

FILED

SEP 24 2021

DEPT. OF REAL ESTATE

By al silva

1 JUDITH B. VASAN, Counsel (SBN 278115)
 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) 576-6904
 7 Fax: (213) 576-6917
 8 *Attorney for Complainant*

9 BEFORE THE DEPARTMENT OF REAL ESTATE
 10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation Against) No. H-05240 SD
 13)
 14 SUMMIT PROPERTY MANAGEMENT, INC.;)
 15 JENNIFER REBECCA RIMER, individually)
 16 and as Designated Officer of Summit Property)
 17 Management Inc.; and DANIEL JOSEPH COTE,)
 18 individually and as former Designated Officer of) ACCUSATION
 19 Summit Property Management Inc.,)
 20)
 21 Respondents.)
 22)

23 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
 24 State of California, for cause of Accusation against SUMMIT PROPERTY MANAGEMENT,
 25 INC. ("SPMI"), JENNIFER REBECCA RIMER ("RIMER"), individually and as Designated
 26 Officer of Summit Property Management Inc., and DANIEL JOSEPH COTE ("COTE"),
 27 individually and as former Designated Officer of Summit Property Management Inc.
 (sometimes referred to collectively as "Respondents") alleges as follows:

1.

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

1 2.

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

5 LICENSE HISTORY

6 (SUMMIT PROPERTY MANAGEMENT, INC.)

7 3.

8 a. Respondent SPMI is presently licensed and/or has license rights under the
9 Code as a restricted corporate real estate broker with Department of Real Estate ("Department")
10 license ID 01199163.

11 b. From on or about October 21, 2019, through the present, SPMI's designated
12 officer has been Respondent RIMER.

13 c. Previously, from on or about November 28, 2018, through October 20, 2019,
14 SPMI's designated officer was Respondent COTE.

15 d. SPMI does not maintain any fictitious business names with the Department.

16 e. On or about May 14, 2018, in Case Number H-04994 SD, the Department
17 filed an Accusation against SPMI for audit violations including, but not limited to, a shortage in
18 trust accounts in violation of Code section 10145, failing to maintain an accurate record of trust
19 funds received and disbursed in violation of Code section 10145 and Regulation 2831, failing
20 to maintain a separate record for each beneficiary or transaction in violation of Code section
21 10145 and Regulation section 2831.1, and failing to perform and maintain a monthly
22 reconciliation of all trust funds in violation of Code section 10145 and Regulation section
23 2831.2

24 f. On or about October 25, 2018, in Case Number H-04994 SD, the Real Estate
25 Commissioner issued a Decision and Order adopting the terms of the Stipulation and
26 Agreement wherein SPMI's licenses and license rights were revoked, provided however, SPMI
27 be issued a restricted real estate broker license, under certain terms and conditions, including

1 but not limited to, a subsequent audit to determine if SPMI has corrected the violations found in
2 Case Number H-04994 SD. SPMI's broker license remains restricted.

3 (JENNIFER REBECCA RIMER)

4 4.

5 a. RIMER is presently licensed and/or has license rights under the Code as a real
6 estate broker with Department license ID 01442570.

7 b. The Department originally issued RIMER a broker license on or about
8 October 9, 2019. RIMER's license is set to expire on October 8, 2023, unless renewed.

9 c. Since on or about October 21, 2019, RIMER has been the designated officer
10 for SPMI. As designated officer, RIMER is responsible for the supervision of the activities
11 conducted on behalf of Respondent SPMI by its officers, agents, real estate licensees, and
12 employees pursuant to Section 10159.2 of the Code.

13 (DANIEL JOSEPH COTE)

14 5.

15 a. COTE is presently licensed and/or has license rights under the Code as a real
16 estate broker with Department license ID 00404419.

17 b. The Department originally issued COTE a broker license on or about March
18 11, 1974. COTE's license is set to expire on April 3, 2023, unless renewed.

