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FILED

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BUREAU OF REAL ESTATE

By *[Signature]*

7
8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-40733 LA
12)
13 HOMEBA Y BROKER CA, INC.,)
14 formerly known as Broker Tech, Inc.;)
15 MARTIN JAMES BENNETT,) ACCUSATION
16 individually and as Designated Officer)
17 of Broker Tech, Inc.; and THOMAS)
18 PATRICK OWEN, JR.,)
19 Respondents.)

20 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
21 State of California, acting in her official capacity, for cause of Accusation against HOMEBAY
22 BROKER CA, INC., formerly known as Broker Tech, Inc., MARTIN JAMES BENNETT,
23 individually and as Designated Officer of Broker Tech, Inc., and THOMAS PATRICK OWEN,
24 JR. (collectively, "Respondents") alleges as follows:

25 I.

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

1 2.

2 Broker Tech, Inc. ("BTI") was licensed and/or had license rights under the Real
3 Estate Law as a corporate real estate broker. BTI was originally licensed as a corporate real
4 estate broker by the Bureau of Real Estate ("Bureau") on or about March 27, 2015. Since that
5 date and continuing to April 23, 2017, Respondent MARTIN JAMES BENNETT
6 ("BENNETT") was the designated officer of BTI.

7 3.

8 Effective April 7, 2017, BTI changed its name with the California Secretary of
9 State to HOMEBAY BROKER CA, INC. ("HBCI"). The licensee name change was effective
10 with the Bureau as of July 13, 2017, with licensed real estate broker David Michael Bezeau as
11 the Designated Officer of HBCI. The corporate real estate broker license of HBCI is due to
12 expire on July 12, 2021.

13 4.

14 Respondent BENNETT is presently licensed and/or has license rights under the
15 Real Estate Law as a real estate broker. Respondent was originally licensed as a real estate
16 salesperson by the Bureau beginning March 2, 2005, and as a real estate broker beginning
17 March 3, 2006. Respondent's real estate broker license is due to expire on November 15, 2018.

18 5.

19 Respondent THOMAS PATRICK OWEN, JR. ("OWEN") is presently licensed
20 and/or has license rights under the Real Estate Law as a real estate broker. Respondent was
21 originally licensed as a real estate broker beginning February 2, 2006. Respondent's real estate
22 broker license is due to expire on April 10, 2021.

23 6.

24 At no time has Homebay, Inc. ("Homebay") been licensed by the Bureau in any
25 capacity. Respondent OWEN is a founder and owner of Homebay.

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7.

At all times herein relevant, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California within the meaning of Code Section 10131(a). Their activities included the solicitation for listings of and the negotiation of the purchase and sale of real property for and on behalf of others for compensation.

FIRST CAUSE OF ACCUSATION

(Unlawful Payment of Compensation)

8.

For an unknown period of time prior to April 1, 2015, and continuing through the April 7, 2017, Respondent OWEN, through his unlicensed corporation Homebay, solicited members of the public interested in selling their residential real property and advertised that Homebay would list the consumer's property for sale in the Multiple Listing Service ("MLS") and other sites, review offers and propose counter offers, and "manage" all transaction paperwork in exchange for a fee ranging from \$750.00 to \$3,000.00.

9.

Consumers who placed their property with Homebay for listing in the MLS and other sites, would sign a listing agreement with BTI. According to that agreement, BTI would charge no commission for any services, unless BTI represented the buyer in the transaction. At the close of escrow, the fee for listing the property and related services rendered on behalf of the seller was paid to Homebay.

10.

Prior to June 14, 2016, the B. and S. Family Trust hired Homebay to list its residential real property located in San Diego, California, for sale in the MLS and other Internet real estate sites. The property was sold and escrow closed on or about June 14, 2016. Although the home seller had signed a listing agreement with BTI, Homebay collected

1 \$750.00 at the close of escrow for listing and transaction services rendered to the seller, in
2 violation of Code Section 10137.

3 11.

4 On or about December 1, 2016, Barbara O. hired Homebay to list her
5 residential real property located in San Diego, California, for sale in the MLS and other
6 Internet real estate sites. The property was sold and escrow closed on or about March 14,
7 2017. Although the home seller had signed a listing agreement with BTI, Homebay collected
8 \$3,500.00 at the close of escrow for listing and transaction services rendered to the seller, in
9 violation of Code Section 10137.

10 12.

11 The above two real estate transactions are only two examples of the estimated
12 hundreds of real estate transactions conducted by Homebay in which Respondents employed
13 and compensated Homebay for engaging in activities that require a real estate license when
14 Homebay is not licensed, in violation of Code Section 10137.

15 13.

16 The conduct of Respondents, as alleged above, subjects the real estate licenses
17 and license rights of Respondents to suspension or revocation pursuant to Code Sections
18 10177(d) and/or 10177(g).

19 SECOND CAUSE OF ACCUSATION

20 (Failure to Supervise – BENNETT)

21 14.

22 Based on the conduct alleged in paragraphs 8, 9, 10, 11, and 12, above,
23 Respondent BENNETT failed to exercise reasonable supervision over the activities of BTI to
24 ensure compliance with the Real Estate Laws and the Commissioner's Regulations in violation
25 of Code Sections 10159.2, 10177(g), and 10177(h) and Regulation 2725.

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27 ///

15.


The conduct, acts and omissions of Respondent BENNETT as set forth above, are cause for the suspension or revocation of his license and license rights pursuant to Code Sections 10177(d), 10177(g), and/or 10177(h).

16.

California Business and Professions Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, 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.

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 the licenses and license rights of Respondents HOMEBAY BROKER CA, INC., formerly known as Broker Tech, Inc., MARTIN JAMES BENNETT, and THOMAS PATRICK OWEN, JR. under the Real Estate Law, for the costs of investigation and enforcement as provided by law, and for such other and further relief as may be proper under other applicable provisions of law.

Dated at San Diego, California: July 25, 2017.


Veronica Kilpatrick
Supervising Special Investigator

cc: HomeBay Broker CA, Inc.
Martin James Bennett
Thomas Patrick Owen, Jr.
Veronica Kilpatrick
Sacto.