LISSETE GARCIA, Counsel (SBN 211552) 1 Department of Real Estate FILED 320 West 4th Street, Suite 350 Los Angeles, California 90013-1105 3 Telephone: (213) 576-6982 MAR 0 1 2021 4 Direct: (213) 576-6914 Fax: (213) 576-6917 5 Attorney for Complainant 6 7 8 9 BEFORE THE DEPARTMENT OF REAL ESTATE 10 STATE OF CALIFORNIA 11 12 DRE No. H-05184 SD 13 In the Matter of the Accusation against: **ACCUSATION** 14 WILLIAM BENJAMIN KNOWLES; 15 BRENDA JOYCE DAVIS-BAILEY; 16 BST REALTY, INC.; and ALVIN GENE TONEY, individually, and as 17 designated officer for BST Realty, Inc., 18 Respondents. 19 20 21 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the 22 Department of Real Estate ("Department") of the State of California, for cause of 23 Accusation against WILLIAM BENJAMIN KNOWLES; BRENDA JOYCE DAVIS-BAILEY; BST 24 REALTY, INC.; and ALVIN GENE TONEY, individually, and as designated officer for BST 25 Realty, Inc. (collectively "Respondents"), alleges as follows: 26 27

DRE Accusation against William Benjamin Knowles, et al

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2. Unless otherwise noted, all references to the "Code" are to the California Business and Professions Code, all references to the "Real Estate Law" are to Part 1 of Division 4 of the Code, and all references to "Regulations" are to the Regulations of the Real Estate Commissioner, Title 10, Chapter 6, California Code of Regulations.

#### Statement of Facts

- 3. Respondents are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Code).
- 4. On or about July 9, 1973, the Department initially issued a real estate broker license to Respondent WILLIAM BENJAMIN KNOWLES ("KNOWLES"), License ID 00316494.
- 5. On August 15, 2000, the Department filed an Accusation against Respondent KNOWLES in Case No. H-28693 LA. On or about December 29, 2001, the parties entered into a Stipulation and Agreement. According to the Stipulation, the Department revoked Respondent KNOWLES' broker license with a right to a restricted broker license under certain terms and conditions, effective January 18, 2001.
- 6. From January 18, 2001 through the present, Respondent KNOWLES has been licensed as a restricted real estate broker.
- 7. From December 13, 2003 through the present, Respondent BRENDA JOYCE DAVIS-BAILEY ("DAVIS-BAILEY") has been licensed as a real estate salesperson, License ID 01470934.
- 8. From February 1, 2006 through January 30, 2018, Respondent BST REALTY, INC. ("BSTRI") was licensed as a real estate corporation, License ID 01522210.
- 9. From November 7, 2005 through the present, Respondent ALVIN GENE TONEY ("TONEY") has been licensed as a real estate broker, License ID 01132660.
  - 10. Respondent TONEY was the designated officer-broker for Respondent

BSTRI pursuant to Code section 10211. As said designated officer-broker, Respondent TONEY was responsible, pursuant to Code section 10159.2, for the supervision of the activities for which a license is required, of the officers, agents, real estate licensees, and employees of Respondent BSTRI.

- 11. Respondent BSTRI is a corporation formed in California on December 19,2005. BSTRI's corporate status is currently suspended by the Franchise Tax Board.
- 12. BSTRI's real estate license expired on January 31, 2018. On or about September 19, 2018, Respondent TONEY submitted an Officer Renewal Application ("license renewal application") on behalf of BSTRI to renew BSTRI's corporation license. The Department has not processed BSTRI's license renewal application. BSTRI's corporate status was, and continues to be, not in good standing with the Office of the Secretary of State for California.
- 13. Following the expiration of BSTRI's real estate license, Respondents BSTRI and TONEY continued to engage in activities that require a real estate broker license within the meaning of Code section 10131, subdivision a, while doing business as BSTRI. Respondents' activities included selling or offering to sell, buying or offering to buy, soliciting prospective sellers or buyers of, soliciting or obtaining listings of, or negotiating the purchase, sale, or exchange of real property or a business opportunity. Autumn St. property
- 14. On or about July 17, 2019, Respondent TONEY submitted an offer on behalf of prospective buyer M.D.<sup>1</sup> to purchase real property located at 11613 Autumn Street, Adelanto, California ("Autumn St. property"). The purchase price was to be \$299,000.

