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DEPT. OF REAL ESTATE
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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of UTOPIA MANAGEMENT INC; ROBERT ALLEN SCHLESIER, individually and as designated officer of Utopia Management Inc; and RYAN MAXWELL DONIGAN, Respondents.	No. H-05775-SD FIRST AMENDED ACCUSATION

This First Amended Accusation amends the Accusation filed on September 8, 2025. The Accusation filed on September 8, 2025 ("original Accusation"), is amended as follows: to correct typographical errors; to replace allegations based on information and belief where possible based on newly discovered information; to allege additional facts regarding the residential property and agreements at issue, and facts regarding the listing, offers to purchase, and sale of the property in Paragraphs 7 through 15, 17, 19, 21, 29 through 34, 36 through 38, and 41; to allege further details regarding Respondents' fiduciary duties and breaches of those duties in Paragraphs 44 through 48 to both the seller, E.M., and the consumer complainant, R.P.; to allege further details regarding Respondents' negligent or intentional misrepresentations, and fraud and dishonest dealing, to both the seller, E.M., and the consumer complainant, R.P. in Paragraphs 52 through 64; to add new Paragraphs 30 through 33, and renumber Paragraphs 30 to 39 from the original Accusation to Paragraphs 34 through 44; to add new Paragraph 45, and renumber Paragraph 40 from the original Accusation to Paragraph 46; to add new Paragraphs 47 and 48, and renumber Paragraphs 41 through

43 of the original Accusation to Paragraphs 49 through 51; to add new Paragraphs 52 to 64, and renumber Paragraphs 44 through 49 of the original Accusation to Paragraphs 64 through 70. No other parts of the original Accusation are affected.

Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the Department of Real Estate ("Department" or "DRE") of the State of California, acting in her official capacity as a Supervising Special Investigator, makes this Accusation against the following Respondents: UTOPIA MANAGEMENT INC ("UMI"), ROBERT ALLEN SCHLESIER ("SCHLESIER"), individually and as designated officer of UMI, and RYAN MAXWELL DONIGAN ("DONIGAN"), collectively "Respondents." Complainant, for cause of Accusation against Respondents, is informed and alleges in her official capacity as follows:

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

LICENSE HISTORY

2. UMI has been licensed as a real estate corporation ("REC"), DRE real estate license identification number ("License ID") 01197438, from on or about June 1, 1995, to the present, with UMI's license scheduled to expire on or about May 21, 2027, unless renewed. UMI has been licensed through the real estate broker ("REB") license of SCHLESIER, License ID 00830296, from on or about June 1, 1995, to the present, and SCHLESIER is UMI's designated officer ("D.O."). According to DRE records to date, UMI currently maintains 33 branch offices, employs six (6) broker associates, and 34 real estate salespersons, and maintains the following 10 active fictious business names ("dba(s)"), licensed with the DRE:

a. Utopia Management, active as of March 30, 2005;

b. Utopia Mortgage, active as of March 20, 2002;

c. Utopia Mortgage & Real Estate, active as of March 30, 2005;

d. Utopia Mortgage And Real Estate, active as of January 2, 2003;

e. Utopia Property Management, active as of July 22, 2020;

f. Utopia Real Estate, active as of March 20, 2002

g. Utopia Real Estate & Mortgage, active as of March 30, 2005;

h. Utopia Real Estate and Mortgage, active as of March 30, 2005;

i. Utopia Realty, active as of August 31, 2007;

j. Watergate Sales Company, active as of July 22, 2020.

3. SCHLESIER has been licensed as a REB, License ID 00830296, from on or about April 12, 1994, to the present, with SCHLESIER's license scheduled to expire on or about April 11, 2026, unless renewed. SCHLESIER is currently the D.O. for UMI and Utopia Lending, Inc., License ID 01346229. SCHLESIER has a mortgage loan originator license ("MLO") endorsement from the DRE, and is licensed through the Nationwide Multistate Licensing System & Registry ("NMLS"), NMLS No. 172936. SCHLESIER was previously licensed as a real estate salesperson ("RES") from on or about December 31, 1981, to on or about April 11, 1994.

4. DONIGAN has been licensed as a RES, License ID 01456505, from on or about October 6, 2004, through the present, with DONIGAN's license scheduled to expire on or about October 18, 2025, unless renewed. According to DRE records to date, DONIGAN has been retained by UMI, and his RES license has been affiliated with UMI's REC license, from on or about October 19, 2009, through the present.

ACTIVITIES REQUIRING A REAL ESTATE LICENSE

5. At all times alleged herein, in San Diego County, California, Respondents engaged in the performance of activities requiring a real estate license pursuant to Code section 10130, and acted, ordered, caused, authorized and/or participated in licensed activities for another or others for compensation or in expectation of compensation within the meaning of Code sections 10131(a) and 10131(b): selling or offering to sell, buying or offering to buy, soliciting prospective sellers or buyers of, soliciting or obtaining listings of, or negotiating the purchase or sale of real property; leasing or renting, offering to lease or rent, or collecting rents from real property for others. At all times alleged herein, UMI acted by and through SCHLESIER as its D.O. pursuant to Code Section 10159.2, and SCHLESIER was responsible for ensuring compliance with the Real Estate Law.

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FACTS DISCOVERED BY DRE

6. In the course of its investigation of Respondents, the DRE has discovered facts regarding UMI's property management activities and its real estate sales activities that constitute causes for discipline.

Property Management Activities

7. On or about January 28, 2013, UMI entered into a Professional Property Management Agreement ("2013 PMA") with E.M.,[1/] the owner of a residential property located at 8042 Beaver Lake Drive, San Diego, California ("Beaver Lake Property"). The Beaver Lake Property is a three-bedroom, two-bathroom, 1,251 square-foot, single-family home, in the San Carlos neighborhood, a suburban area within City of San Diego limits. The 2013 PMA was signed by SCHLESIER on behalf of UMI, and by E.M. as the "Owner" of the "Managed Property." The 2013 PMA provided for UMI to provide property management services for the Beaver Lake Property. The 2013 PMA contained no beginning or end date for the term of the agreement, and only provided for termination on 30 days' written notice by either party. Under the 2013 PMA, UMI received a monthly fee of eight percent (8%) of gross monthly receipts for the Beaver Lake Property.

a. Section 4 of the 2013 PMA, with the heading "COMPENSATION," provided in part that during the term of the PMA, E.M. would pay a "Monthly Fee of Eight Percent (8%) of gross monthly receipts and deposits to the account for the benefit of the Managed Property excluding Owner's contributions."

b. Section 5 of the 2013 PMA, with the heading "AUTHORITY AND POWERS," included the following subsection granting UMI the exclusive right to sell the Beaver Lake Property if E.M. decided to sell:

> **m) Sale (optional).** By initialing below, Owner agrees if, during the Term of this Agreement and for a period of ninety (90) days after the Termination Date, Owner determines to sell, exchange or otherwise dispose of the Managed Property, Owner hereby appoints and engages Utopia as its exclusive agent with the exclusive right to sell the Managed Property on terms acceptable to the Owner for a period of 180 days (the "Sale Program") pursuant to the following terms and conditions: Owner shall notify Utopia in writing immediately upon

[1/] Initials are used in place of an individual's full name to protect their privacy. Documents containing an individual's full name will be provided during the discovery phase of this case to Respondent and/or his attorney(s), after service of a timely and proper request for discovery on Complainant's counsel.

such determination, which notification shall specify the commencement and termination date of said 180-day term and the sales price or other terms of desired disposition. If Utopia, its affiliates, agents, successors, or assigns, procures a person or entity to acquire the Managed Property upon such terms acceptable to the Owner as provided in the written notice or otherwise, Owner agrees to pay Utopia a commission equal to six percent (6%) of the sales price, exchange or other contract value. Such commission shall be due and payable in full upon the consummation of the transaction or in the event Utopia or any cooperating broker procures a buyer satisfying all terms acceptable to Owner immediately upon Owner's refusal to sell the Managed Property to such buyer. If, during said 180-day term, the Managed Property is sold, exchanged or otherwise disposed of, whether the buyer is procured by Utopia, its affiliates, agents, successors, or assigns or any other person or entity, Owner shall pay Utopia, the commission as stated above. If a broker other than Utopia procures the person or entity that acquires the Managed Property, then Utopia may cooperate with said broker, but in no event shall Utopia receive less than fifty percent (50%) of the commission as calculated above.

