

FILED

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DEPT. OF REAL ESTATE
By AD Selbino

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H- 05066 SD
)	
EAGLE ESTATES INC and)	<u>ACCUSATION</u>
DUSTIN ANDREW BRADLEY, individually)	
and as designated officer of Eagle Estates Inc,)	
)	
Respondents.)	
)	

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against EAGLE ESTATES INC and DUSTIN ANDREW BRADLEY (collectively "Respondents") alleges as follows:

1.

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

2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

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ACCUSATION

1 LICENSE HISTORY

2 (EAGLE ESTATES, INC.)

3 3.

4 (a) Respondent EAGLE ESTATES INC ("EEI") is presently licensed and/or has
5 license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and
6 Professions Code, as a real estate corporation, Department of Real Estate¹ ("Department")
7 license ID 00746788.

8 (b) The Department originally issued Respondent EEI's corporate license on
9 August 15, 1979. EEI's license is scheduled to expire on March 26, 2022, unless renewed.

10 (c) According to the Department's records to date, Respondent EEI's main office
11 address is 10175 Rancho Carmel Drive, #124, in San Diego, California.

12 (d) According to the Department's records to date, Respondent EEI currently
13 employs one (1) salesperson under its real estate broker license.

14 (e) According to the Department's records to date, Respondent EEI maintains
15 the authorized fictitious business names "Era Eagle Estates Inc" and "Era Eagle Estates
16 Realty."

17 (DUSTIN ANDREW BRADLEY)

18 4.

19 (a) Respondent BRADLEY was licensed under the Code, as a real estate broker,
20 Department license ID 01290229.

21 (b) The Department originally issued BRADLEY's broker license on June 8,
22 2000. BRADLEY's license expired on February 16, 2019, with rights to renewal pursuant to
23 Code Section 10201.

24 (c) Respondent DUSTIN ANDREW BRADLEY ("BRADLEY") is the
25 designated officer for Respondent EEI. His designation is scheduled to expire on March 26,
26

27 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 2022, unless renewed. As designated officer, Respondent BRADLEY is responsible for the
2 supervision of the activities conducted on behalf of Respondent EEI by its officers, agents, real
3 estate licensees, and employees pursuant to Section 10159.2 of the Code.

4 (PRIOR DISCIPLINE)

5 5.

6 (a) On August 2, 2006 in case no. H-03470 SD, a Stipulation and Agreement
7 was entered into between the Department and Respondents, effective October 25, 2006, issuing
8 suspensions of 150 days (stayed for 2 years) for violation of Code sections 10145, 10161.8,
9 10163, 10165, 10176(e), and 10177(d), and Regulations sections 2752, 2831, 2831.2, 2832,
10 and 2950(h).

11 (b) On April 11, 2013 in case no. H-04301 SD, a Stipulation and Agreement was
12 entered into between the Department and Respondent EEI, effective August 13, 2013, issuing
13 suspensions of 60 days (stayed for 1 year) for violation of Code sections 10145, 10177(d), and
14 10177(g), and Regulations sections 2831, 2831.2, and 2832.

15 6.

16 (a) At all times relevant herein Respondents were engaged in the business of,
17 acted in the capacity of, advertised or assumed to act as a real estate corporation, within the
18 meaning of Section 10131(b) of the Code. Respondents' activities included the leasing or
19 renting of real property and the collection of rents and security deposits for real property on
20 behalf of others for compensation or in expectation of compensation. Respondents also
21 conducted broker escrow activities.

22 (b) In addition, Respondents conducted broker-controlled escrows through their
23 escrow division under the exemption set forth in California Financial Code section 17006(a)(4)
24 for real estate brokers performing escrows incidental to a real estate transaction where the
25 broker is a party and where the broker is performing acts for which a real estate license is
26 required.

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2 (AUDIT SD160004 - PROPERTY MANAGEMENT ACTIVITIES)

3 7.

