

FINDINGS OF FACT

1.

On October 20, 2022, Veronica Kilpatrick made the Accusation in her official capacity as a Supervising Special Investigator of the Department. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondent's last known mailing address on file with the Department on October 20, 2022.

2.

On December 13, 2022, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

LICENSE HISTORY

3.

a. Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code, as a real estate broker ("REB"), Department of Real Estate¹ ("Department") license ID 01480844.

b. The Department originally issued Respondent's REB license on or about February 27, 2013.

c. Respondent's license is scheduled to expire on July 1, 2025, unless renewed.

d. According to the Department's records, from approximately November 24, 2020 through February 26, 2021, Respondent's main office address was 864 Grand Avenue, #112, in San Diego, California.

4.

To date, the Department has incurred investigation costs of \$1,057.75

5.

Attached as Exhibit "A" is a true and correct copy of the Accusation filed on October 20, 2022, which is incorporated herein as part of this Decision.

DETERMINATION OF ISSUES

1.

The allegations contained in the Accusation, incorporated herein by reference made in Paragraph 5, above, constitute cause for the suspension or revocation of all the licenses,

¹Between 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.

license endorsements, and license rights of Respondent under the provisions of Sections 10162, 10085, 10085.5 and Regulations Section 2715 and 2970 of the Business and Professions Code.

2.

The standard of proof applied was clear and convincing evidence to a reasonable certainty.

ORDER

All licenses and licensing rights of Respondent BRANDON LEE YAGER under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on FEB 21 2023.

DATED: 1/24/2023.

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER



By: Marcus L. McCarther
Chief Deputy Real Estate Commissioner

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8 *Attorney for Complainant*

FILED
OCT 20 2022
DEPT. OF REAL ESTATE
By 

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H-05322 SD
13)
14 BRANDON LEE YAGER,) ACCUSATION
15)
16 Respondent.)
17)

18 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
19 State of California, for cause of Accusation against BRANDON LEE YAGER ("Respondent")
20 alleges as follows:

21 1.

22 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
23 State of California, makes this Accusation in her official capacity.

24 2.

25 All references to the "Code" are to the California Business and Professions Code
26 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

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1 LICENSE HISTORY

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3 a. Respondent is presently licensed and/or has license rights under the Real
4 Estate Law, Part 1 of Division 4 of the California Business and Professions Code, as a real
5 estate broker (“REB”), Department of Real Estate¹ (“Department”) license ID 01480844.

6 b. The Department originally issued Respondent’s REB license on or about
7 February 27, 2013.

8 c. Respondent’s license is scheduled to expire on July 1, 2025, unless renewed.

9 d. According to the Department’s records, from approximately November 24,
10 2020 through February 26, 2021, Respondent’s main office address was 864 Grand Avenue,
11 #112, in San Diego, California.

12 PRIOR DISCIPLINE

13 4.

14 Effective November 24, 2010, in Case No. H-02415 FR, the Real Estate
15 Commissioner suspended the real estate salesperson license of Respondent, for 60 days, for
16 violation of Code Sections 10146, 10177(d) and 10177(g) and Regulations Section 2970, but
17 granted Respondent a stay of said suspension upon, among other conditions, payment of
18 monetary penalty and no further cause for discipline for one year.

19 5.

20 Effective October 24, 2017, in Case No. H-03092 FR, the Real Estate
21 Commissioner suspended the real estate salesperson license of Respondent, for 90 days, for
22 violation of Code Sections 10145, 10145(g), 10146, 10177(d), 10177(g), 10185, and 10186 and
23 Regulations Section 2831, 2831.1, 2831.2, 2832, 2832.1, 2970, and 2972, but granted
24 Respondent a stay of said suspension upon, among other conditions, payment of monetary
25 penalty and no further cause for discipline for two years.

26
27 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.

1 Any person or entity using, disseminating, or publishing any matter which the
2 commissioner has ordered, pursuant to this section, not to be used, published, or disseminated
3 shall be guilty of a misdemeanor punishable by a fine not exceeding two thousand five hundred
4 dollars (\$2,500) or by imprisonment in the county jail not exceeding six months, or both, for
5 each such use, dissemination, or publication. . . Any violation of any of the provisions of this
6 part or of the rules, regulations, orders or requirements of the commissioner thereunder shall
7 constitute grounds for disciplinary action against a licensee, or for proceedings under Section
8 10081 of this code, or both. These sanctions are in addition to the criminal proceedings
9 hereinbefore provided.”

10 Code Section 10085.5

11 11.

12 Code Section 10085.5 provides, in pertinent part, that “It shall be unlawful for
13 any person to claim, demand, charge, receive, collect, or contract for an advance fee (1) for
14 soliciting lenders on behalf of borrowers or performing services for borrowers in connection
15 with loans to be secured directly or collaterally by a lien on real property, before the borrower
16 becomes obligated to complete the loan or, (2) for performing any other activities for which a
17 license is required, unless the person is a licensed real estate broker and has complied with the
18 provisions of this part. . .”

19 Code Section 10162

20 12.

21 Code Section 10162 provides, in pertinent part, that “(a) Every licensed real
22 estate broker shall have and maintain a definite place of business in the State of California that
23 serves as the broker’s office for the transaction of business. This office shall be the place where
24 the broker’s license is displayed and where personal consultations with clients are held. . .”

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1 Further Grounds for Disciplinary Action – Code Section 10177

2 13.

3 Pursuant to Code Section 10177, “The commissioner may suspend or revoke the
4 license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny
5 the issuance of a license to an applicant, who has done any of the following:

6 . . .

7 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing
8 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and
9 regulations of the commissioner for the administration and enforcement of the Real Estate Law
10 and Chapter 1 (commencing with Section 11000) of Part 2.

11 . . .

12 (g) Demonstrated negligence or incompetence in performing an act for which he
13 or she is required to hold a license. . .”

14 VIOLATIONS OF THE REAL ESTATE LAW – CAUSES FOR DISCIPLINE

15 14.

16 In the course of the activities described above in Paragraph 6, and based on the
17 facts discovered by the Department in Paragraphs 7 through 9, above, Respondent acted in
18 violation of the Code and Regulations, as described below.

19 15.

20 In or about 2021 and 2022, Respondent offered flat advanced fee plans for
21 listing properties on local MLS’. Some of the plans also included listing periods, photos,
22 contract review, buyer leads, sales comps (sic), review and discuss sales contract, prepare and
23 send counter offer, calculate closing costs, review process, and Docusign counter offerss, in
24 violation of **Code Sections 10085 and 10085.5 and Regulations Section 2970.**

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16.

From approximately November 24, 2020 through February 26, 2021, Respondent's main office address was 864 Grand Avenue, #112, in San Diego, California, a FedEx post office box, in violation of **Code Section 10162 and Regulations Section 2715**.

Additional Violations of the Real Estate Law

17.

The overall conduct of Respondent violates the Real Estate Law and constitutes cause for the suspension or revocation of their real estate license and license rights under the provisions of Code Section 10177(g) for negligence and Code Section 10177(d) for willful disregard of the Real Estate Law.

COSTS

18.

Code Section 10106 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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PRAYER

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/or license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) of Respondent BRANDON LEE YAGER, for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under applicable provisions of law.

Dated at San Diego, California this 20 day of October, 2022.

Veronica Kilpatrick
Veronica Kilpatrick
Supervising Special Investigator

cc: BRANDON LEE YAGER
Veronica Kilpatrick
Sacto.