

1 LISSETE GARCIA, Counsel (SBN 211552)  
Department of Real Estate  
2 320 West 4th Street, Suite 350  
Los Angeles, California 90013-1105  
3 Telephone: (213) 576-6982  
Direct: (213) 576-6914  
4 Fax: (213) 576-6917  
*Staff Attorney for Department of Real Estate*  
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**FILED**

OCT 11 2022

DEPT. OF REAL ESTATE

By *Emmamy*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation against

DRE No. H-05693 SD

12 STEVEN DORIA KILGORE, individually, and as  
13 designated officer for My Why Realty Corp., and  
MY WHY REALTY CORP.,

**ACCUSATION**

14 Respondents.  
15

16 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the  
17 Department of Real Estate<sup>1</sup> ("Department") of the State of California, makes this Accusation in  
18 her official capacity for cause of Accusation against STEVEN DORIA KILGORE, individually,  
19 and as designated officer for My Why Realty Corp. and MY WHY REALTY CORP.  
20 (collectively "Respondents"), is informed and alleges as follows:

21 1. Unless otherwise noted, all references to the "Code" are to the California  
22 Business and Professions Code and all references to "Regulations" are to the Regulations of the  
23

24 <sup>1</sup> 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.

1 Real Estate Commissioner, Title 10, Chapter 6, California Code of Regulations.

2 Statement of Facts

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

5 3. On April 5, 2019, the Department issued a real estate broker license to  
6 Respondent STEVEN DORIA KILGORE ("KILGORE"), aka Steven Eli Kilgore, Steve Eli  
7 Kilgore, and Steve Encarnacion-Kilgore, License ID 01898156. Unless renewed, Respondent  
8 KILGORE's license is scheduled to expire on April 4, 2023. Respondent has renewal rights  
9 pursuant to Code section 10201. The Department retains jurisdiction pursuant to Code section  
10 10103.

11 4. Respondent KILGORE was formerly licensed as a real estate salesperson from  
12 approximately April 22, 2011 through April 4, 2019.

13 5. On June 27, 2022, the Department issued a real estate corporation license to  
14 Respondent MY WHY REALTY CORP. ("MWRC"), License ID 02190263. Unless renewed,  
15 Respondent MWRC's license is scheduled to expire on June 26, 2026. Respondent MWRC has  
16 renewal rights pursuant to Code section 10201. The Department retains jurisdiction pursuant to  
17 Code section 10103.

18 6. From June 27, 2022 through the present, Respondent MWRC has been licensed  
19 by the Department as a corporate real estate broker, by and through Respondent KILGORE as  
20 designated officer for Respondent MWRC to qualify said corporation and to act for said  
21 corporation as a real estate broker.

22 7. Respondent KILGORE is an officer, director, and a person owning more than ten  
23 percent of MWRC's stock.

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1 E. St. Property

2 8. In or around July of 2014, D.L.<sup>2</sup> purchased a residential real property located at  
3 569 E. Street, Unit 16, Chula Vista, California 91910 ("E. St. property").

4 9. D.L. did not have a mortgage on the E. St. property and sought to use the E. St.  
5 property as a rental property.

6 10. At all times relevant herein, D.L. has lived abroad.

7 11. From 2014 through 2019, KILGORE acted as a property manager for D.L.'s E.  
8 St. property. For compensation, or in expectation of compensation, Respondent KILGORE  
9 engaged in activities which require a real estate license pursuant to Code section 10131,  
10 subdivision (b), including, but not limited to, negotiating leases and collecting rents from S.G.,  
11 the tenant of the E. St. property. Respondent was supposed to pay homeowner association  
12 ("HOA") fees, among other fees, for the E. St. property.

13 12. Unbeknownst to D.L., Respondent KILGORE stopped making timely payments  
14 for the E. St. property's HOA fees.

15 13. On November 8, 2018, a Notice of Default was filed for failure to pay the HOA  
16 fees for the E. St. property.

17 14. On May 13, 2019, a Notice of Trustee's Sale was filed for the E. St. property.

