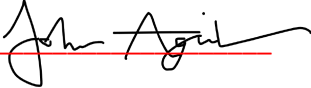


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FILED

December 13, 2023

Department of Real Estate

By 

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H-05777 SD
13)
14 MARKER REAL ESTATE INC, KEVIN) ACCUSATION
15 W MARKARIAN, individually and as)
16 designated officer/officer of Marker Real Estate)
17 Inc, and TOCHUKWU SAMUEL MORDI,)
18 Respondents.)
19)
20)

21 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
22 State of California, for cause of Accusation against MARKER REAL ESTATE INC, KEVIN
23 W MARKARIAN, and TOCHUKWU SAMUEL MORDI (collectively “Respondents”) alleges
24 as follows:

25 1.

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

28 2.

29 All references to the “Code” are to the California Business and Professions Code
30 and all references to “Regulations” are to Title 10, Chapter 6, California Code of Regulations.

31 ///

ACCUSATION

1 LICENSE HISTORY

2 3.

3 (MARKER REAL ESTATE INC)

4 (a) Respondent MARKER REAL ESTATE INC (“MREI”) 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 of Real
7 Estate¹ (“Department”) license ID 01846283.

8 (b) The Department originally issued MREI’s REC license on or about May 27,
9 2008.

10 (c) MREI’s REC license is scheduled to expire on May 26, 2024, unless
11 renewed.

12 (d) According to the Department’s records, MREI has approximately 9 broker
13 associates and 45 salespersons associated with its license.

14 (e) According to the Department’s records, from March 6, 2020 to July 12,
15 2023, MREI’s main office was located at 107 S El Camino Real, San Clemente, CA 92672.

16 (f) According to the Department’s records, MREI had the following branch
17 offices during the relevant time period:

18 (1) 1006 H Street, Modesto, CA 95354 (June 6, 2022 to present);

19 (2) 714 S 14th Street, #E, Modesto, CA 95354 (December 6, 2019 to June
20 6, 2022); and

21 (3) 4 Embarcadero Center, #1400, San Francisco, CA 94111.

22 4.

23 (KEVIN W MARKARIAN)

24 (a) Respondent KEVIN W MARKARIAN (“MARKARIAN”) is presently
25 licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the
26

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

1 California Business and Professions Code, as a real estate broker (“REB”), Department license
2 ID 01345078.

3 (b) The Department originally issued MARKARIAN ‘s REB license on or about
4 May 21, 2007.

5 (c) MARKARIAN’s REB license is scheduled to expire on May 20, 2027,
6 unless renewed.

7 (d) According to the Department’s records, MARKARIAN was the designated
8 officer of MREI from approximately May 27, 2020 to July 13, 2023.

9 (e) MARKARIAN is also the CEO, CFO, and Secretary of MREI.

10 5.

11 (TOCHUKWU SAMUEL MORDI)

12 (a) Respondent TOCHUKWU SAMUEL MORDI (“MORDI”) is presently
13 licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the
14 California Business and Professions Code, as a real estate salesperson (“RES”), Department
15 license ID 02031723.

16 (b) The Department originally issued MORDI’s RES license on or about
17 February 6, 2018.

18 (c) MORDI’s RES license is scheduled to expire on August 22, 2026 unless
19 renewed.

20 (d) According to the Department’s records, from approximately February 5,
21 2022 to August 23, 2022, MORDI’s RES license was expired. On or about August 23, 2022,
22 MORDI submitted an electronic Salesperson Renewal Application.

23 LICENSED ACTIVITIES

24 6.

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

27 ///

1 FACTS DISCOVERED BY THE DEPARTMENT

2 7.

3 On or about October 5, 2020, MORDI entered into an Independent Contractor
4 Agreement (Between Broker and Associate-Licensee) (C.A.R. Form ICA, Revised 11/13)
5 (“ICA”) with MREI. On or about the same date, MORDI and MREI also signed an addendum
6 to the ICA (“Addendum”). According to the Addendum, the commission split was to be 80% to
7 MORDI and 20% to MREI.

8 8.

9 On or about July 5, 2022, MREI entered into a Residential Listing Agreement
10 (C.A.R. Form RLA, Revised 6/21) (“RLA”) with Huffman Annie M Family Trust for the sale
11 of the property located at 835 40th Street in San Diego, California (the “Property”). MORDI
12 signed the RLA on behalf of MREI. On the RLA, MREI’s address was listed as 2603 Camino
13 Ramon, Ste 200, San Ramon, CA 94583.

14 9.

15 On or about July 5, 2022, MORDI also signed the Disclosure Regarding Real
16 Estate Agency Relationship (C.A.R. Form AD, Revised 12/21) and Seller’s Advisory (C.A.R.
17 Form SA, Revised 12/15) (“SA”) on behalf of MREI in connection with the sale of the
18 Property. On the SA, MREI’s address was listed as 2603 Camino Ramon, Ste 200, San Ramon,
19 CA 94583.

20 10.

21 On or about July 6, 2022, MARKARIAN signed the Seller Instruction to
22 Exclude Listing From the Multiple Listing Service and Days on Market (C.A.R. Form SELM,
23 Revised 6/20) on behalf of MREI in connection with the sale of the Property.

24 11.

25 On or about July 16, 2022, MARKARIAN signed the Possible Representation of
26 More than One Buyer or Seller – Disclosure and Consent (C.A.R. Form PRBS, Revised 12/21).

27 ///

1 12.

2 On or about July 16, 2022, MORDI submitted a California Residential Purchase
3 Agreement and Joint Escrow Instructions (C.A.R. Form RPA, Revised 6/22) (“RPA”) on behalf
4 of MARKARIAN for the Property. In the RPA, MORDI signed as the agent for both Buyer and
5 Seller. MARKARIAN signed the RPA as “Kevin Markarian or Assignee”.

