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**DEPT. OF REAL ESTATE**  
By *Adrian C. Garcia*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

In the Matter of the Accusation against

DRE No. H-41347 LA

11 TONY ROMAN HERNANDEZ,  
12 ROBERT ELDON HOLT, and  
MICHAEL ANGELO BARRAGAN,  
13 individually and as designated officer of  
Ameripride Properties, Inc.,

ACCUSATION

14 Respondents.

15  
16 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the  
17 Department of Real Estate ("Department") of the State of California, for cause of Accusation  
18 against TONY ROMAN HERNANDEZ, ROBERT ELDON HOLT, and MICHAEL ANGELO  
19 BARRAGAN, individually and as designated officer for Ameripride Properties, Inc.,  
20 (collectively "Respondents"), alleges as follows:

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

23 2. All references to the "Code" are to the California Business and Professions Code, all  
24 references to the "Real Estate Law" are to Part 1 of Division 4 of the Code, and all references to

1 "Regulations" are to the Regulations of the Real Estate Commissioner, Title 10, Chapter 6,  
2 California Code of Regulations.

3 3. Respondents are presently licensed and/or have license rights under the Real Estate  
4 Law (Part 1 of Division 4 of the Code).

5 Licenses

6 4. Respondent TONY ROMAN HERNANDEZ ("Respondent HERNANDEZ") has been  
7 licensed by the Department as a real estate salesperson, License ID 01302744, from March 14,  
8 2001 through the present.

9 5. Respondent ROBERT ELDON HOLT ("HOLT") has been licensed by the  
10 Department as a real estate broker, License ID 00554017, from on or about November 26, 1976,  
11 through the present.

12 6. Respondent MICHAEL ANGELO BARRAGAN ("BARRAGAN") has been licensed  
13 by the Department as a real estate broker, License ID 01179436, from March 10, 2009, through  
14 the present. Respondent BARRAGAN holds a Mortgage Loan Originator ("MLO") license  
15 endorsement, National Mortgage Licensing System and Registry No. 1004099.

16 Prior Discipline

17 7. Respondent HERNANDEZ is the son of former Department licensee, Tony Moreno  
18 Hernandez.

19 8. Tony Moreno Hernandez was licensed by the Department as a real estate salesperson  
20 (License ID 01078411) from on or about June 7, 1990 through February 7, 2014.

21 9. On May 23, 2013, the Department filed an Accusation in Case No. H-38886 LA  
22 against Tony Moreno Hernandez, formerly known as Antonio Hernandez.

23 10. The Accusation in Case No. H-38886 LA alleged cause for discipline pursuant to  
24 Code sections 10177, subdivisions (d), (g), or (j), for violation of Code section 10130.

1           11. The Accusation in Case No. H-38886 LA alleged that while Tony Moreno  
2 Hernandez was licensed as a real estate salesperson, he engaged in and received compensation  
3 for property management activities using the fictitious business name, "Villamar Property  
4 Management", without broker supervision. Tony Moreno Hernandez, failed to return security  
5 deposits owed to property owners, charged owners for repairs that were not completed or  
6 overcharged owners for repairs, and failed to provide accountings to owners.

7           12. Villamar Property Management used a business office located at 12220 Pigeon Pass,  
8 Suite D, Moreno Valley, California.

9           13. On August 28, 2013, the Department filed an Order to Desist and Refrain ("D&R")  
10 against Tony Moreno Hernandez, doing business as Villamar Property Management, in Case No.  
11 H-39017 LA.

12           14. The D&R ordered Tony Moreno Hernandez, to desist and refrain from engaging in  
13 property management activities for a fee, individually, and under any fictitious business name,  
14 unless and until he obtained a broker license or the license required from the Department.

15           15. On September 30, 2013, Tony Moreno Hernandez signed an acknowledgment of  
16 receipt of the Department's D&R Order in Case No. H-39017 LA.

17           16. Tony Moreno Hernandez surrendered his real estate salesperson license effective  
18 February 7, 2014, in Department Case No. H-38886 LA.

19           17. Tony Moreno Hernandez was formerly licensed under the employment of  
20 Respondent BARRAGAN from November 15, 2012 through February 6, 2014.

21           18. Respondent TONY ROMAN HERNANDEZ was licensed under the employment of  
22 Respondent BARRAGAN from December 18, 2012 through May 30, 2018.

23 ///

24

Audit SD 170051, SD 170053 & SD 170055

19. On July 13, 2018, the Department completed an audit examination of the books and records of Respondent BARRAGAN's real estate activities that require a real estate broker license under Code section 10131.

20. The audit examination covered the time from January 1, 2017 through April 30, 2018 ("audit period").

21. The purpose of the audit examination was to determine whether Respondent BARRAGAN handled and accounted for trust funds and conducted real estate activities in accordance with the Real Estate Law and the Commissioner's Regulations.

22. Respondent BARRAGAN, Respondent TONY ROMAN HERNANDEZ (BARRAGAN's branch manager), Alex Piaz (BARRAGAN's accountant), and Vanessa Barreras (BARRAGAN'S escrow officer) provided BARRAGAN's records to the Department's auditor.