19 c. From on or about November 28, 2018 through October 21, 2019, COTE was
20 the designated officer for SPMI. As designated officer during this period of time, COTE was
21 responsible for the supervision of the activities conducted on behalf of Respondent SPMI by its
22 officers, agents, real estate licensees, and employees pursuant to Section 10159.2 of the Code.

23 REAL ESTATE ACTIVITY

24 6.

25 At all times relevant herein SPMI engaged in the business of, acted in the
26 capacity of, advertised or assumed to act as a real estate broker, within the meaning of Code
27 section 10131(b) by leasing or renting or offering to lease or rent, or placing for rent, or

1 soliciting listings of places for rent, or soliciting for prospective tenants, or negotiating the sale,
2 purchase or exchanges of leases on real property, or on a business opportunity, or collecting
3 rents from real property, or improvements thereon, or from business opportunities (“property
4 management”)

5 7.

6 Whenever reference is made herein to an act or omission of “Respondents,” such
7 allegation shall be deemed to mean that the officers, directors, employees, agents, and real
8 estate licensees employed by or associated with Respondent SPMI committed such act or
9 omission while engaged in the furtherance of the business or operations of SPMI and while
10 acting within the course and scope of their corporate authority and employment, including, but
11 not limited to SPMI, RIMER, and COTE.

12 CAUSE FOR ACCUSATION

13 (AUDIT NO. SD190055)

14 8.

15 On or about October 28, 2020, the Department completed a follow-up audit
16 examination of the books and records of SPMI pertaining to its property management activities
17 described in Paragraph 6 above. The audit examination covered the period of time from
18 November 28, 2018, to May 31, 2020 (“audit period”). From November 28, 2018 through
19 October 21, 2019, of the audit period COTE was the designated officer of SPMI. RIMER has
20 been the designated officer of SPMI since October 21, 2019. The audit examination revealed
21 violations of the Code and the Regulations as set forth in the following paragraphs, and more
22 fully discussed in Audit Report No. SD190055 and the exhibits and work papers attached to
23 said audit report.

24 9.

25 During the course of the audit, the Department auditor met with RIMER, COTE,
26 and Kim Légerretta, SPMI’s bookkeeper, over the telephone. RIMER and Ms. Legerretta
27 provided records for the examination. According to RIMER and the records provided, during

1 the audit period, SPMI managed approximately sixty-one (61) one-to-four family residences
2 with eighty (80) unites, and one (1) apartment complex with six (6) units for fifty (50) property
3 owners. SPMI collected rent, paid expenses, and screened tenants for compensation. Based on
4 the records provided, SPMI maintained two (2) multiple beneficiary trust accounts "T/A 1"
5 (Account No. xxxx9618) and "T/A 2" (Account No. xxx9634) for handling trust fund receipts
6 and disbursements in connection to its property management activities.

7 Violations of the Real Estate Law

8 10.

9 The audit examination revealed violations of the Code and the Regulations, as
10 set forth in the following paragraphs, and more fully discussed in Audit Report No. SD190055
11 and the exhibits and work papers attached to the audit reports:

12 **(a) Handling of Trust Funds (Code section 10145(a)).**

13 Former Designated Officer COTE, effective from November 28, 2018, to October 21, 2019.

14 As of October 20, 2021, T/A 1 (Account No. xxxx9618) had an unidentified
15 amount of funds totaling \$62,332.29 in connection with SPMI's property management
16 activities. As of that same date, T/A 2 (Account No. xxx9634) had an unidentified and
17 unaccounted amount of funds totaling \$9.21 in connection with SPMI's property management
18 activities.

19 Designated Officer RIMER, effective October 21, 2019.

20 As of May 31, 2020, T/A 1 had an unidentified amount of funds totaling
21 \$61,775.91 in connection with SPMI's property management activities. As of May 31, 2020,
22 T/A 2 had an ending balance on the bank statement of <\$3.00> due to a bank fee. The bank
23 refunded the \$3.00 into T/A 2 on June 1, 2020 to cure the bank charge. T/A 2 was closed on
24 June 30, 2020.

