

FILED

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DEPT. OF REAL ESTATE

By _____

1 DIANE LEE, Counsel (SBN 247222)
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013

4 Telephone: (213) 576-6982
5 (Direct) (213) 576-6907

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7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	No. H-05279 SD
12	EXP REALTY OF CALIFORNIA, INC.;)	
13	DEBORAH LYNN PENNY, individually and as)	
14	designated officer of eXp Realty of California,)	
15	Inc.;)	
16	PETER T. MIDDLETON;)	FIRST AMENDED
17	JOSE SAMANO;)	ACCUSATION
18	ABE IVAN CAZAREZ;)	
19	CAMILO ANDRES SALDARRIAGA)	
20	ARCHILA; and)	
21	CHRISTINE KFOURY,)	
22	Respondents.)	

23 This First Amended Accusation amends the Accusation filed on or about
24 February 23, 2022. The Complainant, Veronica Kilpatrick, a Supervising Special Investigator
25 of the State of California, for cause of Accusation against Respondents EXP REALTY OF
26 CALIFORNIA, INC. (“EROCI”); DEBORAH LYNN PENNY (“PENNY”), individually and
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1 as designated officer of eXp Realty of California, Inc.; PETER T. MIDDLETON
2 (“MIDDLETON”); JOSE SAMANO (“SAMANO”); ABE IVAN CAZAREZ (“CAZAREZ”);
3 JOSE SAMANO (“SAMANO”); CAMILO ANDRES SALDARRIAGA ARCHILA
4 (“SALDARRIAGA ARCHILA”); and CHRISTINE KFOURY (“KFOURY”) (collectively
5 “Respondents”), is informed and alleges as follows:

6 1.

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

9 2.

10 All references to the “Code” are to the California Business and Professions
11 Code, and all references to “Regulations” are to Title 10, Chapter 6, California Code of
12 Regulations, unless otherwise specified.

13
14 (RESPONDENTS’ LICENSE HISTORY)

15 3.

16 *EXP REALTY OF CALIFORNIA:*

17 A. Respondent EROCI is presently licensed and/or has license rights issued
18 by the Department of Real Estate as a real estate corporate broker (license no. 01878277).
19 EROCI was originally licensed as a corporate real estate broker on February 16, 2010. From
20 on or about February 16, 2010 to November 8, 2015, EROCI was licensed as eXp Realty of
21 Washington, Inc. EROCI currently has approximately 104 fictitious business names registered
22 with the Department of Real Estate. Each and every one of these fictitious business names
23 began on or about October 1, 2018 through August 24, 2021. EROCI currently has
24 approximately 173 branch offices. EROCI currently has approximately 787 broker associates
25 and 8,326 salespersons. From on or about December 20, 2018 to the present, PENNY has been
26
27

1 the designated officer of EROCI. EROCI's mailing address has been in San Ramon, California
2 from on or about June 25, 2019 through the present.

3 B. On or about March 20, 2019, a First Amended Accusation in case no. H-
4 6686 SAC was filed against EROCI and Ramey Joseph Marquez ("Marquez"), a broker and
5 then-designated officer of EROCI (license no. 01800314), as well as Natasha Dee Carlana
6 Davis, a salesperson (license no. 01426736). As more fully set forth in the First Amended
7 Accusation, EROCI was in violation of Code sections 10159.6 (team name and responsible
8 broker's identity) on at least six (6) websites and 10163 (failure to register branch office) for at
9 least seventeen (17) branch offices, and Regulations section 2731 (fictitious business name) on
10 at least twenty-six (26) websites. Also, EROCI failed to notify the Department of Real Estate it
11 had hired five (5) of its licensees. As a result, there was cause to discipline EROCI's license
12 pursuant to Code sections 10177(d) (willful disregard of the Real Estate Law and/or
13 Regulations), 10177(g) (negligence), and 10177(h) (broker supervision). On or about March
14 16, 2020, a Stipulation and Agreement in Settlement and Order was filed for EROCI wherein
15 EROCI's license was suspended with suspension stayed pursuant to certain terms and
16 conditions.

17 4.

18 *DEBORAH LYNN PENNY*: Respondent PENNY is presently licensed and/or
19 has license rights issued by the Department of Real Estate as a real estate broker (license no.
20 01022642). PENNY was originally licensed as a real estate broker on June 9, 1992, and has
21 been so licensed since then. From on or about April 13, 1989 to June 8, 1992, PENNY had a
22 salesperson license. At no time has PENNY had a fictitious business name registered with the
23 Department of Real Estate. From on or about December 20, 2018 through the present, PENNY
24 has been the designated officer of EROCI. PENNY's mailing address has been in Orcutt,
25 California from on or about August 21, 2018 through the present.

26 5.

1 Department of Real Estate. CAZAREZ's sponsoring broker has been EROCI from October 20,
2 2020 through the present. CAZAREZ's mailing address has been in Escondido, California
3 from August 24, 2010 through the present.