23. During the audit period, Respondent BARRAGAN maintained a branch office located at 12220 Pigeon Pass Road, Suite T, Moreno Valley, California.

24. After the audit period, Respondent BARRAGAN removed the branch office from his license effective May 31, 2018.

25. Audit SD 170053 was limited to BARRAGAN's broker escrow activities.

26. Audit SD 170055 was limited to BARRAGAN's real estate sales activities.

27. According to BARRAGAN, he did not perform property management activities. No records or documents related to the property management activities were provided by Respondent BARRAGAN during the audit examination.

28. Audit SD 170051 was limited to the documents regarding property management services provided by Villamar Property Management, which were submitted to the Department

1 by property owner/complainant A.W.<sup>1</sup>

2 29. On August 16, 2012, Respondent BARRAGAN filed or caused to be filed a  
3 Fictitious Business Name Statement with the San Bernardino County Recorder – Clerk’s office  
4 for use of “Villamar Properties” as a fictitious business name.

5 30. Respondent BARRAGAN was licensed to do business as “Villmar Properties” from  
6 August 28, 2012 through May 31, 2018. Respondent removed this fictitious business name from  
7 his license effective May 31, 2018.

8 31. According to Respondent BARRAGAN, during the audit period, he conducted  
9 broker-controlled escrows under the exemption set forth in California Financial Code section  
10 17006(a)(4) for real estate brokers performing escrows incidental to a real estate transaction  
11 where the broker was a party and where the broker was performing acts for which a real estate  
12 license is required.

13 32. According to Respondent BARRAGAN, during the last two months of the audit  
14 period, he performed broker-escrow activities under the fictitious business name, “Ameripride  
15 Properties, Inc.” (“API”), not under BARRAGAN’s personal name.

16 33. Respondent BARRAGAN was not licensed to do business as API during the audit  
17 period. Respondent BARRAGAN was licensed to do business as Ameripride Properties since  
18 December 9, 2009.

19 34. According to Respondent BARRAGAN, he closed 33 escrow transactions during the  
20 audit period.

21 35. BARRAGAN maintained two (2) bank accounts for handling the receipts and  
22 disbursements of trust funds in connection with broker escrow activities during the audit period.

23  
24 <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. See Second Cause of Accusation.

1           36. According to Respondent BARRAGAN, he closed 58 real estate transactions and did  
2 not collect earnest money deposits (“EMDs”) during the last twelve months of the audit period  
3 (May 1, 2017 to April 30, 2018). Respondent BARRAGAN did not maintain a trust account and  
4 did not maintain a columnar record of trust funds received, not placed in broker’s trust account,  
5 in connection with Respondent BARRAGAN’s sales activities during the audit period. EMDs  
6 were held and delivered directly to escrow by the buyers in connection with the real estate sales  
7 activities.

8           37. According to Respondent BARRAGAN, he maintained the following bank accounts  
9 for handling the receipts and disbursements of trust funds in connection with BARRAGAN’s  
10 broker escrow activities during the audit period:

11           38.     Bank Account #1 (B/A 1)

12           Bank:                   JP Morgan Chase Bank

13           Account Name:       Michael Barragan DBA Ameripride Properties

14           Account #:               xxxxx5314

15           Signatories:           BARRAGAN

16           Signature(s) needed: One

17           Description:         B/A 1 was maintained for handling the receipts and disbursements  
18 of trust funds for multiple beneficiaries in connection with BARRAGAN’s broker escrow  
activities.

19           39.     Bank Account #2 (B/A 2)

20           Bank:                   Citizens Business Bank

21           Account Name:       Ameripride Properties, Inc.

22           Account #:               xxxxx8401

23           Signatories:           BARRAGAN, Dieter Dammeier (real estate broker (“REB”)  
24 ID 01968727), Robert Adams (REB ID 00999019), Kenneth  
Rolland Pollich (REB 01886173)

1 Signature(s) needed: One

2 Description: B/A 2 was maintained for handling the receipts and disbursements  
3 of trust funds for multiple beneficiaries in connection with BARRAGAN's broker escrow  
4 activities. According to BARRAGAN, B/A 2 was opened on February of 2018.  
5

6 40. The audit examination revealed violations of the Code and the Regulations as set  
7 forth in the following paragraphs, and more fully discussed in Audit Report SD 170051, SD  
8 170053 & SD 170055 and the exhibits and work papers attached to said audit report.

9 Violations

10 41. In the course of its broker escrow activities during the audit examination period of  
11 January 1, 2017 through April 30, 2018, Respondent BARRAGAN acted in violation of the  
12 Code and the Regulations as follows:

13 Issue 1. Code section 10145 and Regulations 2832.1, 2950(g), 2951. Trust fund handling for  
14 multiple beneficiaries/broker handled escrow.

