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FILED

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DEPT. OF REAL ESTATE
By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation against

DRE No. H-05350 SD

RJW PROPERTIES, INC. and

ACCUSATION

ROBERT JOEL WEINBERGER, individually, and as
Designated Officer for RJW Properties, Inc.;

Respondents.

The Complainant, Jason Parson, a Supervising Special Investigator for the Department of Real Estate¹ ("Department") of the State of California, for cause of Accusation against RJW PROPERTIES, INC. and ROBERT JOEL WEINBERGER, individually, and as Designated Officer for RJW Properties, Inc. (collectively "Respondents"), alleges as follows:

1. The Complainant, Jason Parson, acting in his official capacity as a Supervising Special Investigator, makes this Accusation against Respondents.

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¹ Between July 1, 2013 and July 1, 2018, the Department of Real Estate operated as the Bureau of Real Estate under the Department of Consumer Affairs.

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

STATEMENT OF FACTS

Licenses

3. Respondents are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Code).

4. On January 1, 2002, the Department issued a real estate corporation license to Respondent RJW PROPERTIES, INC. (“RJWPI”), License ID 01327725. Respondent RJWPI’s license is scheduled to expire on December 31, 2025, unless renewed. Respondent RJWPI has renewal rights pursuant to Code section 10201. The Department retains jurisdiction pursuant to Code section 10103.

5. On January 1, 2002, the Department issued a real estate broker license to Respondent ROBERT JOEL WEINBERGER (“WEINBERGER”), License ID 00829925. Unless renewed, Respondent WEINBERGER’s real estate broker license is scheduled to expire on January 26, 2026. Respondent WEINBERGER has renewal rights pursuant to Code section 10201. The Department retains jurisdiction pursuant to Code section 10103.

6. WEINBERGER was licensed as a real estate salesperson from approximately December 31, 1981 through December 31, 2001.

7. During all times relevant herein, Respondent WEINBERGER was the designated officer for Respondent RJWPI, pursuant to Code section 10211. As the designated officer for RJWPI, Respondent WEINBERGER was responsible for the supervision and control of the activities conducted on behalf of RJWPI by its officers, agents, real estate licensees, and

1 employees, as necessary to secure full compliance with the provisions of the Real Estate Law,
2 pursuant to Code section 10159.2.

3 8. On or about July 29, 1992, the Department issued a real estate broker license to
4 Charles Edward Weinberger, License ID 00904377.

5 9. Mary Monaco Weinberger has never been licensed in any capacity with the
6 Department.

7 10. Anna Amano aka Anna Lee Amano ("Amano") has never been licensed in any
8 capacity with the Department.

9 11. At all times relevant herein, in the State of California, Respondents engaged in
10 activities that require a real estate broker license within the meaning of Code section 10131,
11 subdivision (b). Respondents' activities included soliciting or offering to negotiate the sale,
12 purchase or exchange of leases for real property and the collection of rents or security deposits
13 on real property or on a business opportunity for others, for compensation or in expectation of
14 compensation.

15 12. Whenever reference is made in an allegation in this Accusation to an act or
16 omission of Respondent RJWPI, such allegation shall be deemed to mean that the officers,
17 directors, employees, agents and/or real estate licensees employed by or associated with
18 Respondents RJWPI, committed such act or omission while engaged in the furtherance of the
19 business or operations of such corporate respondent and while acting within the course and
20 scope of their authority and employment.

21 First Cause of Accusation - Audit SD210029

22 13. The Department received an anonymous complaint against Respondents. The
23 complaint alleged that Amano was engaging in unlicensed activities and falsely representing that
24 Amano was a licensed property manager for Respondents. The Department initiated an

1 investigation and audit of Respondents' property management activities in response to the
2 complaint.

3 Audit SD210029

4 14. On or about July 22, 2022, the Department completed an audit examination of the
5 books and records of Respondent RJWPI's real estate activities which require a real estate
6 license pursuant to Code section 10131, subdivision (b).

7 15. The audit examination covered the period from January 1, 2021 through February
8 28, 2022 ("audit period"). The audit examination was limited to RJWPI's property management
9 activities.

10 16. The auditor held an entrance conference with Respondent WEINBERGER on
11 March 22, 2022.

12 17. According to WEINBERGER, during the audit period, RJWPI managed
13 approximately 30 apartment buildings and two single residential properties with a total of 436
14 units for approximately 23 property owners. RJWPI collected rents, paid expenses, and screened
15 tenants, among other duties, for compensation. RJWPI charged a management fee of 4% of
16 collected rents for its property management activities.

