

1 LISSETE GARCIA, Counsel (SBN 211552)
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105
5 Telephone: (213) 576-6982
6 Direct: (213) 576-6914
7 Fax: (213) 576-6917
8 Attorney for Complainant

FILED
JAN 21 2021
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 against

13 TRIPLE H INVESTMENTS and
14 LIBBY ANNE GIBSON, individually and as
15 designated officer for Triple H Investments,

16 Respondents.

DRE No. H-05200 SD

ACCUSATION

16 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the
17 Department of Real Estate¹ ("Department") of the State of California, for cause of Accusation
18 against TRIPLE H INVESTMENTS and LIBBY ANNE GIBSON, individually and as
19 designated officer for TRIPLE H INVESTMENTS (collectively "Respondents"), alleges as
20 follows:

21 1. The Complainant, Veronica Kilpatrick, acting in her official capacity as a
22 Supervising Special Investigator, makes this Accusation against Respondents.
23

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

5 3. Respondents are presently licensed and/or have license rights under the Real
6 Estate Law (Part 1 of Division 4 of the Code).

7 4. On April 10, 2014, the Department issued a real estate corporation license to
8 Respondent TRIPLE H INVESTMENTS ("THI"), License ID 01949246. THI is licensed to do
9 business as "ERA The Real Estate Store" and "Management Services Group."

10 5. On December 31, 1996, the Department issued a real estate broker license to
11 Respondent LIBBY ANNE GIBSON ("GIBSON"), License ID 01168811. Unless renewed,
12 Respondent GIBSON's broker license is scheduled to expire on December 30, 2020.
13 Respondent has renewal rights pursuant to Code section 10201. The Department retains
14 jurisdiction pursuant to Code section 10103.

15 6. Respondent GIBSON is licensed to do business as "ERA The Real Estate Store,"
16 "ERA Property Management," and "ERA Jackson McCombs Realty."

17 7. Respondent GIBSON was formerly licensed as a real estate salesperson from
18 approximately October 05, 1993 through December 30, 1996.

19 8. At all times relevant herein, THI was licensed as a real estate corporation, by and
20 through Respondent GIBSON as designated officer-broker of Respondent THI to qualify said
21 corporation and to act for said corporation as a real estate broker.

22 9. At all times relevant herein, Respondent GIBSON has been licensed as the
23 designated officer-broker for Respondent THI, pursuant to section 10211 of the Code. As said
24 designated officer-broker, Respondent GIBSON was at all times mentioned herein responsible

1 pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers,
2 agents, real estate licensees, and employees of Respondent THI for which a license is required.

3 10. Whenever reference is made in an allegation in this Accusation to an act or
4 omission of Respondents, such allegation shall be deemed to mean that the officers, directors,
5 employees, agents and/or real estate licensees employed by or associated with Respondents
6 committed such act or omission while engaged in the furtherance of the business or operations
7 of such corporate respondent and while acting within the course and scope of their authority and
8 employment.

9
10 Broker Activities

11 11. At all times mentioned herein, in the State of California, Respondents acted as
12 real estate brokers and conducted licensed activities within the meaning of Code section
13 10131(b) (solicit or offer to negotiate the sale, purchase or exchange of leases, or collects rents
14 from real property or on a business opportunity).

15 FIRST CAUSE OF ACCUSATION

16 (Audit SD190037)

17 12. On or about October 21, 2020, the Department completed an audit examination of
18 the books and records of Respondent GIBSON's property management activities which require a
19 real estate license pursuant to Code section 10131(b).

20 13. The audit covered the period of time from July 1, 2018 through February 29, 2020
21 ("audit period").

22 14. The audit examination revealed violations of the Code and the Regulations as set
23 forth in the following paragraphs, and more fully discussed in Audit Report SD190037 and the
24 exhibits and work papers attached to said audit report.

1 15. On March 23, 2020, the Department's auditor held an entrance conference with
2 Respondent GIBSON.

3 16. According to Respondent GIBSON and the audit records examined, GIBSON
4 managed approximately 90 single family residential properties and 10 apartment complexes with
5 a total of 40 units for approximately 89 property owners during the audit period. GIBSON
6 collected rents, paid expenses, and screened tenants for compensation. Respondent GIBSON
7 charged a management fee of four percent to ten percent (4%-10%) of the rents collected.

8 17. Respondent GIBSON maintained the following bank accounts for property
9 management activities.

10 18. Bank Account #1 (BA1)

11 Bank: Union Bank

12 Account Name: Gibson, Libby, Gibson, Ronald Alan, ERA The Real Estate Store
13 Account #: xxxxxx7689

14 Signatories: Respondent GIBSON and Ronald Alan Gibson, an unlicensed
15 person married to GIBSON.

16 # of signatures required: One (1)

17 Description: BA1 is maintained for the receipts and disbursements of trust funds
18 received for multiple beneficiaries in connection with GIBSON's property
19 management activities. BA1 was opened on October 1, 1997.