15 42. Bank reconciliations were prepared for B/A 1 in connection with BARRAGAN's  
16 broker escrow activities with cut-off dates of April 30, 2018. The adjusted bank balance was  
17 compared to the aggregate balance of the separate beneficiary records (accountability). As of  
18 April 30, 2018, there was a shortage in B/A 1 of <\$13,984.35>. Respondent BARRAGAN  
19 failed to provide any evidence that the owners of the trust funds had given their written consent  
20 to allow BARRAGAN to reduce the balance of the funds in B/A 1 to an amount less than the  
21 existing aggregate trust fund liabilities, in violation of Code section 10145 and Regulations  
22 2832.1, 2950(g), and 2951.  
23  
24

1 43. BARRAGAN cured the shortage by making the following transfer of funds from  
2 BARRAGAN's general operating bank account into B/A 1: \$10,700.35 on May 16, 2018,  
3 \$1,000.00 on May 22, 2018, and \$2,284.00 on June 5, 2018.

4 44. The shortage was due to the following causes:

5 <u>Cause</u>	<u>Amount</u>
6 Negative balance of escrow account	<\$ 1.00>
7 Bank service charges	\$<\$2,283.00>
8 Commingling of trust funds into general account #7956	<\$ 1,000.00>
9 Conversion of trust funds/unauthorized disbursements	<\$10,700.35>
10	TOTAL <13,984.35>
11 *Unidentified/unaccounted for funds held in B/A 1	\$3,135.30

12  
13 45. B/A 2 was in balance as of April 30, 2018.

14 Issue 3<sup>2</sup>. Code section 10145 and Regulations 2831, 2950(d), and 2951. Trust fund records to  
15 be maintained/broker handled escrow.

16 46. During the audit period, the control record (receipts and disbursements) maintained  
17 for B/A 1 (which was used for handling the receipts and disbursements of trust funds in  
18 connection with BARRAGAN's broker escrow activities) was inaccurate and incomplete, in  
19 violation of Code section 10145 and Regulations 2831, 2951, and 2950, subdivision (d). Some  
20 receipts were deposited into B/A 1, but were not recorded on the control record (receipts report).  
21 Examples include the following, without limitation:

22 <u>Date Deposited</u>	<u>Amount</u>	<u>Escrow No.</u>
23 01/13/2017	\$1,000.00	AP-2058

24 \_\_\_\_\_  
<sup>2</sup> Issue Two skipped intentionally.

1	02/06/2017	\$1,446.63	AP-2046
2	08/17/2017	\$1,230.65	AP-2049
3	12/26/2017	\$ 837.50	AP-2092

4

5           47. In addition, some receipts were recorded on the control record (receipts report) but  
6 were not deposited into B/A 1. Examples include the following, without limitation:

7	<u>Date Deposited</u>	<u>Amount</u>	<u>Escrow No.</u>
8	06/01/2017	\$1,000.00	AP-2071
9	01/17/2018	\$1,000.00	AP-2096
10	02/28/2018	\$ 580.26	AP-2092

11

12           48. Moreover, some check numbers were recorded incorrectly on the control record  
13 (disbursements report) of B/A 1. Examples include the following, without limitation:

14	<u>Check No. Recorded</u>	<u>Correct Check No.</u>	<u>Check Date</u>	<u>Amount</u>	<u>Escrow No.</u>
15	16025	6017	01/09/2017	\$6,480.46	AP-2052
16	16026	6018	01/09/2017	\$ 495.76	AP-2052
17	16027	6019	01/09/2017	\$ 114.00	AP-2052
18	16028	6020	01/09/2017	\$ 325.00	AP-2052

19

20 Issue 4. Code section 10145 and Regulations 2831.1, 2951, and 2950(d). Separate records for  
21 each beneficiary or transaction/broker handled escrows.

22           49. During the audit period, the separate records maintained for B/A 1 were inaccurate  
23 and incomplete, in violation of Code section 10145 and Regulations 2831.1, 2951, and 2950,  
24 subdivision (d). Some receipts were deposited into B/A 1 but were not recorded on the separate

1 records. In addition, some receipts were recorded on the separate records but were not deposited  
2 into B/A 1. Moreover, some check numbers were recorded incorrectly on the separate records.  
3 Examples of the inaccuracies include the examples noted above in Paragraphs 46 through 48,  
4 above.

5 50. Furthermore, BARRAGAN filed to maintain a separate record for the  
6 “unidentified/unaccounted for funds” held in B/A 1 totaling \$3,135.30 as of April 30, 2018.

7 Issue 5. Code section 10145 and Regulations 2831.2, 2951, and 2950(d). Trust account  
8 reconciliation/ broker handled escrows.

9 51. During the audit period, Respondent BARRAGAN failed to maintain the monthly  
10 reconciliation of all separate records to the control record of all trust funds received and  
11 disbursed B/A 1, in violation of Code section 10145 and Regulations 2831.2, 2951, and 2950,  
12 subdivision (d).

