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FILED

MAY 25 2023

DEPT. OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation Against	)	
	)	No. H-05733 SD
EPIC REAL ESTATE AND MANAGEMENT, INC;	)	
ROY OWEN WANNAMAKER, individually and as	)	
Designated Officer of Epic Real Estate and	)	<u>ACCUSATION</u>
Management, Inc,	)	
Respondents.	)	
	)	

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against EPIC REAL ESTATE AND MANAGEMENT, INC ("EREMI") and ROY OWEN WANNAMAKER ("WANNAMAKER"), individually and as Designated Officer of Epic Real Estate and Management, Inc. (sometimes referred to collectively as "Respondents") alleges as follows:

1.

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

2.

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

1 LICENSE HISTORY

2 (EPIC REAL ESTATE AND MANAGEMENT, INC)

3 3.

4 a. Respondent EREMI is presently licensed and/or has license rights under the
5 Code as a corporate real estate broker with Department of Real Estate ("Department") license
6 ID 02088945.

7 b. The Department originally issued EREMI a broker license on or about April
8 17, 2019. EREMI's license is set to expire on April 16, 2027, unless renewed.

9 c. Currently, EREMI's designated officer is Respondent WANNAMAKER.
10 EREMI has employed salesperson Eric James Stewart ("Stewart") with license ID 01780608
11 since September 9, 2019.

12 d. EREMI does not currently maintain a fictitious business name with the
13 Department.

14 (ROY OWEN WANNAMAKER)

15 4.

16 a. Respondent WANNAMAKER is presently licensed and/or has license rights
17 under the Code as a real estate broker with Department license ID 01838753.

18 b. The Department originally issued WANNAMAKER a broker license on or
19 about March 25, 2009. WANNAMAKER's license is set to expire on March 24, 2025, unless
20 renewed.

21 c. Since on or about April 17, 2019, WANNAMAKER has been the designated
22 officer for EREMI. As designated officer, WANNAMAKER is responsible for the supervision
23 of the activities conducted on behalf of Respondent EREMI by its officers, agents, real estate
24 licensees, and employees pursuant to Section 10159.2 of the Code.

25 d. WANNAMAKER is the president, sole officer/director, and 100%
26 shareholder of EREMI.

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ACCUSATION

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1 in trust ("trust funds") from or on behalf of the owners of the properties managed by EREMI,
2 and thereafter made deposits and/or disbursements of such funds. EREMI maintained one bank
3 account at Home Street Bank with Account No. xxx1437 ("BA") to hold and collect trust funds
4 for multiple beneficiaries during the audit period. In addition trust funds from BA were
5 transferred to EREMI's general account with Account No. xxx7884 ("GA").

6 Violations of the Real Estate Law

7 9.

8 The audit examination revealed violations of the Code and the Regulations, as
9 set forth in the following paragraphs, and more fully discussed in Audit Report No. SD210031
10 and the exhibits and work papers attached to the audit reports:

11 **(a) Handling of Trust Funds/Trust Fund Handling for Multiple Beneficiaries (Code**
12 **section 10145(a); Regulations section 2832.1).**

13 As of March 31, 2022, BA contained a shortage of \$444.64 caused by two
14 negative beneficiary balances.

15 WANNAMAKER did not provide any evidence that the owners of the trust
16 funds had given their written consent to allow EREMI to reduce the balance of funds in BA, to
17 an amount less than the existing aggregate trust fund liabilities.

18 **(b) Trust Fund Handling; Commingling (Code sections 10145 and 10176(e); Regulations**
19 **section 2832).**

20 EREMI collected and deposited trust funds (rents and security deposits) into
21 BA, which was not designated as a trust account in the name of EREMI as trustee.
22 Furthermore, trust funds from BA were transferred into GA, which was not designated as a
23 trust account in the name of EREMI as trustee.

24 Based on records examined, trust funds were commingled with EREMI's funds
25 in GA. Rends and deposits from tenants were deposited into BA. EREMI, however, did not pay
26 all property-related expenses from BA. Most expenses were paid by WANNAMAKER's
27 American Express credit card ("AmEx") and some were paid by checks from GA. Moreover,
28 Stewart utilized his personal Visa credit card to pay for some expenses related to two singles

1 and three duplexes primarily managed by Stewart. WANNAMAKER would transfer funds
2 from BA to GA for reimbursement of the payments made by WANNAMAKER and Stewart.
3 The records, however, showed that trust funds were transferred from BA to GA prior to the
4 expenses being paid to GA. WANNAMAKER does not have control over the payments or
5 documentation related to Stewart's Visa credit card.

