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1	Department of Real Estate APD 1 4 2022
2	320 West 4th Street, Suite 350 AFR 1 2022 Los Angeles, California 90013-1105 DEPT. OF REAL ESTATE
3	Telephone: (213) 576-6982 By
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8	BEFORE THE DEPARTMENT OF REAL ESTATE
9	STATE OF CALIFORNIA
10	* * *
11	In the Matter of the Accusation of) No. H-05270 SD
12	FIDELITY GENERAL, INC. and) <u>ACCUSATION</u>
13	KENNETH W. TERRILL, individually) and as designated officer of)
14	Fidelity General, Inc.,
15	Respondents.
16) The Complement Versnice Kilpetrick - Supervision Securit Investigation for
17	The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
18	State of California, for cause of Accusation against FIDELITY GENERAL, INC. and
19	KENNETH W. TERRILL, individually and as designated officer of Fidelity General, Inc.
20	(collectively "Respondents"), is informed and alleges as follows:
21	1. The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
22	State of California, makes this Accusation in her official capacity.
23	2.
24	2. All references to the "Code" are to the California Business and Professions
25	Code, and all references to "Regulations" are to Title 10, Chapter 6, California Code of
26	Regulations.
27	
	ACCUSATION

- 1 -

1	DRE LICENSE HISTORY
2	3.
3	(FIDELITY GENERAL, INC.)
4	A. Respondent FIDELITY GENERAL, INC. ("FGI") is presently licensed
5	and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code, as a real
6	estate corporation, issued by the California Department of Real Estate ("DRE" or
7	"Department") on September 10, 2014, DRE License ID 01961872.
8	B. Respondent FGI's corporate license is set to expire on September 9, 2022,
9	unless renewed.
10	C. From October 13, 2014 through the present, Respondent FGI has been
11	licensed or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code, as a
12	real estate corporation with a mortgage loan originator endorsement, NMLS ID 1124345.
13	D. According to DRE records to date, FGI's mailing address is 3002 Barnett,
14	Ste. 1, San Diego, CA 92110.
15	E. According to DRE records to date, FGI has the following branch office
16	under its DRE license: 9711 Holland, Ste. 1, Bakersfield, CA 93301.
17	F. According to DRE records to date, FGI has no current DBAs under its DRE
18	license.
19	G. According to DRE records to date, FGI has four (4) salespersons under its
20	DRE license:
21	1. Jacquelyn Celeste Boyle is a licensed real estate salesperson, DRE
22	License No. 02051601, whose license is set to expire on February 5, 2022.
23	2. Robert O. Dalton is a licensed real estate salesperson, DRE License
24	No. 00396053, whose license is set to expire on January 25, 2022.
25	3. Bruce M. Drown is a licensed real estate salesperson, DRE License
26	No. 01826430, whose license is set to expire on February 13, 2024.
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	ACCUSATION
	-2-

II

1	4. Kevin Michael Rende is a licensed real estate salesperson, DRE
2	License No. 02043678, whose license is set to expire on September 27, 2025.
3	4.
4	(KENNETH W. TERRILL)
5	A. Respondent KENNETH W. TERRILL, a.k.a. "Kenneth William Terrill,"
6	"Ken William Terrill," "Ken Terrill," "Ken W. Terrill," and "K.W. Terrill" ("TERRILL"), is
7	currently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of
8	the Code, as a real estate broker, DRE License ID 01051057.
9	B. TERRILL's broker license is set to expire on June 13, 2025, unless renewed.
10	C. From December 16, 2010 through the present, TERRILL has been licensed
11	or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code, as a real
12	estate
13	broker with a mortgage loan originator endorsement, NMLS ID 264481.
14	D. According to DRE records to date, TERRILL's mailing address is P.O. Box
15	81344, San Diego, CA 92138-1344.
16	E. According to DRE records to date, TERRILL has no branch offices under his
17	DRE license.
18	F. According to DRE records to date, TERRILL has the following active DBAs
19	under his DRE license:
20	1. American Real Estate professionals, active as of July 22, 1996.
21	2. Fidelity General, active as of November 1, 2021.
22	3. Fidelity General Mortgage, active as of November 1, 2021.
23	5.
24	(DESIGNATED OFFICER)
25	At all times relevant herein, FGI was authorized to act by and through
26	TERRILL as its broker and designated officer ("D.O."), pursuant to Section 10159.2 of the
27	Code, to be responsible for ensuring compliance with the Real Estate Law. TERRILL was the
	ACCUSATION
	- 3 -

