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FILED

MAR 30 2023

DEPT. OF REAL ESTATE

By *Kevin Sun*

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H-05712 SD
13)
14 A TRUE TREASURE, INC., and) ACCUSATION
15 CARLA MARIE CISCEL-SHUMWAY,)
16 individually and as designated officer of A True)
17 Treasure, Inc., and JOHN CLAYTON LEWIS,)
18 Respondents.)
19)

20 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
21 State of California, for cause of Accusation against A TRUE TREASURE, INC., CARLA
22 MARIE CISCEL-SHUMWAY, and JOHN CLAYTON LEWIS (collectively "Respondents")
23 alleges as follows:

24 1.

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

27 2.

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

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ACCUSATION

1 LICENSE HISTORY

2 3.

3 (A TRUE TREASURE, INC.)

4 a. Respondent A TRUE TREASURE, INC. (“ATTI”) is presently licensed
5 and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California
6 Business and Professions Code, as a real estate corporation (“REC”), Department license ID
7 01918635.

8 b. The Department originally issued ATTI’s REC license on or about August 15,
9 2012.

10 c. ATTI’s REC license is scheduled to expire on August 14, 2024, unless
11 renewed.

12 d. According to the Department’s records, ATTI maintains, among others, the
13 authorized fictitious business name of “Monarch Escrow A Non-Independent Broker Escrow”.

14 e. According to the Department’s records to date, ATTI’s main office address is
15 28581 Front Street, Ste 100, Temecula, CA 92590.

16 f. According to the Department’s records to date, ATTI employs 10 salespersons
17 under its real estate license.

18 4.

19 (CARLA MARIE CISCHEL-SHUMWAY)

20 a. Respondent CARLA MARIE CISCHEL-SHUMWAY (“CMCS”), formerly
21 known as “Carla Marie Ciscel”, is presently licensed and/or has license rights under the Real
22 Estate Law, Part 1 of Division 4 of the California Business and Professions Code, as a real
23 estate broker (“REB”), Department license ID 01235781.

24 b. The Department originally issued CMCS’ REB license on or about March 25,
25 2004. CMCS’ REB license is scheduled to expire on May 13, 2024, unless renewed

26 c. Since 2012, CMCS has been and currently is the designated officer for ATTI.

27 ///

1 5.

2 (JOHN CLAYTON LEWIS)

3 a. Respondent JOHN CLAYTON LEWIS (“LEWIS”), is presently licensed
4 and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California
5 Business and Professions Code, as a real estate salesperson (“RES”), Department license ID
6 01168291.

7 b. The Department originally issued LEWIS’ RES license on or about October 1,
8 1993. LEWIS’ RES license is scheduled to expire on October 12, 2025, unless renewed

9 c. From approximately October 30, 2020 through February 8, 2022, LEWIS’
10 RES license was suspended. LEWIS’ RES license is currently active.

11 LICENSED ACTIVITIES

12 6.

13 At all times mentioned herein, Respondents engaged in the performance of
14 activities requiring a real estate license pursuant to Code Section 10130.

15 FACTS DISCOVERED BY THE DEPARTMENT

16 7.

17 From approximately August 10, 2021 through January 3, 2022, LEWIS acted as
18 the agent of the seller Brad L. and Vannessa L., for the sale of the real estate property located at
19 32028 Calle Caballos in Temecula, California (“Calle Caballos Property”). Respondents
20 became the dual agents of both buyers and sellers. LEWIS executed documents, such as the
21 August 10, 2021 Residential Listing Agreement (C.A.R. Form RLA, Revised 6/21) and October
22 22, 2021 Residential Purchase Agreement and Joint Escrow Instructions (C.A.R. Form RPA-
23 CA, Revised 12/18).

24 8.

25 From approximately August 16, 2021 through December 22, 2021, LEWIS acted
26 as the agent of the seller James S., for the sale of the real estate property located at 22585
27 Elbow Creek Trail in Wildomar, California (“Elbow Creek Property”). LEWIS executed

1 documents, such as the August 16, 2021 Residential Listing Agreement (C.A.R. Form RLA,
2 Revised 6/21) and October 31, 2021 Residential Purchase Agreement and Joint Escrow
3 Instructions (C.A.R. Form RPA-CA, Revised 12/18).

4 9.

5 From approximately September 18, 2021 through December 14, 2021, LEWIS
6 acted as the agent of the buyer Bernard W. for the purchase of the real estate property located at
7 40780 Los Ranchos Circle in Temecula, California (“Los Ranchos Property”). LEWIS executed
8 documents, such as the September 18, 2021 Residential Purchase Agreement and Joint Escrow
9 Instructions (C.A.R. Form RPA-CA, Revised 12/18).

10 10.

