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**FILED**  
**FEB 16 2021**  
**DEPT. OF REAL ESTATE**  
*@Selous*

9 BEFORE THE DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation Against ) No. H-41890 LA  
13 THOMAS DAO, )  
14 Respondent. ) ACCUSATION  
15 )

16 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the  
17 State of California, for cause of Accusation against THOMAS DAO ("Respondent") alleges as  
18 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 Real Estate Law, Part 1 of Division 4 of  
24 the California Business and Professions Code and all references to "Regulations" are to Title  
25 10, Chapter 6 of the California Code of Regulations.

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1 LICENSE HISTORY

2 3.

3 a. Respondent is presently licensed and/or has license rights under the Code, as a  
4 restricted real estate broker with Department of Real Estate ("Department") license ID  
5 00958467.

6 b. Respondent individual broker license was originally issued on or about  
7 August 3, 1990, and is set to expire on October 29, 2021, unless renewed.

8 c. Respondent currently holds a Mortgage Loan Originator ("MLO") license  
9 endorsement with the Department with National Mortgage Licensing System and Registry  
10 ("NMLS") ID 344477.

11 d. Respondent currently maintains the following fictitious business names with  
12 the Department: "Southland Mortgage Group," "Southland Mortgage Group a non-Independent  
13 Broker Escrow," and "Superior Real Estate Group."

14 e. To date, Respondent employs ten (10) broker-associates and one hundred  
15 twenty-eight (128) salespersons.

16 f. Respondent is the designated officer for real estate broker Superior Real Estate  
17 Group, Inc., with license ID 01960185.

18 g. On or about September 26, 2016, in Case Number H-40395 LA, the  
19 Department filed an Accusation against Respondent for audit violations including, but not  
20 limited to, a shortage in a trust account of \$102,218.46 in violation of Code section 10145,  
21 failing to maintain an accurate record of trust funds received and disbursed in violation of Code  
22 section 10145 and Regulations 2831, 2950(d), and 2951, performing third party escrow for  
23 transactions in which Respondent was not involved as either the listing or selling broker in  
24 violation of Financial Code section 17006(a)(4), and using the fictitious business name  
25 "Superior Real Estate" to conduct real estate activities without first obtaining a license from the  
26 Department to conduct real estate activities under that fictitious business name in violation of  
27 Code section 10159.5 and Regulation 2731.

1 h. On or about October 3, 2017, in Case Number H-40395 LA, the Real Estate  
2 Commissioner issued a Decision and Order adopting the terms of the Stipulation and  
3 Agreement wherein Respondent's licenses and license rights were revoked, provided however,  
4 Respondent be issued a restricted real estate broker license, under certain terms and conditions,  
5 including but not limited to, a subsequent audit to determine if Respondent has corrected the  
6 violations found in Case Number H-40395 LA. Respondent's broker license remains restricted.

7 REAL ESTATE ACTIVITY

8 4.

9 At all times relevant herein Respondent was engaged in the business of, acted in  
10 the capacity of, advertised or assumed to act as a real estate broker, within the meaning of Code  
11 section 10131(a) by selling or offering to sell, buying or offering to buy, soliciting prospective  
12 sellers or purchasers of, soliciting or obtaining listings of, or negotiating the purchase, sale or  
13 exchange of real property or a business opportunity ("real estate sales"). Respondent engaged in  
14 broker escrow services in the course of or incidental to real estate transactions in which  
15 Respondent was performing an act for which a real estate license is required.

16 CAUSE FOR ACCUSATION

17 5.

18 On or about September 26, 2019, the Department completed a follow-up audit  
19 examination of the books and records of Respondent pertaining to its broker escrow real estate  
20 activities described in Paragraph 4 above. The audit examination covered the period of time  
21 from July 1, 2017, to July 31, 2019 ("audit period"). The audit examination was limited to  
22 Respondent's real estate sales (Audit No. LA190016) and broker escrow activity (Audit No.  
23 LA190015). The audit examination revealed violations of the Code and the Regulations as set  
24 forth in the following paragraphs, and more fully discussed in Audit Report Nos. LA190015  
25 and LA190016 and the exhibits and work papers attached to said audit reports.

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During the course of the audit, the Department auditor met with Respondent who was the primary person who provided records for the examination. According to the records provided by Respondent, during the audit period, Respondent closed approximately thirty-eight (38) broker escrow transactions, fifteen (15) of which were related to the sales transactions closed under Superior Real Estate Group, Inc., while seven (7) escrow transaction were closed under Respondent's individual broker license, and sixteen (16) were refinance escrows under Respondent's individual broker license. According to the records provided, Respondent closed a minimum of seven (7) sales transactions under his individual broker license. Respondent maintained one (1) trust account with Chase Bank, Account Number xxxxx8786, for multiple beneficiaries for the handling of receipts and disbursements of trust funds in connection with Respondent's broker escrow

Violations of the Real Estate Law

7.

The audit examination revealed violations of the Code and the Regulations, as set forth in the following paragraphs, and more fully discussed in Audit Report Nos. LA190015 and LA190016 and the exhibits and work papers attached to the audit reports:

(a) **Use of False or Fictitious Names (Code section 10159.5 and Regulation 2731)**. Respondent conducted licensed real estate activity using the unlicensed fictitious name "Southland Mortgage Group Escrow Division" in connection with Respondent's broker escrow activity during the audit period without first obtaining a license from the Department bearing such fictitious name in violation of Code section 10159.5 and Regulations section 2731. The unlicensed fictitious business name "Southland Mortgage Group Escrow Division" appeared on the final settlement statement of the escrow files.

(b) **Engaging in Prohibited Activity/Exemptions from Escrow Law/Third-Party Escrow (Code section 10186(a); Financial Code section 17006(a)(4)(b))**. Based on the escrow files examined, Respondent performed escrow services in which he was not an agent or

1 party to the transaction in violation of Code section 10186(a) and Financial Code section  
2 17006(a)(4).

3 (c) **Broker Supervision (Code sections 10177(h) and Regulation 2725)**. Based  
4 on the violations above, Respondent failed to exercise adequate supervision and control over  
5 the activities conducted by his licensees and/or employees as necessary to secure full  
6 compliance with the Real Estate Law and Commissioner's Regulations in violation of  
7 10177(h). Respondent EWING failed to establish policies, rules, procedures, and systems to  
8 review, oversee, inspect, and manage transactions requiring a real estate license and the  
9 handling of trust funds in violation of Regulation 2725.

10 8.

11 Each of the foregoing violations in Paragraph 7(a)-(c) above constitute cause for  
12 the suspension or revocation of the real estate license and/or license rights of Respondent under  
13 the provisions of Sections 10177(d) and/or 10177(g).

14 COSTS

15 (INVESTIGATION AND ENFORCEMENT COSTS)

16 9.

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

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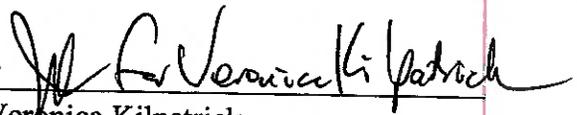
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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all the licenses and/or license rights of Respondent THOMAS DAO 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 5<sup>th</sup> day of February, 2021.

  
Veronica Kilpatrick  
Supervising Special Investigator

cc: THOMAS DAO  
Veronica Kilpatrick  
Sacto.  
Audits – Shirley Xie