4 On or about April 27, 2017, the Department completed an audit examination of
5 the books and records of Respondent EEI pertaining to the real estate activities described in
6 Paragraph 6 above. The audit examination covered the period of time from November 1, 2013,
7 through September 30, 2016 ("audit period"). The primary purpose of the examination was to
8 determine Respondent's compliance with the Real Estate Law. This audit was limited to
9 Respondent EEI's property management activity. The audit examination revealed violations of
10 the Code and the Regulations as set forth in the following paragraphs, and more fully discussed
11 in Audit No. SD160004 and the exhibits and work papers attached to said audit report.

12 8.

13 According to Respondent BRADLEY and the documents examined, Respondent
14 EEI managed approximately twenty six (26) properties for twenty six (26) property owners.
15 Respondent EEI handled one (1) trust fund account from January 2013 through September 2016
16 for their property management activities for multiple beneficiaries. Respondent EEI collected
17 rent receipts in the amount of approximately \$623,137.00 during the period between October 1,
18 2015 to September 30, 2016.

19 9.

20 In addition, Respondents were engaged in broker escrow activities during the
21 audit period. Respondents also handled a trust fund for their broker escrow activities for
22 multiple beneficiaries. This audit, however, was limited to Respondent's property management
23 activities during audit period.

24 10.

25 An exit conference was held on April 26, 2017, with Respondent BRADLEY at
26 Respondent EEI's office located at 10175 Rancho Carmel Drive, #124, San Diego, CA 92128.
27

1 The auditor discussed the audit findings and methods of correction with Respondent
2 BRADLEY.

3 11.

4 At all times mentioned herein, and in connection with the property management
5 activities described in Paragraph 6, above, Respondent EEI accepted or received funds,
6 including funds in trust ("trust funds") from or on behalf of the owners of the properties
7 managed by Respondent EEI, doing business as Era Eagle Estates Realty, and thereafter made
8 deposits and/or disbursements of such funds. According to Respondent BRADLEY,
9 Respondent EEI maintained one (1) bank account for handling of the receipts and
10 disbursements of rents during the audit period in connection with the property management
11 activity. The bank accounts are as follows:

12 Trust Account 1 ("TA 1")

13 Bank: JP Morgan Chase Bank
14 Account Name: Eagle Estates, Inc. dba Era Eagle Estates Realty
15 Account Number: xxxxxxxx8172
16 Signatories: Dustin Bradley, Walter G. Tamulinas, Jeanne A. Tamulinas, Lesley J.
17 Anderson

18 Signatures Required: One

19 Purpose: TA 1 was maintained for the receipts and disbursements of trust funds
20 for multiple beneficiaries in connection with Respondents' property management activity.
21 According to Respondent and TA 1's bank signature card provided for the audit, TA 1 was
22 opened on June 20, 2013. As of September 30, 2016, TA 1 had a bank balance of \$50,189.00.

23 Violations of the Real Estate Law

24 12.

25 The audit examination revealed violations of the Code and the Regulations, as
26 set forth in the following paragraphs, and more fully discussed in Audit Report No. SD160004
27 and the exhibits and work papers attached to the audit report:

1 (a) **Trust Account Record to be Maintained (Code section 10145 and**
2 **Regulations sections 2831 and 2832.1).** Respondent EEI failed to maintain complete and
3 accurate control record for TA 1, which was used for trust fund receipts and disbursements in
4 connection with ERGI's property management activities during the audit period in violation of
5 Code section 10145 and Regulations sections 2831. The TA 1 control record included the
6 following problems: (1) two deposits were recorded subsequent to the actual deposit date, (2)
7 recorded deposits that failed to identify from whom and to which property the trust funds were
8 received, (3) the running balance was inaccurate, and (4) on June 12, 2015, there was a \$2,600
9 bank transfer from TA 1 to the general account that was not recorded. Further, there was a
10 shortage of \$2,978.00 as of September 30, 2016.

11 (b) **Separate Records for Each Beneficiary (Code section 10145(g) and**
12 **Regulations sections 2831.1).** Respondent EEI failed to maintain complete and accurate
13 separate records for each beneficiary or transaction of all trust fund receipts and disbursements
14 for TA 1 in connection with EEI's property activities during the audit period in violation of
15 Code section 10145 and Regulations section 2831.1. The security deposits received and
16 dispersed were not recorded in a separate record and did not have a running balance. TA 1's
17 separate records did not have an accurate running daily balance. On June 12, 2015, there was a
18 \$2,600.00 bank transfer from TA 1 to the general account that was not recorded. There was an
19 unidentified shortage of \$378.00, which did not have a separate record.

