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FILED
MAY 19 2020
DEPT. OF REAL ESTATE
By *[Signature]*

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H-05150 SD
13 ALAN CRAIG TOWNSEND,) ACCUSATION
14 doing business as Rancho Mesa Properties,)
15 Respondent.)

16
17 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
18 State of California, for cause of Accusation against ALAN CRAIG TOWNSEND
19 (“Respondent”) alleges as follows:

20 1.

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

23 2.

24 All references to the “Code” are to the California Business and Professions Code
25 and all references to “Regulations” are to Title 10, Chapter 6, California Code of Regulations.

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1 LICENSE HISTORY

2 (ALAN CRAIG TOWNSEND)

3 3.

4 a. Respondent ALAN CRAIG TOWNSEND is presently licensed under the
5 Code, as a real estate broker ("REB"), Department license ID 00846319.

6 b. The Department originally issued Respondent's broker license on or about
7 April 16, 1987. Respondent's license is scheduled to expire on April 15, 2023, unless renewed.

8 c. According to the Department's records to date, Respondent employs six (6)
9 salespersons under his real estate license.

10 d. According to the Department's records to date, Respondent maintains
11 "Rancho Mesa Properties" as a fictitious business names.

12 4.

13 (PRIOR DISCIPLINE)

14 On or about April 7, 2016, Respondent and the Department entered into a
15 stipulation and agreement in settlement and order ("stipulation and agreement") for an
16 accusation the Department filed against Respondent in September 2015 (Case No. H-04743
17 SD). Respondent's license was disciplined, among other things, with a 60-day stayed
18 suspension. The September 2015 accusation alleged that Respondent violated the following real
19 estate laws:

20 a. Code Section 10145 and Regulation 2832.1 – Trust Fund Handling for
21 Multiple Beneficiaries (shortages);

22 b. Code Section 10145 and Regulation 2832.2 – Trust Fund Handling (placing
23 trust fund in accounts not designated as trust accounts);

24 c. Code Section 10145 and Regulation 2831 - Trust Fund Records to be
25 Maintained (inaccurate/incomplete control records)

26 d. Code Section 10145 and Regulation 2831.1 – Separate Records for Each
27 Beneficiary or Transaction (inaccurate/incomplete separate records);

1 e. Code Section 10145 and Regulation 2831.2 – Bank Account Reconciliation
2 (inaccurate monthly separate records);

3 f. Code Section 10145 and Regulation 2834 – Bank Account Withdrawal
4 (withdrawal of trust funds by a non-licensee without fidelity bond);

5 g. Code Sections 10145, 10176(e) and Regulation 2832 – Handling of Trust
6 Funds/Commingling (transfer of trust funds to general account); and

7 h. Code Sections 10145, 10176(i) or 10177(j) – Handling of Trust
8 Funds/Unauthorized Disbursements/Conversions of Funds/ Dishonest Dealing.

9 5.

10 At all times relevant herein Respondent was engaged in the business of, acted in
11 the capacity of, advertised or assumed to act as a real estate broker, within the meaning of
12 Section 10131(b) of the Code. Respondent's activities included the leasing or renting of real
13 property and the collection of rents and security deposits for real property on behalf of others
14 for compensation or in expectation of compensation.

15 (AUDIT SD190004)

16 6.

17 On or about January 31, 2020, the Department completed an audit examination
18 of the books and records of Respondent pertaining to the real estate activities described in
19 Paragraph 5 above. The audit examination was a follow up to the audit examination conducted
20 by the Department in 2015, as related to H-04743 SD. The audit examination covered the
21 period of time from January 1, 2017, through August 30, 2019 ("audit period"). The primary
22 purpose of the examination was to determine whether Respondent conducted real estate
23 activities in accordance with the Real Estate Law and whether Respondent has complied with
24 the stipulation and agreement. The audit examination revealed violations of the Code and the
25 Regulations as set forth in the following paragraphs, and more fully discussed in Audit
26 SD190004 and the exhibits and work papers attached to said audit report.

