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DEPARTMENT OF REAL ESTATE

By *Py dew*

1 ADRIANA Z. BADILAS, Counsel (SBN 283331)
2 Department of Real Estate
3 P. O. Box 137007
4 Sacramento, CA 95813-7007
5 Fax: (916) 263-3767
6 Telephone: (916) 576-8700
7 -or- (916) 576-5755 (Direct)

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:)
12) No. H-7133 SAC
13 JHL COMMERCIAL PROPERTIES,)
14 RICHARD JOHN MCDONALD)
15 and SCOTT S. HILL,) FIRST AMENDED
16) ACCUSATION
17 Respondents.)

17 The Complainant, TRICIA PARKURST, in her official capacity as a Supervising
18 Special Investigator of the State of California, Department of Real Estate (“Department”), brings
19 this Accusation against JHL COMMERCIA PROPERTIES (“JHL”) and RICHARD JOHN
20 MCDONALD (“MCDONALD”), and SCOTT S. HILL (“HILL”), (collectively “Respondents”),
21 and is informed and alleges as follows:

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23 JHL is presently licensed by the Department and/or has license rights under the Real
24 Estate Law, Part 1 of Division 4 of the California Business and Professions Code (“Code”), as a
25 corporate real estate broker, License No. 01030119.

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JHL became licensed as a corporate real state broker with the Department on June 6, 1989.

On or about March 30, 2005, real estate broker Lynn Scott became the designated officer for JHL. Mr. Scott remained JHL's designated officer until his passing on April 23, 2020.

JHL's corporate real estate broker license was expired from June 6, 2017 through December 3, 2020.

MCDONALD is presently licensed by the Department and/or has license rights under the Real Estate Law as a real estate broker, License No. 1939920. MCDONALD became the Broker Officer for JHL on December 4, 2021.

HILL is presently licensed by the Department and/or has license rights under the Real Estate Law as a real estate broker, License No. 01712865. HILL became licensed as a real estate broker on October 6, 2021.

At all relevant times, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate licensees within the State of California within the meaning of Section 10131(b) of the Code including the operation and conduct of a property management business with the public, wherein, on behalf of others, for compensation or in expectation of compensation, Respondents leased or rented or offered to lease or rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

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1 FIRST CAUSE OF ACTION
2 **(Misrepresentation, Fraud and Dishonest Dealings as to SCOTT)**

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4 Each and every allegation made in Paragraphs 1 through 7, inclusive, is incorporated
5 by reference as if fully set forth herein.

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7 On or about August 4, 2020, SCOTT submitted to the DRE a Corporate License
8 Application (“Application”) on behalf of JHL seeking renewal of JHL’s corporate real estate broker
9 license.

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11 In Section II of the Application, titled “Broker-Officer Information,” SCOTT
12 included the name of his then-deceased father Lynn S. Scott.

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14 Under the Officer Certification section of the Application, and again under the
15 Certification section of the Application, Lynn S. Scott signed the Application on or about April 20,
16 2020, three days prior to his death.

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18 On or about August 4, 2020, SCOTT submitted the Application to the DRE seeking
19 renewal of JHL’s corporate real estate broker license under the name of his deceased father Lynn S.
20 Scott.

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22 On August 4, 2020, at the time SCOTT submitted the Application to the DRE under
23 the name of Lynn S. Scott, SCOTT knew his father was deceased.

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25 The acts and/or omissions of SCOTT, as described above in the FIRST CAUSE OF
26 ACTION, constitute grounds for discipline pursuant to 10176(a), , 10176(i), 10177(a), 10177(d),
27 10177(g), and 10177(j) of the Code.

1 SECOND CAUSE OF ACTION
2 (Audit Violations as to JHL)

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4 Each and every allegation made in Paragraphs 1 through 14, inclusive, is
5 incorporated by reference as if fully set forth herein.

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7 From March 5, 2021 through November 4, 2021, the Department conducted an audit
8 of the real estate activities of JHL located at 194 Camino Oruga, Ste. 1, Napa, CA 94558. The
9 Department's auditor examined the business records of JHL for the period of July 1, 2018 through
10 February 28, 2021, ("audit period").

