

FILED

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DEPT. OF REAL ESTATE

By

JUDITH A. BURANDAY, Counsel (SBN 278115)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105
Phone: (213)-559-5990
Direct: (213) 443-9263
Fax: (213) 576-6917
Email: Judith.Buranday@dre.ca.gov
Attorney for Complainant

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation Against	)	
	)	No. H-43081 LA
CINDY SU MARK,	)	
	)	
Respondent.	)	<u>ACCUSATION</u>
	)	
	)	

The Complainant, Ray Dagnino, a Supervising Special Investigator of the State of California, for cause of Accusation against CINDY SU MARK ("Respondent") alleges as follows:

1.

The Complainant, Ray Dagnino, a Supervising Special Investigator of the State of California, makes this Accusation in his official capacity.

2.

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

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ACCUSATION

- 1 -

1 LICENSE HISTORY

2 3.

3 Respondent is presently licensed and/or has license rights under the Code as a
4 real estate broker with Department of Real Estate ("Department") license ID 01332204. Since
5 December 1, 2022, Respondent has maintained the fictitious business name "Cindy Mark
6 Realty" with the Department.

7 REAL ESTATE ACTIVITY

8 4.

9 At all times relevant herein Respondent engaged in the business of, acted in the
10 capacity of, advertised or assumed to act as a real estate broker for or in expectation of
11 compensation, within the meaning of Code section 10131(b) (leases or rents or offers to lease
12 or rent, or places for rent, or solicits listings of places for rent, or solicits for prospective
13 tenants, or negotiates the sale, purchase, or exchanges of leases on real property, or on a
14 business opportunity, or collects rents from real property, or improvements thereon, or from
15 business opportunities).

16 CAUSE FOR ACCUSATION

17 (AUDIT NO. LA240004)

18 5.

19 On or about February 19, 2025, the Department completed an audit examination
20 of the books and records of Respondent pertaining to Respondent's property management
21 activities described in Paragraph 4 above, to determine whether Respondent is in compliance
22 with the Code and Regulations. The audit examination covered the time period from January 1,
23 2023, through May 31, 2024 ("audit period"). Respondent and Respondent's Accountant, Tony
24 Alvarez ("Alvarez"), provided records and documents for the examination.

25 6.

26 During the audit period, according to Respondent and the records examined,
27 Respondent managed approximately one hundred and seven (107) properties with about one
28 hundred fifty-three (153) units for about fifty-seven (57) owners. Respondent maintained one

(1) bank account, at Pacific Premier Bank with Account Number xxxxxx1210 ("TA-1"), for handling the receipts and disbursements of trust funds in connection with Respondent's property management activity during the audit period.

7.

The audit examination revealed violations of the Code and the Regulations, as set forth in the following paragraphs, and more fully discussed in Audit Report No. LA240004 and the exhibits and work papers attached to the audit reports:

(a) Trust Fund Handling for Multiple Beneficiaries (Code section 10145; Regulations section 2832.1).

As of May 31, 2024, TA-1 had a trust fund shortage of, at a minimum, \$266,179.55, which included \$10,271.24 in over-disbursements of management fees, \$8,827.53 in negative property balances, \$635.45 in bank charges, and an unidentified shortage of \$246,445.33.

As of June 20, 2023, TA-1 had a trust fund shortage of, at a minimum, \$212,083.50, which included \$5,768.50 in negative property balances for property owners Alexander R. or Natasha R. and B***** Family Trust, \$42.00 in bank charges, and an unidentified shortage of \$206,273.00.

Respondent did not provide any evidence that all the owners of the trust funds had given their written consent to allow Respondent to reduce the balance of trust funds in TA-1 to an amount less than the existing aggregate trust fund liabilities.

(b) Over-disbursements of Management Fees, Unauthorized Disbursements, Conversion of Trust Funds, Mishandling of Trust Funds (Code sections 10145, 10176(i); Regulations section 2832).

Based on the limited cancelled checks and records provided for the audit examination, the auditor reconstructed the broker's fees earned and disbursed for July 2023 and October 2023 and determined there was, at a minimum, an over-disbursement of management fees and conversion of trust funds from TA-1 totaling \$10,271.24 as of May 31, 2024.

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1 **(c) Trust Fund Records to be Maintained (Code section 10145; Regulations section 2831).**

2 The control record maintained for TA-1 was inaccurate and incomplete.
3 Specifically, the control record for TA-1 was not maintained in a format that would readily
4 enable tracing and reconciliation and did not have an accurate daily balance, Respondent
5 withdrew lump sum amounts from TA-1 to disburse against the management fees, late fees, and
6 leasing fees earned, Respondent did not issue a check or disburse the total specific amount each
7 month for the management, leasing, and late fees earned, and Respondent failed to provide a
8 breakdown of the amounts of the checks disbursed for Respondent's management fees.
9 Furthermore, Respondent used TA-1 to pay for her personal and financial obligations against
10 the management fees earned and collected. Moreover, based on the records provided,
11 approximately one hundred and sixty (160) checks cleared TA-1 throughout the audit period
12 that were not recorded on the control record.

