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FILED

MAY 21 2012

DEPARTMENT OF REAL ESTATE
By R. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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12 In the Matter of the Accusation of)
13) No. H-4349 SD
14 EPIFANY PROPERTIES, INC. and)
15 RICHARD PATRICK ANTHONY) ACCUSATION
16 ST. ROSE,)
17 Respondents.)

18 The Complainant, VERONICA KILPATRICK, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation against RICHARD PATRICK
20 ANTHONY ST. ROSE, ("ST. ROSE"), and EPIFANY PROPERTIES, INC., ("EPIFANY"),
21 (collectively "Respondents"), is informed and alleges as follows:

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23 The Complainant makes this Accusation in her official capacity.

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25 ST. ROSE is licensed by and/or has license rights by the Department of Real
26 Estate ("the Department") as a real estate broker. In addition, ST. ROSE is licensed by the
27 Department as the designated broker/officer of EPIFANY. As the designated broker/officer,

1 ST. ROSE is responsible, pursuant to Section 10159.2 (responsibility of corporate broker in
2 charge of the California Business and Professions Code, ("the Code"), for the supervision of the
3 activities of the officers, agents, real estate licensees and employees of EPIFANY for which a
4 real estate license is required.

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6 EPIFANY is licensed by and/or has license rights by the Department as a
7 corporate real estate broker.

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9 Michele Hrivnak, ("HRIVNAK"), is licensed by and/or has license rights with
10 the Department as a real estate salesperson.

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12 At no time has Breanna Walulik, ("WALULIK"), been licensed by the
13 Department in any capacity.

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15 At all times relevant herein, Respondents engaged in the business of, acted in the
16 capacity of, advertised or assumed to act as a real estate broker within the State of California
17 within the meaning of Section 10131(b) of the Code (broker defined – property
18 management/collection of rent), including the operation and conduct of a property management
19 business with the public, wherein, on behalf of others, for compensation or in expectation of
20 compensation, Respondents leased or rented and offered to lease or rent, and solicited for
21 prospective tenants of real property or improvements thereon, and collected rents from real
22 property or improvements thereon.

23 FIRST CAUSE OF ACTION

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25 In or about the period of April 11, 2011, and continuing intermittently through
26 May 5, 2011, an audit was conducted of the records of Respondents at their offices located at
27 1230 Columbia Street, #850, San Diego, California, and the Department's Oakland District

Office. The auditor herein examined the records for the period of January 1, 2009, through March 31, 2011 (the audit period).

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While acting as a real estate broker as described in Paragraph 6, above, and within the audit period, Respondents accepted or received funds in trust (trust funds) in the course of the property management activities described in Paragraph 6, above, and deposited or caused the funds to be deposited into a trust account maintained by Respondents, including:

Bank Account #1

Bank of America
San Diego Main Office
P. O. Box 37176
San Francisco, CA 94137-0176

Account No.: XXXXXX8072

Account Name: Epifany Properties Inc.
c/o 44th Street

Signatories: Unknown

Bank Account #2

Bank of America
San Diego Main Office
P. O. Box 37176
San Francisco, CA 94137-0176

Account No.: XXXXXX8017

Account Name: Epifany Properties Inc.
c/o Adams Ave

Signatories: Unknown

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Bank Account #3

Bank of America
San Diego Main Office
P. O. Box 37176
San Francisco, CA 94137-0176

Account No.: XXXXXX2530

Account Name: Epifany Properties Inc.

Signatories: Unknown

Bank Account #4

Bank of America
San Diego Main Office
P. O. Box 37176
San Francisco, CA 94137-0176

Account No.: XXXXXX7758

Account Name: Epifany Properties Inc.
Trust Account

Signatories: Richard St. Rose, REB

Bank Account #5

Wells Fargo Bank
P. O. Box 6995
Portland, OR 97228-6995

Account No.: XXXXXX0416

Account Name: Epifany Properties Inc.
FBO/Tenant Security Deposits

Signatories: Richard St. Rose, REB
Michele Hrivnak, RES

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Thereafter, Respondents from time-to-time made disbursement of said trust funds.