11 From approximately October 23, 2021 through November 29, 2021, LEWIS
12 acted as the agent of the buyer Kevin K. and Ciara K., for the purchase of the real estate
13 property located at 39552 Via Temprano in Murrieta, California (“Via Temprano Property”).
14 LEWIS executed documents, such as the October 23, 2021 Residential Purchase Agreement
15 and Joint Escrow Instructions (C.A.R. Form RPA-CA, Revised 12/18).

16 11.

17 From approximately January 4, 2022 through February 4, 2022, LEWIS acted as
18 the agent of the buyer Michael G. and Jackie G., for the purchase of the real estate property
19 located at 32875 Trailwood Court in Wildomar, California (“Trailwood Court Property”).
20 LEWIS executed documents, such as the January 4, 2022 Residential Purchase Agreement and
21 Joint Escrow Instructions (C.A.R. Form RPA-CA, Revised 12/18).

22 12.

23 From approximately January 10, 2022 through February 1, 2022, LEWIS acted
24 as the agent of the buyer Nadia J. and Ghassan C., for the purchase of the real estate property
25 located at 35806 Bobcat Way in Murrieta, California (“Bobcat Way Property”). LEWIS
26 executed documents, such as the January 10, 2022 Residential Purchase Agreement and Joint
27 Escrow Instructions (C.A.R. Form RPA-CA, Revised 12/18).

1 13.

2 From approximately August 2021 through February 2022, LEWIS' received
3 commission for the transactions listed in Paragraphs 7 through 12.

4 14.

5 Based on an examination of ATTI's records, during the period from June 1,
6 2021 to December 31, 2021, ATTI, under its fictitious business name Monarch Escrow A Non-
7 Independent Escrow, closed at least 22 escrow transaction with total consideration of
8 approximately eleven million, nine hundred and eleven thousand dollars (\$11,911,000.00).
9 ATTI met the escrow threshold but did not submit an Escrow Activity Report (RE 890) within
10 60 days after the end of the 2021 calendar year in violation of Code Section 10141.6.

11 15.

12 Based on an examination of ATTI's records, during the period from January 1,
13 2022 to May 31, 2022, ATTI, under its fictitious business name Monarch Escrow A Non-
14 Independent Escrow, closed at least 10 escrow transaction with total consideration of
15 approximately five million, two hundred and sixty-nine thousand and five hundred dollars
16 (\$5,269,500.00). ATTI met the escrow threshold but did not submit an Escrow Activity Report
17 (RE 890) within 60 days after the end of the 2022 calendar year in violation of Code Section
18 10141.6.

19 APPLICABLE SECTIONS OF THE REAL ESTATE LAW

20 Code Section 10130

21 16.

22 Code Section 10130 provides, in pertinent part, that "It is unlawful for any
23 person to engage in the business of, act in the capacity of, advertise as, or assume to act as a real
24 estate broker or a real estate salesperson within this state without first obtaining a real estate
25 license from the department, or to engage in the business of, act in the capacity of, advertise as,
26 or assume to act as a mortgage loan originator within this state without having obtained a
27 license endorsement. . ."

1 Code Section 10137

2 17.

3 Code Section 10137 provides, in pertinent part, that “It is unlawful for any
4 licensed real estate broker to retain, compensate, directly or indirectly, any person for
5 performing any of the acts within the scope of this chapter who is not a licensed real estate
6 broker, or a real estate salesperson licensed under the responsible broker retaining or
7 compensating him or her, or to retain or compensate, directly or indirectly, any licensee for
8 engaging in any activity for which a mortgage loan originator license endorsement is required,
9 if that licensee does not hold a mortgage loan originator license endorsement; provided,
10 however, that a licensed real estate broker may pay a commission to a broker of another state.
11 No real estate salesperson shall accept compensation for activity requiring a real estate license
12 from any person other than the broker under whom he or she is at the time licensed.
13 It is unlawful for any licensed real estate salesperson to pay any compensation for performing
14 any of the acts within the scope of this chapter to any real estate licensee except through the
15 broker under whom he or she is at the time licensed. . .”

16 Code Section 10139

17 18.

18 Code Section 10139 provides, in pertinent part, that “Any person acting as a real
19 estate broker, real estate salesperson, or mortgage loan originator without a license or license
20 endorsement, or who advertises using words indicating that he or she is a real estate broker, real
21 estate salesperson, or mortgage loan originator without being so licensed or without having
22 obtained a license endorsement, shall be guilty of a public offense punishable by a fine not
23 exceeding twenty thousand dollars (\$20,000), or by imprisonment in the county jail for a term
24 not to exceed six months, or by both fine and imprisonment; or if a corporation, be punished by
25 a fine not exceeding sixty thousand dollars (\$60,000). . .”

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1 Code Section 10141.6

2 19.

