by law, and for such
2 other and further relief as may be proper under other applicable provisions of law, and for costs of
3 audit.

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5 Dated at San Diego, California this 19 day of January, 2022.

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7
8 Veronica Kilpatrick
9 Veronica Kilpatrick
Supervising Special Investigator

10 cc: FRANK HSIU-HSIUNG HUNG
11 Veronica Kilpatrick
12 Sacto.

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