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(b) On or about August September 30, 2010, there was a \$12,381.11 shortage for Trust Account #5. EPIFANY did not provide evidence that the owners of the trust funds had given their written consent allowing it to reduce the balance of the funds in Trust Account #5 to an amount less than the existing aggregate trust fund liabilities. Such acts and/or omissions by EPIFANY violate Section 10145 of the Code and Section 2832.1 of the Regulations.

- 1 (c) EPIFANY and ST. ROSE allowed trust funds to be used to pay ST. ROSE's
2 personal debts, including, but not limited to, rent on ST. ROSE's personal
3 residence, the purchase of a personal automobile and gambling debts. Such
4 acts and/or omissions by EPIFANY and ST. ROSE are grounds for discipline
5 under Section 10176(i) (fraud or dishonest dealing) of the Code.
- 6 (d) EPIFANY failed to maintain adequate trust account records resulting in an
7 inability by the auditor to conduct a reconciliation of the adjusted bank
8 balance to the accountability of Trust Accounts #1, #2 and #6. Such acts
9 and/or omissions by EPIFANY violate of Sections 10145 and 10177(d) of
10 the Code, and Sections 2831 (trust fund records maintenance), 2831.1
11 (separate beneficiary records) and 2831.2 (trust account reconciliation) of the
12 Regulations.
- 13 (e) EPIFANY failed to designate Trust Accounts #1, #2, #3, #4, #5 and #6 as
14 trust accounts. Such acts and/or omissions by EPIFANY violate Section
15 10145 of the Code and Section 2832 (trust fund handling) of the Regulations.
- 16 (f) EPIFANY failed to maintain adequate Control Records for Trust Accounts
17 #1, #2, #3, #4, #5 and #6. Such acts and/or omissions by EPIFANY violate
18 Section 2831 of the Regulations.
- 19 (g) EPIFANY failed to maintain a monthly reconciliation of the total of all
20 separate records' balances with the record of all trust funds received and
21 disbursed for Trust Accounts #3 and #4. Such acts and/or omissions by
22 EPIFANY violate Section 10145 of the Code and Section 2831.2 of the
23 Regulations.
- 24 (h) EPIFANY allowed non-licensee Michele Hrivnak to withdraw funds from
25 Trust Accounts #5 and #6 after her real estate salesperson license expired on
26 January 8, 2010, and did not provide adequate fidelity bond coverage for her.

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1 Such acts and/or omissions by EPIFANY violate Section 10145 of the Code
2 and Section 2834 (trust account withdrawals) of the Regulations.

3 (i) EPIFANY commingled broker funds with trust funds in Trust Accounts #3
4 and #4. Such acts and/or omissions by EPIFANY violate Section 10176(e)
5 (commingling) of the Code and Section 2835 (commingling) of the
6 Regulations.

7 (j) EPIFANY failed to retain both sides of cancelled checks from Trust Account
8 #1 and Trust Account #2. Such acts and/or omissions by EPIFANY violate
9 Section 10148(a) (record retention requirements) of the Code.

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11 The acts and/or omissions of EPIFANY, as alleged in Paragraph 9, above, are
12 grounds for discipline under Sections 10176(i), 10177(d) (willful disregard of real estate law)
13 and/or 10177(g) (negligence) of the Code. The acts of ST. ROSE in Paragraph 9(c), above, are
14 grounds for discipline under Section 10176(i) of the Code.

15 SECOND CAUSE OF ACTION

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17 In connection with the operation and conduct of the real estate management
18 activities described in Paragraph 6, above, EPIFANY engaged in the business of claiming,
19 demanding, charging, receiving, collecting or contracting for the collection of advance fees
20 within the meaning of Sections 10026 and 10131.2 of the Code. In collecting such advance
21 fees, EPIFANY used a form of advance fee agreement which had not been provided to the
22 Department for review and approval prior to its use.