13 52. In addition, Respondent BARRAGAN failed to reconcile the  
14 “unidentified/unaccounted for funds” held in B/A 1 totaling \$3,135.30 as of April 30, 2018.  
15 Issue 6(a). Code section 10145(a) and Regulations 2832 and 2951. Trust fund handling/Trust  
16 account designation/broker handled escrows.

17 53. Based on an examination of the bank signature card for B/A 1, B/A 1 was not  
18 designated as a trust account, in violation of Code section 10145(a) and Regulations 2832 and  
19 2951.

20 54. Based on an examination of the bank signature card for B/A 2, B/A 2 was not set up  
21 in the name of BARRAGAN or BARRAGAN’s licensed fictitious business names, “Villmar  
22 Properties” or Ameripride Properties”, in violation of Code section 10145 and Regulations 2832  
23 and 2951. B/A 2 was set up in the name of “Ameripride Properties, Inc.”  
24

1 Issue 6(b). Code section 10145(a) and Regulations 2832, 2950(f), and 2951. Trust fund  
2 handling/Trust account designation/broker handled escrows.

3 55. BARRAGAN collected trust funds in connection with his broker escrow activities  
4 and failed to place the trust funds into B/A 1 within the next business day of receipt of funds, in  
5 violation of Code section 10145(a) and Regulations 2832, 2950(f), and 2951.

6 56. Examples include the following, without limitation:

<u>Date Received</u>	<u>Amount</u>	<u>Dated Deposited</u>	<u>Escrow No.</u>
03/31/2017	\$3,000.00	04/10/2017	AP-2063
04/03/2017	\$2,500.00	04/10/2017	AP-2065
05/02/2017	\$1,000.00	06/08/2017	AP-2067
05/30/2017	\$3,000.00	06/08/2017	AP-2070

12  
13 Issue 7. Code sections 10145, 10176(e), and Regulation 2950(g). Commingling/mishandling of  
14 trust funds/broker handled escrows.

15 57. During the audit period, BARRAGAN commingled escrow trust funds with his own  
16 personal funds and with his company's general funds by transferring and depositing trust funds  
17 from B/A 1 into BARRAGAN's general business account (#XXXXX7956) ("B/A 3"), without  
18 authorization, in violation of Code sections 10145, 10176, subdivision (e), and Regulation 2950,  
19 subdivision (g).

20 58. Examples include the following, without limitation:

<u>Date Received</u>	<u>Amount</u>
06/22/2017	\$ 8,000.00
06/22/2017	\$ 2,700.00

24

1           Total                           \$10,700.00  
2           01/19/2018                   \$ 1,000.00 (escrow #AP-2096)

3  
4 Issue 8. Code sections 10145, 10176(i) or 10177(j). Conversion of trust funds/unauthorized  
5 disbursements/withdrawing escrow funds without written instructions from parties/mishandling  
6 of trust funds/broker handled escrows.

7           59. On June 22, 2017, escrow trust funds in the amount of \$10,700.35 were transferred  
8 without authorization from B/A 1 to BARRAGAN's general business account B/A 3, which  
9 were used for BARRAGAN's personal and general business activities. Said trust funds were  
10 converted because the balance of B/A 3 was reduced to an amount that was less than the amount  
11 of trust funds deposited into B/A 3. The balance of B/A 3 went as low as \$2,111.02 on August 8,  
12 2017, \$3,102.08 on November 20, 2017, and \$2,792.97 as of April 30, 2018. Said acts are in  
13 violation of Code sections 10145, 10176, subdivision (i) or 10177, subdivision (j).

14           60. According to Respondent BARRAGAN and a letter from JP Morgan Chase Bank,  
15 BARRAGAN did not authorize the transfer of funds totaling \$10,700.35 on June 22, 2017 from  
16 B/A 1 to B/A 3. BARRAGAN stated that the transfers were made due to fraudulent activities  
17 and multiple unauthorized transactions/purchases made from B/A 3 after the transfer of funds  
18 were made into B/A 3. JP Morgan Chase Bank reimbursed the unauthorized transactions/  
19 purchases into B/A 3 on June 28, 2017. However, BARRAGAN stated that he forgot to transfer  
20 the trust funds totaling \$10,700.35 back into B/A 1.

21 Issue 9. Code section 10141.6. Notification of escrow activities.

22           61. During the audit period, BARRAGAN met the escrow threshold for the calendar year  
23 ending in December of 2017 by conducting five or more transactions in the 2017 calendar year  
24 and the dollar volume of escrowed transactions exceeded \$1,000,000.00 in the 2017 calendar

1 year. However, Respondent BARRAGAN failed to submit the Escrow Activity Report (RE 890)  
2 which was due within sixty (60) days after the end of the 2017 calendar year, in violation of  
3 Code section 10141.6.

4 62. According to BARRAGAN, he submitted the Escrow Activity Report (RE 890) to  
5 the Department on May 23, 2018.