3 Code Section 10141.6 provides, in pertinent part, that “(a) A real estate broker
4 who engages in escrow activities for five or more transactions in a calendar year pursuant to the
5 exemption from the Escrow Law contained in Section 17006 of the Financial Code, or whose
6 escrow activities pursuant to that exemption equal or exceed one million dollars (\$1,000,000) in
7 a calendar year, shall file with the department a report, within 60 days following the completion
8 of the calendar year, documenting the number of escrows conducted and the dollar volume
9 escrowed during the calendar year in which the threshold was met. This report shall be made on
10 a form acceptable to the commissioner. . . .”

11 Code Section 10159.2

12 20.

13 Code Section 10159.2(a) provides, in pertinent part, that “ The officer
14 designated by a corporate broker licensee pursuant to Section 10211 shall be responsible for the
15 supervision and control of the activities conducted on behalf of the corporation by its officers
16 and employees as necessary to secure full compliance with the provisions of this division,
17 including the supervision of salespersons licensed to the corporation in the performance of acts
18 for which a real estate license is required.”

19 Regulations Section 2725

20 21.

21 Regulations Section 2725 provides, in pertinent part, that “A broker shall
22 exercise reasonable supervision over the activities of his or her salespersons. Reasonable
23 supervision includes, as appropriate, the establishment of policies, rules, procedures and
24 systems to review, oversee, inspect and manage . . .”

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1 Grounds for Disciplinary Action – Code Section 10177

2 22.

3 Pursuant to Code Section 10177, “The commissioner may suspend or revoke the
4 license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny
5 the issuance of a license to an applicant, who has done any of the following:

6 ...

7 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing
8 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and
9 regulations of the commissioner for the administration and enforcement of the Real Estate Law
10 and Chapter 1 (commencing with Section 11000) of Part 2.

11 ...

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

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

18 VIOLATIONS OF THE REAL ESTATE LAW – CAUSES FOR DISCIPLINE

19 23.

20 In the course of the activities described above in Paragraph 5, and based on the
21 facts discovered by the Department in Paragraphs 6 through 13, above, Respondents acted in
22 violation of the Code and Regulations, as described below.

23 24.

24 From approximately August 2021 through February 2022, LEWIS engaged in
25 the performance of activities requiring a real estate license, while his license was suspended, in
26 violation of **Code Section 10130**.

27 ///

1 25.

2 From approximately August 2021 through February 2022, LEWIS was
3 compensated for the performance of activities requiring a real estate license, while his license
4 was suspended, in violation of **Code Section 10137 and 10139**.

5 26.

6 From approximately August 2021 through February 2022, Respondents ATTI
7 and CMCS compensated LEWIS for the performance of activities requiring a real estate
8 license, while his license was suspended, in violation of **Code Section 10137 and 10139**.

9 27.

10 CMCS, as designated officer of ATTI, failed to exercise adequate supervision
11 and control over ATTI's real estate activities in violation of **Code Sections 10159.2 and**
12 **Regulations Section 2725**.

13 28.

14 ATTI met the escrow threshold but did not submit an Escrow Activity Report
15 (RE 890) within 60 days after the end of the 2021 calendar year in violation of **Code Section**
16 **10141.6**.

17 29.

18 ATTI met the escrow threshold but did not submit an Escrow Activity Report
19 (RE 890) within 60 days after the end of the 2022 calendar year in violation of **Code Section**
20 **10141.6**.

21 30.

22 The overall conduct of Respondents violates the Real Estate Law and constitutes
23 cause for the suspension or revocation of their real estate license and license rights under the
24 provisions of **Code Section 10177(g)** for negligence and **Code Section 10177(d)** for willful
25 disregard of the Real Estate Law.

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27 ///

31.

Each of the foregoing violations, in Paragraphs 6 through 13 above, constitute cause for the suspension or revocation of the real estate license and/or license rights of Respondents under the provisions of Code sections 10177(d), 10177(g), and 10177(h) (as to CMCS).

PENALTY

32.

Code Section 10141.6 provides, in pertinent part, "(c) A real estate broker who fails to submit the report required pursuant to subdivision (a) shall be assessed a penalty of fifty dollars (\$50) per day for each day the report has not been received by the department, up to and including the 30th day after the first day of the assessment penalty. On and after the 31st day, the penalty shall be one hundred dollars (\$100) per day, not to exceed a total penalty of ten thousand dollars (\$10,000), regardless of the number of days, until the department receives the report. . ."

COSTS

33.

Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, 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 investigation and enforcement of the case.

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PRAYER

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and/or license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) of A TRUE TREASURE, INC., CARLA MARIE CISCEL-SHUMWAY, and JOHN CLAYTON LEWIS, for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under applicable provisions of law.

Dated at San Diego, California this 29 day of March, 2023.

Veronica Kilpatrick

Veronica Kilpatrick
Supervising Special Investigator

cc: A TRUE TREASURE, INC.
CARLA MARIE CISCEL-SHUMWAY
JOHN CLAYTON LEWIS
Veronica Kilpatrick
Sacto.