TO ELECT THE SALE PROGRAM INITIAL HERE: OWNER'S INITIALS (__/__)

E.M. added his initials to agree to this provision.

c. Section 7 of the 2013 PMA provided UMI with authority to act as a dual agent for E.M. and the tenant as follows:

AGENCY RELATIONSHIPS. Owner authorizes Utopia to act as its agent in all lease or rental transactions concerning the Managed Property. It may be necessary or appropriate for Utopia to act as agent of both Owner and tenant(s), or one or more additional person(s), in any lease or rental transaction, in which case Utopia will seek Owner's consent to Utopia's joint representation of such person(s). If Utopia, its affiliates, agents, successors, or assigns is the listing agent or property management company for a property other than the Managed Property in which a tenant(s) at the Managed Property is interested, Owner agrees Utopia may act as agent of such tenant(s) and/or other property owner with respect to a transaction involving that other property. For one-to-four unit residential property, Utopia shall provide additional agency relationships disclosure as required by law.

d. Section 12 of the 2013 PMA, with the heading "MISCELLANEOUS," included an integration clause in the following subsection:

h) **Entire Agreement.** This Agreement and the exhibits attached hereto, contain the entire agreement between the Parties concerning the matters contemplated hereby and thereby, and any other prior and contemporaneous agreements or discussions, oral or written, are null and void and superseded in their entirety by this Agreement. No supplement, modification, or amendment of this Agreement will be binding unless executed in writing by the Owner and Utopia. No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver. No waiver will be binding unless executed in writing by the party making the waiver.

8. On or about July 16, 2014, UMI and R.P. and J.P. entered into a rental agreement for R.P. and J.P. to rent the Beaver Lake Property on a one-year lease beginning August 1, 2014, and expiring July 31, 2015, and thereafter the tenancy would automatically renew for succeeding one-year periods with a five percent (5%) increased rental rate over the previous rental period.

9. On or about November 14, 2014, UMI sent a letter, with a signature line for Andrew Schlesier, a broker associate affiliated with UMI, License ID 01198073, to E.M. stating that UMI was changing the terms of the 2013 PMA. The letter attached an unsigned new PMA ("2015 PMA") and stated that the "Change of Terms will be effective 1/1/2015." Like the 2013 PMA, the 2015 PMA contained no beginning or end date for the term of the agreement, and only provided for termination on 30 days' written notice by either party.

a. Section 4 of the 2015 PMA, with the heading "COMPENSATION," provided in part that during the term of the PMA, E.M. would pay a "Monthly Fee of Ten Percent (10%) of gross monthly receipts and deposits to the account for the benefit of the Managed Property excluding Owner's contributions."

b. Like the 2013 PMA, the 2015 PMA contained a Section 5, with the heading "AUTHORITY AND POWERS," and a subsection (m) titled "Sale (optional)," with the same language used in the 2013 PMA, providing, among other things, that, "By initialing below," the Owner agreed to the "Sale Program," however, subsection (m) in the 2015 PMA did not contain the instruction below the main paragraph that, "TO ELECT THE SALE PROGRAM INITIAL HERE: OWNER'S INITIALS (___/___)," and E.M. did not initial subsection (m) of the unsigned 2015 PMA.

c. Like the 2013 PMA, the 2015 PMA contained a Section 7 with the heading **AGENCY RELATIONSHIPS,** which contained the same language as Section 7 of the 2013 PMA.

d. Like the 2013 PMA, the 2015 PMA contained an integration clause under Section 12 with the heading "MISCELLANEOUS," and subsection (h) titled "Entire Agreement," which contained the same language as Section 12, subsection (h) of the 2013 PMA.

10. On a date unknown, but on information and belief, on a date during 2015, UMI sent another letter to E.M. stating it was updating the PMA to maintain compliance with changing laws and regulations, attaching an unsigned new PMA ("2016 PMA"), and stating it would take the place of the previous PMA, effective January 1, 2016. Like the previous PMAs, the 2016 PMA contained no beginning or end date for the term of the agreement, and only provided for termination on 30 days' written notice by either party.

a. Like the 2015 PMA, the 2016 PMA contained a Section 4, titled "COMPENSATION," providing in part that E.M. would pay a Monthly Fee of Ten Percent (10%) of gross monthly receipts and deposits.

b. Like the 2013 and 2015 PMAs, the 2016 PMA also contained a Section 5, with the heading "AUTHORITY AND POWERS," and a subsection (m) titled "Sale (optional)," with the same language as used in the 2013 PMA, providing, among other things, that, "By initialing below," the Owner agreed to the "Sale Program," however, subsection (m) in the 2016 PMA did not contain the instruction below the main paragraph that, "TO ELECT THE SALE PROGRAM INITIAL HERE: OWNER'S INITIALS (___/),," and E.M. did not initial subsection (m) of the unsigned 2016 PMA. Subsection (m) of the 2016 PMA included the statement below the main paragraph, "Election of Sale Program carries over from most recent contract."

c. Section 5 of the 2016 PMA contained a new subsection as follows:

> n) **Procuring Cause.** Owner agrees to pay Utopia if Tenant directly or indirectly acquires, or enters into an agreement to acquire title to Property or any part thereof, whether by sale, exchange or otherwise, during the term of tenancy. Utopia's procuring cause status will extend twelve months after termination of tenancy. Compensation to be equal to six percent of the selling price or total consideration in said transfer, whichever is greater. Payment is due upon Tenant's direct or indirect acquisition of any legal or equitable interest in the Property and, if there is an escrow, shall be through escrow.

d. Like the 2013 and 2015 PMAs, the 2016 PMA contained a Section 7 with the heading **AGENCY RELATIONSHIPS,** which contained the same language as Section 7 of the 2013 PMA and the unsigned 2015 PMA.

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e. Like the 2013 and 2015 PMAs, the 2016 PMA contained an integration clause under Section 12 with the heading "MISCELLANEOUS," and subsection (h) titled "Entire Agreement," which contained the same language as Section 12, subsection (h) of the 2013 PMA and the unsigned 2015 PMA.

11. On a date unknown, but on information and belief, on a date during 2021, UMI sent another letter to E.M. stating it was again updating the PMA to maintain compliance with changing laws and regulations, attaching an unsigned new PMA ("2022 PMA"), and stating it would take the place of the previous PMA, effective January 1, 2022. Like the previous PMAs, the 2022 PMA contained no beginning or end date for the term of the agreement, and only provided for termination on 30 days' written notice by either party.

a. Like the 2015 and 2016 PMAs, the 2022 PMA contained a Section 4, titled "COMPENSATION," providing in part that E.M. would pay a Monthly Fee of Ten Percent (10%) of gross monthly receipts and deposits.

b. The 2022 PMA contained a revised version of Section 5, with the heading "AUTHORITY AND POWERS," and a subsection (m) titled "Sale (optional)," which contained the same language as used in Section 5, subsection (m) of the 2013 PMA except for two modifications: (1) the unsigned 2022 added a sentence at the end of the first paragraph, providing, "If property gets listed by Utopia Management, Utopia will offer it for sale to the tenant(s) or past tenant(s). Tenant(s) or past tenant(s) are required to use Utopia to represent them in a purchase of the property from owner"; and (2) subsection (m) in the 2022 PMA did not contain the instruction "TO ELECT THE SALE PROGRAM INITIAL HERE: OWNER'S INITIALS (__/__)," and E.M. did not initial this subsection.

c. The 2022 PMA contained a revised version of Section 5, subsection (n), titled "Procuring Cause," which contained the same language as used in Section 5, subsection (n) of the 2016 PMA, except that the 2022 PMA added a sentence at the end of Section 5, subsection (n), providing, "If property gets listed by Utopia Management, Utopia will offer it for sale to the tenant(s) or past tenant(s). Tenant(s) or past tenant(s) are required to use Utopia to represent them in a purchase of the property from owner."

d. Like the 2013, 2015, and 2016 PMAs, the 2022 PMA contained a Section 7 with the heading **AGENCY RELATIONSHIPS,** which contained the same language as Section 7 of the 2013, 2015, and 2016 PMAs.

e. Like the 2013, 2015, and 2016 PMAs, the 2022 PMA contained an integration clause under Section 12 with the heading "MISCELLANEOUS," and subsection (h) titled "Entire Agreement," which contained the same language as Section 12, subsection (h) of the 2013 PMA and the unsigned 2015 and 2016 PMAs.