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24 The acts and/or omissions by EPIFANY as alleged in Paragraph 11, above,
25 violate Section 10085 (prior submission of advance fee materials) of the Code and Section 2970
26 (prior submission of advance fee materials) of the Regulations.

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2 The acts and/or omissions of EPIFANY as alleged in Paragraph 11, above, are
3 grounds for the revocation or suspension of EPIFANY's real estate license or license rights
4 under Sections 10177(j) (fraud or dishonest dealing), and 10177(d) and/or 10177(g) of the
5 Code.

6 THIRD CAUSE OF ACTION

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8 Breanna Walulik, who has never been licensed by the Department in any
9 capacity, entered into at least three (3) lease/rental agreements on behalf of EPIFANY.

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11 The acts and/or omissions by EPIFANY as alleged in Paragraph 14, above,
12 violate Section 10137 (employment/compensation of unlicensed persons) of the Code.

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14 The acts and/or omissions by EPIFANY as alleged in Paragraph 14, above, are
15 grounds for discipline under Sections 10177(d) and/or 10177(g) of the Code.

16 FOURTH CAUSE OF ACTION

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18 EPIFANY failed to notify the Department of its employment of licensee Tim
19 Wayne Anspach as a real estate salesperson.

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21 The acts and/or omissions of EPIFANY as alleged in Paragraph 17, above,
22 violate Section 10161.8 (notification to Department of real estate salesperson employment) of
23 the Code.

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25 The acts and/or omissions of EPIFANY as alleged in Paragraph 17, above,
26 are grounds for discipline under Sections 10177(d) and/or 10177(g) of the Code.

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1 FIFTH CAUSE OF ACTION

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3 EPIFANY failed to disclose its Department license identification number on the
4 website it owned and controlled related to the real estate property management activities, as set
5 forth in Paragraph 6, above.

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7 The acts and/or omissions of EPIFANY as alleged in Paragraph 20, above,
8 violate Section 10140.6 (disclosure of license status in advertising) of the Code and Section
9 2773 (disclosure of license identification number on solicitation material) of the Regulations.

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11 The acts and/or omissions of EPIFANY as alleged in Paragraph 20, above, are
12 grounds for discipline under Sections 10177(d) and/or 10177(g) of the Code.

13 SIXTH CAUSE OF ACTION

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15 At all times relevant herein, ST. ROSE was responsible, as the designated
16 broker/officer for EPIFANY, for the supervision and control of the activities conducted on
17 behalf of the corporation by its officers and employees. ST. ROSE failed to exercise reasonable
18 supervision and control over the property management brokering activities of EPIFANY. In
19 particular, ST. ROSE permitted, ratified and/or caused the conduct described in the First,
20 Second and Third Causes of Action, above, to occur, and failed to take reasonable steps,
21 including, but not limited to, the handling of trust funds, supervision of employees and the
22 implementation of policies, rules, procedures and systems to ensure the compliance of the
23 corporation with the Real Estate Law and the Regulations.

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25 The acts and/or omissions of ST. ROSE, alleged in Paragraph 23, above, violate
26 Section 10159.2 of the Code and Section 2725 of the Regulations (broker supervision).

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The acts and/or omissions of ST. ROSE, alleged in Paragraph 23, above, constitute grounds for disciplinary action under Sections 10177(d) and/or 10177(g), and 10177(h) (reasonable supervision responsibility of broker) of the Code.

COST RECOVERY

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 the investigation and enforcement of the case.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation, and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents under the Code, for the reasonable cost of investigation and prosecution of this case, including agency attorney's fees, and for such other and further relief as may be proper under applicable provisions of law.


VERONICA KILPATRICK
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 11 day of May, 2012.