18 15. On June 17, 2019, the E. St. property was auctioned through non-judicial  
19 foreclosure and sold to C.P. 2018, LLC.

20 16. On or about October 18, 2019, C.P. 2018, LLC filed an unlawful detainer to take  
21 possession of the E. St. property.

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23  
24 <sup>2</sup> Initials are used in place of individuals' full names to protect their privacy. Documents containing individuals' full names will be provided during the discovery phase of this case to Respondent(s) and/or their attorneys, after service of a timely and proper request for discovery on Complainant's counsel.

1           17.     Despite acting as D.L.'s agent and broker for the E. St. property and having  
2 knowledge of the afore-mentioned proceedings, Respondent KILGORE failed to notify D.L. of  
3 the unpaid HOA fees, the Notice of Default, the foreclosure of the E. St. property, and the  
4 eviction proceedings. Instead, Respondent KILGORE made multiple misrepresentations,  
5 misstatements, and omissions of material facts to D.L. regarding the rental status of the E. St.  
6 property.

7           18.     Respondent KILGORE's misrepresentations and omissions include, but are not  
8 limited to, the following:

9                   a.     Respondent KILGORE provided accountings to D.L. which falsely  
10 indicated that the HOA fees had been paid;

11                   b.     Respondent KILGORE failed to forward to D.L. some rental payments  
12 which Respondent collected from tenant S.G.;

13                   c.     Respondent KILGORE falsely claimed that S.G. had not paid some rent  
14 payments;

15                   d.     Respondent KILGORE falsely claimed that S.G. was vacating the  
16 property because S.G. could not afford to pay the rent;

17                   e.     When D.L. asked Respondent KILGORE to provide S.G.'s contact  
18 information, Respondent falsely claimed that S.G. had disconnected his telephone number; and

19                   f.     After the E. St. property had already been sold in foreclosure,  
20 (unbeknownst to D.L.) Respondent KILGORE falsely informed D.L. that the city was possibly  
21 going to confiscate and sell D.L.'s E. St. property for use as Section 8 housing.

22           19.     In or around November of 2019, D.L. first became aware of the foreclosure of  
23 the E. St. property and Respondent KILGORE's deception.

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1           20.     Respondent KILGORE's misrepresentations, misstatements, and omissions of  
2 fact to D.L. continued from approximately 2016 through January of 2020.

3           21.     Respondent KILGORE collected rent payments and a security deposit for D.L.  
4 and failed to properly deposit and handle said trust funds in violation of Code section 10145.  
5 Respondent also KILGORE paid some rental payments to D.L. with checks from a bank  
6 account that did not appear to be designated as a trust account and commingled trust funds with  
7 Respondent's own funds, in violation of Code sections 10145 and 10176, subdivision (e).

8           22.     On or about October 15, 2021, a civil complaint was filed against Respondent  
9 KILGORE, among other defendants, before the Superior Court of the State of California,  
10 County of San Diego-Central Division, in Case No. 37:2021-00044015-CU-FR-CTL. A First  
11 Amended Complaint was filed on November 18, 2021. The civil lawsuit alleges several causes  
12 of action including fraud, intentional misrepresentation, negligent misrepresentation, and  
13 conversion, related to KILGORE's management of the E. St. property.

14           23.     On or about August 4, 2022, the Department became aware that Willis Allen  
15 Real Estate had terminated their affiliation with Respondent KILGORE due to the alleged  
16 misconduct related to the E. St. property.

17           24.     Prior to April 5, 2019, while Respondent KILGORE was a licensed real estate  
18 salesperson, Respondent KILGORE collected compensation directly from D.L. for activities  
19 requiring a real estate broker license pursuant to Code section 10131, subdivision (b), in  
20 violation of Code sections 10130 and 10137.

21           25.     Respondents KILGORE and MWRC both currently list the following main  
22 office address with the Department: 7710 Hazard Center Drive, Suite E535, San Diego,  
23 California 92108. Said address is a private rental mailbox at a Postal Annex and not a definite  
24 place of business where Respondents display their real estate licenses or hold client

1 consultations.