17 18. According to WEINBERGER, RJWPI maintained approximately 38 bank
18 accounts for single beneficiaries for its property management activities. RJWPI maintained six
19 (6) bank accounts for properties owned by WEINBERGER and his family. The Department's
20 auditor sampled four (4) bank accounts used for Respondents' property management activities
21 for others during the audit period for the audit. The four sampled bank accounts are listed below:

22 Trust Account 1 (TA 1)

23 Bank: California Bank & Trust

24 Account #: xxxxx6214

1 **Trust Account 2 (TA 2)**

2 Bank: California Bank & Trust

3 Account #: xxxxx5950

4 **Trust Account 3 (TA 3)**

5 Bank: California Bank & Trust

6 Account #: xxxxx2521

7 **Trust Account 4 (TA 4)**

8 Bank: California Bank & Trust

9 Account #: xxxxx8341

10 19. Accounts TA1, TA3, and TA4 were maintained for the receipts and
11 disbursements of trust funds received for single beneficiaries in connection with RJWPI's
12 property management activities.

13 20. The audit examination revealed violations of the Code and the Regulations as set
14 forth in the following paragraphs, and more fully discussed in Audit Report SD210029 and the
15 exhibits and work papers attached to said audit report.

16 **Audit Violations**

17 21. In the course of its property management activities during the audit period,
18 Respondents acted in violation of the Code and the Regulations as follows:

19 **Issue One. Code section 10145 and Regulation 2834. Trust account withdrawals**

20 22. During the audit period, Respondents allowed Charles Edward Weinberger to be a
21 signer for TA1, TA2, TA3, and TA4 without written authorization and although Charles Edward
22 Weinberger was not licensed as a broker affiliate of RJWPI. Moreover, Respondents allowed
23 Mary Monaco Weinberger, a nonlicensed person, to be a signer for TA3 without fidelity bond or
24

insurance during the audit period. Said acts are in violation of Code section 10145 and Regulation 2834. Respondents closed TA3 on or about February 3, 2022.

Issue Two. Code sections 10130 and 10137. License required/Unlawful employment or payment of compensation - penalty

23. During the audit period, Respondent RJWPI employed and compensated Anna Amano, a nonlicensed person, to conduct activities that require a real estate license pursuant to Code section 10131, subdivision (b), in violation of Code sections 10130 and 10137. During the audit period, RJWPI had no licensed branch offices pursuant to Code section 10163, and Amano's activities were not exempt under Code section 10131.01. Examples of transactions for which Anna Amano represented to be the agent for the landlord or owner of the property include, but are not limited to, the following:

<u>Date Lease Agreement was signed</u>	<u>Property</u>
01/24/2021	3060 Kellogg St.
03/23/2021	4121 Iowa St.
10/15/2021	4440 Kansas St.
11/02/2021	4438 Kansas St.
01/19/2022	3054 Kellogg St.

Issue Three. Code section 10161.8. Salesperson and broker-associate retention and termination/Notice of change of broker.

24. Respondents failed to timely notify the Department of the employment/association of Charles Edward Weinberger as a broker-associate with RJWPI, in violation of Code section 10161.8.

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Respondent RJWPI

25. The foregoing violations, as described in Paragraphs 22 through 24, above, constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondent RJWPI pursuant to the provisions of Code section 10177, subdivisions (d) and/or (g) for violation of Code sections 10145, 10130, 10137, 10161.8, and Regulation 2834.

Respondent WEINBERGER– Officer - Broker Supervision

26. The conduct, acts, and/or omissions of Respondent WEINBERGER, as alleged above in Paragraphs 22 through 24, constitutes a failure to exercise the supervision and control over the activities of RJWPI to ensure compliance with the Real Estate Law and Regulations, as required by Code section 10159.2 and Regulation 2725. Said conduct, acts, or omissions constitute cause to suspend or revoke the real estate licenses and license rights of Respondent WEINBERGER pursuant to Code section 10177, subdivisions (h), (d), and/or (g).

Second Cause of Accusation

27. There is hereby incorporated in this Second, separate and distinct Cause of Accusation, all of the allegations contained in Paragraphs 1 through 26, with the same force and effect as if herein fully set forth.

28. Respondent WEINBERGER executed property management agreements on behalf of RJWPI, as the broker for property owners, where said agreements were for a period that had a commencement date, but no end date, in violation of Code section 10176, subdivision (f). Examples of property management agreements with no end date include, but are not limited to, the following:

Agreement date

Property

09/20/2021

1937 L. Ave., National City, CA 91950

Agreement date

Property

01/01/2022

3026-3066 Kellogg St., San Diego, CA 92107

29. The foregoing violations, as described in Paragraph 28, above, constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondent RJWPI pursuant to the provisions of Code sections 10176, subdivision (f), and 10177, subdivisions (d) and/or (g).