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<sup>&</sup>lt;sup>1</sup> Initials are used in place of individuals' full names to protect their ptivacy. Documents containing individuals' full names will be provided during the discovery phase of this case to Respondent(s) and/or their attorneys, after service of a timely and proper request for discovery on Complainant's counsel.

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- The Residential Purchase Agreement and Joint Escrow Instructions ("first 15. purchase agreement") lists BSTRI as the broker for buyer M.D. TONEY executed the purchase agreement and other documents related to the transaction on behalf of BSTRI.
- At all times mentioned herein, Respondent TONEY was not licensed to do 16. business using any fictitious business name including BSTRI.
  - 17. On or about August 5, 2019, M.D. cancelled the transaction and escrow.
- 18. On or about August 5, 2019, Respondent DÁVIS-BAILEY signed a Broker-Associate Licensee Contract ("salesperson contract") with Respondent KNOWLES, doing business as Knowles & Morgan Realty, to act as a salesperson for broker KNOWLES.
- At all times relevant herein, Respondent KNOWLES was licensed to do 19. business as "Knowles & Morgan Realty."
- 20. Under the salesperson contract, DAVIS -BAILEY was to receive compensation including a 70% share of commissions collected by broker KNOWLES for DAVIS-BAILEY's listings, sales, and other services that require a real estate license. KNOWLES was to receive a 30% share of sales commissions.
- 21. Respondents DAVIS-BAILEY and KNOWLES failed to notify the Department of DAVIS-BAILEY's association with KNOWLE\$, as DAVIS-BAILEY's new broker.
- According to the Department's licensing records, from September 29, 22. 2016 to January 17, 2020, DAVIS-BAILEY was licensed under responsible broker BSTRI. Respondent DAVIS-BAILEY is currently licensed "NBA" meaning no broker affiliation.
- On August 6, 2019, Respondent DAVIS-BAILEY submitted a new offer on 23. behalf of M.D. (the same prospective buyer noted above in Paragraphs 14 and 15) to purchase the Autumn St. property for a purchase price of \$299,999. Knowles & Morgan Realty was listed as M.D.'s broker on the Residential Purchase Agreement and Joint Escrow Instructions ("second purchase agreement").

- 24. The sellers accepted M.D.'s offer and escrow closed on November 27, 2019. The escrow commission instructions were to pay a commission of \$5,980 to Morgan & Knowles Realty.
- 25. On or about December 2, 2019, KNOWLES paid DAVIS-BAILEY her share of the sales commission for M.D.'s purchase of the Autumn St. property. DAVIS-BAILEY was not licensed as a salesperson under broker KNOWLES.

## Norton Ave. property

26. In August of 2019, Respondent BSTRI entered into a Residential Listing Agreement to act as the broker for seller A.G.'s sale of real property located at 3741 S. Norton Ave., Los Angeles, California ("Norton Ave. property"). Between September and November of 2019, Respondent BSTRI was listed as the broker for seller A.G. in three separate transactions where prospective buyers attempted to purchase the Norton Ave. property before ultimately cancelling the transactions with escrow. Respondent TONEY eventually procured a buyer for the Norton Ave. property and escrow closed on December 4, 2019. Respondent BSTRI received a commission of \$22,850.00 from the sale of the Norton Ave. property.

## Luna Rd. property

- 27. On or about April 5, 2020, Respondent TONEY submitted an offer on behalf of prospective buyer S.S. to purchase real property located at 12913 Luna Road, Victorville, California ("Luna Rd. property"). The purchase price was to be \$269,000.
- 28. Respondent TONEY prepared or submitted several transaction documents using the fictitious business names BSTRI and/or BST Reality, including, but not limited to, a Residential Purchase Agreement and Joint Escrow Instructions ("purchase agreement"), an Addendum to the purchase agreement, and an invoice for transaction coordinator fees.
- 29. At all times relevant herein, Respondent TOINEY was not licensed to do business using any fictitious business names including BSTRI.

30. The transaction was completed and escrow closed on or about May 8, 2020. Respondent TONEY received a commission of \$7,875 for the transaction. BSTRI received a fee of \$350.00 from escrow.