6 13.

7 From Approximately August 4, 2022 to August 8, 2022, four (4) offers were
8 received by MORDI. Two (2) of the four offers listed MORDI and MREI as agents for the
9 seller.

10 14.

11 On or about November 1, 2022, the Property was sold and a commission of
12 \$12,300.00 was sent to MREI. On or about November 16, 2022, MORDI received a
13 commission of \$9,150.00 from MREI for the sale of the Property.

14 APPLICABLE SECTIONS OF THE REAL ESTATE LAW

15 Code Section 10130

16 15.

17 Code Section 10130 provides, in pertinent part, that “It is unlawful for any
18 person to engage in the business of, act in the capacity of, advertise as, or assume to act as a
19 real estate broker or a real estate salesperson within this state without first obtaining a real
20 estate license from the department, or to engage in the business of, act in the capacity of,
21 advertise as, or assume to act as a mortgage loan originator within this state without having
22 obtained a license endorsement. . .”

23 Code Section 10159.2

24 16.

25 Code Section 10159.2 provides, in pertinent part, that “(a) The officer
26 designated by a corporate broker licensee pursuant to Section 10211 shall be responsible for the
27 supervision and control of the activities conducted on behalf of the corporation by its officers

1 and employees as necessary to secure full compliance with the provisions of this division,
2 including the supervision of salespersons licensed to the corporation in the performance of acts
3 for which a real estate license is required. . .”

4 Code Section 10163

5 17.

6 Code Section 10163 provides that “If the applicant for a real estate broker’s
7 license maintains more than one place of business within the State he shall apply for and
8 procure an additional license for each branch office so maintained by him. Every such
9 application shall state the name of the person and the location of the place or places of business
10 for which such license is desired. The commissioner may determine whether or not a real estate
11 broker is doing a real estate brokerage business at or from any particular location which
12 requires him to have a branch office license.”

13 Further Grounds for Disciplinary Action – Code Section 10177

14 18.

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

18 . . .

19 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing
20 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and
21 regulations of the commissioner for the administration and enforcement of the Real Estate Law
22 and Chapter 1 (commencing with Section 11000) of Part 2.

23 . . .

24 (g) Demonstrated negligence or incompetence in performing an act for which he
25 or she is required to hold a license.

26 (h) As a broker licensee, failed to exercise reasonable supervision over the
27 activities of that licensee’s salespersons, or, as the officer designated by a corporate broker

1 licensee, failed to exercise reasonable supervision and control of the activities of the
2 corporation for which a real estate license is required. . .”

3 Regulations 2715

4 19.

5 Regulations 2715 provides, in pertinent part, that “Every real estate broker,
6 except a broker acting in the capacity of a salesperson to another broker under written
7 agreement, shall maintain on file with the commissioner the address of his or her principal
8 place of business for brokerage activities, the address of each branch business office and his or
9 her current mailing address, if different from the business address. Every broker who is acting
10 in the capacity of a salesperson to another broker under written agreement shall maintain on file
11 with the Commissioner the address of the business location where he or she expects to conduct
12 most of the activities for which a license is required and his or her current mailing address. . .”

13 Regulations 2725

14 20.

15 Regulations 2725 provides, in pertinent part, that “A responsible broker shall
16 exercise reasonable supervision over the activities of their salespersons or broker associates
17 acting in the capacity of a salesperson. . . A responsible broker shall establish a system for
18 monitoring compliance with such policies, rules, procedures and systems. A responsible broker
19 may use the services of associate brokers and salespersons to assist in administering the
20 provisions of this section so long as the responsible broker does not relinquish overall
21 responsibility for supervision of the acts of salespersons or broker associates acting in the
22 capacity of a salesperson retained by the responsible broker.”

23 VIOLATIONS OF THE REAL ESTATE LAW – CAUSES FOR DISCIPLINE

24 21.

25 In the course of the activities described above in Paragraph 6, and based on the
26 facts discovered by the Department in Paragraphs 7 through 14, above, Respondents acted in
27 violation of the Code and Regulations, as described below.

1 22.

2 From approximately February 5, 2022 through August 23, 2022, MORDI, while
3 his license was expired, engaged in the performance of activities requiring a real estate license,
4 in violation of **Code Sections 10130**.

5 23.

6 In July 2022, Respondents used an address for MREI that was not first
7 registered with the Department, in violation of **Code Sections 10163 and Regulations 2715**.

8 24.

9 Respondent MARKARIAN, as designated officer of MREI, failed to exercise
10 adequate supervision and control over MREI's real estate activities, specifically MORDI's
11 action while his license was expired, in violation of **Code Sections 10159.2, 10177(h) and**
12 **Regulations Section 2725**.

13 Additional Violations of the Real Estate Law

14 25.

15 The overall conduct of Respondent violates the Real Estate Law and constitutes
16 cause for the suspension or revocation of their real estate license and license rights under the
17 provisions of Code Section 10177(g) for negligence and Code Section 10177(d) for willful
18 disregard of the Real Estate Law.

19 COSTS

20 26.

21 **Code Section 10106** provides, in pertinent part, that in any order issued in
22 resolution of a disciplinary proceeding before the Department, the Commissioner may request
23 the administrative law judge to direct a licensee found to have committed a violation of this
24 part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the
25 case.

26 ///

27 ///

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2

PRAYER

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Dated at Los Angeles, California on Dec 4, 2023.

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14

Veronica Kilpatrick

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Veronica Kilpatrick
Supervising Special Investigator

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cc: MARKER REAL ESTATE INC
KEVIN W MARKARIAN
TOCHUKWU SAMUEL MORDI
Veronica Kilpatrick
Sacto.