2 First Cause of Accusation – E. St. Property

3 26. Respondent KILGORE conducted the real estate activities alleged above in  
4 Paragraphs 8 through 24, and collected compensation for such activities directly from D.L., not  
5 from Respondent KILGORE's affiliated broker, in violation of Code sections 10130 and 10137.  
6 The foregoing violations constitute cause for the suspension or revocation of all licenses and  
7 license rights of Respondent KILGORE pursuant to Code section 10177, subdivisions (d)  
8 and/or (g).

9 27. As alleged above in Paragraphs 8 through 24, Respondent KILGORE failed to  
10 properly deposit and handle trust funds in violation of Code section 10145. Respondent also  
11 commingled trust funds with Respondent's own funds in Respondent's business account, in  
12 violation of Code section 10176, subdivision (e). The foregoing violations constitute cause for  
13 the suspension or revocation of all licenses and license rights of Respondents KILGORE and  
14 MWRC pursuant to Code section 10176, subdivision (e), and Code section 10177, subdivisions  
15 (d) and/or (g).

16 28. Respondent KILGORE's acts, as alleged above in Paragraphs 8 through 25,  
17 involved making substantial misrepresentations, misstatements, and omissions of material facts,  
18 and conduct which constitutes fraud or dishonest dealing, in violation of Code section 10176,  
19 subdivision (a); Code section 10176, subdivision (i); or Code section 10177, subdivision (j).  
20 The foregoing violations constitute cause for the suspension or revocation of all licenses and  
21 license rights of Respondents KILGORE and MWRC pursuant to Code section 10176,  
22 subdivision (a); Code section 10176, subdivision (i); or Code section 10177, subdivision (j); and  
23 Code section 10177, subdivisions (d) and/or (g).

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1                                    Second Cause of Accusation – Place of Business

2            29.     There is hereby incorporated in this Second, separate and distinct Cause of  
3     Accusation, all of the allegations contained in Paragraphs 1 through 28, with the same force and  
4     effect as if herein fully set forth.

5            30.     The current main office address maintained by Respondents KILGORE and  
6     MWRC with the Department is 7710 Hazard Center Drive, Suite E535, San Diego, California  
7     92108, is a rented private mailbox. Respondents have not informed the Real Estate  
8     Commissioner of any new main office address, where Respondents maintain any definite place  
9     of business in the State of California, and which serves as Respondents' office for the transaction  
10    of business requiring a real estate license.

11          31.     The acts and omissions of Respondents, as set forth above, are in violation of  
12    Code section 10162 and are grounds for the suspension or revocation of the licenses and license  
13    rights of Respondents KILGORE and MWRC pursuant to Code sections 10165 and 10177,  
14    subdivisions (d) and/or (g).

15                                    Statutory Provisions

16          32.     Code section 10130 provides:

17                It is unlawful for any person to engage in the business of, act in the  
18                capacity of, advertise as, or assume to act as a real estate broker or a real estate  
19                salesperson within this state without first obtaining a real estate license from the  
20                department, or to engage in the business of, act in the capacity of, advertise as, or  
                 assume to act as a mortgage loan originator within this state without having  
                 obtained a license endorsement.

21                The commissioner may prefer a complaint for violation of this section  
22                before any court of competent jurisdiction, and the commissioner and his or her  
                 counsel, deputies, or assistants may assist in presenting the law or facts at the trial

23          33.     Code section 10131 provides, in pertinent part, as follows:

24                "A real estate broker within the meaning of this part is a person who, for a  
                 compensation or in expectation of a compensation, regardless of the form or time

1 of payment, does or negotiates to do one or more of the following acts for another  
2 or others:

3 (b) Leases or rents or offers to lease or rent, or places for rent, or solicits  
4 listings of places for rent, or solicits for prospective tenants, or negotiates the sale,  
5 purchase, or exchanges of leases on real property, or on a business opportunity, or  
6 collects rents from real property, or improvements thereon, or from business  
7 opportunities.