13 **(d) Separate Records for Each Beneficiary or Transaction (Code section 10145;**
14 **Regulations 2831.1).**

15 The separate records maintained for TA-1 were inaccurate and incomplete.
16 Specifically, the separate records were not maintained in a format that would readily enable
17 tracing and reconciliation and did not have an accurate daily balance, Respondent withdrew
18 lump sum amounts from TA-1 to disburse against the management fees, late fees, and leasing
19 fees earned, Respondent did not issue a check or disburse the total specific amount each month
20 for the management, leasing, and late fees earned, and Respondent failed to provide a
21 breakdown of the amounts of the checks disbursed for Respondent's management fees. In
22 addition, checks cleared TA-1 with a different amount than the recorded amount on the
23 separate records, checks were recorded on the separate records as void but cleared TA-1, and
24 the checks that cleared TA-1 were not recorded on the separate records. Furthermore,
25 Respondent failed to maintain and provide a separate record for her broker's fees earned and
26 disbursed, and Respondent failed to provide a reconstructed ledger as requested by the
27 Department auditor.

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1 **(e) Trust Account Reconciliation (Code section 10145; Regulations section 2831.2).**

2 Respondent did not perform or maintain a monthly reconciliation for TA-1
3 comparing the balance of all the separate records to the balance of the control record.

4 **(f) Trust Account Withdrawals (Code section 10145; Regulations section 2834).**

5 According to the cancelled checks examined and the bank signature card
6 maintained for TA-1, Respondent allowed Satore Roxanne Mark ("S. Mark"), a licensed
7 salesperson with Lic. ID 01979459, to make withdrawals from TA-1 and to be an authorized
8 signer on TA-1 from September 8, 2023, through May 31, 2024. S. Mark was not registered
9 under Respondent's broker license from September 8, 2023, through May 31, 2024. S. Mark is
10 Respondent's daughter, bookkeeper, and property manager.

11 **(g) Retention and Termination of Salesperson and Broker Associate (Code section**
12 **10161.8; Regulations 2752).**

13 Salesperson S. Mark was employed by Respondent during the entire audit period
14 from January 1, 2023, through May 31, 2024. According to the Department's records, however,
15 S. Mark was not registered under the broker license of Respondent from September 8, 2023, to
16 May 31, 2024. Moreover, the broker-salesperson agreement between Respondent and S. Mark
17 was signed and dated January 1, 2023.

18 **(h) Records Retention (Code section 10148).**

19 Respondent failed to provide all records for the audit period to the Department
20 as requested by the audit for examination. For example, even after numerous attempts to obtain
21 documents for the examination, Respondent failed to make the following documents available
22 for review: (1) all canceled checks of TA-1 except the canceled checks for July 2023, June
23 2024, and about one hundred sixty (160) canceled checks for various months throughout the
24 audit period; (2) the ledger for broker's fees earned and disbursed from TA-1; (3) all deposit
25 tickets/bank deposits/ACH receipts batches for TA-1; (4) all online payments/ACH
26 disbursements batched for TA-1; (5) all invoices related to disbursements from TA-1; and (6)
27 all property management agreements; (7) all rental/lease agreements except the rental
28 agreements of two (2) properties which were provided by Respondent immediately prior to the

entrance interview on August 7, 2024; (8) all owners' statements/accounting rendered to the property owners; and (9) sales logs and all real estate sales transaction files including but not limited to the sales commission checks and commission checks deposit tickets.

8.

Each of the foregoing violations in Paragraph 7(a)-(h) above constitutes cause for the suspension or revocation of the real estate license and/or license rights of Respondents under the provisions of Sections 10177(d) and/or 10177(g).

COSTS

(AUDIT COSTS)

9.

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

(INVESTIGATION AND ENFORCEMENT COSTS)

10.

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

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1 WHEREFORE, Complainant prays that a hearing be conducted on the
2 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
3 disciplinary action against all the licenses and/or license rights of Respondent CINDY SU
4 MARK under the Real Estate Law, for the costs of investigation and enforcement as permitted
5 by law, for the cost of the audits, and for such other and further relief as may be proper under
6 other applicable provisions of law.

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8 Dated at San Diego, California this 15th day of July, 2025.

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13 Ray Dagnino
14 Supervising Special Investigator
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25 cc: CINDY SU MARK
26 Ray Dagnino
27 Sacto.
28 Audits – Zaky Wanis