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12 While engaging in the real estate activities described above in Paragraph 5 and
13 within the audit period, JHL accepted or received funds in trust ("trust funds") and deposited or
14 caused the trust funds to be deposited into the following accounts:

15 **Trust Account #1:**

16 Bank Name: US Bank, N.A.
P.O. Box 1800, St. Paul, Minnesota 55101-0800.
17 Account No.: Last 4 Digits: 5965
18 Account Name: JHL Commercial Properties Client Trust, 10 executive
Signatories: Lynn S. Hill
Scott S. Hill
19 Description: Management of the ten (10) Executive Court properties for
20 one (1) owner. Deposits included owner contributions and
21 rents. Disbursements included payments for repair and
22 maintenance, management fees, leasing fees, and owner
proceeds.

23 **Bank Account #1:**

24 Bank Name: US Bank, N.A.
P.O. Box 1800, St. Paul, Minnesota 55101-0800.
25 Account No.: Last 4 Digits: 7935
Account Name: JHL Commercial
26 Signatories: Scott S. Hill
Description: Management for the property located at 25 Executive Court.
27 Despoils included owner contributions. Disbursements

1 included payments for repair and maintenance, and
2 management fees.

3 **Bank Account #2:**

4 Bank Name: US Bank, N.A.
P.O. Box 1800, St. Paul, Minnesota 55101-0800.
5 Account No.: Last 4 Digits: 7869
6 Account Name: JHL Commercial Properties
7 Signatories: Scott S. Hill
8 Description: Management for the properties located at 1621-1721 Action
Avenue. Deposits included rents. Disbursements included
9 payments from owner proceeds, repair and maintenance, and
10 management fees.

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12 In the course of the real estate activities described above in Paragraph 7, and during
13 the audit period, the following violations were discovered:

14 (a) JHL collected rents from properties owned by others for compensation and
15 otherwise acted as a real estate broker during the period in which the corporate broker license of
16 JHL was expired in violation of Section 10130 of the Code.

17 (b) Bank Account #1 and Bank Account #2, which were used to hold trust funds,
18 were not designated as trust accounts, with the broker as trustee, in violation of Section 10145 of the
19 Code, and Section 2832 of Chapter 6, Title 10, California Code of Regulations (“Regulations”); and

20 (c) Withdrawals of trust funds were made from Trust Account #1, Bank Account
21 # 1, and Bank Account #2 by Scott S. Hill, a salesperson not licensed under JHL, and without
22 having adequate fidelity bond or insurance coverage in violation of Section 10145 of the Coe and
23 Section 2834 of the Regulations.

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25 The acts and/or omissions of JHL, as described above in the SECOND CAUSE OF
26 ACTION, constitute grounds for discipline pursuant to 10130, 10145, 10177(d) and 10177(g) of the
27 Code, in conjunction with Sections 2832 of the Regulations.

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1 the agent/principal relationship, including, but not limited to the following duties: the duty of
2 reasonable care and skill, the duty of honesty, the duty of good faith and fair dealings, the duty of
3 loyalty, and duty of diligence.

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5 SCOTT breached his fiduciary duties by engaging in the acts and/or omissions
6 described above in the FIRST CAUSE OF ACTION.

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8 JHL breached its fiduciary duties by engaging in the acts and/or omissions described
9 above in the SECOND CAUSE OF ACTION.

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11 MCDONALD breached his fiduciary duties by engaging in the acts and/or omissions
12 described above in the THIRD CAUSE OF ACTION.

13 AUDIT COSTS

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15 The acts and/or omissions of Respondents as alleged above, entitle the Department
16 to reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund
17 violations) of the Code.

18 COST OF INVESTIGATION AND ENFORCEMENT

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

24 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
25 this First Amended Accusation and that upon proof thereof, a decision be rendered revoking all
26 licenses and license rights of Respondents under the Real Estate Law, for the cost of investigation

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1 and enforcement as permitted by law, for the cost of the audit as permitted by law, and for such
2 other and further relief as may be proper under other provisions of law.

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5 TRICIA PARKHURST
6 Supervising Special Investigator

7 Dated at Sacramento, California,
8 this 17th day of January, 2023.

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10 DISCOVERY DEMAND

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