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FILED

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DEPARTMENT OF REAL ESTATE
BY: 

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 JPH & H INC. doing business as Hendershaw)
14 and Associates; and)
15)
16 CHRISTOPHER JOHN-ALLEN)
17 HONEYCUTT, individually and as)
18 designated officer of JPH & H Inc.)
19)
20 Respondents.)
21)

No. H- 04596 SD

ACCUSATION

18 The Complainant, Veronica Kilpatrick, a Deputy Real Estate Commissioner of
19 the State of California, Bureau of Real Estate ("Bureau") for cause of Accusation against
20 JPH & H INC. dba Hendershaw and Associates ("JPHHI") and CHRISTOPHER JOHN-
21 ALLEN HONEYCUTT ("HONEYCUTT"), individually and as designated officer of JPH & H
22 Inc. (collectively "Respondents"), is informed and alleges as follows:
23

24 1.

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

2.

From March 13, 2003, through the present, Respondent JPHHI has been licensed as a real estate corporation. Between March 29, 2011 and October 10, 2012, as set forth in the table below, JPHHI was acting by and through Respondent HONEYCUTT 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. JPHHI is owned in its entirety by Salijo A. Hendershaw. Between February 13, 2008 and March 28, 2011, JPHHI conducted licensed activities without a designated officer.

3.

Respondent HONEYCUTT was originally licensed as a real estate broker on April 7, 2011, and is JPHHI's Chief Financial Officer and Director. From March 29, 2011 to October 10, 2012, HONEYCUTT was JPHHI's designated officer.

Table: Designated Officer Tenure

Designated Officer	Tenure
Non Broker Affiliated	February 13, 2008 to March 28, 2011
Christopher John-Allen Honeycutt	March 29, 2011 to October 10, 2012
Non Broker Affiliated	October 11, 2012 to date

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 HONEYCUTT.

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1 FIRST CAUSE OF ACCUSATION
2 (Audit)

3 5.

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

12 Audit Examination

13 6.

14 On March 28, 2013, the Bureau completed an audit examination of the books and
15 records of Respondent JPHHI pertaining to the property management activities described in
16 Paragraph 5, which require a real estate license. The audit examination covered a period of time
17 beginning on November 1, 2009 and ending on October 31, 2012. The audit examination
18 revealed violations of the Code and the Title 10, Chapter 6, California Code of Regulations
19 ("Regulations") as alleged in the following paragraphs, and more fully set forth in Audit Report
20 SD 120009 and the exhibits and work papers attached thereto.

21 Bank and Trust Accounts

22 7.

23 At all times mentioned, in connection with the activities described in Paragraph
24 6, above, JPHHI accepted or received funds including funds in trust ("trust funds") from or on
25 behalf of property owners and tenants handled by JPHHI and thereafter made deposits and
26 disbursements of such funds. From time to time herein mentioned, during the audit period and

thereafter, said trust funds were deposited and/or maintained by JPHHI in the accounts described below.

Trust Account 1: (TA 1)

Bank: First Republic Bank
12626 High Bluff Drive #400
San Diego, CA 92130

Account Name: JPH & H dba Herndershaw and Associates Client
Asset Trust Account

Account Number: *****25927

Trust Account 2: (TA 2)

Bank: First Republic Bank
12626 High Bluff Drive #400
San Diego, CA 92130

Account Name: JPH & H dba Herndershaw and Associates
Alito/Romani Trust Account

Account Number: *****26602

Bank Account 1: (BA 1)

Bank: First Republic Bank
12626 High Bluff Drive #400
San Diego, CA 92130

Account Name: JPH & H dba Herndershaw and Associates
Alito Property Account

Account Number: *****25943

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1 Bank Account 2: (BA 2)

2 Bank: Union Bank
3 5680 Mission Center Road
4 San Diego, CA 92108

5 Account Name: Herndershaw and Associates

6 Account Number: *****46863

7 Bank Account 3: (BA 3)

8 Bank: First Republic Bank
9 12626 High Bluff Drive #400
10 San Diego, CA 92130

11 Account Name: James P. Herndershaw Inc.
12 dba Hendershaw Management

13 Account Number: *****120477

14 Violations of the Real Estate Law

15 8.

