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FILED

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DEPT. OF REAL ESTATE
By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation against
12 ADAPP MANAGEMENT, INC. and
13 JAMES TOAN TRAN, individually and as
14 designated officer for Adapp Management, Inc.,
15 Respondents.

DRE No. H-42059 LA
ACCUSATION

16 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the
17 Department of Real Estate¹ ("Department") of the State of California, for cause of Accusation
18 against ADAPP MANAGEMENT, INC. and JAMES TOAN TRAN, individually and as
19 designated officer for Adapp Management, Inc., (collectively "Respondents"), is informed and
20 alleges as follows:

21 1. The Complainant, Veronica Kilpatrick, acting in her official capacity as a
22 Supervising Special Investigator, makes this Accusation against Respondents.

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24 ¹ Between July 1, 2013 and July 1, 2018, the Department of Real Estate operated as the Bureau of Real Estate under the Department of Consumer Affairs.

1 2. Unless otherwise noted, all references to the "Code" are to the California
2 Business and Professions Code, all references to the "Real Estate Law" are to Part 1 of Division
3 4 of the Code, and all references to "Regulations" are to the Regulations of the Real Estate
4 Commissioner, Title 10, Chapter 6, California Code of Regulations.

5 3. Respondents are presently licensed and/or have license rights under the Real
6 Estate Law (Part 1 of Division 4 of the Code).

7 4. On June 8, 2006, the Department issued a real estate corporation license to
8 Respondent ADAPP MANAGEMENT, INC. ("AMI"), License ID 01758870. Respondent AMI
9 is licensed to do business as "A-Med Realty Group" and "West Bank Realty & Mortgage."

10 5. On June 4, 2012, the Department issued a real estate broker license to Respondent
11 JAMES TOAN TRAN ("TRAN"), License ID 01904713. Respondent TRAN was previously
12 licensed as a salesperson from September 29, 2011 through June 3, 2012.

13 6. From on or about September 30, 2018 through the present, Respondent TRAN
14 has been the designated officer for Respondent AMI, pursuant to Code section 10211. As the
15 designated officer for AMI, Respondent TRAN, is responsible for the supervision and control of
16 the activities conducted on behalf of AMI by its officers, agents, real estate licensees, and
17 employees, as necessary to secure full compliance with the provisions of the Real Estate Law,
18 pursuant to Code section 10159.2.

19 7. Whenever reference is made in an allegation in this Accusation to an act or
20 omission of Respondent AMI, such allegation shall be deemed to mean that the officers,
21 directors, employees, agents and/or real estate licensees employed by or associated with
22 Respondent AMI, committed such act or omission while engaged in the furtherance of the
23 business or operations of such corporate respondent and while acting within the course and
24 scope of their authority and employment.

1 8. On May 5, 2005, the Department issued a real estate broker license to Amed
2 Franco ("Franco"), License ID 01449974. Franco was the designated officer for AMI from
3 approximately June 8, 2006 through October 14, 2011. Franco's designation as officer for AMI
4 was cancelled effective October 14, 2011.

5 9. Franco owns and controls AMI.

6 10. At all times relevant herein, in the State of California, Respondents engaged in
7 activities that require a real estate broker license within the meaning of Code section 10131,
8 subdivisions (a) and (b). Respondents' activities included soliciting prospective buyers or sellers
9 of, solicit listings for, or negotiate the sale, purchase, or exchange of real property or a business
10 opportunity and soliciting or offering to negotiate the sale, purchase or exchange of leases for
11 real property or on a business opportunity for others, for compensation or in expectation of
12 compensation.

13 11. The Department received a complaint against Respondents from property owner
14 T.P.² regarding T.P.'s real property located at 6547 Peridot Ct., Eastvale, California 92880
15 ("subject property").

16 12. On or about January 14, 2020 T.P. and AMI entered into a lease listing agreement
17 for the period from January 14, 2020 through July 14, 2020. For compensation or in expectation
18 of compensation, AMI was to lease or rent the subject property for T.P.

19 13. Respondent AMI procured a prospective tenant, J.J., for the subject property. On
20 or about February 6, 2020, AMI, while acting as a dual agent for both the landlord T.P. and
21 tenant J.J., negotiated a commercial lease agreement for the subject property for the period from
22 March 1, 2020 through February 28, 2025.

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24 ² Initials are used in place of individuals' full names to protect their privacy. Documents containing individuals' full names will be provided during the discovery phase of this case to Respondent(s) and/or their attorneys, after service of a timely and proper request for discovery on Complainant's counsel.

1 14. On or about February 5, 2020, J.J. provided a check in the amount of \$7,600.00 to
2 AMI for payment of the security deposit required under the commercial lease agreement. On
3 February 13, 2020, Respondent AMI deposited the funds in AMI's general account, not a trust
4 fund account.