20 19. Bank Account #2

21 According to Respondent GIBSON, in October of 2019, she had a deficit with BA1 and
22 opened a new account with Bank of America in THI's name. GIBSON stated that the majority
23 of funds held on behalf of beneficiaries are in THI's account. GIBSON claimed that she kept
24 BA1 to handle her own rental properties and properties belonging to Luke Thannikary

1 ("Thannikary"). GIBSON stated that there were still trust funds belonging to some clients in
2 BA1 and GIBSON had not made any notifications to owners or tenants of any licensing change
3 so all contracts continue to be under GIBSON's personal broker license.

4 20. Thannikary is a licensed broker (License ID 01173773). Thannikary is also a
5 broker-associate with THL.

6 Violations

7 21. In the course of its property management activities during the audit examination
8 period, Respondent acted in violation of the Code and the Regulations as follows:

9 Issue One. Code section 10145(a) and Regulation 2832.1. Trust fund handling for multiple
10 beneficiaries

11 22. A reconciliation was prepared for BA1 with a cut-off date of February 29, 2020.
12 The adjusted bank balance was compared to the minimum accountability. As of the cutoff date
13 of February 29, 2020, there was a combined minimum shortage of <\$75,134.87> in BA1.
14 Respondent GIBSON failed to provide any evidence that the owners of the trust funds had given
15 their written consent to allow Respondent to reduce the balances of the funds in BA1 to an
16 amount less than the existing aggregate trust fund liabilities, in violation of Code section 10145,
17 subdivision (a), and Regulation 2832.1.

18 23. The shortage causes were due to negative property balances totaling <\$3,030.70>,
19 minimum bank charges totaling <\$13,396.50>, and a minimum unidentified shortage of
20 <\$58,707.67>. The negative property balances include the following:

21 <u>Property</u>	<u>Amount</u>
22 1200 Rodeo Dr., #905	<\$1,410.00>
23 416 W. Barioni#A-D	<\$1,620.70>
24	<\$3,030.70>

1 Issue Two. Respondents' Property Management Activities

2 24. Respondent GIBSON provided written statements to the Department's auditor.
3 GIBSON stated that she owed state and federal taxes which resulted in tax lien garnishments
4 taken from BA1 on more than one occasion. Respondent GIBSON did not provide any records
5 related to the alleged tax lien garnishments to the auditor; therefore, the auditor was not able to
6 verify the information.

7 25. According to bank statements for THI's bank account, GIBSON opened the
8 account on or about November 25, 2019. The account title is "Triple H Investments DBA ERA
9 Property Management." A concurrent audit of THI's property management activities was also
10 performed and is discussed further below under Audit SD200007.

11 Issue Three. Code section 10145 and Regulation 2832. Trust account designation.

12 26. During the audit period, BA1 was used for handling of trust funds in connection
13 with GIBSON's property management activities but the account was not designated as a trust
14 account in Respondent GIBSON's name or any of GIBSON's licensed fictitious business names,
15 as trustee, in violation of Code section 10145 and Regulation 2832. BA1 was named, "Gibson,
16 Libby; Gibson, Ronald Alan DBA The Real Estate Store."

17 Issue Four. Code section 10145 and Regulation 2831.2. Trust account reconciliation

18 27. During the audit period, Respondent GIBSON failed to maintain an accurate
19 monthly reconciliation comparing the balance of all separate beneficiary or transaction records
20 (separate records) to the balance of all trust funds received and disbursed (control record) for
21 BA1, in violation of Code section 10145 and Regulation 2831.2.

22 ///

23 ///

24 ///

1 Issue Five. Code section 10145 and Regulation 2831.1. Separate records for each beneficiary or
2 transaction

3 28. During the audit period, Respondent GIBSON failed to maintain accurate and/or
4 complete separate records for each beneficiary or transaction (separate records) for BA1, in
5 violation of Code section 10145 and Regulation 2831.1. The minimum accountability for BA1
6 was calculated by the auditor based on limited bank statements and the control record from
7 February 1, 2020 to February 29, 2020.

8 Issue Six. Code section 10145 and Regulation 2831. Trust fund records to be maintained.

9 29. During the audit period, Respondent GIBSON failed to maintain accurate records
10 of trust funds received and disbursed (control records) for BA1, in violation of Code section
11 10145 and Regulation 2381.

