

FILED

FEB 25 2021

DEPT. OF REAL ESTATE
By _____ *[Signature]*

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

10 * * *

11 In the Matter of the Accusation of)	No. H- 41902 LA
)	
12 LINDA LAUREEN TOTH,)	<u>ACCUSATION</u>
)	
13 Respondent.)	
)	

15
16 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
17 State of California, acting in her official capacity, for cause of Accusation against LINDA
18 LAUREEN TOTH ("TOTH") dba Home Sweet Home Property Management, is informed and
19 alleges as follows:

20 1.

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

23 2.

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

1 3.

2 Respondent TOTH is presently licensed and/or has license rights issued by
3 the Department of Real Estate as a real estate broker (DRE license no. 00848451). TOTH was
4 originally licensed as a real estate broker on or about July 3, 2002, and has been so licensed
5 through the present. Previously, TOTH was licensed as a real estate salesperson. From on or
6 about July 3, 2002 through the present, Respondent TOTH has had the fictitious business name
7 of "Home Sweet Home Property Management."

8 4.

9 At all times mentioned, in Ventura County, Respondent TOTH engaged in the
10 business of a real estate broker conducting licensed activities within the meaning of
11 Code section 10131(b) ("[l]eases or rents or offers to lease or rent, or places for rent, or solicits
12 listings of places for rent, or solicits for prospective tenants, or negotiates the sale, purchase, or
13 exchanges of leases on real property, or on a business opportunity, or collects rents from real
14 property, or improvements thereon, or from business opportunities").

15
16 FIRST CAUSE OF ACCUSATION

17 (Trust Fund Audit)

18 5.

19 On or about December 27, 2019, the Department of Real Estate completed
20 an audit examination of the books and records of Respondent TOTH to determine
21 whether Respondent TOTH handled and accounted for trust funds and conducted her real estate
22 activities in accordance with the Real Estate Law and Regulations. The audit examination
23 covered a period of time beginning on September 1, 2017 and ended on September 30,
24 2019. The audit examination revealed violations of the Code and the Regulations set forth in
25 the following paragraphs, and more fully discussed in Audit Report LA190037 and the exhibits
26 and work papers attached to said audit report.

1 Bank Account/Trust Accounts

2 6.

3 At all times mentioned, in connection with the activities described in Paragraph
4 4, above, TOTH accepted or received funds including funds in trust ("trust funds") from or on
5 behalf of actual or prospective parties, such as owners of real property, involved in property
6 management services, and thereafter made deposits and/or disbursements of such funds. From
7 time to time herein mentioned, during the audit period, said trust funds were deposited and/or
8 maintained by TOTH in the bank account as follows:

9 *****2814

10 Union Bank
11 256 West Los Angeles Ave.
12 Moorpark, CA 93021

(T/A 1)

13 ****2346

14 Union Bank
15 256 West Los Angeles Ave.
16 Moorpark, CA 93021

(T/A 2)

17 ****2361

18 Union Bank
19 256 West Los Angeles Ave.
20 Moorpark, CA 93021

(B/A 1)

21 7.

22 In the course of activities described in Paragraphs 4 and 6, above, and during
23 the audit examination period in Paragraph 5, above, Respondent TOTH acted in violation of the
24 Code and the Regulations as set forth below:

25 (a) Permitted, allowed, or caused the disbursement of trust funds from bank
26 accounts T/A 1 where the disbursement of funds reduced the total of aggregate funds in T/A 1,
27 to a total amount which, on September 30, 2019, was at least \$11,773.56 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

1 10145 and Regulations section 2832.1. This shortage in T/A 1 was cured on or about
2 December 12, 2019.

3 (b) Failed to maintain an accurate control record of all trust funds received,
4 deposited, and disbursed for T/A 1, in violation of Code section 10145 and Regulations section
5 2831.

6 (c)(1) Failed to maintain accurate separate beneficiary records with the record
7 of all trust funds received and disbursed for T/A 1, in violation of Code section 10145 and
8 Regulations section 2831.1.