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1 7.

2 An entrance conference was held on September 24, 2019 with Respondent and
3 Imelda De Jesus Ortega Gallardo (Department ID 02035850).

4 8.

5 According to Respondent as well as the documents examined, Respondent was
6 primarily engaged in property management and managed approximately 368 properties for 251
7 property owners. Respondent collected rent receipts in the amount of approximately
8 \$11,934,700.00 during the audit period. Respondent charged a management fee of 5% - 10% of
9 the monthly rents collected for the properties, a one time set up fee from \$250 to \$300, and
10 10% markup on construction over \$1,000.00.

11 9.

12 At all times mentioned herein, and in connection with the property management
13 activities described in Paragraph 5, above, Respondent accepted or received funds, including
14 funds in trust ("trust funds") from or on behalf of the owners of the properties managed by
15 Respondent and thereafter made deposits and/or disbursements of such funds. According to
16 Respondent, he maintained two (2) bank accounts (for multiple beneficiaries) for handling of
17 the receipts and disbursements of rents during the audit period in connection with the property
18 management activities. The bank accounts are as follow:

19 Trust Account 1 ("TA 1")

20 Bank: California Bank & Trust
21 Account Name: Alan Craig Townsend DBA Rancho Mesa Properties Real Estate Trust
22 Acct
23 Account Number: xxxxxxxx6451
24 Signatories: Alan Craig Townsend
25 Signatures Required: One
26 Purpose: TA 1 was maintained to handle trust funds in the property management
27 activity for multiple beneficiaries. According to TA 1's signature card and statements provided

1 for the audit, TA 1 was opened in September 1, 2011. As of August 30, 2019, TA 1 had a bank
2 balance of \$373,627.64.

3 Trust Account 2 ("TA 2")

4 Bank: California Bank & Trust
5 Account Name: Alan Craig Townsend DBA Rancho Mesa Properties Real Estate Trust
6 Acct
7 Account Number: xxxxxxxx6881
8 Signatories: Alan Craig Townsend
9 Signatures Required: One
10 Purpose: TA 2 was maintained to handle trust funds in the property management
11 activity for multiple beneficiaries. According to TA 2's signature card and statements provided
12 for the audit, TA 2 was opened in May 16, 2011. As of August 30, 2019, TA 2 had a bank
13 balance of \$462,557.57.

14 Violations of the Real Estate Law

15 10.

16 The audit examination revealed violations of the Code and the Regulations, as
17 set forth in the following paragraphs, and more fully discussed in Audit Report No. SD190004
18 and the exhibits and work papers attached to the audit report:

19 a. **Handling of Trust Funds for Multiple Beneficiaries (Code section 10145**
20 **and Regulations section 2832.1)**. Based on an examination of TA 1's records, there was a
21 minimum trust fund shortage of \$8,118.93 as of August 30, 2019 in violation of Code section
22 10145 and Regulations section 2832.1. There is no evidence that Respondent was given written
23 consent from the owners of the trust funds to allow him to reduce the balance of the funds in
24 TA 1 to an amount less than the aggregate trust fund liabilities of Respondent to all owners of
25 the trust funds.

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COSTS

(AUDIT COSTS)

13.

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

(INVESTIGATION AND ENFORCEMENT COSTS)

14.

Section 10106 of the Code, 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 enforcement of the case.

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PRAAYER

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 all the licenses and/or license rights of Respondent ALAN CRAIG TOWNSEND under the Real Estate Law, for the costs of investigation and enforcement as permitted by law, for the cost of the audit, and for such other and further relief as may be proper under other applicable provisions of law.

Dated at San Diego, California this 14 day of May, 2020.



Veronica Kilpatrick
Supervising Special Investigator

cc: ALAN CRAIG TOWNSEND
Veronica Kilpatrick
Sacto.
Audits – Chona Picayo