25 ///

26 ///

27 ///

1 **(b) Trust Fund Handling for Multiple Beneficiaries (Code section 10145, Regulations**
2 **section 2832.1).**

3 Former Designated Officer COTE, effective from November 28, 2018, to October 21, 2019.

4 As of October 20, 2019, T/A 1 had a shortage of <\$525.00> for the property at
5 3079 Cowley Way. SPMI did not provide any evidence that the owners of the trust funds had
6 given their written consent to allow SPMI to reduce the balance of the trust funds in T/A 1 to an
7 amount less than the existing aggregate trust fund liabilities of SPMI to all owners of the funds.

8 Designated Officer RIMER, effective October 21, 2019.

9 As of May 31, 2020, T/A 1 had a shortage of <\$525.00> for the property at 3079
10 Cowley Way. SPMI did not provide any evidence that the owners of the trust funds had given
11 their written consent to allow SPMI to reduce the balance of the trust funds in T/A 1 to an
12 amount less than the existing aggregate trust fund liabilities of SPMI to all owners of the funds.

13 **(c) Handling of Trust Funds/Trust Fund Records to be Maintained (Code section 10145,**
14 **Regulations section 2831).**

15 Former Designated Officer COTE, effective from November 28, 2018, to October 21, 2019,
16 and Designated Officer RIMER, effective October 21, 2019.

17 The control records maintained for T/A 1 and T/A 2, which were used for
18 handling of receipts and disbursements of the trust funds in connection with SPMI's property
19 management activities, were incomplete. The control records provided for T/A 1 and T/A 2
20 were missing the date of trust funds received. The control records only contained one column
21 for the date. According to RIMER and COTE, SPMI stamped the received date on the rent
22 checks, which were attached to the deposit slips. Based on the control records, deposit slips/rent
23 checks, and bank statements provided, the date on the control records matched the deposit date.

24 ///

25 ///

26 ///

27 ///

1 **(d) Handling of Trust Funds/Separate Record for Each Beneficiary or Transaction (Code**
2 **section 10145, Regulations section 2831.1).**

3 **Former Designated Officer COTE, effective from November 28, 2018, to October 21, 2019,**
4 **and Designated Officer RIMER, effective October 21, 2019.**

5 The separate records maintained for T/A 1 and T/A 2, were inaccurate and
6 incomplete. The separate records show only one date. Based on a comparison of the bank
7 statements and deposit slips/rent checks with the separate records provided, the separate records
8 show the date of funds received, not the date of deposit as required.

9 In addition, T/A 1 had an unidentified amount of \$62,332.29 as of October 20,
10 2019 and \$61,775.91 as of May 31, 2020 due to inadequate record keeping. According to
11 RIMER, the previous bookkeeper did not maintain accurate separate records prior to RIMER
12 becoming designated officer resulting in the new bookkeeper being unable to identify or
13 account for all funds.

14 **Former Designated Officer COTE, effective from November 28, 2018, to October 21, 2019.**

15 During the audit period, SPMI failed to maintain a separate record for the
16 unidentified and unaccounted for funds in the amount of \$62,332.29 in T/A 1 and \$9.21 in T/A
17 2 as of October 20, 2019.

18 **Designated Officer RIMER, effective October 21, 2019.**

19 During the audit period, SPMI failed to maintain a separate record for the
20 unidentified and unaccounted for funds in the amount of \$61,775.91 in TA 1 as of May 31,
21 2020.

22 **(e) Handling of Trust Funds/Trust Account Reconciliation (Code section 10145,**
23 **Regulations section 2831.2).**

24 **Former Designated Officer COTE, effective from November 28, 2018, to October 21, 2019,**
25 **and Designated Officer RIMER, effective October 21, 2019.**

26 During the audit period, SPMI maintained only the bank reconciliation as
27 attached in the bank statements each month. SPMI did not maintain monthly reconciliations

1 comparing the balance of all the separate records to the control records for T/A 1 and T/A 2 as
2 required.