20 (c) **Trust Account Reconciliation (Code section 10145 and Regulations**
21 **sections 2831.2).** Respondent EEI did not maintain a complete and accurate monthly
22 reconciliation of the balance of all separate beneficiary or transaction records to the balance of
23 the records of all trust funds received and disbursed for TA 1, in violation of Code section
24 10145 and Regulations sections 2831.2. Respondent EEI also failed to reconcile and identify
25 the shortage of \$378.00.

26 (d) **Handling of Trust Funds (Code section 10145 and Regulations section**
27 **2832).** Respondent EEI failed to deposit, within 3 business days, trust funds received into TA 1.

1 Three (3) examples of such were: (1) \$1,700.00 received on June 3, 2015, but deposited on
2 June 17, 2015, (2) \$1,800.00 received on January 5, 2016, but deposited on January 19, 2016,
3 and (3) \$2,100.00 received on February 12, 2016, but deposited on February 29, 2016.

4 (AUDIT SD160042 - BROKER ESCROW ACTIVITIES)

5 13.

6 On or about October 27, 2017, the Department completed an audit examination
7 of the books and records of Respondent pertaining to the broker escrow activities described in
8 Paragraph 6 above. The audit examination covered the audit period (from November 1, 2013,
9 through September 30, 2016). The primary purpose of the examination was a follow-up audit to
10 determine Respondent's compliance with the Real Estate Law pursuant to the Stipulation and
11 Agreement from H-4301SD. This audit was limited to Respondent's broker escrow activities
12 and related trust funds. The audit examination revealed violations of the Code and the
13 Regulations as set forth in the following paragraphs, and more fully discussed in Audit No.
14 SD160042 and the exhibits and work papers attached to said audit report.

15 14.

16 An entrance conference was held on January 11, 2017, with Respondent
17 BRADLEY at Respondent EEI's office located at 10175 Rancho Carmel Drive, #124, San
18 Diego, CA 92128. The auditor met with Respondent BRADLEY, designated officer of
19 Respondent EEI, who was the primary person who provided records for the examination.
20 According to the auditor's discussion with Respondent BRADLEY, the ownership of EEI is as
21 follows: Respondent BRADLEY owns 50%; Walter George Tamulinas (REB 00578945) owns
22 25%; and Jeanne Anne Tamulinas (RES 00875854) owns 25%. During the period between
23 October 1, 2015 and September 30, 2016, Respondent EEI closed thirty-six (36) escrow
24 transactions and collected approximately \$6,152,411.

25 15.

26 At all times mentioned herein, and in connection with the broker escrow
27 activities described in Paragraph 6, above, Respondents accepted or received funds, including

1 trust funds from or on behalf of actual or prospective parties to transactions handled by
2 Respondents, doing business as Era Eagle Estates, Inc. and Era Eagle Estates Realty, and
3 thereafter made deposits and/or disbursements of such funds. According to Respondent
4 BRADLEY, Respondents maintained two (2) bank accounts for handling of the receipts and
5 disbursements of rents during the audit period in connection with the broker escrow activities.
6 The bank accounts are as follows:

7 Trust Account 2 ("TA 2")

8 Bank: JP Morgan Chase Bank
9 Account Name: Eagle Estates, Inc. dba Eagle Estates Realty Trust Account
10 Account Number: xxxxxxxx6283
11 Signatories: Dustin Bradley, Walter G. Tamulinas, and Lesley J. Anderson
12 Signatures Required: One
13 Purpose: TA 2 was maintained for the receipts and disbursements of trust funds
14 for multiple beneficiaries in connection with EEI's broker escrow activities. According to
15 Respondent and TA 2's bank signature card provided for the audit, TA 2 was opened on June
16 20, 2013 to replace EEI's TA 3 (see below), which was closed on September 30, 2014.

