

STEVE CHU, Counsel (SBN 238155)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 620-6430
Fax: (213) 576-6917

FILED

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DEPT. OF REAL ESTATE
By *Emaning*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-05215 SD
)	
PATRICK HUNTER MERCER,)	<u>A C C U S A T I O N</u>
MERCER INVESTMENTS INC,)	
doing business as Mercer Properties, and)	
OLEN WOODSON MERCER,)	
individually and as designated officer of)	
Mercer Investments Inc,)	
)	
Respondents.)	
)	

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against PATRICK HUNTER MERCER, MERCER INVESTMENTS INC, doing business as Mercer Properties, and OLEN WOODSON MERCER, individually and as designated officer of Mercer Investments Inc, ("Respondents"), is informed and alleges as follows:

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Accusation of Patrick Hunter Mercer, Mercer Investments Inc, and Olen Woodson Mercer

1.

The Complainant, Veronica Kilpatrick, acting in her official capacity as a Supervising Special Investigator of the State of California, makes this Accusation against Respondents PATRICK HUNTER MERCER, MERCER INVESTMENTS INC, and OLEN WOODSON MERCER.

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.

LICENSE HISTORY

3.

Respondent PATRICK HUNTER MERCER ("PATRICK MERCER") presently has license rights under the Real Estate Law, Part 1 of Division 4 of the Code as a real estate salesperson.

4.

Respondent MERCER INVESTMENTS INC ("MERCER INVESTMENTS") presently has license rights as a corporate real estate broker.

5.

Respondent OLEN WOODSON MERCER ("OLEN MERCER") presently has license rights as a designated officer.

6.

From about November 20, 2002, to the present, Respondent MERCER INVESTMENTS is licensed by the Department as a corporate real estate broker by and through Respondent OLEN MERCER, as the designated officer and broker responsible, pursuant to Code section 10159.2, for supervising the activities requiring a real estate license conducted on behalf of MERCER INVESTMENTS, or by MERCER INVESTMENTS'S officers, agents and employees.

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1 7.

2 Respondent PATRICK MERCER was licensed and affiliated with responsible
3 broker Respondent MERCER INVESTMENTS from about November 7, 2017, to about
4 January 16, 2020. From about January 17, 2020, to the present, PATRICK MERCER is
5 licensed and affiliated with responsible broker La Jolla Partners Inc.

6 8.

7 On or about December 8, 2021, the Real Estate Commissioner in Case
8 No. H-05225 SD adopted as his Decision effective January 14, 2022, a Stipulation and
9 Agreement imposing a 60 day suspension on Respondent MERCER INVESTMENTS'S and
10 Respondent OLEN MERCER'S real estate licenses, stayed upon certain terms and conditions.
11 Within the Stipulation and Agreement, MERCER INVESTMENTS and OLEN MERCER
12 stipulated that cause existed for the suspension or revocation of MERCER INVESTMENTS'S
13 and Respondent OLEN MERCER'S real estate licenses for violation of Code sections 10145
14 and 10159.2 and Regulations sections 2725, 2831, 2831.1, 2831.2, and 2832.1

15 SALE OF SAN DIEGO PROPERTY

16 9.

17 On or about May 23, 2019, seller SQFT INVESTMENTS, LLC entered into a
18 Residential Listing Agreement with broker Respondent MERCER INVESTMENTS through
19 salesperson Respondent PATRICK MERCER to sell real property at 4368 Hillsdale Road,
20 San Diego, CA 92116 ("San Diego property").

21 10.

22 On or about December 24, 2019, in the Superior Court of California, County of
23 San Diego, Case No. 37-2019-00068280-CU-FR-CT1, the members of seller SQFT
24 INVESTMENTS, LLC filed a Complaint initiating civil litigation against one another
25 ("seller civil litigation").

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11.

On or about January 9, 2020, Respondent PATRICK MERCER sent an email to Richard Todd Armstrong regarding the seller civil litigation.

12.

On or about January 21, 2020, buyers B. and K. Lenahan submitted an offer to purchase the San Diego property through a signed Residential Purchase Agreement to Respondent MERCER INVESTMENTS and Respondent PATRICK MERCER.

13.

On or about January 21, 2020, seller SQFT INVESTMENTS, LLC accepted the offer from buyers B. and K. Lenahan and signed the Residential Purchase Agreement. Respondent MERCER INVESTMENTS and Respondent PATRICK MERCER also signed the Residential Purchase Agreement.

14.

