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FILED
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DEPARTMENT OF REAL ESTATE
By John C. Smith

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H-41130 LA
13)
14 MARYELLEN HILL INC, and) ACCUSATION
15 MARYELLEN HILL, individually as)
16 designated officer of Maryellen Hill Inc,)
17 Respondents.)

18 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
19 State of California, for cause of Accusation against MARYELLEN HILL INC and
20 MARYELLEN HILL, as designated officer of Maryellen Hill Inc, (collectively "Respondents")
21 alleges as follows:

22 1.

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

25 2.

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

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1 for the supervision of the activities conducted on behalf of Respondent MHI by its officers,
2 agents, real estate licensees, and employees pursuant to Section 10159.2 of the Code.

3 (PRIOR LICENSE DISCIPLINE)

4 5.

5 On or about January 10, 2002, in Case No. H-28963 LA, the Real Estate
6 Commissioner suspended Respondent MHI's corporate real estate broker license and
7 Respondent HILL's real estate broker license for sixty (60) days pursuant to Sections 10137,
8 10177(d) and 10177(g) of the Code and Sections 2831 and 2832 of the Regulations, provided
9 however, that said suspension shall be stayed for two (2) years upon Respondents MHI and
10 HILL paying a monetary penalty. In addition, Respondents MHI and HILL were responsible for
11 payment of the costs of the audit and subsequent audit. The stayed suspension of Respondents
12 MHI and HILL's real estate license became effective on March 11, 2002, after a separate Order
13 staying the effective date and the payment of the monetary penalty.

14 6.

15 At all times relevant herein Respondent MHI was engaged in the business of,
16 acted in the capacity of, advertised or assumed to act as a corporate real estate broker, within
17 the meaning of Section 10131(b) of the Code. Respondent's activities included performing the
18 rental of and collection of rents and security deposits for real property on behalf of others for
19 compensation or in expectation of compensation.

20 (AUDIT)

21 7.

22 On or about February 8, 2018, the Department completed an audit examination
23 of the books and records of Respondent MHI pertaining to the real estate activities described in
24 Paragraph 6 above. The audit examination covered the period of time from September 1, 2014,
25 to October 31, 2017. The primary purpose of the examination was to determine Respondent's
26 compliance with the Real Estate Law. This audit was limited to Respondent MHI's property
27 management activity. The audit examination revealed violations of the Code and the

1 Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report
2 No. SD170017 and the exhibits and work papers attached to said audit report.

3 8.

4 According to Respondent HILL and the documents examined, Respondent MHI
5 managed approximately two hundred twenty-five (225) properties, for one hundred twenty-
6 eight (128) property owners. Respondent MHI handled trust funds in the past 12 months for its
7 property management activities. Additionally, Respondent MHI was engaged in managing
8 fifteen (15) Home Owners Associations ("HOA") for six hundred eighty-five (685) units.

9 According to Respondent MHI's written statement, Community Association Financial Services
10 ("CAFS") in Palm Springs, is responsible for all billing and collection of dues and fees for the
11 HOAs. Respondent MHI is contractually paid a monthly set fee. Respondent MHI charged a
12 leasing commission of 6% to 10% of the lease for management services provided.

13 9.

14 In addition, according to Respondent HILL, Respondent MHI was engaged in
15 real estate sales activity. Respondent MHI performed approximately forty-three (43) sales and
16 listing activities in the past 12 months. This audit, however, was limited to Respondent MHI's
17 property management activity from September 1, 2014, to October 31, 2017.

18 10.

19 At all times mentioned herein, and in connection with the property management
20 activities described in Paragraph 6, above, Respondent MHI accepted or received funds,
21 including funds in trust ("trust funds") from or on behalf of the owner of the real property
22 managed by Respondent MHI, and thereafter made deposits and/or disbursements of such
23 funds. From time-to-time during the audit period, said trust funds were deposited and/or
24 maintained in the following bank account:

25 Bank Account ("BA 1")

26 Bank: Pacific Premier Bank

27 Account Name: Maryellen Hill and Associates

1 Account Number: xxxxxx7911

2 Signatories: Maryellen Hill and Cindy Anderson (Respondent HILL's daughter and
3 real estate salesperson, Department ID 01011087)

4 Purpose: The bank account was used for handling of all trust fund receipts and
5 disbursements for Respondent MHI's property management activity.

6 Violations

7 11.