6 Issue 10. Code section 10161.8. Salesperson Employment and Termination/broker-associates.

7 63. During the audit period, Respondent BARRAGAN failed to notify the Department of  
8 the employment of the following broker-associates:

<u>Name</u>	<u>REB ID No.</u>	<u>Employment Date</u>
Dieter Dammeier	01968727	01/06/2018
Kenneth R. Pollich <sup>3</sup>	01886173	01/12/2018
Robert L. Adams, Jr.	00999019	01/12/2018
Orlando D. Montero	01273733	03/21/2018
Javier E. Suarez	01452518	07/01/2011

15  
16 Issue 11. Code section 10164. Appointment of branch or division managers.

17 64. Respondent BARRAGAN appointed real estate salesperson, Respondent TONY  
18 ROMAN HERNANDEZ, as a branch manager of BARRAGAN's branch office located at 12220  
19 Pigeon Pass Road, Suite T, Moreno Valley, California. BARRAGAN delegated the day-to-day  
20 supervision, oversight responsibility, and supervision of clerical staff employed by BARRAGAN  
21 to TONY ROMAN HERNANDEZ. During the audit period, Respondent BARRAGAN failed to  
22 notify the Department of the appointment of branch manager TONY ROMAN HERNANDEZ,  
23 in violation of Code section 10161.8.

24  
<sup>2</sup> Kenneth R. Pollich became licensed as a real estate broker on April 5, 2018.

1           65. According to BARRAGAN, he signed a Branch or Division Manager Appointment  
2 form (RE 242) for TONY ROMAN HERNANDEZ on March 2, 2016, but BARRAGAN forgot  
3 to submit it to the Department.

4 Issue 12. Code section 10159.5 and Regulation 2731. Use of unlicensed false or fictitious name.

5           66. During the audit period, Respondent BARRAGAN used the unlicensed fictitious  
6 business name, "Ameripride Properties, A Non-Independent Broker Escrow" in connection with  
7 broker escrow activities without first obtaining a license bearing the fictitious name, from the  
8 Department, in violation of Code section 10159.5 and Regulation 2731. BARRAGAN also used  
9 the unlicensed fictitious name, "Ameripride Properties, Inc." in connection with broker escrow  
10 activities during the audit period.

11           67. In one of the sample real estate sales files examined during the audit examination,  
12 BARRAGAN used the unlicensed fictitious business name, "Villamar Property Management" in  
13 connection with real estate sales activities during the audit period, without having a license  
14 bearing the fictitious business name, from the Department. Villamar Property Management  
15 appeared on the purchase agreement and Possible Representation of More than One Buyer or  
16 Seller form in the sale of property located at 21701 Calle Prima, Moreno Valley, California. The  
17 selling and listing agent was Respondent TONY ROMAN HERNANDEZ.

18 Issue 13. Code section 10163 and Regulation 2715. Branch offices/business and mailing  
19 addresses.

20           68. During the audit period, Respondent BARRAGAN used the unlicensed branch office  
21 located at 8311 Haven Avenue, Rancho Cucamonga, California ("Haven Ave."), in connection  
22 with broker escrow activities, in violation of Code section 10163 and Regulation 2715.

23           69. The Haven Ave. office address appeared on trust funds checks of B/A 2.  
24

1 70. During the audit period, Respondent BARRAGAN used the unlicensed branch office  
2 located at 12220 Pigeon Pass Rd., Suite U, Moreno Valley, California ("Pigeon Pass, Suite U"),  
3 in connection with real estate sales activities, in violation of Code section 10163 and Regulation  
4 2715.

5 71. The Pigeon Pass, Suite U office address was used on various documents for real  
6 estate sales transactions including, but not limited to, the following: 21701 Calle Prima, Moreno  
7 Valley, California; 440 W. 5<sup>th</sup> Street, San Jacinto, California; 16532 Spirit Road, Moreno,  
8 Valley, California,; and 14810 Rosemary Ave., Moreno Valley, California.

9 72. Some of the documents for the afore-mentioned real estate sales transactions listed  
10 BARRAGAN's address as 12220 Pigeon Pass Rd., Suite D, Moreno Valley, California.

11 Issue 14. Code section 10086(a) and Financial Code section 17006(a)(4). Engaging in  
12 prohibited activity/exemptions from Escrow Law.

13 73. During the audit period, Respondent BARRAGAN acted as the escrow agent in three  
14 (3) transactions for which he was not a party, in violation of Code section 10086(a) and Financial  
15 Code section 17006(a)(4). The transactions are listed below:

<u>Escrow No.</u>	<u>Date Escrow Closed</u>	<u>Type of Transaction</u>
AP-2058	03/20/2017	Mortgage loan
AP-2096	02/07/2018	Real estate investment
AP-2092	12/19/2017	Real estate sale

18  
19 Issue 15. Code section 10177(h) and Regulation 2725. Broker supervision.

20 74. Respondent BARRAGAN failed to adequately supervise the activities of his  
21 salespersons, employees, or agents and failed to establish policies, rules, procedures, and systems  
22 to review, oversee, inspect, and manage transactions requiring a real estate license and the  
23 handling of trust funds, in violation of Code section 10177(h) and Regulation 2725.