4 8.

5 *CAMILO ANDRES SALDARRIAGA ARCHILA*: Respondent SALDARRIAGA
6 ARCHILA is presently licensed and/or has license rights issued by the Department of Real
7 Estate as a real estate salesperson (license no. 02005935). SALDARRIAGA ARCHILA was
8 originally licensed as a real estate salesperson on or about September 2, 2016. At no time has
9 SALDARRIAGA ARCHILA had a fictitious business name registered with the Department of
10 Real Estate. SALDARRIAGA ARCHILA sponsoring broker has been EROCI from October 2,
11 2020 through the present. SALDARRIAGA ARCHILA's mailing address has been in San
12 Diego, California from on or about June 17, 2020 through the present.

13 9.

14 *CHRISTINE KFOURY*: Respondent KFOURY is presently licensed and/or has
15 license rights issued by the Department of Real Estate as a real estate salesperson (license no.
16 02091458). KFOURY was originally licensed as a real estate salesperson on or about July 10,
17 2019. At no time has KFOURY had a fictitious business name registered with the Department
18 of Real Estate. KFOURY's sponsoring broker has been EROCI from March 9, 2021 through
19 the present. KFOURY's mailing address has been in Santa Ana, California from on or about
20 December 16, 2019 through the present.

21
22 (RESPONDENTS' ATTRIBUTED ACTIONS)

23 10.

24 Whenever acts referred to below are attributed to EROCI, those acts are alleged
25 to have been done by PENNY, acting by themselves, or by and/or through one or more agents,
26 associates, affiliates, and/or co-conspirators.

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Whenever acts referred to below are attributed to MIDDLETON, those acts are alleged to have been done by EROCI and/or PENNY, acting by themselves, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators.

12.

Whenever acts referred to below are attributed to SAMANO, those acts are alleged to have been done by EROCI and/or PENNY, acting by themselves, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators.

13.

Whenever acts referred to below are attributed to CAZAREZ, those acts are alleged to have been done by EROCI and/or PENNY, acting by themselves, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators.

14.

Whenever acts referred to below are attributed to SALDARRIAGA ARCHILA, those acts are alleged to have been done by EROCI and/or PENNY, acting by themselves, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators.

15.

Whenever acts referred to below are attributed to KFOURY, those acts are alleged to have been done by EROCI, PENNY, and/or SAMANO, acting by themselves, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators.

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1 members of the team, and MIDDLETON's real estate license number is not displayed in a
2 conspicuous and prominent manner,

3 21.

4 The conduct, acts, and/or omissions of Respondent MIDDLETON as described
5 in Paragraphs 16 to 20, above, are violations of Code sections 10140.6 (disclosure of licensed
6 status (i.e., name and license number) in advertising), 10159.5 (file fictitious business name
7 with county clerk), and 10159.6 (team name requirements), and Regulations sections 2731
8 (shall not use unregistered fictitious business name) and 2773 (license number on solicitation
9 materials), and are cause for the suspension or revocation of all real estate licenses and license
10 rights of Respondent under the provisions of Code sections 10176(a) (substantial
11 misrepresentation), 10177(d) (willful disregard of Real Estate Law and Regulations), 10177(h)
12 (broker supervision), and 10177(g) (negligence/incompetence).

13
14 *SAMANO and KFOURY*

15 22.

16 From an unknown date to at least August 11, 2021, Respondents SAMANO and
17 KFOURY advertised on the website, pwregroup.com, and business cards that had various
18 violations of the Real Estate Law and Regulations. These violations include, but are not
19 limited to, failing to identify SAMANO and KFOURY's license numbers and employing
20 broker, EROCI, and identifying as a part of "Power Real Estate Group," which is supervised
21 and run by SAMANO, but no one on its team roster has the surname of Power and "Power Real
22 Estate Group" is not a registered fictitious business name under EROCI's license. Power Real
23 Estate Group is supervised and run by SAMANO.

24 23.

25 The conduct, acts, and/or omissions of Respondents SAMANO and KFOURY
26 as described in Paragraphs 16 and 22, above, are violations of Code sections 10140.6
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1 (disclosure of licensed status), 10159.5 (file fictitious business name with county clerk), and
2 10159.7 (fictitious and team names) and Regulations sections 2731 (shall not use unregistered
3 fictitious business name) and 2773 (license number on solicitation materials), and are cause for
4 the suspension or revocation of all real estate licenses and license rights of Respondents
5 SAMANO and KFOURY under the provisions of Code sections 10176(a) (substantial
6 misrepresentation), 10177(d) (willful disregard of Real Estate Law and Regulations), and
7 10177(g) (negligence/incompetence).

8
9 *CAZAREZ*

10 24.