12 30. Some disbursements from BA1 were not posted on the control record. Examples
13 include the following, without limitation:

<u>Check No.</u>	<u>Date per Bank Statement</u>	<u>Amount</u>	<u>Posted date</u>
15 75766	02/20/2020	\$ 425.00	Not posted
16 75768	02/27/2020	\$ 450.00	Not posted
17 75169	02/27/2020	\$1,410.67	Not posted
18 75771	02/24/2020	\$1,100.00	Not posted

19 Issue Seven. Code section 10145 and Regulation 2834. Trust account withdrawals

20 31. During the audit period, Respondent GIBSON allowed her husband, Ronald Alan
21 Gibson, to be a signer for BA1, although Ronald Alan Gibson was not licensed by the
22 Department and not covered by a fidelity bond or insurance, in violation of Code section 10145
23 and Regulation 2834.

1 Issue Eight. Code section 10176(e) and Regulation 2835(b). Commingling/Funds of properties
2 owned by the broker.

3 32. During the audit period, Respondent GIBSON failed to disburse funds belonging
4 to her from BA1 within 25 days after their receipt, in violation of Code section 10176,
5 subdivision (e), and Regulation 2835, subdivision (b). GIBSON maintained the collected rents
6 and security deposits for properties that GIBSON owned in BA1. Respondent's funds were
7 commingled with trust funds belonging to clients in BA1. Listed below are GIBSON's
8 properties with a positive balance in BA1 as of February 29, 2020:

9 <u>Property</u>	<u>Balance</u>
10 279, 281, 283 W. Heil	\$ 650.45
11 295 W. Heil	\$ 1,463.02
12 297 W. Heil	\$ 1,462.40
13 419 Commercial Ave.	\$ 4,224.24
14 542 Brighton	\$ 1,500.78
15 554 Brighton 1-8	\$ 3,551.44
16 735-737 N. 6 th St.	\$ 1,644.72
17 680 W. Main St.	<u>\$ 2,886.26</u>
18	Total: \$17,383.31

19 Issue Nine. Code section 10161.8 and Regulation 2725. Salesperson and broker-associate
20 retention and termination/Notice of change of broker.

21 33. Respondent GIBSON failed to timely notify the Department of the
22 employment/association of broker Thannikary as a broker-associate effective as of January 1,
23 2018, in violation of Code section 10161.8 and Regulation 2725. Based on an examination of
24

1 property management agreements provided to the auditor, Thannikary signed property
2 management agreements as an agent for EPA Property Management for the following properties:

3 1200 Rodeo Dr., #941, Imperial, CA

4 1551 Wensley, El Centro, CA

5 1001 Euclid Ave., El Centro, CA

6 344 S. Waterman #D, El Centro, CA

7 Issue Ten. Regulation 2725. Broker supervision.

8 34. Based on the findings above, Respondent GIBSON failed to adequately supervise
9 the activities of Respondent's salespersons, employees, or agents and failed to establish policies,
10 rules, procedures, and systems to review, oversee, inspect, and manage transactions requiring a
11 real estate license and the handling of trust funds to ensure compliance with the Real Estate Law,
12 in violation of Regulation 2725.

13 35. The conduct, acts, and/or omissions of Respondent GIBSON as described above
14 in Paragraphs 22 through 34, violated the Code and the Regulations as set forth below:

15 Issue Violations

16 1 Code section 10145(a) and Regulation 2832.1

17 2 None cited in audit report / 10177, subdivision (g) (negligence)

18 3 Code section 10145 and Regulation 2832

19 4 Code section 10145 and Regulation 2831.2

20 5 Code section 10145 and Regulation 2831.1

21 6 Code section 10145 and Regulation 2831

22 7 Code section 10145 and Regulation 2834

23 8 Code section 10176(e) and Regulation 2835(b)

24

1 Issue Violations

2 9 Code section 10161.8 and Regulation 2752

3 10 Regulation 2725

4 36. The foregoing violations constitute cause for the suspension or revocation of the
5 real estate licenses and license rights of Respondent GIBSON under the provisions of Code
6 section 10177, subdivisions (d), (e), and/or (g).

7 Issue Two

8 37. The conduct, acts, omissions, and violations described in Issue Two, Paragraphs
9 24 and 25, above, constitute cause for the suspension or revocation of the real estate license and
10 license rights of Respondents under the provisions of Code section 10177, subdivision (g).

11 SECOND CAUSE OF ACCUSATION

12 (Audit SD200007)

13 38. There is hereby incorporated in this Second, separate and distinct Cause of
14 Accusation, all of the allegations contained in Paragraphs 1 through 37, with the same force and
15 effect as if herein fully set forth.

16 39. On or about October 21, 2020, the Department completed an audit examination of
17 the books and records of Respondent THI's property management activities, which require a real
18 estate license pursuant to Code section 10131(b).

19 40. The audit covered the period of time from October 1, 2019 through August 31,
20 2020 ("audit period").