8 The audit examination revealed violations of the Code and the Regulations, as
9 set forth in the following paragraphs, and more fully discussed in Audit Report No. SD140017
10 and the exhibits and work papers attached to the audit report:

11 (a) Trust Fund Handling for Multiple Beneficiaries (Code section 10145 and
12 Regulations section 2832.1). Respondent MHI maintained one (1) bank account ("BA 1") that
13 handled trust funds in connection with its property management activities during the audit
14 period. As of October 31, 2017, BA 1 had a shortage of <\$3,017.90> without evidence that the
15 owners of the trust funds had given their written consent to allow Respondent MHI to reduce
16 the balance of the funds in BA 1 to an amount less than the existing aggregate trust fund
17 liabilities in violation of Code Section 10145 and Regulations section 2832.1. The shortage was
18 caused by negative property balances of <\$2,973.11> and bank charges related to fraudulent
19 activity in the amount of <\$44.79> as of October 31, 2017.

20 (b) Trust Fund Handling/Account Designation (Code section 10145 and
21 Regulations section 2832). Based on an examination of Respondent MHI's bank "signature
22 card" dated August 1, 2007, BA 1 was not designated as a trust fund account in the name of
23 Maryellen Hill, Inc as trustee in violation of Code Section 10145 and Regulations section 2832;

24 (c) Trust Fund Records to be Maintained (Code section 10145 and
25 Regulations section 2831). The control record (general ledger) for BA 1 were inaccurate and
26 incomplete in violation of Code section 10145 and Regulations section 2831. Respondent
27 MHI's control records provided to the auditor were missing the date the trust funds were

1 received and from whom the trust funds were received. In addition, the control records did not
2 reflect an accurate running daily balance. According to Respondent MHI's bookkeeper
3 Antoinette Linder, a non-licensee, said deposits were received late, however, the deposit dates
4 were backdated to adjust the general ledger;

5 (d) Separate Record for Each Beneficiary or Transaction (Code section
6 10145 and Regulations section 2831.1). The separate record maintained for all the receipts
7 and disbursements of trust funds in connection with Respondent MHI's property management
8 activity for BA 1 were inaccurate and incomplete in violation of Code section 10145 and
9 Regulations section 2831.1. Some deposit dates on BA 1 and recorded on the separate records
10 did not agree with the bank statements' date of deposit records;

11 (e) Trust Account Reconciliation (Code section 10145 and Regulations
12 section 2831.2). During the audit period, Respondent MHI did not maintain complete and
13 accurate monthly reconciliation of all the separate records to the control record of all trust funds
14 received and disbursed for BA 1 in connection with its property management activity in
15 violation of Code section 10145 and Regulations section 2831.2;

16 (f) Commingling/Handling of Trust Funds (Code sections 10145(a) and
17 10176(e) and Regulations section 2835). Respondent MHI's property management fees of at
18 least \$1,907.10 was disbursed to Respondent MHI and was left for more than 25 days in
19 Respondent MHI's BA 1 account with all trust funds. Respondent MHI's funds were
20 commingled with trust funds in BA 1 in violation of Code sections 10145(a) and 10176(e) and
21 Regulations section 2835;

22 (g) Responsibility of Corporate Officer in Charge/Broker Supervision
23 (Code sections 10159.2 and 10177(h) and Regulations section 2725). Based on the above
24 findings, designated officer Respondent HILL did not exercise adequate supervision and control
25 over Respondent MHI's property management services conducted by its licensees and
26 employees. Respondent MHI failed to establish policies, rules, procedures, and a system to
27 review, oversee, inspect, and manage transactions requiring a real estate license and the

1 handling of trust funds to secure full compliance with the Real Estate Laws and
2 Commissioner's Regulations. Respondent HILL failed to maintain complete and accurate
3 control records, separate records, and trust account reconciliations for Respondent MHI's
4 property management activity during the audit period.

5 12.

6 Each of the foregoing violations in Paragraphs 11(a)-(g) above constitutes cause
7 for the suspension or revocation of the real estate license and/or license rights of Respondents
8 under the provisions of Sections 10176(e), 10177(d), 10177(g), and/or 10177(h)

9 COSTS

10 (AUDIT COSTS)

11 13.

12 Section 10148(b) of the Code, provides, in pertinent part, that the Real Estate
13 Commissioner shall charge a real estate broker for the cost of any audit if the Commissioner has
14 found in a final decision, following a disciplinary hearing, that the broker has violated Section
15 10145 of the Code or a regulation or rule of the Commissioner interpreting said Code section.

16 (INVESTIGATION AND ENFORCEMENT COSTS)

17 14.


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

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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/or license rights of Respondents MARYELLEN HILL INC and MARYELLEN HILL, individually and as designated officer of Maryellen Hill Inc, under the Real Estate Law, for the costs of investigation and enforcement as permitted by law, for the cost of the audit, and for such other and further relief as may be proper under other applicable provisions of law.

Dated at San Diego, California this 20 day of July, 2018.



Veronica Kilpatrick
Supervising Special Investigator

cc: MARYELLEN HILL INC
MARYELLEN HILL
Veronica Kilpatrick
Sacto.
Audits – Anna Hartoonian