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FILED

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DEPT. OF REAL ESTATE

By 

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)
13 FIDELITY GENERAL, INC. and) ACCUSATION
14 KENNETH W. TERRILL, individually)
15 and as designated officer of)
16 Fidelity General, Inc.,)
17 Respondents.)

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.

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

24 2.

25 All references to the "Code" are to the California Business and Professions
26 Code, and all references to "Regulations" are to Title 10, Chapter 6, California Code of
27 Regulations.

ACCUSATION

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.

27 ///

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
10 of the Secretary of State.

11 7.

12 Section 10131 of the Code defines a real estate broker, in pertinent part, as
13 follows:

14 A real estate broker within the meaning of this part is a person who, for a
15 compensation or in expectation of a compensation, regardless of the form
16 or time of payment, does or negotiates to do one or more of the following
17 acts for another or others:

18 (d) Solicits borrowers or lenders for or negotiates loans or collects
19 payments or performs services for borrowers or lenders or note owners in
20 connection with loans secured directly or collaterally by liens on real
21 property or on a business opportunity.

22 (e) Sells or offers to sell, buys or offers to buy, or exchanges or offers to
23 exchange a real property sales contract, or a promissory note secured
24 directly or collaterally by a lien on real property or on a business
25 opportunity, and performs services for the holders thereof.

26 8.

27 FGI is a California corporation formed on or about October 1, 2013 (file no.
C3607530). On September 3, 2019, the California Franchise Tax Board suspended the
corporate powers, rights and privileges of FGI pursuant to the provisions of the California
Revenue and Taxation Code. FGI's corporate status remains suspended.

9.

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.
26
27

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 shall be responsible for the supervision and control of the activities conducted
16 on behalf of the corporation by its officers and employees as necessary to secure
17 full compliance with the provisions of this division, including the supervision of
18 salespersons licensed to the corporation in the performance of acts for which a
19 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 A broker shall exercise reasonable supervision over the activities of his or her
2 salespersons. Reasonable supervision includes, as appropriate, the establishment
3 of policies, rules, procedures and systems to review, oversee, inspect and
4 manage:

5 (a) Transactions requiring a real estate license.

6 (b) Documents which may have a material effect upon the rights or obligations
7 of a party to the transaction.

8 ...

9 (g) Regular and consistent reports of licensed activities of salespersons.

10 The form and extent of such policies, rules, procedures and systems shall take
11 into consideration the number of salespersons employed and the number and
12 location of branch offices.

13 A broker shall establish a system for monitoring compliance with such policies,
14 rules, procedures and systems. A broker may use the services of brokers and
15 salespersons to assist in administering the provisions of this section so long as
16 the broker does not relinquish overall responsibility for supervision of the acts
17 of salespersons licensed to the broker.

18 14.

19 On or about November 4, 2021, the Department conducted a broker office
20 survey of Respondents. As a result of the broker office survey, the following violations were
21 found, which included but were not limited to:

22 A. Respondents are not aware of all transactions by its salespersons, as they
23 randomly review one (1) out of ten (10) files randomly.

24 B. Respondents do not have any policies and procedures manual and do not
25 have established policies, rules, procedures, and systems to review, oversee, inspect, and
26 manage documents and staff.

27 C. Respondents do not have an established system for monitoring compliance
with policies, rules, procedures, and systems.

D. Respondents do not use the services of a broker or salesperson to assist in
administering supervisory oversight.

15.

