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FILED

DEC 04 2023

DEPT. OF REAL ESTATE

By— [REDACTED]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-05784 SD
)	
BEYOND PROPERTY)	
MANAGEMENT; and)	
)	
DANYEL BROOKS,)	<u>A C C U S A T I O N</u>
individually and as designated officer of)	
Beyond Property Management;)	
)	
Respondents.)	
)	

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, acting in her official capacity, for cause of Accusation against Respondents BEYOND PROPERTY MANAGEMENT (“BPM”) and DANYEL BROOKS (“BROOKS”), individually and as designated officer of BPM, is informed and alleges as follows:

1.

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

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1 2.

2 All references to the "Code" are to the California Business and Professions
3 Code, and all references to "Regulations" are to Title 10, Chapter 6, California Code of
4 Regulations unless otherwise specified.

5
6 (License History: BPM and BROOKS)

7 3.

8 a. Respondent BPM presently has license rights with the Department Real
9 Estate as a real estate corporation (license no. 01854799). BPM has been licensed as a real
10 estate corporation from on or about November 6, 2008 through the present. BPM's only
11 designated officer has been BROOKS, which was from on or about November 6, 2008 through
12 the present. From on or about March 21, 2011 to January 11, 2023, BPM had the following
13 two (2) fictitious business names: (1) Heritage Investments and (2) Heritage Investments A
14 Real Estate Brokerage.

15 b. Respondent BROOKS is presently licensed and/or issued by
16 the Department of Real Estate as a real estate broker (license no. 01710807). BROOKS has
17 been licensed as a real estate broker from on or about June 22, 2007 through the present. At no
18 time has BROOKS had a fictitious business name registered with the Department of Real
19 Estate.

20 4.

21 Whenever acts referred to below are attributed to BPM and/or BROOKS, those
22 acts are alleged to have been done by BPM and/or BROOKS, acting by
23 itself/himself/themselves, or by and/or through one or more agents, associates, affiliates,
24 and/or co-conspirators.

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5.

At all times mentioned, in the County of San Diego, BPM and BROOKS were engaged in the business of a real estate broker conducting licensed activities within the meaning of Code section 10131(b) (“[l]eases or rents or offers to lease or rent, or places for rent, or solicits listings of places for rent, or solicits for prospective tenants, or negotiates the sale, purchase, or exchanges of leases on real property, or on a business opportunity, or collects rents from real property, or improvements thereon, or from business opportunities”).

(Consumer Complaint)

6.

On or about July 5, 2022, J. K. filed a complaint against BPM, BROOKS, and salesperson Ann Frances Marie Alarcon Morris (“Morris”) (license no. 01875153) alleging they failed to return security deposits worth five (5) figures and written records to J. K. for several months after their property management services were terminated. J. K. also alleged tenants were charged the tenants “convenience fees” without J. K.’s knowledge.

(Property Management Audit)

7.

On or about June 30, 2023, the Department of Real Estate completed an audit examination of the books and records of BPM to determine whether BPM and BROOKS handled and accounted for trust funds and conducted their real estate activities in accordance with the Real Estate Law and Regulations. The audit examination covered a period of time beginning on January 1, 2021 and ending on October 31, 2022. The audit examination revealed violations of the Code and the Regulations set forth in the following paragraphs, and more fully discussed in Audit Report SD220009 and the exhibits and work papers attached to said audit report.

1 Bank Account

2 8.

3 At all times mentioned, in connection with the activities described in Paragraph
4 5, above, BPM and BROOKS accepted or received funds including funds in trust (“trust
5 funds”) from or on behalf of actual or prospective parties, such as owners of real property, and
6 thereafter made deposits and/or disbursements of such funds. From time to time herein
7 mentioned, during the audit period, said trust funds were deposited and/or maintained by BPM
8 and BROOKS in the following trust account:

9 *****3656
10 Enterprise Bank & Trust
11 P.O. Box 66940
12 St. Louis, MO 83166 TA 1

12 9.

13 In the course of activities described in Paragraphs 5 and 8, above, and during the
14 audit examination period in Paragraph 7, above, Respondents BPM and BROOKS acted in
15 violation of the Code and the Regulations as set forth below:

16 (a) Permitted, allowed, or caused the disbursement of trust funds from the trust
17 account TA 1 where the disbursement of funds reduced the total of aggregate funds in TA 1, to
18 an amount which, on October 31, 2022, was a minimum shortage of \$960.80 without first
19 obtaining the prior written consent of the owner(s) of said funds, in violation of Code section
20 10145 and Regulations section 2832.1.

