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DEPARTMENT OF REAL ESTATE
By J. Taggart

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

12 In the Matter of the Accusation of)
13 DARWIN ASHLEY GREENWELL,) No. H-12613 SF
14 Respondent.) ACCUSATION

16 The Complainant, STEPHANIE YEE, a Supervising Special Investigator of the
17 State of California, for Accusation against Respondent DARWIN ASHLEY GREENWELL
18 (GREENWELL), sometimes Respondent, is informed and alleges as follows:

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20 The Complainant makes this Accusation against Respondent in her official
21 capacity.

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23 At all times herein mentioned, Respondent was and is presently licensed and/or
24 has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and
25 Professions Code (the Code), by the Department of Real Estate (Department) as a real estate
26 broker doing business as Greenwell Realty.

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2 At all times mentioned, Respondent engaged in the business of, acted in the
3 capacity of, advertised or assumed to act as a real estate broker in the State of California,
4 within the meaning of Section 10131(a) of the Code, including the operation and conduct of a
5 residential resale brokerage wherein Respondent bought, sold, or offered to buy or sell, solicited
6 or obtained listings of, and negotiated the purchase, sale or exchange of real property or business
7 opportunities, all for or in expectation of compensation.

8 4

9 On or about May 10, 2019, GREENWELL entered into a listing agreement with
10 Emil Lee and Stephanie Slater (Sellers) for that certain real property commonly known as 238
11 Westvale Court, San Ramon, California. (Westvale Property)

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13 Since the Westvale Property needed repairs to make it marketable,
14 GREENWELL suggested that he could act as foreman for a general contractor, TRUE SPEX,
15 which he recommended to do construction work on the Westvale Property.

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17 Sellers agreed to allow TRUE SPEX, with GREENWELL acting as the foreman,
18 to do the construction work on their property. GREENWELL promised that the construction
19 work would be capped at \$75,000 and guaranteed that any amount over the \$75,000, would be
20 deducted from his commission. These terms are incorporated in the Listing Agreement.

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22 The construction work took longer than expected, in part due to GREENWELL
23 delaying obtaining the building permit. Beginning on or about September 19, 2019, after Sellers
24 had paid \$75,000 in construction costs, GREENWELL demanded payment of additional
25 amounts. Sellers refused to pay the additional amounts citing their agreement to cap the costs at
26 \$75,000.

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2 On or about October 13, 2019, GREENWELL advised Sellers that he was
3 withholding an offer to purchase the Westvale Property because Sellers had not met his payment
4 demands, beyond the \$75,000.

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6 On or about October 15, 2019, Sellers paid GREENWELL an additional \$20,000
7 for construction work. GREENWELL provided an offer on or about October 15, 2019, after
8 receipt of the \$20,000. However, the offer had expired on October 13, 2019. At no time did
9 GREENWELL advise Sellers about the expiration date.

10
11 Sellers have paid \$103,279.65 on construction work for their house.
12 GREENWELL has failed to provide a detailed accounting to Sellers and has failed to honor the
13 contract which provides for a reduction in his commission for amounts over \$75,000. The
14 Westvale Property ultimately sold.

15
16 The representations made by GREENWELL were false, and Respondent knew
17 that they were false when those representations were made. The true facts were that he did not
18 intend to reduce his commission by the amount over the \$75,000 cap on construction, that he
19 was not experienced or competent in overseeing construction projects and he paid TRUE SPEX
20 to use its contractors license while it did not work on the property, and that Respondent made
21 these misrepresentations to obtain over \$100,000 above and beyond the commission for the
22 transaction.

23
24 The facts alleged above are violations of Sections 10176(a) (substantial
25 misrepresentation), 10176(b) (making false promises to influence, persuade or induce), 10176(c)
26 (continued flagrant course of misrepresentation), 10176(i) (other conduct involving fraud or
27 dishonest dealing) and are grounds for the suspension or revocation of the licenses and license

1 rights of Respondent under Sections 10176(a), 10176(b), 10176(c), 10176(i), 10177(d) (violate
2 real estate laws), 10177(g) (negligence/incompetence licensee), and 10177(j) (conduct
3 constitutes fraud/dishonest dealing) of the Code.

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

10 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
11 of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary
12 action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of
13 Division 4 of the Business and Professions Code), and for such other and further relief as may be
14 proper under other provisions of law.

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18 STEPHANIE YEE
19 Supervising Special Investigator

20 Dated at Oakland, California,
21 this 17th day of August, 2022.

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23 DISCOVERY DEMAND

24 The Department of Real Estate hereby requests discovery pursuant to Section
25 11507.6 of the California Government Code. Failure to provide discovery to the Department
26 may result in the exclusion of witnesses and/or documents at the hearing, and other sanctions as
27 the Administrative Law Judge deems appropriate.