9 (c)(2) Failed to maintain a separate record related to deposits and
10 disbursements made for broker's funds and expenses for T/A 1, in violation of Code section
11 10145 and Regulations section 2831.1.

12 (d) Failed to perform and maintain an accurate monthly reconciliation
13 comparing the balance of all separate beneficiary or transaction records (separate records) to
14 the balance of the record of all trust funds received and disbursed (control record) for T/A 1, in
15 violation of Code section 10145 and Regulations section 2831.2.

16 (e) Failed to designate BA 1 as a trust account in the name of TOTH despite
17 using BA 1 to deposit and disburse trust funds, in violation of Code section 10145 and
18 Regulations section 2832.

19 (f) Permitted TOTH's employee, Scott G. Harthorne, who is an unlicensed and
20 unbonded person, to be an authorized signatory on T/A 1, in violation of Code section 10145
21 and Regulations section 2834.

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8.

The conduct of Respondent TOTH described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
7(a)	Code section 10145 and Regulations section 2832.1
7(b)	Code section 10145 and Regulations section 2831
7(c)	Code section 10145 and Regulations section 2831.1
7(d)	Code section 10145 and Regulations section 2831.2
7(e)	Code section 10145 and Regulations section 2832
7(f)	Code section 10145 and Regulations section 2834

The foregoing violations constitute cause for discipline of the real estate license and license rights of Respondent TOTH under the provisions of Code sections 10177(d) and 10177(g).

SECOND CAUSE OF ACCUSATION

(Negligence)

9.

On or about August 5, 2016, TOTH entered into a Property Management Agreement with J. Adrian and B. Adrian (collectively "Owners"), the owners of the property at 4797 Rhapsody Dr., Oak Park, CA 93021. TOTH agreed to provide property management services for the Property for a management fee.

10.

On or about December 14, 2017, TOTH, as property manager of the Property, entered into a Residential Lease with Jake Ferrero and D. Feinberg (collectively "Tenants"). The Residential Lease provided the Tenants had to get liability insurance for no less than \$250,000 that named the property manager as an additional insured, and provide a copy to the

1 TOTH. The Residential Lease also provided no smoking of any substance was allowed inside
2 the home on the Property.

3 11.

4 TOTH failed to ensure the Tenants obtained liability insurance, and failed to
5 obtain a copy of the liability insurance from the Tenants as required in the Residential Lease.

6 12.

7 In or about May 2018, the Owners discovered damage to the Property. This
8 damage included, but is not limited to, water damage, mold, floor damage, and the smell of
9 smoke inside the home as well as damage to the landscape. The Owners paid approximately
10 \$87,179 to repair the Property.

11 13.

12 The conduct, acts, and/or omissions of Respondent TOTH as described in
13 Paragraphs 9 through 12, above, constitute making negligence, and are cause for the suspension
14 or revocation of the real estate license and license rights of Respondent under the provisions of
15 Code section 10177(g).

16
17 COSTS

18 14.

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

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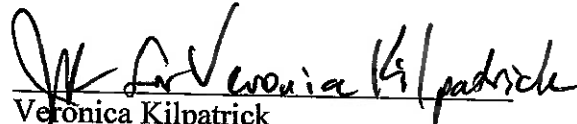
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1 Code section 10148(b) provides, in pertinent part, the Commissioner shall
2 charge a real estate broker for the cost of any audit, if the Commissioner has found in a final
3 decision following a disciplinary hearing that the broker has violated Code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

5 WHEREFORE, Complainant prays that a hearing be conducted on the
6 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
7 disciplinary action against all licenses and/or license rights under the Real Estate Law (Part 1 of
8 Division 4 of the California Business and Professions Code) of Respondent LINDA
9 LAUREEN TOTH, for the cost of investigation and enforcement as permitted by law, audit
10 costs as permitted by law, and for such other and further relief as may be proper under
11 applicable provisions of law.

12 Dated at San Diego, California: February 9, 2021.

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14 
15 Veronica Kilpatrick
16 Supervising Special Investigator
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24 cc: Linda Lauren Toth
25 Evolve RE, Inc.
26 Veronica Kilpatrick
27 Sacto
Enforcement
Audits – Anitha Wijaya