24

1 Issue 16. Code sections 10137 and 10130. Unlawful employment or payment of  
 2 compensation/license required/real estate broker license.

3 75. Based on an examination of sampled real estate sales files, Respondent TONY  
 4 ROMAN HERNANDEZ, obtained listings, negotiated the purchase and sale of real properties,  
 5 and acted as a real estate broker having the entire real estate sales commissions for each of the  
 6 transactions paid directly from the independent escrow companies to TONY ROMAN  
 7 HERNANDEZ through "Villamar Properties" or "Villamar Property Management" and not  
 8 through Respondent BARRAGAN, TONY ROMAN HERNANDEZ's employing broker. The  
 9 real estate sales files contained no evidence that Respondent BARRAGAN had given written  
 10 instructions to the escrow companies to pay the commissions directly to Respondent TONY  
 11 ROMAN HERNANDEZ. The sales commission instructions signed by TONY ROMAN  
 12 HERNANDEZ directed the escrow companies to pay the commissions to "Villamar Properties"  
 13 ("VP") or "Villamar Property Management" ("VPM"). The sample transactions are below:

<u>Property</u>	<u>Commission Amount</u>	<u>Paid To</u>	<u>Check No.</u>	<u>Escrow No.</u>
21701 Calle Prima, Moreno Valley	\$8,475.00	VPM	349968	46485-SD
21701 Calle Prima, Moreno Valley	\$8,475.00	VPM	349969	46485-SD
440 W. 5 <sup>th</sup> Street, San Jacinto	\$4,940.00	VP	35490	17860KS
16532 Spirit Road, Moreno, Valley	\$8,500.00	VP	012391	17-20410-MB
14810 Rosemary Ave., Moreno Valley	\$6,300.00	VP	013301	18-20567-MB

18 76. The conduct of Respondent BARRAGAN as described above in Paragraphs 41  
 19 through 75, violated the Code and the Regulations as set forth below:

<u>ISSUE</u>	<u>PROVISIONS VIOLATED</u>	<u>PARAGRAPH</u>
1	Code section 10145 and Regulations 2832.1, 2950(g), and 2951	42-44
3	Code section 10145 and Regulations 2831, 2950(d), and 2951	46-48
4	Code section 10145 and Regulations 2831.1, 2950(d), and 2951	49-50

1	<u>ISSUE</u>	<u>PROVISIONS VIOLATED</u>	<u>PARAGRAPH</u>
2	5	Code section 10145 and Regulations 2831.2, 2950(d), and 2951	51-52
3	6(a)	Code section 10145(a) and Regulations 2832 and 2951	53-54
4	6(b)	Code section 10145(a) and Regulations 2832, 2950(f), and 2951	55-56
5	7	Code sections 10145, 10176(e), and Regulation 2950(g)	57-58
6	8	Code sections 10145, 10176(i), or 10177(j)	59-60
7	9	Code section 10141.6	61-62
8	10	Code section 10161.8	63
9	11	Code section 10164	64-65
10	12	Code section 10159.5 and Regulation 2731	66-67
11	13	Code section 10163 and Regulation 2715	68-72
12	14	Code section 10086(a) and Financial Code section 17006(a)(4)	73
13	15	Code section 10177(h), and Regulation 2725	74
14	16	Code sections 10137 and 10130	75

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16       77. The foregoing violations constitute cause for the suspension or revocation of the real  
17 estate licenses, license rights and MLO endorsement of Respondent BARRAGAN under the  
18 provisions of Code section 10176, subdivisions (e) and (i), and Code section 10177,  
19 subdivisions (d), (j), (h), and/or (g).

20       78. The violation of Code sections 10130 and 10137 as set forth in Paragraph 75 above,  
21 constitute cause for the suspension or revocation of the real estate licenses and license rights and  
22 MLO endorsement of Respondent TONY ROMAN HERNANDEZ under the provisions of Code  
23 section 10177, subdivisions (d) and/or (g).  
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1 SECOND CAUSE OF ACCUSATION

2 Consumer complaints/Unlicensed property management activities/Dishonest Dealing

3 79. There is hereby incorporated in this Second, separate, Cause of Accusation, all of the  
4 allegations contained in Paragraphs 1 through 78 above, with the same force and effect as if  
5 herein fully set forth.

6 A.W. complaint

7 80. In 2012, A.W. hired Villamar Property Management (“VPM”) to act as a property  
8 manager for A.W.’s rental property located at 22022 Mimosa Lane, Moreno Valley, California.

9 81. In 2013, A.W. hired VPM to manage a second rental property located at 22314 Echo  
10 Park Way, Moreno Valley, California (“Echo Park”).

11 82. In 2015, A.W. hired VPM to manage a third rental property located at 24031 Blue  
12 Ridge Place, Moreno Valley, California.

13 83. A.W. dealt mainly with Tony Moreno Hernandez regarding VPM’s management of  
14 the A.W.’s three rental properties. However, A.W. would occasionally see Respondent TONY  
15 ROMAN HERNANDEZ at VPM’s office and TONY ROMAN HERNANDEZ took marketing  
16 photos of A.W.’s Echo Park property for the rental listing.

