

FILED

MAR 17 2021

DEPT. OF REAL ESTATE

By 

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8 *Attorney for Complainant*

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:

FIRST AMENDED ACCUSATION

14 WILLIAM BENJAMIN KNOWLES;
15 BRENDA JOYCE DAVIS-BAILEY;
16 BST REALTY, INC.; and
ALVIN GENE TONEY, individually, and as
designated officer for BST Realty, Inc.,

17 Respondents.

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20 This First Amended Accusation amends the Accusation filed on March 1, 2021. The
21 Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the Department of
22 Real Estate ("Department") of the State of California, for cause of Accusation against
23 WILLIAM BENJAMIN KNOWLES; BRENDA JOYCE DAVIS-BAILEY; BST REALTY,
24 INC.; and ALVIN GENE TONEY, individually, and as designated officer for BST Realty, Inc.
25 (collectively "Respondents"), alleges as follows:
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1 10. Respondent TONEY was the designated officer-broker for Respondent BSTRI
2 pursuant to Code section 10211. As said designated officer-broker, Respondent TONEY was
3 responsible, pursuant to Code section 10159.2, for the supervision of the activities for which a
4 license is required, of the officers, agents, real estate licensees, and employees of Respondent
5 BSTRI.

6 11. Respondent BSTRI is a corporation formed in California on December 19, 2005.
7 BSTRI's corporate status is currently suspended by the Franchise Tax Board.

8 12. BSTRI's real estate license expired on January 31, 2018. On or about September
9 19, 2018, Respondent TONEY submitted an Officer Renewal Application ("license renewal
10 application") on behalf of BSTRI to renew BSTRI's corporation license. The Department has
11 not processed BSTRI's license renewal application. BSTRI's corporate status was, and
12 continues to be, not in good standing with the Office of the Secretary of State for California.

13 13. Following the expiration of BSTRI's real estate license, Respondents BSTRI and
14 TONEY continued to engage in activities that require a real estate broker license within the
15 meaning of Code section 10131, subdivision a, while doing business as BSTRI. Respondents'
16 activities included selling or offering to sell, buying or offering to buy, soliciting prospective
17 sellers or buyers of, soliciting or obtaining listings of, or negotiating the purchase, sale, or
18 exchange of real property or a business opportunity.

19 Autumn St. property

20 14. On or about July 17, 2019, Respondent TONEY submitted an offer on behalf of
21 prospective buyer M.D.¹ to purchase real property located at 11613 Autumn Street, Adelanto,
22 California ("Autumn St. property"). The purchase price was to be \$299,000.

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27 ¹ Initials are used in place of individuals' full names to protect their privacy. 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.

1 15. The Residential Purchase Agreement and Joint Escrow Instructions (“first
2 purchase agreement”) lists BSTRI as the broker for buyer M.D. TONEY executed the purchase
3 agreement and other documents related to the transaction on behalf of BSTRI.

4 16. At all times mentioned herein, Respondent TONEY was not licensed to do
5 business using any fictitious business name including BSTRI.

6 17. On or about August 5, 2019, M.D. cancelled the transaction and escrow.

7 18. On or about August 5, 2019, Respondent DAVIS-BAILEY signed a Broker-
8 Associate Licensee Contract (“salesperson contract”) with Respondent KNOWLES, doing
9 business as Knowles & Morgan Realty, to act as a salesperson for broker KNOWLES.

10 19. At all times relevant herein, Respondent KNOWLES was licensed to do business
11 as “Knowles & Morgan Realty.”

12 20. Under the salesperson contract, DAVIS –BAILEY was to receive compensation
13 including a 70% share of commissions collected by broker KNOWLES for DAVIS-BAILEY’s
14 listings, sales, and other services that require a real estate license. KNOWLES was to receive a
15 30% share of sales commissions.

16 21. Respondents DAVIS-BAILEY and KNOWLES failed to notify the Department
17 of DAVIS-BAILEY’s association with KNOWLES, as DAVIS-BAILEY’s new broker.

18 22. According to the Department’s licensing records, from September 29, 2016 to
19 January 17, 2020, DAVIS-BAILEY was licensed under responsible broker BSTRI. Respondent
20 DAVIS-BAILEY is currently licensed “NBA” meaning no broker affiliation.

