

1 Amelia V. Vetrone, SBN 134612
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

4 Telephone: (213) 576-6982
5 Direct: (213) 576-6940

FILED

DEC 17 2018

DEPT. OF REAL ESTATE

By *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 D BEST REALTY, INC.; and)
13 RICHARD MICHAEL GONZALES,)
14 Individually and as Designated)
15 Officer of D Best Realty, Inc.,)
16 Respondents.)

No. H-03228 FR
ACCUSATION

17 The Complainant, Brenda Smith, a Supervising Special Investigator of the State
18 of California, acting in her official capacity for cause of Accusation against D BEST REALTY,
19 INC., and RICHARD MICHAEL GONZALES, individually and as Designated Officer of D
20 Best Realty, Inc. (collectively "Respondents"), is informed and alleges as follows:

21 1.

22 All references to the "Code" are to the California Business and Professions Code,
23 all references to the "Real Estate Law" are to Part 1 of Division 4 of the Code, and all references
24 to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

25 2.

26 Respondent D BEST REALTY, INC. ("DBRI") is presently licensed or has
27 license rights under the Real Estate Law as a corporate real estate broker. Respondent DBRI was

1 originally licensed as a corporate real estate broker by the Department of Real Estate ("DRE") on
2 or about October 22, 2009, with real estate broker Rickey Neal Bradford as its Designated
3 Officer until January 7, 2010. From February 2, 2010 until on or about November 18, 2014, real
4 estate broker Yitchok Yitzy Pearson was the Designated Officer of DBRI. Beginning on
5 November 18, 2014, and continuing to the present, Respondent RICHARD MICHAEL
6 GONZALES has been the Designated Officer of DBRI. Respondent DBRI's corporate real
7 estate broker license is due to expire on October 21, 2021.

8 3.

9 Respondent RICHARD MICHAEL GONZALES ("GONZALES") is licensed by
10 the DRE as a real estate broker. Respondent was originally licensed as a real estate broker on
11 December 4, 2013. Respondent's real estate broker license is due to expire on December 3,
12 2021.

13 4.

14 At all times mentioned, in the County of Kern, California, Respondents engaged
15 in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers
16 within the meaning of Code Sections 10131(a) including the solicitation for listings of and the
17 negotiation of the purchase and sale of real property, and 10131(b) including management of
18 residential rental real property for and on behalf of others for compensation.

19 FIRST CAUSE OF ACCUSATION

20 (Audit)

21 5.

22 On April 19, 2018, the DRE completed an audit examination of the books and
23 records of Respondent DBRI with regard to the real estate activities described in paragraph 4,
24 above. The audit examination covered the period of time from January 1, 2016, to February 28,
25 2018. The primary purpose of the examination was to determine Respondent DBRI's
26 compliance with the Real Estate Law. The audit examination revealed violations of the Code
27 and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit

1 Report FR17-0091 and the exhibits and work papers attached to said audit report.

2 6.

3 With respect to the licensed activities referred to in Paragraph 4, and the audit
4 examination including the exhibits and work papers referenced in Paragraph 5, it is alleged that
5 Respondent DBRI:

6 (a) Failed to place funds collected for the benefit of another into a trust fund
7 in the name of the broker in violation of Code Section 10145 and Regulation 2832; and

8 (b) Commingled broker funds with trust funds in violation of Code Section
9 10176(e).

10 7.

11 The conduct of Respondent DBRI described in Paragraph 6, above, violated the
12 Code and the Regulations as set forth below:

13 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
14 6(a)	Code Section 10145 15 Regulation 2832
16 6(b)	Code Section 10176(e)

17
18
19
20 Each of the foregoing violations constitute cause for the suspension or revocation
21 of the real estate license and license rights of Respondents under the provisions of Code Sections
22 10176(e), 10177(d) and/or 10177(g).

23 8.

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

1 SECOND CAUSE OF ACCUSATION

2 (Failure of Broker to Supervise Unlicensed Persons)

3 9.

4 Although DBRI is a licensed corporate real estate broker, the business is actually
5 owned by brothers Drar Ben Amy and Klaus Ben Havel who are not licensed by the DRE in any
6 capacity. Respondent GONZALES entrusted all real estate activities requiring a real estate
7 license to the unlicensed Drar Ben Amy, including the collection and handling of trust funds, and
8 allowed DBRI to collect compensation for those services in violation of Code Sections 10130
9 and 10137. Respondent GONZALES also allowed Drar Ben Amy to hold a rubber stamp
10 bearing Respondent GONZALES's signature so that he could engage in such activities.

11 10.

12 In a written agreement dated October 29, 2014, Respondent GONZALES agreed
13 to accept a fee of \$300.00 per month "as a rental fee of the use of his license." Real estate broker
14 licenses are not subject to rental under the Real Estate Law. As the Designated Officer of DBRI,
15 Respondent GONZALES is responsible, pursuant to Code Section 10159.2, for the supervision
16 of the activities of the officers, agents, real estate licensees and employees of DBRI to ensure the
17 corporation's compliance with the Real Estate Law and the Commissioner's Regulations.

18 11.

19 Based on the conduct alleged in paragraphs 9, and 10, above, Respondent
20 GONZALES failed to exercise reasonable supervision over the activities of DBRI to ensure
21 compliance with the Real Estate Laws and the Commissioner's Regulations in violation of Code
22 Sections 10177(h), and 10177(g), and Regulation 2725.

23 12.

24 The conduct, acts and omissions of Respondent GONZALES, as set forth above,
25 are cause for the suspension or revocation of his licenses and license rights pursuant to Code
26 Sections 10177(d), 10177(g), and/or 10177(h).

27 ///

(PRIOR DISCIPLINARY ACTION)

13.

On March 5, 2012, effective March 26, 2012, the Real Estate Commissioner issued an Order pursuant to Stipulation and Agreement in DRE Case No. H-2573 FR that the license of DBRI was suspended for 60 days on terms and conditions for one year based on Respondent DBRI's violations of the Real Estate Law and Regulations regarding the payment of compensation to unlicensed individuals for engaging in activities that require a real estate license.

14.

On November 28, 2018, effective December 26, 2018, the Real Estate Commissioner issued an Order pursuant to Stipulation and Agreement in DRE Case No. H-03177 FR that the license of Respondent GONZALES was suspended for 30 days on terms and conditions for two years based on Respondent GONZALES's violations of the Real Estate Law and Regulations in failing to supervise a business that engaged in activities that require a real estate license when that business was owned and operated by an unlicensed individual.

15.

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

///

///

///

///

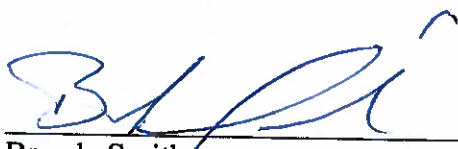
///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

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 the licenses and license rights of Respondents D BEST REALTY, INC., and RICHARD MICHAEL GONZALES under the Real Estate Law, for the costs of investigation and enforcement as provided by law, for costs of the audit, and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Fresno, California: 12-10-18



Brenda Smith
Supervising Special Investigator

cc: D Best Realty, Inc.
Richard Michael Gonzales
Brenda Smith
Sacto
Audits – Amanda Patterson