17 Trust Account 3 ("TA 3")

18 Bank: City National Bank
19 Account Name: Eagle Estates, Inc. dba Era Eagle Estates Realty Escrow Trust Account
20 Account Number: xxxxxxxx1227
21 Signatories: Dustin Bradley, Walter G. Tamulinas, and Fred Bradley
22 Signatures Required: One
23 Purpose: TA 3 was maintained for the receipts and disbursements of trust funds
24 for multiple beneficiaries in connection with EEI's broker escrow activities. According to
25 Respondent BRADLEY, TA 3 was opened on August 8, 2008 and was closed on September 30,
26 2014. Due to some trust funds receipts and disbursements of TA 2 and TA 3 were combined, a
27 combined reconciliation of the accounts was performed.

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2 Violations of the Real Estate Law

3 16.

4 The audit examination revealed violations of the Code and the Regulations, as
5 set forth in the following paragraphs, and more fully discussed in Audit Report No. SD160042
6 and the exhibits and work papers attached to the audit report:

7 (a) Trust Fund Handling For Multiple Beneficiaries/When Broker Handles
8 Escrow (Code section 10145 and Regulations sections 2832.1, 2950(g) and 2951. Based on
9 an examination of TA 2 and TA 3's records, there was a combined minimum trust fund
10 shortage of \$110,610.10 as of September 30, 2016 in violation of Code section 10145 and
11 Regulations sections 2832.1, 2950(g), and 2951. There is no evidence that Respondents were
12 given written consent from the owners of the trust funds to allow Respondents to reduce the
13 balance of the funds in TA 2 and TA 3 to an amount less than the aggregate trust fund liabilities
14 of Respondent EEI to all owners of the trust funds.

15 (b) Compliance with Stipulation and Agreement in Settlement and Order
16 No. H-4301 SD. Based on an examination of the records in the audit, Respondent EEI was in
17 compliance with Regulation section 2832 as cited in the Stipulation and Agreement No. H-
18 4301SD. Respondent EEI is not compliant with Code section 10145 and Regulations sections
19 2832.1, 2831, 2831.1, 2831.2, 2950(d), and 2951.

20 (c) Trust Account Record to be Maintained/When Broker Handles Escrow
21 (Code section 10145 and Regulations sections 2831, 2950(d), 2951). Respondent EEI failed
22 to maintain complete and accurate control record for TA 2 and 3, which was used for trust fund
23 receipts and disbursements in connection with EEI's broker escrow activities during the audit
24 period in violation of Code section 10145 and Regulations sections 2831, 2950(d), and 2951.
25 The control records maintained had incorrect dates, incorrect amount of trust fund received, as
26 well as missing records of deposits, checks, withdrawals, and bank adjustments.

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2 (d) **Separate Records for Each Beneficiary/When Broker Handles Escrow**

3 **(Code section 10145 and Regulations sections 2831.1, 2950(d), 2951).** Respondent EEI
4 failed to maintain complete and accurate separate records for each beneficiary or transaction of
5 all trust fund receipts and disbursements for TA 2 and 3 in connection with EEI's broker
6 escrow activities during the audit period in violation of Code section 10145 and Regulations
7 section 2831.1, 2950(d), and 2951. The control records maintained had incorrect dates,
8 incorrect amount of trust fund received, as well as missing records of deposits, checks,
9 withdrawals, and bank adjustments.

10 (e) **Trust Account Reconciliation/When Broker Handles Escrow (Code**
11 **section 10145 and Regulations sections 2831.2, 2950(d), and 2951).** Respondent EEI did not
12 maintain a complete and accurate monthly reconciliation of the balance of all separate
13 beneficiary and/or transaction records to the balance of the records of all trust funds received
14 and disbursed for TA 2 in violation of Code section 10145 and Regulations sections 2831.2,
15 2950(d), and 2951. Records for TA 3 were not available for examination because they were
16 allegedly destroyed in a fire on or about October 3, 2014.

