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DEPARTMENT OF REAL ESTATE
BY: 

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	
	)	
HILL REM INC.; and	)	No. H- 04496 SD
PAUL LEONARD CHEVALIER JR.,	)	
individually and as designated officer	)	<u>ACCUSATION</u>
of Hill Rem Inc.,	)	
	)	
Respondents.	)	
	)	

The Complainant, Veronica Kilpatrick, a Deputy Real Estate Commissioner of the State of California, Department of Real Estate ("Department") for cause of Accusation against HILL REM INC. ("HRI") and PAUL LEONARD CHEVALIER JR. ("CHEVALIER"), individually and as designated officer of HRI (collectively "Respondents"), is informed and alleges as follows:

1.

The Complainant, Veronica Kilpatrick, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

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License Status

2.

From June 17, 2011, through the present, Respondent HRI been licensed as a real estate corporation. At all times relevant herein, HRI was acting by and through Respondent CHEVALIER as its designated broker-officer pursuant to Business and Professions Code ("Code") Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law.

3.

Respondent CHEVALIER was originally licensed as a real estate broker on January 5, 1972 and has been HRI's Designated Officer since June 17, 2011, as set forth in the table below:

Name	Corporate Title	Licensee	Shareholder %
Joseph Hill	President/Secretary/ Treasurer/Director	No	100%
Paul Leonard Chevalier Jr.	Vice President/ Director	Designated Officer	0%

4.

Whenever reference is made in an allegation in this Accusation to an act or omission of "Respondents", such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with Respondents committed such act or omission while engaged in the furtherance of the business or operations of Respondents and while acting within the course and scope of their corporate authority and employment, including CHEVALIER and Joseph Hill.

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1 FIRST CAUSE OF ACCUSATION

2 (Property Management Audit)

3 5.

4 At all times mentioned, in the City of and County of San Diego, Respondents HRI
5 and CHEVALIER engaged in the business of, acted in the capacity of, advertised or assumed to
6 act as a real estate brokers, within the meaning of Code Section 10131(b). Respondents engaged
7 in the business of a property management brokerage with the public wherein, for or in expectation
8 of compensation, for another or others, Respondent leased or rented or offered to lease or rent, or
9 placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or
10 collected rents from real property, or improvements thereon.
11

12 Respondent HRI manages 8 apartments/complexes which include 676 units for 22
13 property owners. HRI collects rents, pays expenses, and screens tenants for compensation.
14

15 Audit Examination:

16 6.

17 On January 30, 2013, the Department completed an audit examination of the
18 books and records of Respondent HRI pertaining to the property management activities
19 described in Paragraph 5, which require a real estate license. The audit covered a period of time
20 beginning on January 1, 2011 to September 30, 2012. The audit examination revealed violations
21 of the Code and Title 10, Chapter 6, California Code of Regulations ("Regulations") as alleged
22 in the following paragraphs, and more fully set forth in Audit Report SD 120005 and the
23 exhibits and work papers attached thereto.

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1 (c)(1) Failed to place trust funds, including rents and security deposits, into a
2 trust fund account in the name of the broker as trustee at a bank or other financial institution for
3 bank accounts 25 bank accounts T/A 1 through T/A 13, T/A 15 through 27, in violation of Code
4 Section 10145 and Regulation 2832(a) and,
5

6 (c)(2) Failed to place trust funds, including rents and security deposits, accepted
7 on behalf of another into the hands of the owner of the funds, a neutral escrow depository or into
8 a trust fund account in the name of the trustee at a bank or other financial institution not later
9 than three business days following receipt of the funds by the broker or by the broker's
10 salesperson, in violation of Code Section 10145 and Regulation 2832(d);
11

12 (d) (1) Permitted Joseph Hill, owner and president of HRI, an unlicensed and
13 unbonded person, along with personnel associated with the property under management to be
14 authorized signatories on the trust account, in violation of Code Section 10145 and Regulation
15 2834(a), and
16

17 (d) (2) CHEVALIER was not a signatory on the aforementioned 25 back
18 accounts, in violation of Code Section 10145 and Regulation 2834(b);
19

20 (e) Failed to maintain an accurate and adequate control record in the form of a
21 columnar record in chronological order of trust funds received but not deposited into T/A 1
22 through T/A 13, T/A 15 through 27, received in chronological order, in violation of Code
23 Section 10145 and Regulation 2831;
24

25 (f) Failed to retain all records of Respondents HRI's activity during the audit
26 period requiring a real estate broker license, in violation of Code Section 10148; and
27

28 (g) CHEVALIER failed to exercise reasonable control and supervision over the
29 activity of HRI to secure full compliance with the Real Estate Law. Additionally, CHEVALIER
30

1 had no system in place for regularly monitoring his compliance with the Real Estate Law
2 especially in regard to establishing, systems, policies and procedures to review trust fund
3 handling and employee oversight, in violation of Code Sections 10159.2, 10177(h) and
4 Regulation 2725.

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6 Disciplinary Law and Regulations

7 9.

8 The conduct of Respondents HRI and CHEVALIER, described in Paragraph 8,
9 above, violated the Code and the Regulations as set forth below:

10 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
11 8(a)	Code Section 10137
12 8(b)	Code Section 10130
13 8(c)	Code Section 10145 and Regulation 2832
14 8(d)	Code Section 10145 and Regulation 2834
15 8(e)	Code Section 10145 and Regulation 2831
16 8(f)	Code Section 10148
17 8(g)	Code Sections 10159.2, 10177(h) and Regulation 2725.

18 The foregoing violations constitute cause for the discipline of the real estate licenses and license
19 rights of Respondents HRI and CHEVALIER under the provisions of Code Sections 10177(d),
20 and/or 10177(g) and 10177(h).

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2 SECOND CAUSE OF ACCUSATION

3 (Negligence)

4 10.

5 The overall conduct of Respondents HRI and CHEVALIER constitutes
6 negligence and is cause for discipline of the real estate license and license rights of said
7 Respondents pursuant to the provisions of Code Section 10177(g).

8 THIRD CAUSE OF ACCUSATION

9 (Fiduciary Duty)

10 11.

11 The conduct, acts and omissions of Respondents HRI and CHEVALIER
12 constitute a breach of fiduciary duty, owed to HRI's clientele of good faith, trust, confidence and
13 candor, within the scope of their relationship, in violation of Code Section 10177(g) and
14 constitutes cause for discipline of the real estate license and license rights of said Respondents
15 pursuant to the provisions of Code Section 10177(g).

16 12.

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

21 13.

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

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all licenses and/or license rights of Respondents HILL REM INC. and PAUL
4 LEONARD CHEVALIER JR., individually and as designated officer of under the Real Estate
5 Law (Part 1 of Division 4 of the California Business and Professions Code) and for such other
6 and further relief as may be proper under other applicable provisions of law, including but not
7 limited to costs investigation, enforcement and audit.
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10 Dated at Los Angeles, California.

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12 this 6 day of May, 2013.
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15 VERONICA KILPATRICK
16 Deputy Real Estate Commissioner
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22 cc: Hill Rem Inc.
23 Paul Leonard Chevalier Jr.
24 Veronica Kilpatrick
25 Jennifer Borromeo
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