Real Estate Sales Activities

12. On or about April 1, 2022, DONIGAN on behalf of Utopia Real Estate ("URE"), one of UMI's dbas, as the Broker and agent for the seller, and on or about April 5, 2022, E.M. on behalf of the M.M. Revocable Living 2009 Trust as the Seller, signed a Residential Listing Agreement ("RLA"), dated April 1, 2022—using a form prepared by the California Association of Realtors ("C.A.R.")—to list the Beaver Lake Property for sale for $725,000.00. Based on the fact that DONIGAN signed the RLA on April 1, 2022, on behalf of Broker URE, and the fact that the RLA was dated April 1, 2022, on information and belief, DONIGAN entered or caused to be entered the six-month term for the RLA, granting URE the exclusive right to sell the Beaver Lake property, beginning April 1, 2022, and ending October 1, 2022. DONIGAN did not list the Beaver Lake Property on the Multiple Listing Service ("MLS") until on or about April 20, 2022.

a. The RLA contained four major sections, comprising an entire page of the five-page RLA, explaining and promoting the use of the MLS and public marketing, with the following headings and language:

(1) Section 5 has the heading, "MULTIPLE LISTING SERVICE," and three (3) subsections, including the sentence, "It is likely that a significant number of real estate practitioners in any given area are participants or subscribers to the MLS";

(2) Section 6 has the heading, "BENEFITS OF USING THE MLS; IMPACT OF OPTING OUT OF THE MLS," and four (4) subsections, including the sentence, in pertinent part, "If Seller elects to exclude the Property from the MLS,

Seller understands and acknowledges that: (I) Seller is authorizing limited exposure of the Property and NO marketing or advertising of the Property to the public will occur";

(3) Section 7 has the heading "PUBLIC MARKETING OF PROPERTY," and six (6) subsections, including subsections (D) and (E) which provide in pertinent part: "[D](1) Seller instructs Broker to market the Property to the public, and to start marketing on the beginning date of this agreement"; E.M. did not mark the box next to subsection (D)(2), which would have instructed the Broker "NOT to market the Property to the public"; and "[E.] Seller understands and agrees that should any public marketing of the Property occur, the Property listing will be submitted to the MLS within 1 business day";

(4) Section 8 has the heading "MLS DATA ON THE INTERNET," and two (2) subsections."

The fact that there was an entire page of the five-page RLA form devoted to the benefits of using the MLS and engaging in public marketing, allowing the Seller to affirmatively opt out, but explaining the disadvantages of doing so, indicates that California's premier real estate trade association, C.A.R., with over 200,000 licensed members by one estimate, highly favors the use of the MLS and public marketing.

b. E.M. as the Seller and DONIGAN on behalf of the Broker both initialed Section 6 of the RLA, with the heading "BENEFITS OF USING THE MLS; IMPACT OF OPTING OUT OF THE MLS," authorizing use of the MLS. E.M. did not mark any part of the RLA to instruct DONIGAN or URE not to use the MLS, or not to market the Property to the Public.

c. In Section 10 of the RLA, with the heading "BROKER'S AND SELLER'S DUTIES," DONIGAN and URE agreed "to exercise reasonable effort and due diligence to achieve the purposes" of the RLA, and "to present all offers received for Seller's Property, and present them to Seller as soon as possible."

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d. Section 12 of the RLA, with the heading "AGENCY RELATIONSHIPS," included subsection (C), which provided in relevant part:

> **POSSIBLE DUAL AGENCY WITH BUYER:** Depending upon the circumstances, it may be necessary or appropriate for Broker to act as an agent for both Seller and buyer, exchange party, or one or more additional parties ("Buyer"). Broker shall, as soon as practicable, disclose to Seller any election to act as a dual agent representing both Seller and Buyer. If a Buyer is procured directly by Broker or an associate-licensee in Broker's firm, Seller hereby consents to Broker acting as a dual agent for Seller and Buyer. . . . Seller understands and agrees that a dual agent may not, without the express permission of the respective party, disclose to the other party confidential information, including, but not limited to, facts relating to either the Buyer's or Seller's financial position, motivations, bargaining position, or other personal information that may impact price, including the Seller's willingness to accept a price less than the listing price or the Buyer's willingness to pay a price greater than the price offered; and except as set forth above, a dual agent is obligated to disclose known facts materially affecting the value or desirability of the Property to both parties.

13. On or about April 18, 2022, E.M. and DONIGAN signed a Residential Purchase Agreement ("RPA), for the purchase of the Beaver Lake Property for $725,000.00, in which E.M. signed as the seller, DONIGAN signed as the buyer on behalf of "26.2 Living Trust or assigns," and DONIGAN also signed on behalf of URE as the broker for the buyer and the broker for the seller.

a. On Page 3 of 16 of the RPA, in Paragraph 3(Q)(7), referencing Paragraph 19(B) of the RPA, regarding "Escrow Fees," in the column titled "Who Pays," the check box next to the word "Seller" was marked, and the other boxes for "Buyer," "Both," and "Each to pay their own fees" were left blank.

b. Also, on Page 3 of 16 of the RPA, in in Paragraph 3(R), regarding "Other Terms," the following text had been entered: "Seller acknowledges the buyer is also the listing agent working for Utopia that is also the Management Company for the subject property." There was no acknowledgement that DONIGAN on behalf of URE was acting as dual agent representing both the Seller and the Buyer.

14. On or about April 20, 2022, DONIGAN listed the Beaver Lake Property for the first time on MLS, however DONIGAN listed the property's status on MLS as "PENDING," which meant that the seller had accepted an offer and the property was off the market.

15. According to E.M.:

a. E.M. entered into the RLA with UMI for the purpose of listing the Beaver Lake Property for sale, including on the MLS, in order to obtain the highest and best offers from potential buyers.

b. E.M. specifically informed and instructed DONIGAN that he wanted his long-time tenant, R.P., to have the first opportunity to purchase the property. E.M. appreciated R.P.'s long-term tenancy and understood how difficult it could be for R.P. and his family, including a special needs child, to disrupt their lives with a move and the stress of finding a new home to live in. E.M. also thought that R.P.'s purchase of the property would make closing escrow smoother.

c. Upon signing the RLA, it was E.M.'s understanding that the Beaver Lake Property would be marketed for the highest and best offers, including through MLS. However, without E.M.'s permission or knowledge, DONIGAN did not immediately list the property with MLS. E.M. had no idea that DONIGAN was failing to market the Property to other agents and buyers and that DONIGAN kept it off the MLS while presenting his own offer to purchase the Beaver Lake Property to E.M. DONIGAN only listed the Beaver Lake Property on MLS on April 20, 2022, and only as a pending sale. The Beaver Lake Property essentially never went on the market as available.

d. Upon signing the RLA, E.M. believed that DONIGAN would list the Beaver Lake Property on MLS and that he would also notify R.P. that R.P. had the first opportunity to buy the property, but E.M. learned that DONIGAN had done neither. DONIGAN had misled and misinformed E.M., including regarding R.P.'s desire and ability to buy the property and DONIGAN's qualifications as a buyer. E.M. accepted DONIGAN's offer to buy the property based on DONIGAN's misrepresentations.

e. Further, upon DONIGAN presenting E.M. with his own offer to purchase the Beaver Lake Property, DONIGAN failed to submit a pre-approval letter for himself that he was a qualified buyer despite faulting R.P. for the same thing.