16
17 In the course of activities described in Paragraphs 5 and 7, above, and during the
18 examination period, described in Paragraph 6, Respondents JPHHI and HONEYCUTT acted in
19 violation of the Code and the Regulations in which Respondents:

20 (a) Permitted, allowed or caused the disbursement of trust funds from TA 1,
21 JPHHI's property management trust account for rent and security deposits collection, where the
22 disbursement of funds reduced the total of aggregate funds in TA 1, to an amount which, on
23 October 10, 2012, was at a minimum accountability of \$15,539.64, less than the existing
24 aggregate trust fund accountability of JPHHI to every principal who was an owner of said funds,
25
26

1 without first obtaining the prior written consent of the owners of said funds, in violation of Code
2 Section 10145(a) and Regulation 2832.1;

3 (b) Managed real property located at 4835 Saratoga Avenue, San Diego,
4 California for Joel F., during a period of time, to wit, November 1, 2009 to October 10, 2012,
5 when JPHHI was non-broker affiliated. JPHHI failed to provide proper trust fund accounting to
6 the property owner Joel F. and failed to retain records including invoices, trust fund
7 disbursements and failed to timely pay over owner proceeds as agreed to by the property
8 management agreement, in violation of Code Sections 10130, 10145 and 10148.

9 (c) Conducted licensed activities from February 13, 2008 to March 28, 2011,
10 without a designated officer and therefore was non broker affiliated, in violation of Code
11 Section 10130 and Regulation 2740. During said interregnum, expired real estate salesperson
12 Salijo A. Hendershaw, owner and Chief Executive Officer represented JPHHI in its property
13 management activities which required a real estate broker license.

14 (d) Permitted, allowed or caused the disbursement and transfer of trust funds
15 from TA 1, to BA 3 without first obtaining the prior written consent of the owners of said trust
16 funds, in violation of Code Sections 10145, 10176(i) and 10177(g). JPHHI and HONEYCUTT
17 transferred \$194,352.93 in trust funds from TA 1 into BA 3, a non trust account owned by
18 James P. Herndershaw Inc. dba Hendershaw Management;

19 (e)(1) Failed to maintain an adequate and complete control record in the form of a
20 columnar record in chronological order of trust funds in the form of rental receipts and security
21 deposits received, deposited into, and disbursed from TA 1, in violation of Code Section 10145
22 and Regulation 2831; and
23
24
25
26

1 (e)(2) Impermissibly combined the property management transactions from BA 3,
2 which replaced TA 1 with the control record TA 1, in violation of Code Sections 10145 and
3 10176(e);

4 (f)(1) Failed to maintain an adequate and complete separate record for TA 1
5 with respect to trust fund handling, monitoring and management, in violation of Code Section
6 10145 and Regulation 2831.1; and
7

8 (f)(2) Impermissibly combined the property management transactions from BA 3,
9 which replaced TA 1 with the separate record of TA 1, in violation of Code Sections 10145 and
10 10176(e);

11 (g) Failed to perform a monthly reconciliation of the balance of all separate
12 beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of
13 all trust funds received and disbursed by TA 1, in violation of Code Section 10145 and
14 Regulations 2831.2;
15

16 (h) BA 1 and BA 2, which were used to hold trust funds, was not in the name of
17 the broker as trustee at a bank or other financial institution, nor designated as trust accounts, in
18 violation of Code Section 10145 of the Code and Regulation 2832(a);

19 (i)(1) Permitted Salijo A. Hendershaw, and unlicensed person, owner of JPHHI,
20 and a former real estate salesperson who's license expired on January 28, 2006, Chief Executive
21 Officer, Secretary and Director of JPHHI, to be authorized as a signatory on TA 1, BA 1 and BA
22 2; permitted Scott Hendershaw to be a signatory on BA 2; and, permitted John Alito to be a
23 signatory on TA 2 and BA 2, when neither Scott Hendershaw or John Alito were properly
24 eligible or authorized to do so, in violation of Code Section 10145 and Regulation 2834(a);
25
26

1 (j) (1) Compensated Jamie Scott Pullman, a real estate broker not affiliated as a
2 broker-associate with JPHHI, for placing tenants in rental property managed by JPHHI, in
3 violation of Code Section 10137 and Regulation 2726. Broker Pullman was paid \$4,387.50
4 between July 14, 2012 and August 9, 2012,
5

6 (k) Used the fictitious names of "Hendershaw Management," Hendershaw
7 Mgmt," and "HendershawMGMT (sic)," to conduct licensed activities including property
8 management, without first obtaining from the Department a license bearing said fictitious
9 business names, in violation of Code Section 10159.5 and Regulation 2731; and
10

11 (l) Failed to retain all records of JPHHI's property management activity and trust
12 fund handling during the audit period requiring a real estate broker license, including invoices
13 and bank statements, activity, in violation of Code Section 10148.
14

15 9.