21 23. On August 6, 2019, Respondent DAVIS-BAILEY submitted a new offer on
22 behalf of M.D. (the same prospective buyer noted above in Paragraphs 14 and 15) to purchase
23 the Autumn St. property for a purchase price of \$299,999. Knowles & Morgan Realty was
24 listed as M.D.’s broker on the Residential Purchase Agreement and Joint Escrow Instructions
25 (“second purchase agreement”).

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1 24. The sellers accepted M.D.'s offer and escrow closed on November 27, 2019.
2 The escrow commission instructions were to pay a commission of \$5,980 to Morgan &
3 Knowles Realty.

4 25. On or about December 2, 2019, KNOWLES paid DAVIS-BAILEY her share of
5 the sales commission for M.D.'s purchase of the Autumn St. property. DAVIS-BAILEY was
6 not licensed as a salesperson under broker KNOWLES.

7 Norton Ave. property

8 26. In August of 2019, Respondent BSTRI entered into a Residential Listing
9 Agreement to act as the broker for seller A.G.'s sale of real property located at 3741 S. Norton
10 Ave., Los Angeles, California ("Norton Ave. property"). Between September and November of
11 2019, Respondent BSTRI was listed as the broker for seller A.G. in three separate transactions
12 where prospective buyers attempted to purchase the Norton Ave. property before ultimately
13 cancelling the transactions with escrow. Respondent TONEY eventually procured a buyer for
14 the Norton Ave. property and escrow closed on December 4, 2019. Respondent BSTRI
15 received a commission of \$22,850.00 from the sale of the Norton Ave. property.

16 Luna Rd. property

17 27. On or about April 5, 2020, Respondent TONEY submitted an offer on behalf of
18 prospective buyer S.S. to purchase real property located at 12913 Luna Road, Victorville,
19 California ("Luna Rd. property"). The purchase price was to be \$269,000.

20 28. Respondent TONEY prepared or submitted several transaction documents using
21 the fictitious business names BSTRI and/or BST Realty, including, but not limited to, a
22 Residential Purchase Agreement and Joint Escrow Instructions ("purchase agreement"), an
23 Addendum to the purchase agreement, and an invoice for transaction coordinator fees.

24 29. At all times relevant herein, Respondent TONEY was not licensed to do business
25 using any fictitious business names including BSTRI.

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1 and Paragraphs 26 through 30. The foregoing violations constitute cause for the suspension or
2 revocation of all licenses and license rights of Respondent BSTRI pursuant to Code section
3 10177, subdivisions (d) and/or (g).

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

10 Fifth Cause of Accusation

11 Respondent TONEY

12 43. There is hereby incorporated in this Fifth, separate and distinct Cause of
13 Accusation, all of the allegations contained in Paragraphs 1 through 42, with the same force and
14 effect as if herein fully set forth.

15 44. Respondent TONEY engaged in activities requiring a real estate license, as
16 alleged above in Paragraphs 11 through 14 and Paragraphs 26 through 30, while using the
17 unlicensed fictitious business names BST Realty, Inc. and BST Realty, in violation of Code
18 section 10159.5 and Regulation 2731. The foregoing violations constitute cause to suspend or
19 revoke the real estate licenses and license rights of Respondent TONEY pursuant to Code
20 section 10177, subdivisions (d) and/or (g).

21 Investigation/Enforcement Costs

22 45. Code section 10106 provides, in pertinent part, that in any order issued in
23 resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner
24 may request the administrative law judge to direct a licensee found to have committed a
25 violation of this part to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case.

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1 BSTRI pursuant to Code section 10211. As said designated officer-broker, Respondent
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15 within the meaning of Code section 10131, subdivision a, while doing business as
16 BSTRI. Respondents' activities included selling or offering to sell, buying or offering to
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24 agreement"), an Addendum to the purchase agreement, and an invoice for transaction
25 coordinator fees.

26 29. At all times relevant herein, Respondent TONEY was not licensed to do
27 business using any fictitious business names including BSTRI.

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

5 42. The violations alleged above in Paragraph 41 constitutes Respondent
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23 45. Code section 10106 provides, in pertinent part, that in any order issued in
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