

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of: BRANDON LEE YAGER,)	DRE No. 1	H-05322 SD
Respondent(s).)		

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on December 13, 2022, and the Findings of Fact set forth herein, which are based on one or more of the following: (1) The express admissions of Respondent, BRANDON LEE YAGER ("Respondent"); (2) affidavits; and (3) other evidence.

This Decision revokes one or more real estate licenses on the grounds of the violation of the Real Estate Law, Part 1 commencing with Section 10000 of the Business and Professions Code ("Code") and/or the Regulations of the Real Estate Commissioner, Title 10, Chapter 6 of the California Code of Regulations ("Regulations").

Pursuant to Government Code Section 11521, the California Department of Real Estate ("the Department") may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license, or to the reduction of a penalty, is controlled by Section 11522 of the Government Code. A copy of Government Code Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

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,

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.

license endorsements, and licese 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 2 1 2023

DATED:

DOUGLAS R. McCAULEY REAL ESTATE COMMISSIONER

By: Marcus L. McCarther

Chief Deputy Real Estate Commissioner



Department of Real Estate 320 West Fourth St, Ste 350 Los Angeles, CA, 90013

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DEPT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of:) DRE	NO. <i>H-05322 SD</i>
BRANDON LEE YAGER,)) <u>D</u>	EFAULT ORDER
Respondent.)	

Respondent BRANDON LEE YAGER, having failed to file a Notice of Defense within the time required by Section 11506 of the Government Code, is now in default. It is, therefore, ordered that a default be entered on the record in this matter.

DOUGLAS R. McCAULEY REAL ESTATE COMMISSIONER

By: Chika Sunquist (Dec 13, 2022 09:03 PST)

CHIKA SUNQUIST Assistant Commissioner, Enforcement

1 2	Kevin H. Sun, Counsel (SBN 276539) Department of Real Estate				
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6	Attorney for Complainant				
7					
8	BEFORE THE DEPARTMENT OF REAL ESTATE				
9	STATE OF CALIFORNIA				
10	* * *				
11	In the Matter of the Accusation of) No. H-05322 SD				
12	BRANDON LEE YAGER,) <u>ACCUSATION</u>				
13) Respondent.)				
14)				
15					
16	The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the				
17	State of California, for cause of Accusation against BRANDON LEE YAGER ("Respondent")				
18	alleges as follows:				
19	1.				
20	The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the				
21	State of California, makes this Accusation in her official capacity.				
22	2.				
23	All references to the "Code" are to the California Business and Professions Code				
24	and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.				
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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.

PRIOR DISCIPLINE

4.

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

5.

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

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.

LICENSED ACTIVITIES

6.

At all times mentioned herein, Respondent engaged in the performance of activities requiring a real estate license pursuant to Code Section 10130.

FACTS DISCOVERED BY THE DEPARTMENT

7.

In or about 2021, the Department received an anonymous complaint that Respondent was advertising, on his website, collecting advanced fees for real estate services.

8.

On or about June 7, 2021 and June 21, 2022, the Department conducted an investigation with regards to Respondent's advertisements on his website. The Department discovered that Respondent offered flat advanced fee plans for listing properties on local MLS'. Some of the plans also included listing periods, photos, contract review, buyer leads, sales comps (sic), review and discuss sales contract, prepare and send counter offer, calculate closing costs, review process, and Docusign counter offers.

9.

From approximately November 24, 2020 through February 26, 2021, Respondent's main office address was 864 Grand Avenue, #112, in San Diego, California. This address was discovered to be a FedEx post office box.

APPLICABLE SECTIONS OF THE REAL ESTATE LAW

Code Section 10085

10.

Code Section 10085 provides, in pertinent part, that "The commissioner may require that any or all materials used in obtaining advance fee agreements, including but not limited to the contract forms, letters or cards used to solicit prospective sellers, and radio and television advertising be submitted to him or her at least 10 calendar days before they are used.

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ACCUSATION

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

Code Section 10085.5

11.

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

Code Section 10162

12.

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

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Further Grounds for Disciplinary Action – Code Section 10177

13.

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

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

8.50

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

VIOLATIONS OF THE REAL ESTATE LAW – CAUSES FOR DISCIPLINE

14.

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

15.

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

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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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ACCUSATION

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

BRANDON LEE YAGER Veronica Kilpatrick Sacto.

cc:

ACCUSATION