5 15. A dispute arose between T.P. and AMI over the commission and compensation
6 owed to AMI. The commercial lease agreement was ultimately canceled. On March 9, 2020,
7 AMI returned the \$7,600.00 security deposit to J.J., the prospective tenant.

8 16. T.P. and AMI are currently involved in a civil action concerning the commission
9 dispute and lease listing agreement.

10 Cause of Accusation

11 Audit LA200096

12 17. On or about May 27, 2021, the Department completed an audit examination of the
13 books and records of Respondent AMI's real estate sales activities.

14 18. The audit examination covered the period from June 1, 2019 through November
15 30, 2020 ("audit period").

16 19. The audit examination revealed violations of the Code and the Regulations as set
17 forth in the following paragraphs, and more fully discussed in Audit Report LA200096 and the
18 exhibits and work papers attached to said audit report.

19 20. According to Respondents, Franco is the sole owner of AMI. During the audit
20 period, Respondent AMI closed approximately fifty-one (51) sales transactions and closed eight
21 (8) lease transactions.

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1 Violations

2 21. In the course of its real estate activities during the audit period, Respondent AMI
3 acted in violation of the Code and the Regulations as follows:

4 Code sections 10145 and 10176(e)/Regulation 2832. Trust fund handling/commingling

5 22. On or about February 5, 2020, AMI received trust funds totaling \$7,600.00 for
6 payment of the security deposit of the subject property. On February 13, 2020, Respondent AMI
7 deposited the funds in AMI's general account, not a trust fund account. On or about February
8 13, 2020, Respondents deposited the prospective tenant's security deposit for the subject
9 property into AMI's general checking account (G/A 1, Account No. XXX1696) and thus
10 commingled trust funds with AMI's funds, in violation of Code sections 10145, 10176,
11 subdivision (e), and Regulation 2832.

12 Code sections 10145 and Regulation 2834. Trust account withdrawals

13 23. Based on an examination of the bank signature card for AMI's trust account
14 (T/A 1, Account No. XXX3579), Respondent TRAN was not a signatory for T/A 1, in violation
15 of Code section 10145 and Regulation 2834.

16 Code sections 10161.8 and Regulation 2752. Salesperson and Broker Associate Retention and
17 Termination/Notice of change of broker

18 24. Respondent AMI failed to timely notify the Department regarding the affiliation
19 of real estate broker-associates Mi Jung Cho ("Cho"), License ID 01062536 and Franco, License
20 ID 01449974, in violation of Code section 10161.8 and Regulations 2752 or 2726.

21 25. Franco was not registered, affiliated, or licensed under AMI's license during the
22 time that Franco was a signatory for AMI's trust account T/A 1.

23 26. On or about June 24, 2019, Cho signed a lease listing agreement on behalf of
24 AMI with T.P.

1 27. The conduct of Respondent AMI as described above in Paragraphs 22 through 26,
2 violated the Code and the Regulations as set forth below:

| <u>Paragraph(s)</u> | <u>Violations</u> |
|---------------------|---|
| 22 | Code sections 10145, 10176(e) and Regulation 2832 |
| 23 | Code section 10145 and Regulation 2834 |
| 24-26 | Code section 10161.8 and Regulations 2752 or 2726 |

7 27. The foregoing violations, as described above in Paragraphs 22 through 26,
8 constitute cause for the suspension or revocation of the real estate licenses and license rights of
9 Respondent AMI under the provisions of Code section 10177, subdivisions (d) and/or (g) for
10 violation of Code sections 10145, 10176(e), and Regulations 2832, 2834, and 2752 or 2726.

11 Respondent TRAN- Officer - Broker Supervision

12 Code sections 10159.2, 10177(h), and Regulation 2725. Broker supervision.

13 28. The conduct, acts and/or omissions of Respondent TRAN constitutes a failure to
14 exercise the supervision and control over the activities of AMI to ensure compliance with the
15 Real Estate Law and Regulations, as required by Code section 10159.2 and Regulation 2725.
16 Said conduct, acts, or omissions constitute cause to suspend or revoke the real estate licenses and
17 license rights of Respondent TRAN pursuant to Code section 10177, subdivisions (h), (d), and/or
18 (g).

19 Audit Costs

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

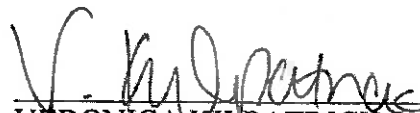
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1 Investigation/Enforcement Costs

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

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

13 Dated at San Diego, California this 10 day of September 2021.

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15 
16 VERONICA KILPATRICK
17 Supervising Special Investigator

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19 cc: Adapp Management, Inc.
20 James Toan Tran
21 Veronica Kilpatrick
22 Sacto
23 Audits/David Quek
24