

**FILED**

**MAR 11 2019**

**DEPT. OF REAL ESTATE**

By *[Signature]*

1 DIANE LEE, Counsel (SBN 247222)  
2 Department of Real Estate  
3 320 West 4th Street, Suite 350  
4 Los Angeles, California 90013

4 Telephone: (213) 576-6982  
5 (Direct) (213) 576-6907

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

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11 In the Matter of the Accusation of ) No. H-41317 LA  
12 HOM REAL ESTATE GROUP, INC.; )  
13 ROBERT G. BRAUN, individually and as former )  
14 designated officer of HOM Real Estate Group, Inc.; and ) ACCUSATION  
15 JAMES HOWARD STEIN, individually and as former )  
16 designated officer of HOM Real Estate Group, Inc., )  
17 Respondents. )

18 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the  
19 State of California, acting in her official capacity, for cause of Accusation against HOM REAL  
20 ESTATE GROUP, INC. ("HREGI"), ROBERT G. BRAUN ("BRAUN"), individually and as  
21 former designated officer of HOM Real Estate Group, Inc.; and JAMES HOWARD STEIN  
22 ("STEIN"), individually and as former designated officer of HOM Real Estate Group, Inc., is  
23 informed and alleges as follows:

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25 1.

1 The Complainant, Veronica Kilpatrick, acting in her official capacity as  
2 Supervising Special Investigator of the State of California, makes this Accusation.

3 2.

4 All references to the "Code" are to the California Business and Professions  
5 Code, and all references to "Regulations" are to Title 10, Chapter 6, California Code of  
6 Regulations unless otherwise specified.

7 3.

8 A. HOM REAL ESTATE GROUP, INC.: Respondent HREGI is presently  
9 licensed and/or has license rights issued by the Department of Real Estate as a real estate  
10 corporate broker (license no. 01520001). HREGI was originally licensed as a corporate real  
11 estate broker on or about November 23, 2005. Respondent HREGI's registered DBAs are as  
12 follows:

Fictitious Business Name/DBA	Active Dates (on or about)
Cain White Group	November 15, 2013 – present
The Casey Group	October 7, 2013 – present
Fletcher Sipe Group	June 25, 2014 – present
HOM Auctions	September 11, 2013 – present
HOM Management	July 2, 2010 – present
HOM Referral Network	June 26, 2013 – present
HOM Sotheby's International Realty	October 20, 2011 – present
HOM Vacation Residences	December 6, 2010 – present
The Powers Team	October 7, 2013 – present
The Roger's Realty Group	October 7, 2013 – June 24, 2014
Stanfield Group	April 17, 2014 – present
Versal Settlement Services	June 5, 2008 – present

1 Since on or about October 19, 2018, Respondent HREGI has not had a designated officer.

2 Respondent HREGI's past designated officers are as follows:

3 Designated Officer	Active Dates (on or about)
4 STEIN	December 28, 2015 – June 14, 2016
5 BRAUN	June 15, 2016 – October 18, 2018
6 No designated officer	October 19, 2018 – present

7 B. ROBERT G. BRAUN: Respondent BRAUN is presently licensed and/or  
8 has license rights issued by the Department of Real Estate as a real estate broker (license no.  
9 01095290). BRAUN was originally licensed with a real estate broker license on or about  
10 October 31, 1990.

11 C. JAMES HOWARD STEIN: Respondent STEIN is presently licensed  
12 and/or has license rights issued by the Department of Real Estate as a real estate broker (license  
13 no. 01311941). STEIN was originally licensed with a real estate broker license on or about  
14 June 8, 2001.

15 4.

16 Whenever reference is made in an allegation in this Accusation to an act or  
17 omission of "Respondents," such allegation shall be deemed to mean that the officers, directors,  
18 employees, agents, and real estate licensees employed by or associated with Respondents  
19 committed such act or omission while engaged in the furtherance of the business or operations  
20 of Respondents and while acting within the course and scope of their corporate authority and  
21 employment, including, but not limited to, HREGI, BRAUN, and STEIN.

22 5.

23 At all times mentioned, in Orange County, HREGI, BRAUN, and STEIN  
24 engaged in the business of real estate brokers conducting licensed activities within the meaning  
25 of California Financial Code section 17006(a)(4). HREGI, BRAUN, and STEIN engaged in  
26 broker escrow activities.

1 (Trust Fund Audit)

2 6.

3 On or about January 26, 2018, the Department of Real Estate completed an audit  
4 examination of the books and records of HREGI to determine whether HREGI, BRAUN, and  
5 STEIN handled and accounted for trust funds and conducted its real estate activities in  
6 accordance with the Real Estate Law and Regulations. The audit examination covered a period  
7 of time beginning on January 1, 2015 and ended on July 31, 2017. The audit examination  
8 revealed violations of the Code and the Regulations set forth in the following paragraphs, and  
9 more fully discussed in Audit Report SD160043 and the exhibits and work papers attached to  
10 said audit report.

11  
12 Bank Accounts/Trust Accounts

13 7.