17 84. In December of 2017, A.W. decided to cancel his property management agreements  
18 with VPM due to their failure to provide A.W. with monthly rental proceeds, security deposits,  
19 and lease agreements.

20 85. A.W. was forced to hire an attorney to collect trust monies owed from VPM after  
21 VPM failed to return security deposits owed to A.W. for A.W.’s rental properties.

22 86. While it provided property management services for A.W., VPM used the following  
23 office addresses: 12220 Pigeon Pass Road, Suite “U”, Moreno Valley, California; 12220 Pigeon  
24

1 Pass Road, Suite "T", Moreno Valley, California; and 12220 Pigeon Pass Road, Suite "D",  
2 Moreno Valley, California.

3 H.L. complaint

4 87. In 2017, H.L. hired VPM to manage H.L.'s two (2) rental properties located at 1044  
5 Ashton Place, Perris, California and 2236 Carnation Ave., Hemet, California.

6 88. While it provided property management services for H.L., VPM used the following  
7 office addresses: 12220 Pigeon Pass Road, Suite "U", Moreno Valley, California and 12220  
8 Pigeon Pass Road, Suite "T", Moreno Valley, California.

9 89. In January of 2018, H.L. canceled the property management agreements with VPM  
10 due to VPM's failure to provide H.L. with monthly rental proceeds, monthly statements or  
11 accountings, security deposits, lease agreements, and keys.

12 90. H.L. was forced to sue VPM and Tony Moreno Hernandez for return of trust fund  
13 monies for the rental properties owed to H.L., which totaled \$6,059.00, plus court fees of  
14 \$115.00.

15 91. Respondent TONY ROMAN HERNANDEZ has been licensed under the  
16 employment of Respondent HOLT from May 31, 2018 through the present.

17 92. On May 31, 2018, Respondent HOLT added a branch office location at 12220  
18 Pigeon Pass Rd., Suite T, Moreno Valley, California.

19 93. On June 6, 2018, two Special Investigators for the Department visited the office of  
20 VPM and Villamar Properties located at 12220 Pigeon Pass Rd., Suite T, Moreno Valley,  
21 California. They spoke to Tony Moreno Hernandez and obtained his business card which listed  
22 his title as "General Manager" for Villamar Properties and VPM.

23 94. Tony Moreno Hernandez claimed to be "Tony Hernandez" working under a real  
24 estate broker.

1           95. Tony Moreno Hernandez admitted to engaging in property management activities  
2 and claimed that his son, Respondent TONY ROMAN HERNANDEZ handled real estate sales  
3 and was aware of his activities.

4           96. Respondents TONY ROMAN HERNANDEZ and BARRAGAN denied engaging in  
5 any property management activities or having dealt with A.W.

6           97. On June 19, 2018, a Special Investigator for the Department conducted an internet  
7 search of the website: [www.tonysellshomes.com](http://www.tonysellshomes.com). The website contained pictures of both  
8 Respondent TONY ROMAN HERNANDEZ (aka Tony Hernandez, Jr.) and Tony Moreno  
9 Hernandez (aka Tony Hernandez, Sr.). Beneath the photograph for Respondent TONY ROMAN  
10 HERNANDEZ were the titles "Realtor/Property Manager". The website also listed pictures of  
11 individuals who had leased properties through VPM.

12           98. On October 10, 2018, a Special Investigator for the Department conducted an  
13 internet search of the website: [www.tonysellshomes.com](http://www.tonysellshomes.com). The website featured the following  
14 unlicensed fictitious business names: "Casa Roman Real Estate and Investments", "The Tony  
15 Hernandez Team", and "Villamar Properties". The website advertises property management  
16 services and features a photograph of Tony Moreno Hernandez with the titles "Realtor/Property  
17 Manager" beneath his photograph. Respondent TONY ROMAN HERNANDEZ's License ID  
18 number is listed on the website.

19           99. Respondent HOLT denied having hired Tony Moreno Hernandez.

20           100. According to Respondent HOLT, his only salesperson is Respondent TONY  
21 ROMAN HERNANDEZ, who was hired for real estate sales and HOLT claims to supervise  
22 Respondent HERNANDEZ on a daily basis.

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SECOND CAUSE OF ACCUSATION

Unlicensed/unsupervised property management

101. There is hereby incorporated in this Second, separate, Cause of Accusation, all of the allegations contained in Paragraphs 1 through 100, above, with the same force and effect as if herein fully set forth.

102. The conduct, acts and/or omissions of Respondent TONY ROMAN HERNANDEZ and Tony Moreno Hernandez, in performing, offering to perform, and advertising property management activities that require a real estate broker license or salesperson license under the supervision and employment of a broker, as described in further detail in Paragraphs 80 through 100, above, constitute cause for the suspension or revocation of the real estate licenses, license rights and MLO license endorsements of Respondents TONY ROMAN HERNANDEZ, HOLT, and BARRAGAN pursuant to Code section 10177, subdivisions (d) and/or (g), for violation of Code sections 10130, 10137, and 10139.

