

1 TRULY SUGHRUE, Counsel MAY 1 4 2019 State Bar No. 223266 2 Department of Real Estate DEPARTMENT OF REAL ESTATE P.O. Box 137007 3 Sacramento, CA 95813-7007 4 Telephone: (916) 576-8700 5 (916) 576-7847 (Direct) Fax: (916) 263-3767 6 7 8 BEFORE THE DEPARTMENT OF REAL ESTATE 9 STATE OF CALIFORNIA 10 In the Matter of the Accusation of 11 No. H-6457 SAC 12 FRAYBA TIPTON. FIRST AMENDED ACCUSATION 13 Respondent. 14 The Complainant, TRICIA D. PARKHURST, in her official capacity as a Supervising Special Investigator of the Department of Real Estate ("Department") of the State of 15 16 California, brings this Accusation against Respondent FRAYBA TIPTON ("Respondent"), and 17 is informed and alleges as follows: 18 1 19 Respondent is presently licensed and/or has license rights under the Real Estate 20 Law (Part 1 of Division 4 of the California Business and Professions Code) ("Code") as a real 21 estate broker. 22 23 On or about June 29, 2015, in the Superior Court of the State of California, 24 County of San Joaquin, Case No. SF116279, Respondent was convicted of violating Sections 550(A)(1) (Fraudulent Claim for Insurance Payment) and 118 (perjury) of the California Penal 25

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Code of Regulations (Regulations) to the qualifications, functions or duties of a real estate

Code, crimes which bear a substantial relationship under Section 2910, Title 10, of the California

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licensee. On or about May 3, 2019, the Court of Appeal of the State of California, Third Appellate District, affirmed the judgment, with limited clarification as to the fees and assessments imposed.

On or about May 26, 2015, in the Superior Court of the State of California, County of San Joaquin, Case No. SF120997, Respondent was convicted of two counts of Section 118(a) (perjury) of the California Penal Code, crimes which bear a substantial relationship under Section 2910, Title 10, of the California Code of Regulations (Regulations) to the qualifications, functions or duties of a real estate licensee. On or about August 29, 2018, the Court of Appeal of the State of California, Third Appellate District, affirmed the perjury convictions. On or about December 12, 2018, Respondent's petition for review by the California Supreme Court was denied.

At no time did Respondent provide notice of the bringing of an indictment, the charging of a felony, the conviction of Respondent of one or more misdemeanor and/or felony convictions, and/or any disciplinary action taken by another licensing agency, as required by Section 10186.2 of the Code.

GROUNDS FOR DISCIPLINE

The facts identified in paragraphs 2 and 3, constitutes cause under Sections 490 (conviction of crime) and 10177(b) (conviction of substantially related crime) for the suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

The facts alleged in paragraphs 2 through 4 constitute cause under Sections 10177(d) and 10186.2 of the Code for suspension or revocation of Respondent's license under the Real Estate Law.

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COST RECOVERY

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, the Commissioner may request the Administrative Law Judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

PRIOR DISCIPLINARY ACTION

Effective August 20, 2012, in Case No. H-5806 SAC before the Department, the Real Estate Commissioner publicly reproved the real estate broker license of Respondent, for violation of Section 10177(d) of the Code.

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 licenses and license rights of Respondent under the Code, for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under the provisions of law.

TRICIA D. PARKHURST Supervising Special Investigator

Dated at Sacramento, California,
this _______, day of _________, 2019

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DISCOVERY DEMAND

Pursuant to Sections 11507.6, et seq. of the Government Code, the Department of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the Administrative Procedure Act. Failure to provide Discovery to the Department of Real Estate may result in the exclusion of witnesses and documents at the hearing or other sanctions that the Office of Administrative Hearings deems appropriate.