14 At all times mentioned, in connection with the activities described in Paragraph  
15 5, above, HREGI accepted or received funds including funds in trust ("trust funds") from or on  
16 behalf of actual or prospective parties, such as owners of real property seeking property  
17 management services, and thereafter made deposits and/or disbursements of such funds. From  
18 time to time herein mentioned, during the audit period, said trust funds were deposited and/or  
19 maintained by HREGI in the bank account as follows:

20 \*\*\*\*\*3401

21 Mechanics Bank (formerly California Republic Bank)

22 18400 Von Karman Ave., Ste. 1100

23 Irvine, CA 92612

(TA 1)

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In the course of activities described in Paragraphs 5 and 7, above, and during the audit examination period in Paragraph 6, above, Respondents HREGI, BRAUN, and STEIN acted in violation of the Code and the Regulations as set forth below:

(a) HREGI and BRAUN permitted, allowed, or caused the disbursement of trust funds from the bank account TA 1 where the disbursement of funds reduced the total of aggregate funds in TA 1, to an amount which, on July 31, 2017, was at least \$9,750.00 less than the existing aggregate trust fund liability to every principal who was an owner of said funds, without first obtaining the prior written consent of the owners of said funds, in violation of Code section 10145 and Regulations sections 2832.1 and 2951. The \$9,750.00 shortage was cured on or about September 1, 2017.

(b) HREGI and BRAUN failed to deposit trust funds collected in the form of checks no later than three (3) business days after receiving the checks, in violation of Code section 10145 and Regulations sections 2832 and 2950(f). These checks include, but are not limited to, check #5853 and check #5854, which were both collected on or about July 11, 2017 but not deposited until September 1, 2017.

(c) STEIN failed to be a signer on TA 1 while he was the designated officer of HREGI, in violation of Code section 10145 and Regulations sections 2834 and 2951.

(d) HREGI, BRAUN, and STEIN failed to disclose to the owners of the trust funds in TA 1 in writing that HREGI engaged in and received earnings credits from TA 1, in violation of Code sections 10145 and 10176(g) and Regulations sections 2830 and 2951. From May 2017 to July 2017, HREGI and BRAUN received a total of \$29,217.03 in earnings credit. From March 2016 to May 2016, HREGI and STEIN received a total of \$2,242.80 in earnings credit.

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1 (e) HREGI and STEIN failed to notify the Department of Real Estate that  
2 HREGI's branch office at 70380 Hwy 111, Rancho Mirage, CA 92270 closed in December  
3 2015 within thirty (30) days of closure, in violation of Code section 10163.

4 (f) BRAUN and STEIN failed to exercise reasonable control and  
5 supervision over the activities conducted on behalf of HREGI as necessary to secure full  
6 compliance with the Real Estate Law, including, but not limited to, establishing policies, rules,  
7 procedures, and systems to review, oversee, and inspect the handling of trust funds, in violation  
8 of Code sections 10159.2 and 10177(h) and Regulations section 2725.

9 9.

10 The conduct of Respondents HREGI, BRAUN, and STEIN described in  
11 Paragraph 8, above, violated the Code and the Regulations as set forth below:

12 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
13 8(a)	Code section 10145 and Regulations sections 2832.1 and 2951
14 8(b)	Code section 10145 and Regulations sections 2832 and 2950(f)
15 8(c)	Code section 10145 and Regulations sections 2834 and 2951
16 8(d)	Code sections 10145 and 10176(g) and Regulations sections 2830 and 17 2951
18 8(e)	Code section 10163
19 8(f)	Code sections 10159.2 and 10177(h) and Regulations section 2725

20 The foregoing violations constitute cause for discipline of the real estate license and license  
21 rights of HREGI, BRAUN, STEIN under the provisions of Code sections 10177(d), 10177(g),  
22 and 10177(h).

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1 COSTS

2 10.

3 Code section 10106 provides, in pertinent part, that in any order issued in  
4 resolution of a disciplinary proceeding before the department, the Commissioner may request  
5 the administrative law judge to direct a licensee found to have committed a violation of this part  
6 to pay a sum not to exceed the reasonable costs of investigation and enforcement of the case.

7 Code section 10148(b) provides, in pertinent part, the Commissioner shall  
8 charge a real estate broker for the cost of any audit, if the Commissioner has found in a final  
9 decision following a disciplinary hearing that the broker has violated Code section 10145 or a  
10 regulation or rule of the Commissioner interpreting said section.

11 WHEREFORE, Complainant prays that a hearing be conducted on the  
12 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing  
13 disciplinary action against all licenses and/or license rights under the Real Estate Law (Part 1 of  
14 Division 4 of the California Business and Professions Code) of Respondents HOM REAL  
15 ESTATE GROUP, INC., ROBERT G. BRAUN, individually and as former designated officer  
16 of HOM Real Estate Group, Inc.; and JAMES HOWARD STEIN, individually and as former  
17 designated officer of HOM Real Estate Group, Inc., for the cost of investigation and  
18 enforcement as permitted by law; audit costs as permitted by law, and for such other and further  
19 relief as may be proper under applicable provisions of law.

20 Dated at San Diego, California: February 27, 2019

21  
22 V. Kilpatrick  
23 Veronica Kilpatrick  
Supervising Special Investigator

24 cc: HOM Real Estate Group, Inc.  
25 Robert G. Braun  
26 James Howard Stein  
27 Sacto  
Enforcement  
Audits – Chona Picayo