II

1	broker D.O. for FGI from on or about January 5, 2018 through the present. As D.O., TERRILL
2	was responsible for the supervision of the activities conducted on behalf of FGI by its officers,
3	agents, real estate licensees, and employees, pursuant to Section 10159.2 of the Code.
4	FIRST CAUSE OF ACTION
5	(SUSPENSION OF CORPORATE STATUS)
6	6.
7	Section 2742(c) of the Regulations provides:
8	A corporation licensed under Section 10211 of the Code shall not engage in the
9	business of a real estate broker while not in good legal standing with the Office of the Secretary of State.
10	
11	7.
12	Section 10131 of the Code defines a real estate broker, in pertinent part, as
13	follows: A real estate broker within the meaning of this part is a person who, for a
14	compensation or in expectation of a compensation, regardless of the form
15	or time of payment, does or negotiates to do one or more of the following acts for another or others:
16	(d) Solicits borrowers or lenders for or negotiates loans or collects payments or performs services for borrowers or lenders or note owners in
17	connection with loans secured directly or collaterally by liens on real property or on a business opportunity.
18	(e) Sells or offers to sell, busy or offers to buy, or exchanges or offers to
19	exchange a real property sales contract, or a promissory note secured directly or collaterally by a lien on real property or on a business
20	opportunity, and performs services for the holders thereof.
21	8.
22	FGI is a California corporation formed on or about October 1, 2013 (file no.
23	C3607530). On September 3, 2019, the California Franchise Tax Board suspended the
24	corporate powers, rights and privileges of FGI pursuant to the provisions of the California
25	Revenue and Taxation Code. FGI's corporate status remains suspended.
26	9.
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1	From on or about September 2, 2019 through September 30, 2021, FGI and/or
2	any other fictitious business name used by FGI, while its corporate powers, rights and
3	privileges were suspended by the California Franchise Tax Board, engaged in the business of a
4	corporate real estate broker in that it engaged in the business of, acted in the capacity of,
5	advertised, or assumed to act as a real estate broker within the meaning of Code sections
6	10131(d) and/or (e).
7	10.
8	Some examples of FGI engaging in the business of a corporate real estate broker
9	pursuant to Code sections 10131(d) and/or (e) include, but are not limited to, originating loan
10	services, for compensation, for borrowers for the following properties:
11	A. Address: 11474 Caminito Garcia, San Diego, CA 92131.
12	Closing date: October 19, 2019.
13	Commission: \$6,500.00.
14	B. Address: 1045 Camino Levante, Chula Vista, CA 91913.
15	Closing date: December 3, 2019.
16	Commission: \$6,851.04.
17	C. Address: 7242 Stanford Avenue, La Mesa, CA 91942.
18	Closing date: January 31, 2020.
19	Commission: \$9,040.10.
20	D. Address: 8666 New Salem Street, 94, San Diego, CA 92126
21	Closing date: October 23, 2020.
22	Commission: \$7,885.00.
23	E. Address: 6120 Olive Drive, Bakersfield, CA 93308.
24	Closing date: August 9, 2021.
25	Commission: \$6,105.00.
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	ACCUSATION
	- 5 -