11 In at least June 2021, CAZAREZ advertised on his website, thetimeteam.net,
12 which has various violations of the Real Estate Law and Regulations. These violations include,
13 but are not limited to, using but failing to register the fictitious business name of “The Time
14 Team” with his current broker, EROCI, despite being employed under EROCI from on or about
15 October 20, 2020 through the present.

16 25.

17 The conduct, acts, and/or omissions of Respondent CAZAREZ as described in
18 Paragraphs 16 and 24, above, are violations of Code section 10159.5 (file fictitious business
19 name with county clerk) and Regulations section 2731 (shall not use unregistered fictitious
20 business name), and are cause for the suspension or revocation of all real estate licenses and
21 license rights of Respondent under the provisions of Code sections 10176(a) (substantial
22 misrepresentation), 10177(d) (willful disregard of Real Estate Law and Regulations), and
23 10177(g) (negligence/incompetence).

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1 *SALDARRIAGA ARCHILA*

2 26.

3 From an unknown time to at least December 2021, *SALDARRIAGA ARCHILA*
4 advertised on his Instagram page “Camclose52,” which had various violations of the Real
5 Estate Law and Regulations. These violations include, but are not limited to, failing to disclose
6 his real estate license number and identify his employing broker, EROCI.

7 27.

8 From an unknown time to at least December 2021, *SALDARRIAGA ARCHILA*
9 advertised on Facebook page, www.facebook.com/camcloses, which had various violations of
10 the Real Estate Law and Regulations. These violations include, but are not limited to, failing to
11 identify his employing broker, EROCI.

12 28.

13 From an unknown time to at least December 2021, *SALDARRIAGA ARCHILA*
14 advertised on his website, camestates.com, which had various violations of the Real Estate Law
15 and Regulations. These violations include, but are not limited to, failing to disclose his real
16 estate license number.

17 29.

18 The conduct, acts, and/or omissions of Respondent *SALDARRIAGA ARCHILA*
19 as described in Paragraphs 16 and 26 to 28, above, are violations of Code section 10159.5 (file
20 fictitious business name with county clerk) and Regulations section 2731 (shall not use
21 unregistered fictitious business name), and are cause for the suspension or revocation of all real
22 estate licenses and license rights of Respondent under the provisions of Code sections 10176(a)
23 (substantial misrepresentation), 10177(d) (willful disregard of Real Estate Law and
24 Regulations), and 10177(g) (negligence/incompetence).

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1 *IN AGGRAVATION*

2 30.

3 After the Accusation in case no. H-6686 SAC, as described in Paragraph 3,
4 above, was filed on or about May 15, 2018, the Department of Real Estate found at least three
5 (3) of EROCI's licensees had various compliance violations, including, but not limited to, using
6 unregistered fictitious business names, sending unsolicited text messages without license
7 numbers, and advertising unlicensed branch offices. These licensees include, but are not
8 limited to, broker and EROCI branch manager Aaron Klapper (license no. 01409532),
9 salesperson Michael David Bridges (license no. 01917698), and salesperson Michael Adam
10 Turnquist (license no. 01351911).

11 31.

12 Compliance letters regarding the violations described in Paragraph 30, above,
13 were sent to EROCI and the pertinent licensees, and the cases were closed once compliance
14 was met.

15
16 (BROKER SUPERVISION AND MISREPRESENTATION: EROCI AND PENNY)

17 32.

18 Incorporated herein are Paragraphs 3 through 31, above.

19 33.

20 EROCI has had previous license discipline in DRE case nos. H-6686 SAC, in
21 part, on its failure to supervise.

22 34

23 Based on the above facts, EROCI did not exercise reasonable control and
24 supervision over the activities conducted by its employees and/or licensees, including, but not
25 limited to, MIDDLETON, SAMANO, CAZAREZ, SALDARRIAGA ARCHILA, and
26 KFOURY, as necessary to secure full compliance with real estate laws, which constitutes a
27

1 breach of fiduciary duty with respect to its real estate consumers and clientele, and that EROCI
2 demonstrates a continued and flagrant course of misrepresentation and/or making of false
3 promises through its licensees. EROCI's conduct and violations are cause for the suspension or
4 revocation of its real estate license and license rights pursuant to Code sections 10176(c),
5 10176(g), and 10177(h) and Regulations section 2725.

6 35.

7 Based on the above facts, PENNY did not exercise reasonable control and
8 supervision over the activities conducted by its employees and/or licensees, including, but not
9 limited to, MIDDLETON, SAMANO, CAZAREZ, SALDARRIAGA ARCHILA, and
10 KFOURY, as necessary to secure full compliance with real estate laws, which constitutes a
11 breach of fiduciary duty with respect to its real estate consumers and clientele, and that PENNY
12 demonstrates a continued and flagrant course of misrepresentation and/or making of false
13 promises through its licensees. PENNY's conduct and violations are cause for the suspension
14 or revocation of his real estate license and license rights pursuant to Code sections 10176(c),
15 10176(g), and 10177(h) and Regulations section 2725.

16
17 COSTS

18 36.

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

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