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f. DONIGAN also failed to inform E.M. that it was not customary for a seller to pay all the escrow fees but instead, it is customary for them to be split between the buyer and seller. DONIGAN also deceived E.M. regarding the Beaver Lake Property's value and prevented a highest and best offer situation so that he could have an advantage and make a higher profit on the property for himself by re-selling the property.

g. DONIGAN also misled E.M. regarding commissions by inserting a 5% commission into the RPA when he had verbally informed E.M. it would be 2% for DONIGAN and 2% for another agent, for a total of 4%, unless another agent was not involved in the transaction, then E.M. would only pay 2% in total.

16. On or about June 16, 2022, the DRE received a complaint from R.P. regarding DONIGAN and UMI, alleging that in or about April 2022, R.P., who was the tenant of the Beaver Lake Property, learned through DONIGAN that the owner, E.M., was going to list the property for sale. Based on information provided by R.P., and otherwise obtained by the DRE, the following occurred.

17. On or about April 5, 2022, R.P. received an email from DONIGAN, who identified himself in the email as "Director of Real Estate Sales" for URE. In this email, DONIGAN wrote in relevant part:

> The reason for the email is because the owner [E.M.] has some changes in his life that has lead him to the decision to sell the property you rent from him. He has signed a listing agreement and I will be the lead agent in charge of the sale. Its NOT on the market right now but will be in a week or so. Before it goes to market I would like to do a brief walkthrough.

In the signature block of DONIGAN's email below his name, DONIGAN listed himself as "Director of Real Estate Sales, Utopia Real Estate."

a. Contrary to E.M.'s instructions to DONIGAN, and contrary to the terms of the 2022 PMA in Section 5, subsections (m) and (n), DONIGAN did not offer the Beaver Lake Property for sale to the tenant, R.P.

b. According to R.P., when DONIGAN came to the Beaver Lake Property to do the walkthrough, he was accompanied by a contractor, leaving R.P. with the impression DONIGAN intended to make improvements so the property could be flipped.

18. On or about April 7, 2022, R.P. spoke with DONIGAN by phone and asked if he could buy the Beaver Property, but R.P. would need approximately a week to secure a loan.

19. On or about April 14, 2022, R.P. spoke with DONIGAN again, and asked about needing an agent of his own to submit an offer. According to R.P., DONIGAN dissuaded R.P. from using an agent, stating that an agent would receive no commission from the sale of the Beaver Lake Property. R.P. then asked if DONIGAN could represent R.P. in the sale, to which DONIGAN said, "yes," explaining that dual agency was possible in California. R.P. then informed DONIGAN that his offer was in the "high six hundred thousands," that R.P. could go higher if needed, and that the basis of R.P.'s offer was that the property needed a lot of work. When R.P. asked DONIGAN what price E.M. wanted for the Beaver Lake Property, however, DONIGAN said he could not share those details, despite the RLA that was executed nine days earlier on April 5, 2022, stating in Paragraph 2 that "The listing price shall be Seven Hundred Twenty-Five Thousand Dollars ($725,000.00)."

a. Through the conversation between R.P. and DONIGAN on or about April 14, 2022, and based on DONIGAN dissuading R.P. from using his own agent and R.P. relying on DONIGAN's agreement to represent R.P., R.P. and DONIGAN entered into an oral agreement whereby DONIGAN agreed to represent R.P. as a prospective buyer of the Beaver Lake Property as R.P.'s agent. This was also consistent with the terms of the 2022 PMA in Section 5, subsections (m) and (n), that a tenant such as R.P. would be represented by UMI in a purchase of the property from the owner of a property managed by UMI.

b. Contrary to the terms of the 2013, 2015, 2016, and 2022 PMAs in Section 7 of each PMA, and contrary to the requirements of California Civil Code sections 2079.14 through 2079.17, DONIGAN did not provide any disclosures regarding the real estate agency relationship between UMI and R.P., or the dual agency relationship between UMI and R.P. and E.M., nor any written confirmations signed by R.P. or E.M. acknowledging the dual agency.

c. Contrary to the requirements of California Civil Code section 1624, subdivisions (a)(3) and (a)(4), DONIGAN, as R.P.'s agent, did not prepare a written offer in

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the form of an RPA to buy the Beaver Lake Property, to be signed by R.P., and to be presented to E.M.

d. Contrary to R.P.'s instructions to DONIGAN, DONIGAN did not inform E.M. that R.P. could make a higher offer if needed.

20. On or about April 19, 2022, R.P. received an email from DONIGAN stating that he spoke with E.M. about R.P.'s offer amount and property concerns, but that E.M. decided to pass on R.P.'s offer and move forward with another buyer, and that R.P. would be receiving a 60-day notice to move out. R.P. followed up with a phone call to DONIGAN the same day and DONIGAN stated that the listing received a lot of attention in DONIGAN's office and he submitted a more competitive offer along with R.P.'s offer.

21. On or about April 20, 2022, DONIGAN signed and provided R.P. with a Notice to Terminate Residential Rental Agreement, informing R.P. and J.P. that their tenancy of the Beaver Lake Property was terminated, effective June 19, 2022.

a. With only 60 days to move out of the home that R.P., his wife, and three children had lived in for eight years, R.P. had to act quickly. Before R.P. and his family had moved to the Beaver Lake Property, R.P. and his wife had been interested in buying a house in San Diego, convenient to R.P.'s work as a nurse at the University of California, San Diego Medical Center (UCSD), but they ultimately decided to rent the Beaver Lake Property. R.P. reached out to his friends and contacts for referrals for real estate agents, and spoke to a few.

b. In 2022, buying a house in San Diego was exceptionally difficult because mortgage rates had surged to 7% or higher, the inventory of available homes had dropped sharply, and, according to one broker, the median price for a single-family home within the City of San Diego in April 2022 was $1,321,000, setting a new record.

c. With a looming lease termination, and the ability to buy a home in San Diego for a family of five—including a special needs autistic son—essentially out of reach, R.P. gradually came to accept the fact that his family would have to leave San Diego. At the same time, R.P. felt misled by DONIGAN.

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22. On or about April 21, 2022, R.P. emailed DONIGAN, stating that in previous conversations, DONIGAN stated he would advocate on R.P.'s behalf regarding R.P.'s offer to buy the Beaver Lake Property, but that R.P. felt that DONIGAN did not advocate for R.P. and his family, which included an autistic son, in potentially acquiring the property. In recounting a previous conversation with DONIGAN, R.P. stated, in part:

> I [R.P.] said that I felt misdirected and misguided when you [DONIGAN] said that you were accepting another offer and that's because you failed to communicate that you were even presenting other offers to the owner. This home hasn't even been listed so I'm sure you can see why I said I was confused and needed clarification of how this happened. . . . [B]y doing this it gives me the perception that you never had my total or best interest in mind. Furthermore, you never came back to me and said hey there is another offer ... can you come in more competitive. Again, this action also makes me perceive that I wasn't targeted to go into this home that I have raised my family in for approximately the last 8 years.

23. On or about April 25, 2022, R.P. spoke with E.M., the owner of the Beaver Lake Property, and E.M. informed R.P. that DONIGAN made an offer on the property himself, which was $25,000.00 more than R.P.'s offer, and that DONIGAN did not mention to E.M. that R.P. could go higher. According to E.M.:

a. R.P. informed E.M. that DONIGAN never passed E.M.'s message to R.P. that E.M. wanted him to have the first opportunity to purchase the Beaver Lake Property.

b. R.P. informed E.M. that R.P. had to approach DONIGAN about purchasing the property.

c. DONIGAN had downplayed R.P.'s offer to E.M. by not mentioning that R.P. was willing to go higher on the sales price. DONIGAN had also only submitted R.P.'s offer verbally, not in writing.

d. E.M. was upset that DONIGAN told R.P. that he could not disclose what E.M. was asking for as the sales price of the Beaver Lake Property because E.M. wanted R.P. to be informed of the sales price and provided an opportunity to make a counter offer.

e. DONIGAN took advantage of the situation by using his insider connection to cut out R.P. from pursuing a purchase of the property.