16 The conduct of Respondents JPHHI and HONEYCUTT, described in Paragraph
17 8, above, violated the Code and the Regulations as set forth below:

18 PARAGRAPH	PROVISIONS VIOLATED
19 8(a)	Code Section 10145 and Regulation 2832.1
20 8(b)	Code Sections 10130, 10145 and 10148
21 8(c)	Code Section 10130 and Regulation 2740
22 8(d)	Code Sections 10145 and 10176(i) and 10177(g)
23 8(e)	Code Sections 10145 and 10176(e) and Regulation 2831
24 8(f)	Code Sections 10145 and 10176(e) and Regulation 2831.1
25 8(g)	Code Section 10145 and Regulation 2831.2
26 8(h)	Code Section 10145 and Regulation 2832(a)

- 1 8(i) Code Section 10145 and Regulation 2834(a)
2 8(j) Code Sections 10137 and Regulation 2726
3 8(k) Code Sections 10159.5 and Regulation 2731
4 8(l) Code Sections 10148

5 The foregoing violations constitute cause for the discipline of the real estate licenses and license
6 rights of Respondents JPHHI and HONEYCUTT under the provisions of Code Sections
7 10176(e), 10176(i), 10177(d) and 10177(g).
8

9 SECOND CAUSE OF ACCUSATION
(Negligence)

10 10.

11 The overall conduct of Respondents JPHHI and HONEYCUTT constitutes
12 negligence and is cause for discipline of the real estate license and license rights of said
13 Respondents pursuant to the provisions of Code Section 10177(g).

14 THIRD CAUSE OF ACCUSATION
(Fiduciary Duty)

15 11.

16 The conduct, acts and omissions of Respondents JPHHI and HONEYCUTT
17 constitute a breach of fiduciary duty, owed to JPHHI's clients, of good faith, trust, confidence
18 and candor, within the scope of their contracted property management relationship and
19 brokerage with property owners and tenants, in violation of Code Section 10177(g) and
20 constitutes cause for discipline of the real estate license and license rights of said Respondents
21 pursuant to the provisions of Code Section 10177(g).
22

23 In particular, by not designating BA 1 and BA 2 as trust accounts unnecessarily
24 exposes said bank accounts and each and every beneficiary of trust funds therein, to suit, levy
25 and seizure by (1) the general creditors of every other trust fund beneficiary, (2) by federal and
26 state taxing authorities, including but not limited to the Internal Revenue Service, the California
Franchise Tax Board, and the California State Board of Equalization, and (3) to a lack of

1 recourse and recompense to said beneficiaries for having an unlicensed persons, Salijo A.
2 Hendershaw, John Alito, and Scott Hendershaw, as signatories on BA 1 and BA 2.

3 FOURTH CAUSE OF ACCUSATION
4 (Supervision and Compliance)

5 12.

6 The overall conduct of Respondent HONEYCUTT constitutes a failure on said
7 Respondent's part, as officer designated by a corporate broker licensee, to exercise reasonable
8 supervision and control over the licensed activities and employees of JPHHI as required by
9 Code Section 10159.2 and Regulation 2725, and to keep JPHHI in compliance with the Real
10 Estate Law, with specific regard to trust fund handling and earnest money deposits and advance
11 fees collected for property management services, and is cause for discipline of the real estate
12 license and license rights of Respondent HONEYCUTT pursuant to the provisions of Code
13 Sections 10177(d), 10177(g) and 10177(h).

14 13.

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

19 14.

20 Code Section 10148(b) provides, in pertinent part the Commissioner shall charge
21 a real estate broker for the cost of any audit, if the commissioner has found in a final decision
22 following a disciplinary hearing that the broker has violated Code Section 10145 or a regulation
23 or rule of the commissioner interpreting said section.
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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 JPH & H INC. and
4 CHRISTOPHER JOHN-ALLEN HONEY CUTT individually and as designated officer under
5 the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) and
6 for such other and further relief as may be proper under other applicable provisions of law,
7 including but not limited to, proof of cure of the shortage, and costs of investigation,
8 enforcement and audit.

9 Dated at San Diego, California.

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11 this 31 day of December, 2013.

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14 
15 VERONICA KILPATRICK
16 Deputy Real Estate Commissioner
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23 cc: JPH & H Inc.
24 Christopher John-Allen Honeycutt
25 Veronica Kilpatrick
26 Audits- Jennifer Borromeo
Sacto