

FILED

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DEPT. OF REAL ESTATE

By- [REDACTED]

1 LISSETE GARCIA, Counsel (SBN 211552)  
2 Department of Real Estate  
3 320 West 4th Street, Suite 350  
4 Los Angeles, California 90013-1105  
5 Telephone: (213) 576-6982  
6 Direct: (213) 576-6914  
7 Fax: (213) 576-6917  
8 *Staff Attorney for Department of Real Estate*

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 \* \* \*

12 DRE No. H-05839 SD

13 In the Matter of the Accusation against:

ACCUSATION

14 FERNANDO COTA,

15 Respondent.

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17  
18 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the  
19 Department of Real Estate ("Department") of the State of California, for cause of Accusation  
20 against FERNANDO COTA ("Respondent"), alleges as follows:

21 1. The Complainant, Veronica Kilpatrick, acting in her official capacity as a  
22 Supervising Special Investigator, makes this Accusation against Respondent.

23 2. Unless otherwise noted, all references to the "Code" are to the California  
24 Business and Professions Code, all references to the "Real Estate Law" are to Part 1 of Division  
25 4 of the Code, and all references to "Regulations" are to the Regulations of the Real Estate  
26 Commissioner, Title 10, Chapter 6, California Code of Regulations.

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1 STATEMENT OF FACTS

2 3. Respondent is presently licensed and/or has license rights under the Real Estate  
3 Law (Part 1 of Division 4 of the Code).

4 4. On April 24, 1996, the Department issued a real estate salesperson license to  
5 Respondent, License ID 01208320. Unless renewed, Respondent's license is scheduled to  
6 expire on May 21, 2028. Respondent has renewal rights pursuant to Code section 10201. The  
7 Department retains jurisdiction pursuant to Code section 10103.

8 5. During all times relevant herein, Respondent was a salesperson affiliated with  
9 broker West Edge, Inc. (License ID 01481919). The Independent Contractor Agreement  
10 between Respondent as salesperson, and West Edge, Inc. as broker specifically prohibited  
11 property management activities by Respondent.

12 6. The Department received a complaint from M.M.<sup>1</sup> against Respondent regarding  
13 real property located at 715 Paso De Luz #208, Chula Vista, California 91911 ("subject  
14 property").

15 7. On or about November 20, 2022, an Exclusive Listing Agreement to sell the  
16 subject property was entered into between the seller ("B.C.T."), West Edge, Inc. as broker for  
17 the seller, and Respondent as the salesperson and agent.

18 8. On or about November 20, 2022, Respondent listed the subject property for sale.  
19 Multiple offers were made for the purchase of the subject property. There is an ongoing dispute  
20 between M.M. and B.C.T. as to who is the legal owner of the subject property.

21 9. M.M. alleged, in their complaint to the Department, that Respondent and West  
22 Edge, Inc. dba Coldwell Bank West, listed the subject property for rent, rented the subject  
23 property to tenants, and collected rents from tenants for the subject property without M.M.'s  
24 authority. M.M. has demanded the trust funds including rent payments for the subject property  
25 from the Respondent and West Edge, Inc.

26 \_\_\_\_\_  
27 <sup>1</sup> Initials are used in place of individuals' full names to protect their privacy. Documents containing individuals' full names will be provided during the discovery phase of this case to Respondent(s) and/or their attorneys, after service of a timely and proper request for discovery on Complainant's counsel.

1           10.     The Department investigated the complaint and discovered the facts described  
2 below.

3           11.     During the previous three-year period, Respondent solicited, offered to perform,  
4 and performed property management activities for the subject property including, but not  
5 limited to, leasing or renting or offering to lease or to rent or soliciting prospective tenants for  
6 the subject property and collecting rents from real property or improvements thereon.

7           12.     Respondent's affiliated broker at the time asserts that they were not aware of or  
8 supervised Respondent's property management activities for the subject property.

9           13.     On or about December 14, 2022, the Respondent listed the subject property for  
10 rent for \$2,700.00.

11          14.     The Department requested that Respondent provide a copy of the property  
12 management agreement for the subject property. Respondent failed to provide any property  
13 management agreement.

14          15.     Respondent provided the Department with a Residential Lease for the subject  
15 property for the period from January 1, 2023, through January 30, 2024, between lessor, B.C.T.,  
16 and tenant, C.R. The monthly rent was \$2,700.00 and the security deposit was \$3,375.00.

17          16.     Respondent collected trust funds (including a security deposit and rent  
18 payments) from tenant C.R. for the subject property through Respondent's personal bank  
19 account. Respondent accepted or collected trust funds on behalf of the lessor of the subject  
20 property and failed to deliver the funds to Respondent's affiliated broker or deposit the trust  
21 funds in the broker's trust fund account, in violation of Code section 10145, subdivision (c).

22          17.     Respondent remitted the rent payments to B.C.T. minus ten percent (10%) of the  
23 rent collected, which was charged, collected, and withheld by Respondent as compensation for  
24 his property management activities, in violation of Code section 10137.

25          18.     On or about December 13, 2023, the Respondent listed the subject property for  
26 rent for \$2,800.00.

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1 Investigation and Enforcement Costs

2 25. Code section 10106 provides, in pertinent part, that in any order issued in  
3 resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner  
4 may request the administrative law judge to direct a licensee found to have committed a  
5 violation of this part to pay a sum not to exceed the reasonable costs of the investigation and  
6 enforcement of the case.

7 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this  
8 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action  
9 against all licenses and/or license rights of Respondent under the Real Estate Law (Part I of  
10 Division 4 of the Business and Professions Code), for the cost of investigation and enforcement  
11 as permitted by law, and for such other and further relief as may be proper under other  
12 provisions of law.

13 Dated October 22, 2024 at San Diego, California.

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15   
16 VERONICA KILPATRICK  
17 Supervising Special Investigator

18  
19 cc: Fernando Cota  
20 West Edge, Inc.  
21 Veronica Kilpatrick  
22 Sacto