24. Also, on or about April 25, 2022, DONIGAN replied to R.P.'s April 21, 2025 email, stating, in part:

> I [DONIGAN] did explain to the owner [E.M.] that you [R.P.] would be willing to pay in the high 600's as you instructed me. The reason was both the loan qualification as well as the 100k in work you mentioned that the home would need. That is exactly what I let [E.M.] know and he declined the offer. . . . The owner [E.M.] reached out to me and said that you contacted him over the weekend saying you were going to offer more. As you know I was never made aware of this and now that is understandably confusing both the owner and myself. . . . I have a listing agreement with the seller as you know and my fiduciary duties don't allow me to discuss marketing efforts, details of other offers that are on the property and much more. I would be in breach of the contract but I did as you asked me which was in-line with both my listing contract and what I said would be offered to the seller as well is [*sic*] the 60-day notice if the stars didn't align. [¶] My particular concern at this point is when you [R.P.] decided you would like to offer more for the home? Was it after notice or lease termination was given? Who besides the owner did you tell this to? Anyone at Utopia because this is the first I have heard of this?

25. On or about April 26, 2022, R.P., DONIGAN, and E.M. participated in a conference call. Thereafter on April 26, 2022, R.P. replied to DONIGAN's April 25, 2022 email, stating, in part:

> I [R.P.] did ask if you [DONIGAN] could let me know where I should come in and that I can make adjustments to offer more if needed. I wasn't aware that you couldn't disclose the sale amount from the owner [E.M.] . . . . I also feel a little misguided and that you were representing me as I was not working with an agent directly. The offer you gave on my behalf was done verbally and there is nothing in writing . . . . I also wanted to clarify about me touching base with the owner directly. I did not do it because I got a notice but because I saw the property go under contract for 25k more than my offer, which I was more than able to come in at.

26. On or about April 27, 2022, E.M. emailed DONIGAN and SCHLESIER, stating in part:

> I [E.M.] am contacting both of you regarding my concerns surrounding the ethics of the selling of my home. [¶] A number of issues have presented themselves which lead me to feel I have been intentionally mislead and misinformed. First, I had specifically asked that the tenant [R.P.] have an opportunity to purchase the home FIRST. After conversation with the tenant it appears he was not informed directly and had to ask if he could purchase the home. He further tells me that when he inquired about the asking price Ryan [DONIGAN] told him he could not disclose that. This does not align with what Ryan [DONIGAN] was saying about he cannot disclose an offer. He would be correct there, but not informing the tenant of the asking price was not ethical or appropriate. When he made an offer to buy the home and the offer was rejected he should have been informed and given the opportunity to make a counter-offer. If has become clear that Ryan [DONIGAN] took advantage of the situation by using his "insider" connection to cut out the tenant from pursing this appropriately.

> [I]t has come to my attention that Ryan [DONIGAN] has done a number of unethical practices such as making me pay all escrow fees rather that splitting it, which is customary. No pre-approval letter of information regarding purchase of the home was submitted, which is what he faulted the tenant [R.P.] for. Upon further investigation, which was done due to some ethical questioning of Ryan [DONIGAN], the house should have listed for around $775,000 and with the current market likely would have received offers around $800,000. He [DONIGAN] misrepresented the current market value, apparently in an attempt to deceive me to make a higher profit on the home for himself. These are dishonest practices and misrepresentation of _me. Also, the paper rejecting a commission is dated as of yesterday, and then review of the listing agreement it appears that Ryan [DONIGAN] said himself for a 5% commission. When we spoke on the phone he told me it would be a 2% commission for him and 2% for another agent but the other agents commission would be waived if we did not need to use one. Again, this was misleading.
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> I am requesting that Ryan [DONIGAN] withdraw the offer and rescind the listing agreement immediately. I feel very strongly about this . . .

27. On or about May 4, 2022, in an email message from E.M. to DONIGAN, E.M. wrote that he was dissatisfied with the current situation, he believed his home was underpriced enough that he wanted it to go back on the market, he had lost faith in DONIGAN, and again asked DONIGAN to withdraw the listing and be removed as the listing agent. DONIGAN replied the same day, stating in part, "We are not canceling the listing agreement but will cancel the purchase contract."

28. On or about May 6, 2022, E.M. and DONIGAN executed a Cancellation of Contract, Release of Deposit, and Cancellation of Escrow for the Beaver Lake Property, which canceled the RPA, but not the RLA.

29. On or about May 9, 2022, E.M. emailed DONIGAN requesting that he send E.M. the cancellation of the RLA, and stated that he did not have faith that DONIGAN was acting in E.M.'s best interest. According to E.M., DONIGAN and UMI refused to cancel the RLA, and continued to refuse to cancel, despite DONIGAN's and UMI's failure to perform material terms of the exclusive RLA, keeping the Beaver Lake Property locked up for months, during which time there was a dip in the market,[2/] causing E.M. and his choice of new broker to lose precious marketing time, ultimately selling the property in October 2022 for a lower price than market data indicated for a

[2/]According to data maintained by the San Diego Association of Realtors ("SDAR"), the median price for single-family homes in the San Carlos neighborhood, where the Beaver Lake Property was located, was at a near-peak in April 2022 of $1,130,500, followed by a cooling of the market. In October 2022, at the time the Beaver Lake Property was sold, the median price for single-family homes in the same neighborhood had declined 15.5% to $955,000, per SDAR.

single-family home in the same neighborhood in April 2022, had the Beaver Lake Property been listed on MLS as an active listing and publicly marketed in April 2022.

30. After R.P. realized his ability to make an offer on the Beaver Lake Property, and keep his family in San Diego was no longer an option, and with the clock ticking on his move out date, he extended his search for a suitable home, and looked at houses in Riverside County, more than 70 miles to the northeast, and within the Inland Empire. R.P. was introduced to, and began working with, Valerie Bolanos (License ID 01987585), whose RES license was affiliated at that time with REC Douglas Elliman of California, Inc. ("DEOCI") (License ID 01947727).

31. On or about May 16, 2022:

a. R.P. and J.P. and Ms. Bolanos, on behalf of DEOCI, signed a Disclosure Regarding Real Estate Agency Relationship.

b. R.P. and J.P. signed an RPA for the purchase of a property located at 34900 Old Vine Rd., Winchester, California ("Old Vine Property"), located in Riverside County, approximately 72 miles away from the Beaver Lake Property by car, offering $615,000.00 as the purchase price, to the owners, D.J. and V.J.

32. On or about May 17, 2022, sellers D.J. and V.J. accepted the offer of R.P. and J.P. to purchase the Old Vine Property.

33. On or about June 13, 2022, escrow closed on the Old Vine Property.

34. Between on or about June 13, 2022, and on or about July 1, 2022, R.P. and J.P. vacated the Beaver Lake Property, and returned the keys for the property to UMI. Thereafter, E.M. discovered significant damage to the property, which was not reported to E.M. by UMI, and E.M. was unable to recoup the cost from the tenants' security deposit.

35. From on or about July 1, 2022, to on or about October 25, 2022, the final months that E.M. owned the Beaver Lake Property, there was no tenant, resulting in E.M. losing rent of $2,200.00 per month.

36. On information and belief, the PMA between UMI dba URE and E.M. was not cancelled until on or after August 26, 2022.

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37. On information and belief, and contrary to E.M.'s instructions, UMI did not cancel the RLA between UMI dba URE and E.M. until on or about September 1, 2022.

38. On or about September 16, 2022, E.M. signed a new RLA with REC Compass California III, Inc. (License ID 01527365), dba Compass, for the sale of the Beaver Lake Property for $740,000.00.

39. On or about October 5, 2022, Y.Z. made an offer to purchase the Beaver Lake Property for $700,000.

40. On or about October 6, 2022:

a. E.M. signed Seller Counter Offer No. 1, offering to sell the Beaver Lake Property to Y.Z. for $735,000.00, with some additional terms.

b. Y.Z. signed Buyer Counter Offer No. 1, offering to purchase the Beaver Lake Property from E.M. for $725,000.00.

c. E.M. signed Seller Counter Offer No. 2, offering to sell the Beaver Lake Property to Y.Z. for $730,000.00. Y.Z. accepted E.M.'s Counter Offer No. 2, and signed the same day.