17 (f) **Retention of Records/When Broker Handles Escrow (Code section 10148.**
18 **and Regulations section 2950(e).** The Department served a subpoena duces tecum to
19 Respondent BRADLEY on April 18, 2017. The subpoena served on Respondent BRADLEY
20 requested Respondent EEI produce records on May 3, 2017 related to its real estate activities
21 during the audit period. Respondent EEI failed to maintain and/or make available all books,
22 accounts, and records related to its real estate activities for the DRE auditor's examination,
23 inspection, and copying in violation of Code section 10148 and Regulation section 2950(e).
24 Respondent EEI failed to make available the following records: (1) monthly records of
25 reconciliation for TA 3 were not available for examination due to being destroyed in the
26 October 3, 2014 fire and (2) records for a bank transfer on May 30, 2014 in the amount of
27 \$10,000.00 from TA 3 to a City National Bank account (account no. xxxxxxxx9972), which

1 Respondent BRADLEY stated was an old bank account that was closed in October 2013.

2 Respondent BRADLEY failed to provide bank statements for account xxxxxxxx9972, despite
3 being requested to by the Department.

4 (g) Use of False or Fictitious Name (Code section 10159.5 and Regulations
5 section 2731). During the audit period, Respondent EEI used the unlicensed fictitious business
6 name of "Eagle Estates Escrow Department." This name does not show up in the Department's
7 records as a listed dba.

8 (h) Failure to Disclose Interest in the Agency Holding the Escrow
9 (Regulations 2950(h)). Respondent EEI did not disclose in writing to all parties of their
10 financial interest in the Agency holding the escrow.

11 (i) License Disclosure Required of Person Preparing Written Escrow
12 Instructions (Financial Code section 17403.4). Respondent EEI's escrow instructions did not
13 contain a statement indicating the license name and name of department issuing the license or
14 the authority under which the broker is doing the escrows.

15 (j) Responsibility of Corporate Office in Charge/Broker Supervision (Code
16 sections 10159.2 and 10177(h) and Regulations section 2725). Based on the violations in
17 Paragraphs 12(a)-(i) above, Respondent BRADLEY failed to exercise adequate supervision and
18 control over Respondent EEI's broker escrow activities conducted by EEI's licensees and its
19 employees in violation of Code sections 10159.2 and 10177(h). Respondent BRADLEY failed
20 to establish policies, rules, procedures, and systems to review, oversee, inspect, and manage
21 transactions requiring a real estate license and the handling of trust funds in violation of
22 Regulations section 2725.

23 17.

24 Each of the foregoing violations in Paragraphs 12(a)-(d) and 16(a)-(j) above
25 constitute cause for the suspension or revocation of the real estate license and/or license rights
26 of Respondents under the provisions of Sections 10177(d), 10177(g), and 10177(h) (as to
27 Respondent BRADLEY).

ACCUSATION

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2 COSTS

3 (AUDIT COSTS)

4 18.

5 Section 10148(b) of the Code, provides, in pertinent part, that the Real Estate
6 Commissioner shall charge a real estate broker for the costs of any audit if the Commissioner
7 has found in a final decision, following a disciplinary hearing, that the broker has violated
8 Section 10145 of the Code or a regulation or rule of the Commissioner interpreting said Code
9 section.

10 (INVESTIGATION AND ENFORCEMENT COSTS)

11 19.

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

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2 WHEREFORE, Complainant prays that a hearing be conducted on the
3 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
4 disciplinary action against all the licenses and/or license rights of Respondent EAGLE
5 ESTATES INC and DUSTIN ANDREW BRADLEY, individually and as designated officer of
6 Eagle Estates, Inc., under the Real Estate Law, for the costs of investigation and enforcement as
7 permitted by law, for the cost of the audit, and for such other and further relief as may be proper
8 under other applicable provisions of law.

9
10 Dated at San Diego, California this 29 day of May, 2019.

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12
13 V. Kilpatrick
14 Veronica Kilpatrick
15 Supervising Special Investigator

16
17 cc: EAGLE ESTATES INC
18 DUSTIN ANDREW BRADLEY
19 Veronica Kilpatrick
20 Sacto.
21 Audits – Linda Davies
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