THIRD CAUSE OF ACCUSATION

Disclosure of licensed status in advertising

103. There is hereby incorporated in this Third, separate, Cause of Accusation, all of the allegations contained in Paragraphs 1 through 102, above, with the same force and effect as if herein fully set forth.

104. The conduct, acts and/or omissions of Respondent TONY ROMAN HERNANDEZ and Tony Moreno Hernandez, in advertising property management activities that require a real estate broker license or salesperson license under the supervision and employment of a broker, in violation of Code section 10140.6 and Regulation 2773, as described in further detail in Paragraphs 80 through 100, above, constitute cause for the suspension or revocation of the real estate licenses, license rights and MLO license endorsements of Respondents TONY

1 ROMAN HERNANDEZ, HOLT, and BARRAGAN pursuant to Code section 10177,  
2 subdivisions (d) and/or (g).

3 FOURTH CAUSE OF ACCUSATION

4 Use of unlicensed fictitious business name

5 105. There is hereby incorporated in this Fourth, separate, Cause of Accusation, all of  
6 the allegations contained in Paragraphs 1 through 104, above, with the same force and effect as if  
7 herein fully set forth.

8 106. The conduct, acts and/or omissions of Respondent TONY ROMAN  
9 HERNANDEZ and Tony Moreno Hernandez, in using unlicensed fictitious business names  
10 including, but not limited to, "Villamar Property Management", "Villamar Properties, and "Casa  
11 Roman Real Estate and Investments", as described in further detail in Paragraphs 80 through  
12 100, above, constitute cause for the suspension or revocation of the real estate licenses, license  
13 rights and MLO license endorsements of Respondents TONY ROMAN HERNANDEZ, HOLT,  
14 and BARRAGAN, pursuant to Code section 10177, subdivisions (d) and/or (g) for violation of  
15 Code section 10159.5 and Regulation 2731.

16 FIFTH CAUSE OF ACCUSATION

17 Substantial Misrepresentations

18 107. There is hereby incorporated in this Fifth, separate, Cause of Accusation, all of  
19 the allegations contained in Paragraphs 1 through 106, above, with the same force and effect as if  
20 herein fully set forth.

21 108. The conduct, acts and/or omissions of Respondent TONY ROMAN  
22 HERNANDEZ and Tony Moreno Hernandez, in performing or offering to perform property  
23 management services that require a real estate broker license or salesperson license under the  
24 supervision and employment of a broker, as described in further detail in Paragraphs 80 through

1 100, above, constitute cause for the suspension or revocation of the real estate licenses and  
2 license rights of Respondent TONY ROMAN HERNANDEZ, pursuant to Code section 10176,  
3 subdivision (a).

4 SIXTH CAUSE OF ACCUSATION

5 Dishonest Dealing/Fraud

6 109. There is hereby incorporated in this Sixth, separate, Cause of Accusation, all of  
7 the allegations contained in Paragraphs 1 through 108, above, with the same force and effect as if  
8 herein fully set forth.

9 110. The conduct, acts and/or omissions of Respondent TONY ROMAN  
10 HERNANDEZ and Tony Moreno Hernandez, as described in further detail in Paragraphs 1  
11 through 100, above, constitute cause for the suspension or revocation of the real estate licenses  
12 and license rights of Respondent TONY ROMAN HERNANDEZ, pursuant to Code sections  
13 10176, subdivision (i) (fraud or dishonest dealing in licensed capacity) and/or 10177,  
14 subdivision (j), (fraud or dishonest dealing).

15 SEVENTH CAUSE OF ACCUSATION

16 Broker Supervision - BARRAGAN

17 111. There is hereby incorporated in this Seventh, separate, Cause of Accusation, all of  
18 the allegations contained in Paragraphs 1 through 110, above, with the same force and effect as if  
19 herein fully set forth.

20 112. The violations, conduct, acts and/or omissions of Respondent TONY ROMAN  
21 HERNANDEZ and Tony Moreno Hernandez, as described in further detail in Paragraphs 1  
22 through 100, above, constitute cause for the suspension or revocation of the real estate licenses,  
23 license rights, and MLO license endorsement of Respondent MICHAEL ANGELO  
24 BARRAGAN pursuant to Code section 10177, subdivision (h), and Regulation 2725.

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EIGHTH CAUSE OF ACCUSATION

Broker Supervision - HOLT

113. There is hereby incorporated in this Seventh, separate, Cause of Accusation, all of the allegations contained in Paragraphs 1 through 112, above, with the same force and effect as if herein fully set forth.

114. The violations, conduct, acts and/or omissions of Respondent TONY ROMAN HERNANDEZ and Tony Moreno Hernandez, as described in further detail in Paragraphs 1 through 100, above, constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondent ROBERT ELDON HOLT pursuant to Code section 10177, subdivision (h), and Regulation 2725.

Audit Costs

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

Investigation/Enforcement Costs

116. 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 the investigation and enforcement of the case.

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