3 Former Designated Officer COTE, effective from November 28, 2018, to October 21, 2019.

4 SPMI failed to reconcile the unidentified and unaccounted for funds of
5 \$62,332.29 in T/A 1 and \$9.21 in T/A 2 as of October 20, 2019.

6 Designated Officer RIMER, effective October 21, 2019.

7 SPMI failed to reconcile the unidentified and unaccounted for funds of
8 \$61,775.91 in T/A 1 as of May 31, 2020.

9 **(f) Trust Account Withdrawals (Code section 10145 and Regulations section 2834).**

10 Former Designated Officer COTE, effective from November 28, 2018, to October 21, 2019.

11 Based on the bank signature cards for T/A 1 and T/A 2, COTE was not an
12 authorized signor on T/A 1 and T/A 2 during the period from November 28, 2018 to October
13 20, 2019.

14 Former Designated Officer COTE, effective from November 28, 2018, to October 21, 2019,
15 and Designated Officer RIMER, effective October 21, 2019.

16 Michael Kiss, owner of SPMI and whose salesperson license expired on
17 December 31, 2006 (license ID 01099405), was an authorized signer for T/A 1 and T/A 2
18 during the audit period. Mr. Kiss was neither licensed by the Department nor was he an
19 employee of SPMI.

20 **(g) Responsibility of Corporate Officer in Charge/Broker Supervision (Code sections**
21 **10159.2 and Regulations section 2725).**

22 Former Designated Officer COTE, effective from November 28, 2018, to October 21, 2019,
23 and Designated Officer RIMER, effective October 21, 2019.

24 Based on the violations above, RIMER and COTE failed to exercise adequate
25 supervision and control over the activities conducted by SPMI's licensees and/or employees as
26 necessary to secure full compliance with the Real Estate Law and Commissioner's Regulations
27 in violation of 10159.2. RIMER and COTE failed to establish policies, rules, procedures, and

1 systems to review, oversee, inspect, and manage transactions requiring a real estate license and
2 the handling of trust funds in violation of Regulation 2725.

3 11.

4 Each of the foregoing violations in Paragraph 10(a)-(g) above constitute cause
5 for the suspension or revocation of the real estate license and/or license rights of Respondents
6 SPMI, RIMER, and COTE under the provisions of Sections 10177(d), 10177(g), and/or
7 10177(h).

8 COSTS

9 (AUDIT COSTS)

10 12.

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

16 (INVESTIGATION AND ENFORCEMENT COSTS)

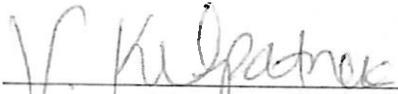
17 13.

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

22 WHEREFORE, Complainant prays that a hearing be conducted on the
23 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
24 disciplinary action against all the licenses and/or license rights of Respondents SUMMIT
25 PROPERTY MANAGEMENT, INC., JENNIFER REBECCA RIMER, individually and as
26 Designated Officer of Summit Property Management Inc., and DANIEL JOSEPH COTE,
27 individually and as former Designated Officer of Summit Property Management Inc., under the

1 Real Estate Law, for the costs of investigation and enforcement as permitted by law, for the cost
2 of the audit, and for such other and further relief as may be proper under other applicable
3 provisions of law.

4
5 Dated at San Diego, California this 16 day of September, 2021.

6
7
8 
9 _____
10 Veronica Kilpatrick
11 Supervising Special Investigator
12
13
14
15
16
17
18
19
20
21
22
23

24 cc: SUMMIT PROPERTY MANAGEMENT, INC.
25 JENNIFER REBECCA RIMER
26 DANIEL JOSEPH COTE
27 Veronica Kilpatrick
Sacto.
Audits – Shirley Xie