30. The foregoing violations, as described in Paragraph 28, above, constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondent WEINBERGER pursuant to the provisions of Code sections 10176, subdivision (f), and 10177, subdivisions, (h), (d) and/or (g).

STATUTORY PROVISIONS

31. Code section 10131, subdivision (b) provides:

“Leases or rents or offers to lease or rent, or places for rent, or solicits listings of places for rent, or solicits for prospective tenants, or negotiates the sale, purchase, or exchanges of leases on real property, or on a business opportunity, or collects rents from real property, or improvements thereon, or from business opportunities.”

32. Code section 10131.01 provides:

(a) Subdivision (b) of Section 10131 does not apply to (1) the manager of a hotel, motel, auto and trailer park, to the resident manager of an apartment building, apartment complex, or court, or to the employees of that manager, or (2) any person or entity, including a person employed by a real estate broker, who, on behalf of another or others, solicits or arranges, or accepts reservations or money, or both, for transient occupancies described in paragraphs (1) and (2) of subdivision (b) of Section 1940 of the Civil Code, in a dwelling unit in a common interest development, as defined in Section 4100 of the Civil Code, in a dwelling unit in an apartment building or complex, or in a singlefamily home, or (3) any person other than the resident manager or employees of that manager, performing the following functions, who is the employee of the property management firm retained to manage a residential apartment building or complex or court and who is performing under the supervision and control of a broker of record who is an employee of that property management firm or a salesperson

1 licensed to the broker who meets certain minimum requirements as specified in a
2 regulation issued by the commissioner:

3 (A) Showing rental units and common areas to prospective tenants.

4 (B) Providing or accepting preprinted rental applications, or
5 responding to inquiries from a prospective tenant concerning the completion of
6 the application.

7 (C) Accepting deposits or fees for credit checks or administrative
8 costs and accepting security deposits and rents.

9 (D) Providing information about rental rates and other terms and
10 provisions of a lease or rental agreement, as set out in a schedule provided by an
11 employer.

12 (E) Accepting signed leases and rental agreements from
13 prospective tenants.

14 (b) A broker or salesperson shall exercise reasonable supervision and control over
15 the activities of nonlicensed persons acting under paragraph (3) of subdivision (a).

16 (c) A broker employing nonlicensed persons to act under paragraph (3) of
17 subdivision (a) shall comply with Section 10163 for each apartment building or
18 complex or court where the nonlicensed persons are employed.

19 33. Code section 10163 provides:

20 If the applicant for a real estate broker's license maintains more
21 than one place of business within the State he shall apply for and procure an
22 additional license for each branch office so maintained by him. Every such
23 application shall state the name of the person and the location of the place or
24 places of business for which such license is desired. The commissioner may
determine whether or not a real estate broker is doing a real estate brokerage
business at or from any particular location which requires him to have a branch
office license.

34. Code section 10176, subdivision (f), provides:

Claiming, demanding, or receiving a fee, compensation, or
commission under any exclusive agreement authorizing a licensee to perform any
acts set forth in Section 10131 for compensation or commission where the
agreement does not contain a definite, specified date of final and complete
termination.

35. Code section 10177, provides in pertinent parts:

(d) Willfully disregarded or violated this part or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of this part and Chapter 1

(g) Demonstrated negligence or incompetence in performing an act for which the officer, director, or person is required to hold a license.

(h) As a broker licensee, failed to exercise reasonable supervision over the activities of that licensee's salespersons, or, as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required.

Audit Costs

36. Code section 10148(b) provides, in pertinent part, that the Commissioner shall charge a real estate broker for the cost of any audit, if the Commissioner has found in a final decision following a disciplinary hearing that the broker has violated Code section 10145 or a regulation or rule of the Commissioner interpreting said section.

Investigation/Enforcement Costs

37. 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.

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this
2 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
3 against all licenses and/or license rights of Respondents under the Real Estate Law (Part 1 of
4 Division 4 of the Business and Professions Code), for the costs of the audit, investigation, and
5 enforcement as permitted by law, and for such other and further relief as may be proper under
6 other provisions of law.

7 Dated on Feb 14, 2023 at Los Angeles, California.

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10 JASON PARSON
Supervising Special Investigator

11
12 cc: RJW Properties, Inc.
13 Robert Joel Weinberger
14 Jason Parson
Sacto
Audits/Isabel Beltran