21 (b) Failed to perform and maintain accurate monthly reconciliations comparing
22 the balance of all separate beneficiary or transactions records (separate records) to the balance
23 of the record of all trust funds received and disbursed (control record) for TA 1, in violation of
24 Code section 10145 and Regulations section 2831.2. This includes, but is not limited to, at
25 least \$4,450.74 of unidentified transactions and unreconciled transactions from before January
26 1, 2021 through October 31, 2022 as of October 31, 2022.

1 (c) Failed to deposit trust funds into TA 1 within three (3) business days of
2 receipt, in violation of Code section 10145 and Regulations section 2832. This includes, but is
3 not limited to, \$332.73 in trust funds being received on July 20, 2022 but not deposited into TA
4 1 until November 28, 2022.

5 (d) Failed to maintain and submit an advance fee agreement to the
6 Commissioner, in violation of Code sections 10145 and 10085 and Regulations section 2970.
7 This includes, but is not limited to, collecting “Pet Admin Fee” in advance from tenants and
8 paid to BPM before any related expenses were paid.

9 (e) Failed to maintain and provide an adequate verified copy of the accounting
10 of the advance fee to each principal at the end of each calendar quarter when the service was
11 completely performed, in violation of Code sections 10145 and 10146 and Regulations section
12 2972. This includes, but is not limited to, collecting “Pet Admin Fee” in advance from tenants
13 and paid to BPM before any related expenses were paid.

14 (f) Charged and collected various fees from tenants without disclosure and
15 authorization from the owners resulting in receiving secret and undisclosed compensation, in
16 violation of Code section 10176(g). These fees include, but are not limited to:

- 17 • A monthly fee of \$18 in 2021 and \$28 in 2022 named a “Tenant Value Add
18 Package,” “Resident Benefit Package,” or “Tenant Benefit Package”; and
- 19 • Monthly pet rent that should have been paid to the owner but was collected
20 by and paid to BPM and BROOKS as “Pet Admin Fees.”

21 (g) The overall conduct of BROOKS constitutes a failure on BROOKS’s part,
22 as officer designated by a corporate broker licensee, to exercise the reasonable supervision and
23 control over the licensed activities of BPM as required by Code section 10159.2 and
24 Regulations section 2725.

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10.

The conduct of Respondents BPM and BROOKS, as described in Paragraph 9, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
9(a)	Code section 10145 and Regulations section 2832.1
9(b)	Code section 10145 and Regulations section 2831.2
9(c)	Code section 10145 and Regulations section 2832
9(d)	Code sections 10145 and 10085 and Regulations section 2970
9(e)	Code sections 10145 and 10146 and Regulations section 2972
9(f)	Code section 10176(g)
9(g)	Code section 10159.2 and Regulations section 2725

The foregoing violations constitute cause for discipline of the real estate license and license rights of Respondents BPM and BROOKS under the provisions of Code sections 10176(i), 10177(d), 10177(g), 10177(h), and 10177(j).

(COSTS)

11.

Code section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner may 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.

12.

Code section 10148(b) provides, in pertinent part, that the Commissioner shall charge a real estate broker for the cost of any audit, if the Commissioner has found in a final

1 decision following a disciplinary hearing that the broker has violated Code section 10145 or a
2 regulation or rule of the Commissioner interpreting said section.

3 WHEREFORE, Complainant prays that a hearing be conducted on the
4 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
5 disciplinary action against the license and license rights of BEYOND PROPERTY
6 MANAGEMENT and DANYEL BROOKE, individually and as designated officer of BPM,
7 under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions
8 Code), for the cost of investigation and enforcement pursuant to Code section 10106 and as
9 permitted by law, and for such other and further relief as may be proper under other
10 applicable provisions of law, including, but not limited to, costs of audit pursuant to
11 Code section 10148(b).

12 Dated at San Diego, California: December 4, 2023.

13
14 *Veronica Kilpatrick*
15 _____
16 Veronica Kilpatrick
17 Supervising Special Investigator
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24 cc: Beyond Property Management
25 Danyel Brooks
26 Veronica Kilpatrick
27 Sacto
Enforcement
Audits – Jennifer Borromeo