6 **(c) Handling of Trust Funds; Trust Funds Records To Be Maintained (Code section**
7 **10145; Regulations section 2831).**

8 EREMI did not maintain an accurate record of trust funds received and
9 disbursed for BA during the audit period. EREMI provided its "Transaction Report" as the
10 control record, which did not include the date funds were received and from whom funds were
11 received. The dates on the control record for the funds deposited and checks disbursed were the
12 same as the dates on the bank statement.

13 **(d) Handling of Trust Funds; Separate Records for Each Beneficiary or Transaction**
14 **(Code section 10145; Regulations section 2831.1).**

15 EREMI did not maintain accurate separate records for each beneficiary or
16 transaction for BA during the audit period. EREMI provided separate records that reflected
17 transactions invoiced but not necessarily paid from the property funds. EREMI, later, provided
18 another set of separate records which reflected the "cash transactions" as they occurred, or
19 close to when it occurred. The dates for deposits and disbursements on the separate records
20 were the same as the dates on the bank statements. The separate records did not include the date
21 the check was written and it did not always indicate to whom the checks were paid.
22 Furthermore, separate records related to the trust funds deposited and disbursed in GA were not
23 maintained during the audit period.

24 **(e) Handling of Trust Funds/Trust Account Reconciliation (Code section 10145;**
25 **Regulations section 2831.2).**

26 EREMI did not maintain or provide accurate records of monthly reconciliation
27 for BA and GA.

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1 **(f) Secret or Undisclosed Compensation (Code section 10176(g)).**

2 Many of the property-related expenses sampled during the audit examination
3 were paid by credit card, in which WANNAMAKER and Stewart profited and/or earned
4 benefits from the credit card company. The profits and/or benefits were not disclosed to the
5 property owners. Furthermore, some expenses were paid through the vendor's website, which
6 charged a fee for online payments. This fee was passed on to the property owner without
7 written authorization and not paid by EREMI.

8 **(g) Responsibility of Corporate Officer in Charge/Broker Supervision (Code sections**
9 **10159.2; Regulations section 2725).**

10 Based on the findings above, WANNAMAKER failed to exercise adequate
11 supervision and control over the activities conducted by EREMI's licensees and/or employees
12 as necessary to secure full compliance with the Real Estate Law in violation of 10159.2.
13 Respondents failed to establish policies, rules, procedures, and systems to review, oversee,
14 inspect, and manage transactions requiring a real estate license and the handling of trust funds
15 in violation of the Commissioner's Regulations section 2725.

16 10.

17 Each of the foregoing violations in Paragraph 9(a)-(g) above constitute cause for
18 the suspension or revocation of the real estate license and/or license rights of Respondents
19 EREMI and WANNAMAKER under the provisions of Sections 10177(d), 10177(g), and/or
20 10177(h).

21 **COSTS**

22 **(AUDIT COSTS)**

23 11.

24 Section 10148(b) of the Code, provides, in pertinent part, that the Real Estate
25 Commissioner shall charge a real estate broker for the costs of any audit if the Commissioner
26 has found in a final decision, following a disciplinary hearing, that the broker has violated
27 Section 10145 of the Code or a regulation or rule of the Commissioner interpreting said Code
28 section.

(INVESTIGATION AND ENFORCEMENT COSTS)

12.

Section 10106 of the Code, 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.

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 the licenses and/or license rights of Respondents EPIC REAL ESTATE AND MANAGEMENT, INC and ROY OWEN WANNAMAKER, individually and as Designated Officer of Epic Real Estate and Management, Inc, under the Real Estate Law, for the costs of investigation and enforcement as permitted by law, for the cost of the audit, and for such other and further relief as may be proper under other applicable provisions of law.

Dated at San Diego, California this 24th day of May, 2023.


Veronica Kilpatrick
Supervising Special Investigator

cc: EPIC REAL ESTATE AND MANAGEMENT, INC
ROY OWEN WANNAMAKER
Veronica Kilpatrick
Sacto.
Audits – Jennifer Borromeo

ACCUSATION