21 41. The audit examination revealed violations of the Code and the Regulations as set
22 forth in the following paragraphs, and more fully discussed in Audit Report SD 200007 and the
23 exhibits and work papers attached to said audit report.
24

1 42. On September 29, 2020, the Department's auditor held an entrance conference
2 with Respondent GIBSON. Respondent GIBSON is the designated broker-officer and President
3 of THI.

4 43. According to Respondent GIBSON and the audit records examined, THI managed
5 approximately 77 single family residential properties and 4 apartment complexes with a total of
6 20 units for approximately 72 property owners during the audit period. THI collected rents, paid
7 expenses, and screened tenants for compensation. Respondent THI charged a management fee
8 of four percent to ten percent (4%-10%) of the rents collected.

9 44. Respondent THI maintained the following bank account for property management
10 activities.

11 45. Bank Account #1 (BA1)

12 Bank: Bank of America

13 Account Name: TRIPLE H INVESTMENTS DBA ERA PROPERTY
14 MANAGEMENT

15 Account #: xxxxxx8583

16 Description: BA1 is maintained for the receipts and disbursements of trust funds
17 received for multiple beneficiaries in connection with THI's property
18 management activities. BA1 was opened on November 25, 2019.

19 Issue One. Code section 10145 and Regulation 2832.1. Trust fund handling for multiple
20 beneficiaries

21 46. A reconciliation was prepared for BA1 with a cut-off date of August 31, 2020.
22 As of the cutoff date of August 31, 2020, there was a minimum trust shortage of <\$430.92> in
23 BA1. Respondent THI failed to provide any evidence that the owners of the trust funds had
24 given their written consent to allow Respondents to reduce the balances of the funds in BA1 to

1 an amount less than the existing aggregate trust fund liabilities, in violation of Code section
2 10145, subdivision (a), and Regulation 2832.1.

3 47. The shortage was due to the following negative property balances:

4 <u>Property</u>	<u>Amount</u>
5 617 Skyview	<\$362.73>
6 1100 Rodeo Dr. #769	<\$ 68.19>
7 Total	<\$430.92>

8 Issue Two. Code section 10145 and Regulation 2832. Trust account designation.

9 48. During the audit period, BA1 was used for handling of trust funds in connection
10 with THI's property management activities but the account was not designated as a trust account
11 in violation of Code section 10145 and Regulation 2832.

12 Issue Three. Code section 10159.5 and Regulation 2731. Use of Unlicensed False or Fictitious
13 Business Name.

14 49. During the audit period, THI conducted property management activities using the
15 unlicensed fictitious business name "ERA Property Management" without first obtaining a
16 license bearing the fictitious name from the Department, in violation of Code section 10159.5
17 and Regulation 2731.

18 50. The conduct, acts, and/or omissions of Respondent THI as described above in
19 Paragraphs 46 through 49, violated the Code and the Regulations as set forth below:

20 <u>Issue</u>	<u>Violations</u>
21 One	Code section 10145 and Regulation 2832.1
22 Two	Code section 10145 and Regulation 2832
23 Three	Code section 10159.5 and Regulation 2731

24

1 51. The foregoing violations constitute cause for the suspension or revocation of the
2 real estate licenses and license rights of Respondent THI under the provisions of Code section
3 10177, subdivisions (d) and/or (g).

Broker Supervision - Respondent GIBSON

52. Based on the audit violations noted above in Paragraphs 46 through 51, Respondent GIBSON failed to adequately supervise the activities of THI's salespersons, employees, or agents and failed to establish policies, rules, procedures, and systems to review, oversee, inspect, and manage transactions requiring a real estate license and the handling of trust funds to ensure compliance with the Real Estate Law and Regulations, in violation of Regulation 2725, which constitutes cause to suspend or revoke the real estate licenses and license rights of Respondent GIBSON pursuant to Code section 10159.2, Code section 10177, subdivisions (h), (d), and/or (g), and Regulation 2725.

Audit Costs

14 53. Code section 10148, subdivision (b) provides, in pertinent part, that the
15 Commissioner shall charge a real estate broker for the cost of any audit, if the Commissioner has
16 found in a final decision following a disciplinary hearing that the broker has violated Code
17 section 10145 or a regulation or rule of the Commissioner interpreting said section.
18

Investigation/Enforcement Costs

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

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this
2 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
3 against all licenses and/or license rights of Respondents under the Real Estate Law (Part 1 of
4 Division 4 of the Business and Professions Code), for the costs of the audit, investigation, and
5 enforcement as permitted by law, and for such other and further relief as may be proper under
6 other provisions of law.

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

8
9 
10 VERONICA KILPATRICK
11 Supervising Special Investigator

12 cc: Libby Anne Gibson
13 Triple H Investments
14 Veronica Kilpatrick
15 Sacto
16 Audits/Isabel Beltran
17
18
19
20
21
22
23
24