On or about January 21, 2020, Respondent PATRICK MERCER provided to buyers B. and K. Lenahan and their real estate agent A. Field a Transfer Disclosure Statement dated June 18, 2019. On page 2 of the Transfer Disclosure Statement, for question C.16., "Are you (Seller) aware of any of the following: Any lawsuits by or against the Seller threatening to or affecting this real property", the answer "No" was selected.

15.

Respondent PATRICK MERCER did not disclose the seller civil litigation to buyers B. and K. Lenahan or their real estate agent A. Field before February 20, 2020.

16.

On or about February 20, 2020, buyers B. and K. Lenahan or their real estate agent A. Field learned of the seller civil litigation from escrow agent A. Sanchez. Escrow agent A. Sanchez stated that the transaction could not close on the planned closing date February 20, 2020, due to the seller civil litigation.

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17.

On or about February 21, 2020, Respondent OLEN MERCER signed a Commission Authorization on behalf of Respondent MERCER INVESTMENTS for the San Diego property. The Commission Authorization provided instructions to pay in the amount of \$17,775 to MERCER INVESTMENTS and Respondent PATRICK MERCER.

18.

On or about February 21, 2020, Respondent OLEN MERCER signed a Disbursement Authorization Form on behalf of Respondent MERCER INVESTMENTS for the San Diego property. The Disbursement Authorization Form provided instructions to disburse \$17,025 to PMRE Holdings, LLC, \$500 to JZ Consulting LLC, and \$250 to Mark Miller.

19.

On or about March 13, 2020, for the San Diego property transaction closed. Oakwood Escrow, Inc. made a check in the amount of \$17,025 to PMRE Holdings, LLC, a check in the amount of \$500 to JZ Consulting LLC, and a check in the amount of \$250 to Mark Miller.

FIRST CAUSE OF ACTION

(SUBSTANTIAL MISREPRESENTATION, FAILURE TO DISCLOSE MATERIAL FACTS)

20.

Respondent PATRICK MERCER had actual knowledge the seller civil litigation before buyers B. and K. Lenahan and their real estate agent A. Field submitted the offer to purchase the San Diego property to PATRICK MERCER. PATRICK MERCER failed to disclose the seller civil litigation to buyers B. and K. Lenahan or their real estate agent A. Field. PATRICK MERCER made a substantial misrepresentation to buyers B. and K. Lenahan and their real estate agent A. Field that PATRICK MERCER and seller SQFT INVESTMENTS, LLC was not aware of any lawsuits by or against the seller threatening to or affecting the San Diego property.

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1 21.

2 The conduct, acts, or omissions of Respondent PATRICK MERCER as
3 described in Paragraphs 9 through 20 above, constitute cause for the suspension or revocation
4 of all real estate licenses, license endorsements, and license rights of Respondent under the
5 provisions of Code sections 10176(a), 10176(i), 10177(d), 10177(g), and/or 10177(j).

6 SECOND CAUSE OF ACTION

7 (EMPLOYMENT OF SALESPERSON BY BROKER OTHER THAN BROKER OF RECORD)

8 22.

9 The conduct, acts, and omissions of Respondents PATRICK MERCER,
10 MERCER INVESTMENTS, and OLEN MERCER, as described in Paragraphs 9 through 19
11 above, are in violation of Code sections 10130 and 10137 and constitute cause under Code
12 sections 10137, 10177(d), 10177(g), and/or 10177(j) for the suspension or revocation of all the
13 licenses, license endorsements, and license rights of PATRICK MERCER,
14 MERCER INVESTMENTS, and OLEN MERCER.

15 THIRD CAUSE OF ACTION

16 FAILURE TO SUPERVISE

17 23.

18 The conduct, acts, or omissions of Respondent OLEN MERCER, as described in
19 Paragraphs 9 through 20 above, in failing to ensure compliance of the Real Estate Law by
20 Respondents PATRICK MERCER and MERCER INVESTMENTS, are in violation of Code
21 section 10159.2 and Regulations section 2725 and constitute cause under Code sections
22 10177(d), 10177(g), and/or 10177(h) for the suspension or revocation of all the licenses and
23 license rights of OLEN MERCER.

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24.

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.

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, license endorsements, and license rights of Respondents PATRICK HUNTER MERCER, MERCER INVESTMENTS INC, and OLEN WOODSON MERCER under the Real Estate Law, for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other applicable provisions of law.

Dated at San Diego, California

this 8 day of June, 2022

V Kilpatrick
Veronica Kilpatrick
Supervising Special Investigator

cc: PATRICK HUNTER MERCER
MERCER INVESTMENTS INC
OLEN WOODSON MERCER
KATY MEYERS
La Jolla Partners Inc.
Veronica Kilpatrick
Sacto.