41. On or about October 25, 2022, escrow closed on the Beaver Lake Property, with a sale price of $730,000.00, a price less than what E.M. believed could have been obtained had DONIGAN listed the property on MLS and actively marketed the property during the peak of the sellers' market in San Diego in April 2022.

VIOLATIONS OF THE REAL ESTATE LAW – CAUSES FOR DISCIPLINE

42. In the course of the activities alleged above in Paragraph 5, and based on the facts discovered by the DRE, as alleged in Paragraphs 6 through 41 above, Respondents acted in violation of the Code and Regulations as follows.

FIRST CAUSE OF ACCUSATION: BREACH OF FIDUCIARY DUTIES

43. Complainant realleges and incorporates by reference all of the allegations contained in the previous paragraphs as though fully set forth herein.

44. At all relevant times herein, while acting as real estate broker, salesperson, agent, and dual agent of E.M., UMI and DONIGAN owed E.M. fiduciary duties, including, but not limited

to the following: duty of utmost care, integrity, honesty, and loyalty in dealings with E.M.; duty of reasonable care and skill; duty of good faith; duty to obey the lawful instructions of E.M.; duty to avoid conflicts of interest; duty of fullest disclosure of all material facts affecting E.M.'s decisions, rights, and interests; a duty to transmit all offers to E.M. that have been made by any person, whether oral or in writing, including but not limited to R.P.'s willingness to offer more than the "high six hundred thousands" to purchase the Beaver Lake Property; duty to act at all times in the best interests of E.M. to the exclusion of all other interests, including interests that could benefit DONIGAN, UMI, or others; a duty to counsel and advise E.M. regarding the propriety and ramifications of his decisions, including DONIGAN and UMI acting as a dual agent for R.P. and E.M., and acting as a dual agent for DONIGAN and E.M.; and a duty to disclose that the Beaver Lake Property was more valuable than the listing price indicated, if UMI and DONIGAN had knowledge of facts that made the property more valuable.

45. At all relevant times herein, while acting as real estate broker, salesperson, agent, and dual agent of R.P., UMI and DONIGAN owed R.P. fiduciary duties, including, but not limited to the following: duty of utmost care, integrity, honesty, and loyalty in dealings with R.P..; duty of reasonable care and skill; duty of good faith; duty to obey the lawful instructions of R.P..; duty to avoid conflicts of interest; duty of fullest disclosure of all material facts affecting R.P.'s decisions, rights, and interests; duty to act at all times in the best interests of R.P. to the exclusion of all other interests, including interests that could benefit DONIGAN, UMI, or others, and a duty to counsel and advise R.P. regarding the propriety and ramifications of his decisions, including DONIGAN and UMI acting as a dual agent for R.P. and E.M., and acting as a dual agent for DONIGAN, R.P., and E.M.

46. In the course of the activities described above in in Paragraph 5, and based on the facts discovered by the DRE, as alleged in Paragraphs 6 through 45 above, UMI's acts and/or omissions constitute breaches of its fiduciary duties. Such breaches include but are not limited to:

a. Failing to include a definite, specified date of final and complete termination for the 2013, 2015, 2016, and 2022 PMAs.

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b. Failing to have E.M. and UMI execute the 2015, 2016, and 2022 PMAs in writing as required by California Civil Code sections 1558 and 1624, and Section 12, subsection (h), as required by the 2013, 2015, 2016and 2022 PMAs.

c. Requiring that E.M., upon deciding to sell the Beaver Lake Property during the term of the 2022 PMA, must use UMI as the exclusive listing broker for a period of 180 days without advising E.M. that the period of the exclusive listing was negotiable.

47. In the course of the activities described above in in Paragraph 5, and based on the facts discovered by the DRE, as alleged in Paragraphs 6 through 45 above, DONIGAN's and UMI's acts and/or omissions constitute breaches of their fiduciary duties. Such breaches include but are not limited to:

a. DONIGAN's and UMI's failure to follow E.M.'s instructions, as provided in Section (7)(D)(1) of the RLA, to "market the Property to the public, and to start marketing on the beginning date of [the RLA]," as evidenced by DONIGAN's April 5, 2022 email to R.P. stating the Property was "NOT on the market right now but will be in a week or so."

b. DONIGAN's and UMI's failure to follow E.M.'s instructions, as provided in Sections (7)(D) and (7)(E) of the RLA, to start marketing the Property to the Public on April 5, 2022, and to list the Property with the MLS within one (1) business day, or April 6, 2022, as evidenced by DONIGAN's April 5, 2022 email to R.P. stating the Property was "NOT on the market right now but will be in a week or so."

c. DONIGAN's and UMI's failure to list the Beaver Lake Property with MLS until April 20, 2022, after E.M. accepted DONIGAN's offer, as evidenced by the MLS listing.

d. DONIGAN's and UMI's failure to follow E.M.'s instructions to market the Beaver Lake Property to obtain the highest and best offers from potential buyers of the Beaver Lake Property.

e. DONIGAN's and UMI's failure to follow E.M.'s lawful instructions, and the requirements of the 2022 PMA in Section 5, subsection (m), to provide the tenant, R.P., with the first opportunity to purchase the property, and communicate to R.P. that R.P. could make

an offer, as evidenced by DONIGAN's April 5, 2022 email to R.P. stating that E.M. signed a listing with DONIGAN, but omitting any mention to R.P. that R.P. could make an offer on the property and was being given the first opportunity to purchase the Property.

f. DONIGAN's refusal to communicate the listing price of the Beaver Lake Property to R.P., falsely claiming that it was confidential, depriving R.P. of information necessary to make a competitive offer, and depriving E.M. of the benefit of receiving potentially competitive offers.

g. DONIGAN's verbal agreement to represent R.P. as a buyer's agent without preparing a written agreement to be signed by DONIGAN and R.P.

h. DONIGAN's and UMI's actions in acting as an agent for more than one party in the sale of the Beaver Lake property by: agreeing to act as an agent for R.P. on or about April 14, 2022, without the affirmative consent or written acknowledgement of R.P. and E.M. as required by Civil Code section 2079.17; and acting as an agent for DONIGAN through DONIGAN's signing the RPA on or about April 18, 2022, as both the buyer and the agent for the buyer and the seller on behalf of URE, without the affirmative consent or written acknowledgement of E.M. as required by Civil Code section 2079.17.

i. DONIGAN's and UMI's failure to provide any written disclosures regarding the real estate agency relationship between URE and R.P., the dual agency relationship between URE and R.P. and E.M., failure to obtain any written confirmations signed by R.P. or E.M. acknowledging the dual agency, the dual agency relationship between URE and DONIGAN and E.M., and DONIGAN's and UMI's failure to obtain written confirmations signed by DONIGAN and E.M. acknowledging an actual, not a possible, dual agency between URE and DONIGAN and E.M., as required by Civil Code sections 2079.14, 2079.16, and 2079.17.

j. DONIGAN's and UMI's failure to prepare an offer to purchase the Beaver Lake Property in the form of an RPA, to be signed by R.P., in an amount in the high six hundred thousands, and to present such offer to E.M.

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k. DONIGAN's failure to inform E.M. that R.P. was willing to offer a higher amount of money for the Beaver Lake Property, and his failure to advocate for R.P. and his family.

l. DONIGAN's failure to inform E.M., according to E.M.'s attorney Russell M. De Phillips, Esq., that R.P. informed DONIGAN that R.P. was approved for a mortgage loan in the amount of $750,000.00, and DONIGAN instead falsely informed E.M. that R.P. was not qualified to purchase the Beaver Lake property.

m. DONIGAN's and UMI's failure to submit a loan pre-approval letter for DONIGAN.

n. DONIGAN's and UMI's failure to inform E.M. that escrow fees were normally split between the buyer and the seller, and instead required E.M. to pay all escrow costs.

o. DONIGAN's and UMI's insertion of a 5% commission for URE's commission in the sales transaction documents after DONIGAN previously informed E.M. there would be a 2% commission for DONIGAN and 2% for another agent, for a total of 4%, unless another agent was not involved in the transaction, then E.M. would only pay 2% in total.

p. DONIGAN's and UMI's failure and refusal to follow the repeated lawful instructions of E.M. to cancel the RLA when E.M. requested such cancellation in writing on or about the following dates:

(1) April 27, 2022, in an email from E.M. to DONIGAN and SCHLESIER;

(2) May 4, 2022, in an email from E.M. to DONIGAN; and

(3) May 9, 2022, in an email from E.M. to DONIGAN.