8 34. Code section 10137 provides:

9 "It is unlawful for any licensed real estate broker to retain, compensate,  
10 directly or indirectly, any person for performing any of the acts within the scope  
11 of this chapter who is not a licensed real estate broker, or a real estate salesperson  
12 licensed under the responsible broker retaining or compensating him or her, or to  
13 retain or compensate, directly or indirectly, any licensee for engaging in any  
14 activity for which a mortgage loan originator license endorsement is required, if  
15 that licensee does not hold a mortgage loan originator license endorsement;  
16 provided, however, that a licensed real estate broker may pay a commission to a  
17 broker of another state.

18 No real estate salesperson shall accept compensation for activity requiring  
19 a real estate license from any person other than the broker under whom he or she  
20 is at the time licensed.

21 It is unlawful for any licensed real estate salesperson to pay any  
22 compensation for performing any of the acts within the scope of this chapter to  
23 any real estate licensee except through the broker under whom he or she is at the  
24 time licensed. A licensee may enter into an agreement with another licensee to  
share that compensation provided that any compensation is paid through the  
responsible broker.

For a violation of any of the provisions of this section, the commissioner  
may temporarily suspend or permanently revoke the license of the real estate  
licensee, in accordance with the provisions of this part relating to hearings."

35. Code section 10162 provides:

"(a). Every licensed real estate broker shall have and maintain a definite place of  
business in the State of California that serves as the broker's office for the transaction  
of business. This office shall be the place where the broker's license is displayed and  
where personal consultations with clients are held.

(b) A real estate license does not authorize the licensee to do business except from  
the location stipulated in the real estate license as issued or as altered pursuant to  
section 10161.8.

1 (c) (1) Every real estate broker and salesperson licensee shall provide to the  
2 commissioner their current office or mailing address, a current telephone number, and  
3 a current electronic mail address that they maintain or use to perform any activity that  
requires a real estate license, at which the department may contact the licensee.

4 (2) Every real estate broker and salesperson licensee shall inform the  
5 commissioner of any change to his or her office or mailing address, telephone  
6 number, or electronic mail address no later than 30 days after making the change.

7 (d) Notwithstanding section 10185, a violation of this section is not a  
8 misdemeanor.

9 36. Regulation 2715 provides:

10 "Every broker, except a broker acting in the capacity of a salesperson to another  
11 broker under written agreement, shall maintain on file with the commissioner the  
12 address of his or her principal place of business for brokerage activities, the address  
13 of each branch business office and his current mailing address, if different from the  
14 business address.

15 Every broker who is acting in the capacity of a salesperson to another broker  
16 under written agreement shall maintain on file with the Commissioner the address of  
17 the business location where he or she expects to conduct most of the activities for  
18 which a license is required and his or her current mailing address.

19 A real estate salesperson shall maintain on file with the Commissioner his current  
20 mailing address, and when applicable, the address of the principal business office of  
21 the responsible broker to whom the salesperson is at the time licensed.

22 Whenever there is a change in the location or address of the principal place of  
23 business or of a branch office of a broker, that broker shall notify the Commissioner  
24 thereof not later than the next business day following the change.

This section shall apply to those who are licensed and to those who have license  
rights under Section 10201 of the Code."

37. Code section 10165 provides:

"For a violation of any of the provisions of Section 10160, 10161.8, 10162,  
10163, or subdivision (b) of Section 10164, the commissioner may temporarily  
suspend or permanently revoke the license of the real estate licensee in accordance  
with the provisions of this part relating to hearings."

#### Investigation and Enforcement Costs

38. 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

1 request the administrative law judge to direct a licensee found to have committed a violation of  
2 this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of  
3 the case.

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

10 Dated October 11, 2022 at San Diego, California.

11  
12 *Maria Suarez for V Kilpatrick*  
13 VERONICA KILPATRICK  
14 Supervising Special Investigator  
15

16 cc: Steven Doria Kilgore  
17 My Why Realty Corp.  
18 Veronica Kilpatrick  
19 Sacto.  
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