#### First Cause of Accusation

# Respondents KNOWLES, DAVIS-BAILEY, BSTRI, and TONEY

- 31. There is hereby incorporated in this First, separate and distinct Cause of Accusation, all of the allegations contained in Paragraphs 1 through 30, with the same force and effect as if herein fully set forth.
- 32. Respondent DAVIS-BAILEY was licensed by the Department under responsible broker BSTRI in 2019, as is alleged above in Paragraph 22. Respondents failed to timely notify the Department of DAVIS-BAILEY's termination of association with BSTRI and new association with broker KNOWLES, in violation of Code section 10161.8, Regulation 2715, and Regulation 2752. The foregoing violations constitute cause for the suspension or revocation of all licenses and license rights of Respondents BSTRI, DAVIS-BAILEY, and KNOWLES pursuant to Code section 10177, subdivisions (d) and/or (g).
- 33. The violations alleged above in Paragraph 32 also constitute cause for the suspension or revocation of all licenses and license rights of Respondent TONEY pursuant to Code section 10177, subdivisions (h), (d) and/or (g).
- 34. The violations alleged above in Paragraph 32 also constitute cause for the suspension or revocation of the restricted broker license and license rights of Respondent KNOWLES pursuant to Code section 10177, subdivision (k).

## Second Cause of Accusation

# Respondents KNOWLES, DAVIS-BAILEY, BSTRI, and TONEY

35. There is hereby incorporated in this Second, separate and distinct Cause of Accusation, all of the allegations contained in Paragraphs 1 through 34, with the same force and effect as if herein fully set forth.

36. Respondent DAVIS-BAILEY conducted the real estate activities alleged in Paragraphs 18 through 25, above, and collected compensation for such activities through KNOWLES, a broker under whom DAVIS-BAILEY was not at the time licensed, in violation of Code section 10137. The foregoing violation constitute cause for the suspension or revocation of all licenses and license rights of Respondent DAVIS-BAILEY pursuant to Code section 10177, subdivisions (d) and/or (4).

37. The violations alleged above in Paragraph 36 are also in violation of Regulation 2725 and constitutes cause for the suspension or revocation of all licenses and license rights of Respondent KNOWLES pursuant to Code section 10177, subdivisions (d), (k), and/or (g).

#### **Third Cause of Accusation**

#### Respondent BSTRI

- 38. There is hereby incorporated in this Third, separate and distinct Cause of Accusation, all of the allegations contained in Paragraphs 1 through 37, with the same force and effect as if herein fully set forth.
- 39. The suspension of Respondent BSTRI's corporate status, as alleged above in Paragraph 11, is in violation of Regulation 2742, subdivision (c), and constitutes cause to suspend or revoke Respondent BSTRI's corporate real estate broker license pursuant to Code section 10177, subdivisions (d), (f), and/or (g).

# Fourth Cause of Accusation

# Respondents BSTRI and TONEY

- 40. There is hereby incorporated in this Fourth, separate and distinct Cause of Accusation, all of the allegations contained in Paragraphs 1 through 39, with the same force and effect as if herein fully set forth.
- 41. Respondent BSTRI's offering or engaging in services, for compensation, that require a real estate broker license pursuant to Code section 10131, subdivision (a), when BSTRI's license was expired and corporate status was not in good standing, is in

 violation of Code section 10130 and Regulation 2742(c), as is alleged above in Paragraphs 11 through 14 and Paragraphs 26 through 30. The foregoing violations constitute cause for the suspension or revocation of all licenses and license rights of Respondent BSTRI pursuant to Code section 10177, subdivisions (d) and/or (g).

42. The violations alleged above in Paragraph 41 constitutes Respondent TONEY's failure to exercise the supervision and control over the activities of BSTRI to ensure compliance with the Real Estate Law and Regulations, as is required by Code section 10159.2 and Regulation 2725. The foregoing violations constitute cause to suspend or revoke the real estate licenses and license rights of Respondent TONEY pursuant to Code section 10177, subdivisions (h), (d), and/or (g).

## Fifth Cause of Accusation

#### Respondent TONEY

- 43. There is hereby incorporated in this Fifth, separate and distinct Cause of Accusation, all of the allegations contained in Paragraphs 1 through 42, with the same force and effect as if herein fully set forth.
- 44. Respondent TONEY engaged in activities requiring a real estate license, as alleged above in Paragraphs 11 through 14 and Paragraphs 26 through 30, while using the unlicensed fictitious business names BST Realty, Inc. and BST Realty, in violation of Code section 10159.5 and Regulation 2731. The foregoing violations constitute cause to suspend or revoke the real estate licenses and license rights of Respondent TONEY pursuant to Code section 10177, subdivisions (d) and/or (g).

## Investigation/Enforcement Costs

45. Code section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department of Real Estate, 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 the investigation and enforcement of the case.