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1	F. Address: 6426 Skyline Drive, San Diego, CA 92114
2	Closing date: September 1, 2021.
3	Commission: \$10,400.00.
4	///
5	///
6	11.
7	The suspension of FGI's corporate status is in violation of Section 2742(c) of
8	the Regulations, and constitutes grounds to suspend or revoke FGI's corporate real estate
9	broker license pursuant to Section 10177(d) of the Code.
10	SECOND CAUSE OF ACCUSATION
11	(FAILURE TO SUPERVISE FGI)
12	11.
13	Section 10159.2(a) of the Code provides:
14	The officer designated by a corporate broker licensee pursuant to Section 10211
15 16	shall be responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the provisions of this division, including the supervision of
17	salespersons licensed to the corporation in the performance of acts for which a real estate license is required.
18	12.
19	The conduct, acts and/or omissions of TERRILL, individually and as designated
20	officer of FGI, as set forth in Paragraphs 8 through 10 above, in failing to adequately supervise
21	the activities of FGI, is in violation of Section 10159.2(a) of the Code and constitutes grounds
22	to discipline the license and/or license rights of TERRILL pursuant to Sections 10177(d),
23	10177(g), and/or 10177(h) of the Code.
24	THIRD CAUSE OF ACCUSATION
25	(FAILURE TO SUPERVISE SALESPERSONS)
26	13.
27	Section 2725 of the Regulations provides, in relevant part:
	ACCUSATION

1 2 3 4 5 6 7 8 9 10	 A broker shall exercise reasonable supervision over the activities of his or her salespersons. Reasonable supervision includes, as appropriate, the establishment of policies, rules, procedures and systems to review, oversee, inspect and manage: (a) Transactions requiring a real estate license. (b) Documents which may have a material effect upon the rights or obligations of a party to the transaction. (g) Regular and consistent reports of licensed activities of salespersons. The form and extent of such policies, rules, procedures and systems shall take into consideration the number of salespersons employed and the number and location of branch offices. A broker shall establish a system for monitoring compliance with such policies, rules, procedures and systems and salespersons to assist in administering the provisions of this section so long as
11 12	the broker does not relinquish overall responsibility for supervision of the acts of salespersons licensed to the broker.
13	14.
14	On or about November 4, 2021, the Department conducted a broker office
15	survey of Respondents. As a result of the broker office survey, the following violations were
16	found, which included but were not limited to:
17	A. Respondents are not aware of all transactions by its salespersons, as they
18	randomly review one (1) out of ten (10) files randomly.
19	B. Respondents do not have any policies and procedures manual and do not
20	have established policies, rules, procedures, and systems to review, oversee, inspect, and
21	manage documents and staff.
22	C. Respondents do not have an established system for monitoring compliance
23	with policies, rules, procedures, and systems.
24	D. Respondents do not use the services of a broker or salesperson to assist in
25	administering supervisory oversight.
26	15.
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	ACCUSATION - 7 -

1	The conduct, acts and/or omissions of FGI and TERRILL, individually and as
2	designated officer of FGI, as set forth in Paragraph 14 above, in failing to adequately supervise
3	their salespersons, is in violation of Section 10159.2(a) of the Code and constitutes grounds to
4	discipline the license and/or license rights of FGI and TERRILL pursuant to Section 2725 of
5	the Regulations.
6	16.
7	Section 10106 of the Code provides, in pertinent part, that in any order issued in
8	resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner
9	may request the administrative law judge to direct a licensee found to have committed a
10	violation of this part to pay a sum not to exceed the reasonable costs of the investigation and
11	enforcement of the case.
12	WHEREFORE, Complainant prays that a hearing be conducted on the
13	allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
14	disciplinary action against all the licenses and license rights of Respondents FIDELITY
15	GENERAL, INC. and KENNETH W. TERRILL, individually and as designated officer of
16	Fidelity General, Inc., under the Real Estate Law for the costs of investigation and enforcement
17	as permitted by law, and for such other and further relief as may be proper under other
18	applicable provisions of law.
19	
20	Dated at San Diego, California this <u>14</u> day of March , 2022.
21	this day of, 2022.
22 23	Veronica Kilpatrick
24	Veronica Kilpatrick
25	Supervising Special Investigator
26	cc: FIDELITY GENERAL, INC.
27	KENNETH W. TERRILL Veronica Kilpatrick Sacto.
	ACCUSATION
	- 8 -