DONIGAN and UMI refused to follow E.M.'s repeated instructions to cancel the RLA despite the fact that DONIGAN and UMI had been afforded a reasonable amount of time, from on or about April 5, 2022, to on or after April 27, 2022, through May 9, 2022, to exercise diligence in publicly marketing the Property, submitting an active listing of the

Property to MLS, not as a pending sale, and, finding a buyer other than DONIGAN with sufficient cash or a loan approval to purchase the Property. Because DONIGAN and UMI failed to perform material terms, were afforded reasonable time to exercise diligence, and failed to do so, E.M. had a right to rescind the RLA prior to the termination date provided in the RLA.

q. DONIGAN's and UMI's failure to act at all times in the best interests of E.M. and/or R.P., to the exclusion of all other interests, including interests that could benefit DONIGAN and UMI, including but not limited to the following acts and omissions:

(1) DONIGAN dissuaded R.P. from working with another broker to prepare an offer to purchase the Beaver Lake Property, falsely informing R.P. that another broker would not receive a commission, when DONIGAN knew, through his representations to E.M., UMI and DONIGAN would split the commission with another broker representing a buyer;

(2) DONIGAN and UMI refused to inform R.P. what the listing price of the Beaver Lake Property was, falsely claiming that such information was confidential;

(3) DONIGAN and UMI failed to have R.P. sign an RPA with R.P.'s offer, and to sign required disclosure forms;

(4) DONIGAN failed to inform E.M. that R.P. said he could make an offer higher than the high six hundred thousands;

(5) According to E.M.'s attorney De Phillips, DONIGAN falsely informed E.M. that R.P. was not qualified to purchase the Property, despite the fact that R.P. told DONIGAN he was approved to purchase a property for $750,000;

(6) DONIGAN and UMI only listed the Beaver Lake Property with the MLS on April 20, 2022, two days after DONIGAN and E.M. signed the RPA on April 18, 2022;

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(7) DONIGAN and UMI only listed the Beaver Lake Property with the MLS as "PENDING," which effectively cut off receipt of offers from other prospective buyers;

(8) DONIGAN and UMI withdrew the Beaver Lake Property's listing from the MLS on or about May 7, 2022, and such withdrawal of the listing from MLS was done, according to E.M.'s attorney De Phillips, without E.M.'s knowledge or consent;

(9) DONIGAN's and UMI's failure to market the Property to the public from on or about April 5, 2022, through the remaining time that the RLA was in effect, or until on or about September 1, 2022, depriving E.M. of the opportunity to sell the Property to a higher bidder when market conditions were superior;

(10) DONIGAN's and UMI's causing, directly, or indirectly, the Beaver Lake Property to sit vacant, without a tenant and without receipt of any rents—which R.P. had previously paid in the amount of $2,200 per month—from on or about July 1, 2022 through on or about October 25, 2022 when escrow closed.

48. UMI's and DONIGAN's acts and/or omissions constitute a violation of their fiduciary duties, and **Civil Code sections 2079, 2079.13(a), 2079.14, 2079.16, and 2079.17,** and constitute cause for the suspension or revocation of UMI's and DONIGAN's real estate licenses and license rights under the provisions of **Code sections 10177(d) and/or 10177(g).**

SECOND CAUSE OF ACCUSATION:

NEGLIGENCE, INCOMPETENCE AND/OR WILLFUL DISREGARD

49. Complainant realleges and incorporates by reference all of the allegations contained in the previous paragraphs as though fully set forth herein.

50. The overall conduct of DONIGAN is violative of the Real Estate Law and constitutes cause for the suspension or revocation of the real estate licenses and license rights of DONIGAN under the provisions of **Code Section 10177(d)** for willful disregard of the Real Estate Law, and in the alternative, **Code Section 10177(g)** for negligence or incompetence in performing acts for which she is required to hold a license.

THIRD CAUSE OF ACCUSATION: NEGLIGENT OR INTENTIONAL MISREPRESENTATION; FRAUD AND DISHONEST DEALING

51. Complainant realleges and incorporates by reference all of the allegations contained in the previous paragraphs as though fully set forth herein.

52. As alleged above in Paragraphs 7 and 9 through 11, UMI and E.M. entered into the 2013 PMA, and UMI sent the unsigned 2015, 2016, and 2022 PMAs to E.M. Through these PMAs, UMI lead E.M. to believe that, if E.M. decided to sell the Beaver Lake Property, UMI would represent him as his broker and agent in the sale and that, through Section 7 of the PMAs, UMI believed it was reasonably foreseeable that E.M.'s tenant would be interested in buy the Beaver Lake Property. Through Section 5(n) of the 2016 PMA, UMI believed it was entitled to compensation if E.M.'s tenant acquired the Property. Through the revised Section 5(m) of the 2022 PMA, UMI agreed that the Property would be offered for sale to E.M.'s tenant, and believed that the tenant was required to use UMI to represent the tenant as the buyer.

53. When E.M. decided to sell the Beaver Lake Property, on or about April 5, 2022, E.M. signed the RLA granting DONIGAN, who was acting for UMI/URE, the exclusive right to sell the Property as E.M.'s agent. E.M., who lived in Colorado and was not a real estate licensee, was relying on DONIGAN, who as URE's Director of Real Estate Sales, was an experienced, successful, and licensed real estate salesperson, holding himself out to the public as a professional with superior knowledge, skills, and expertise in real estate in San Diego. The fact that the RLA granted DONIGAN and URE the exclusive right to sell the Property required heightened efforts on the part of DONIGAN and URE because exclusivity made E.M. completely dependent on DONIGAN's and URE's services to find a buyer other than DONIGAN to purchase the property, and to do so while the median price for single-family homes in San Diego was at a record high.

54. E.M. relied on DONIGAN's superior skills and knowledge of facts affecting the value of the Property and justifiably believed DONIGAN would act in E.M.'s best interests in recommending a price to list the Beaver Lake Property, in promptly listing the Property on MLS and marketing the Property to obtain the highest purchase price, and would fulfill his fiduciary duties to follow E.M.'s lawful instructions, including that DONIGAN would inform R.P. he had the first

opportunity to make an offer to purchase the Property. Had E.M. known at the time that DONIGAN would not list the Property on MLS until April 20, 2022, that DONIGAN would not market the property, and would not follow E.M.'s instructions to offer the Property to R.P. first, E.M. would not have signed the RLA, and would not have agreed that URE could hold the listing and essentially keep the Beaver Lake Property off the market until October 2026.

55. After R.P. learned, on or about April 5, 2022, that E.M. was going to sell the Beaver Lake Property, R.P. decided he was interested in purchasing the Property so that he and his family of five could stay in the same home they had lived in for eight years, be close to family and friends, R.P. could keep the same job R.P. loved, and his children could remain in the same schools.

56. By signing the RLA on behalf of URE, and initialing Section 6 of the RLA, DONIGAN, as the Seller's agent, created a fiduciary relationship with E.M. Through the execution of the RLA, and the fiduciary relationship with E.M., DONIGAN and URE were required to take certain actions, including but not limited to:

a. Fulfilling their fiduciary duties to E.M.;

b. Follow the lawful instructions of E.M. to inform R.P. that R.P. had the first opportunity to purchase the Beaver Lake Property;

c. Follow the lawful instructions of E.M. to obtain the highest and best offers from potential buyers of the Beaver Lake Property;

d. Start publicly marketing the Property beginning on or about April 5, 2022;

e. List the Property with MLS on or about April 6, 2022;

f. Inform E.M. of all offers received for the Property, including information regarding whether potential buyers such as R.P. were willing to make a higher offer, and whether such buyers were approved for mortgage loans and in what amount;

g. Fulfill their duties to potential buyers of honest and fair dealing and good faith, and to disclose the listing price to potential buyers;

h. Counsel and advise E.M. of real estate practices benefiting E.M.'s best interests, including that it was customary for buyers and sellers to split escrow costs;

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i. In the event DONIGAN and URE created dual agency relationships, obtain written confirmation from the seller and buyers that DONIGAN and URE represented the parties as dual agents;

j. Obtain written confirmation acknowledging an actual, not a possible, dual agency between URE and DONIGAN and E.M.

57. At the time DONIGAN made the promises and agreements in the RLA, as alleged above in Paragraph 56, he had no intention of performing them.

58. DONIGAN made the promises and agreements in the RLA with the intent to induce E.M. to sign the RLA, agree to retain DONIGAN and URE as his broker, to pay DONIGAN and URE a commission based on a percentage of the purchase price if an RPA was entered into, and to set up DONIGAN's ability to make his own offer to purchase the Beaver Lake Property, without needing to split the commission with an outside broker.

59. E.M., at the time DONIGAN made the promises and agreements in the RLA, and at the time E.M. signed the RLA, was ignorant of DONIGAN's undisclosed intention not to perform on his promises and agreements, and E.M. could not, in the exercise of reasonable diligence, have discovered DONIGAN's undisclosed intention not to perform. If E.M. had known of DONIGAN's actual intention, E.M. would not have signed the RLA, and would have terminated the operative PMA.

60. DONIGAN, by verbally agreeing to represent R.P. as a dual agent on behalf of the buyer and seller, created a fiduciary relationship between R.P. and DONIGAN and URE. Through the verbal agreement to represent R.P. as a dual agent, and the fiduciary relationship with R.P., DONIGAN and URE were required to take certain actions, including but not limited to:

a. Fulfill their fiduciary duties to R.P.;

b. Provide and explain written disclosure forms to R.P. regarding the dual real estate agency relationship, and obtain R.P.'s signature;

c. Obtain written confirmation from the seller and buyer that DONIGAN and URE represented the parties as dual agents;

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d. Obtain written confirmation acknowledging an actual, not a possible, dual agency between URE and R.P. and E.M.;

e. Disclose the listing price of the Beaver Lake Property to R.P.;

f. Prepare a written RPA and obtain R.P.'s signature in order to present R.P.'s offer to E.M.; and

g. Follow the lawful instructions of R.P. to inform E.M. that R.P. was willing to offer a higher amount to purchase the Property to compete with offers from other potential buyers.

61. At the time DONIGAN agreed to be a dual agent for R.P., and further agreed to perform the actions alleged above in Paragraph 60, he had no intention of performing them.

62. DONIGAN made the agreement to perform such actions for R.P. with the intent to interfere with R.P.'s interest in making an offer on and/or purchasing the Beaver Lake Property, and protect DONIGAN's own interest in purchasing the Beaver Lake Property.

63. R.P., at the time DONIGAN agreed to be his dual agent and further agreed to perform the actions alleged above, was ignorant of DONIGAN's undisclosed intention not to perform, and R.P. could not, in the exercise of reasonable diligence, have discovered DONIGAN's undisclosed intention not to perform and to interfere with R.P.'s interest in the Property. If R.P. had known of DONIGAN's actual intention, R.P. would have worked with another broker to represent him as the buyer.

64. DONIGAN failed to perform his promises and agreements to E.M. and to R.P., through acts and/or omissions including but not limited to:

a. Breaching his fiduciary duties to E.M. and R.P.;

b. Failing to follow the lawful instructions of E.M. to inform R.P. that R.P. had the first opportunity to purchase the Beaver Lake Property;

c. Failing to follow the lawful instructions of E.M. to obtain the highest and best offers from potential buyers of the Beaver Lake Property;

d. Failing to publicly market the Property beginning on or about April 5, 2022;

e. Failing to list the Property with MLS on or about April 6, 2022;

f. Falsely informing R.P. that if R.P. worked with another broker, that broker would receive no commission, to dissuade R.P. from working with another broker;

g. Falsely informing R.P. that DONIGAN could not disclose the listing price for the Beaver Lake property to R.P.;

h. Failing to provide written disclosure forms to R.P. regarding the dual real estate agency relationship, and obtain R.P.'s signature;

i. Failing to obtain written confirmation from the seller and buyers that DONIGAN and URE represented the parties as dual agents;

j. Failing to obtain written confirmation acknowledging an actual, not a possible, dual agency between URE and R.P. and E.M.;

k. Failing to prepare a written RPA and obtain R.P.'s signature in order to present R.P.'s offer to E.M.;

l. Failing to inform E.M. that R.P. was willing to make a higher offer;

m. Falsely informing E.M. that R.P. was not qualified to purchase the Property;

n. Failing to obtain written confirmation acknowledging an actual, not a possible, dual agency between URE and DONIGAN and E.M.; and

o. Making his own offer and signing the RPA without obtaining written loan approval.

65. In the course of the activities alleged above in Paragraph 5, and based on the facts s alleged in Paragraphs 12 through 64 above, DONIGAN's and UMI's acts and/or omissions are in violation of **Civil Code sections 2079.13(a) and 2079.16,** and **Code sections 10176(a), 10176(i), 10177(j), and 10177(d) and/or 1077(g)** and constitute cause for the suspension or revocation of all licenses and license rights of Respondents DONIGAN and UMI under the provisions of **Code sections 10176(a), 10176(i), 10177(j), and 10177(d) and/or 10177(g)**.

FOURTH CAUSE OF ACCUSATION:

FAILURE TO INCLUDE DEFINITE, SPECIFIED DATE OF FINAL TERMINATION IN PMA

66. Complainant realleges and incorporates by reference all of the allegations contained in the previous paragraphs as though fully set forth herein.

67. None of the PMAs entered into between UMI and E.M.—with the operative PMA in effect, on information and belief, until on or after August 26, 2022—contained a definite, specified date of final and complete termination of the PMA, in violation of **Code section 10176(f),** and constituting cause for the suspension or revocation of all licenses and license rights of Respondent UMI under the provisions of **Code sections 10176(f), and 10177(d) and/or 10177(g)**.

FIFTH CAUSE OF ACCUSATION:

RESPONSIBILITY OF CORPORATE OFFICER IN CHARGE; BROKER SUPERVISION

68. Complainant realleges and incorporates by reference all of the allegations contained in the previous paragraphs as though fully set forth herein.

69. Based on the allegations contained in in Paragraph 5, and based on the facts discovered by the DRE, as alleged in Paragraphs 6 through 41 above,, and the First through Fourth Causes of Accusation above, SCHLESIER, as the broker of record and D.O. of UMI, did not exercise adequate supervision and control over the real estate activities conducted on behalf of UMI by its employees and licensees to ensure compliance with the Real Estate Laws and Regulations. SCHLESIER failed to establish policies, rules and systems to review, oversee, inspect, and manage transactions. SCHLESIER's acts and/or omissions were in violation of **Code sections 10159.2 and 10177(h), and Regulation 2725,** and constitute cause to suspend or revoke the real estate licenses and license rights of SCHLESIER pursuant to **Code sections 10177(d) and/or 10177(g).**

COSTS

(INVESTIGATION AND ENFORCEMENT COSTS)

70. **Code section 10106** provides, in pertinent part that in any order issued in resolution of a disciplinary proceeding before the DRE, 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 license rights of Respondents UTOPIA MANAGEMENT INC, ROBERT ALLEN SCHLESIER, and RYAN MAXWELL DONIGAN under the Real Estate Law, for the costs

of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other applicable provisions of law.

Dated at San Diego, California Oct 30, 2026.

Veronica Kilpatrick

Veronica Kilpatrick
Supervising Special Investigator

cc: UTOPIA MANAGEMENT INC
ROBERT ALLEN SCHLESIER
RYAN MAXWELL DONIGAN.
Veronica Kilpatrick
Sacto.