

FILED

JUL 25 2019

DEPT. OF REAL ESTATE

By *Carol Selby*

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

5

6

7

8

9

BEFORE THE DEPARTMENT OF REAL ESTATE

10

STATE OF CALIFORNIA

11

In the Matter of the Accusation against

) DRE No. H-41432 LA

12

) JLA REAL ESTATE GROUP and
) JAMES LEON ANTOYAN, individually, and as
) designated officer for JLA Real Estate Group,

) ACCUSATION

13

14

) Respondents.

15

16

17

18

19

20

21

22

23

24

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the Department of Real Estate (“Department”) of the State of California, for cause of Accusation against JLA REAL ESTATE GROUP and JAMES LEON ANTOYAN, individually, and as designated officer for JLA Real Estate Group (collectively “Respondents”), alleges as follows:

1. The Complainant, Veronica Kilpatrick, acting in her official capacity as a Supervising Special Investigator, makes this Accusation against Respondents.
2. All references to the “Code” are to the California Business and Professions Code, all references to the “Real Estate Law” are to Part 1 of Division 4 of the Code, and all references

1 to "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
4 Estate Law (Part 1 of Division 4 of the Code).

5 4. The Department issued a real estate corporation license to JLA REAL ESTATE
6 GROUP ("JLAREG") on May 9, 2014, License ID 01944947. At all times herein mentioned,
7 Respondent JLAREG was and now is licensed by the Department as a corporate real estate
8 broker by and through Respondent JAMES LEON ANTOYAN ("ANTOYAN") as designated
9 officer-broker of Respondent JLAREG to qualify said corporation and to act for said corporation
10 as a real estate broker.

11 5. From May 9, 2014 through the present, Respondent ANTOYAN, as the officer
12 designated by JLAREG pursuant to Code section 10211, was responsible for the supervision and
13 control of the activities conducted on behalf of JLAREG by its officers and employees as
14 necessary to secure full compliance with Real Estate Law as set forth in Code section 10159.2.

15 6. The Department issued a real estate broker license to Respondent ANTOYAN on
16 September 25, 1999, License ID 01119792. ANTOYAN was formerly licensed as a real estate
17 salesperson from approximately September 10, 1991 through September 24, 1999.

18 7. ANTOYAN is licensed to do business as JLA Real Estate Group.

19 8. Unless renewed, Respondent ANTOYAN's individual broker license shall expire
20 on September 24, 2019. Respondent ANTOYAN has renewal rights pursuant to Code section
21 10201. The Department retains jurisdiction pursuant to Code section 10103.

22 9. At all times relevant herein, in the State of California, Respondents engaged in
23 activities that require a real estate broker license within the meaning of Code section 10131,
24 subdivision (b). Respondents' activities included soliciting or offering to negotiate the sale,

1 purchase or exchange of leases for real property and the collection of rents or security deposits
2 on real property or on a business opportunity for others, for compensation or in expectation of
3 compensation.

4 Audit SD 180008

5 10. On November 30, 2018 the Department completed an audit examination of the
6 books and records of Respondent JLAREG's property management activities, which require a
7 real estate license pursuant to Code section 10131, subdivision (b).

8 11. The audit examination covered the period from July 1, 2017 through July 31,
9 2018 ("audit period").

10 12. The audit examination revealed violations of the Code and the Regulations as set
11 forth in the following paragraphs, and more fully discussed in Audit Report SD 180008 and the
12 exhibits and work papers attached to said audit report.

13 13. According to Respondent ANTOYAN and the audit work papers examined,
14 during the audit period, JLAREG managed 19 properties with approximately 74 units for 19
15 property owners. JLAREG charged a management fee of five to seven and a half percent (5% -
16 7.5%) of monthly collected rents or a \$200 flat fee.

17 14. According to Respondents, JLAREG maintained the following bank accounts for its
18 property management activities during the audit period:

19 A. Trust Account #1 (T/A 1)

20 Bank: Pacific Premier Bank

21 Account Name: JLA Real Estate Group Trust

22 Account #: xxxxx010

23 Signatories: Respondent and Marse Caricato (JLAREG's Vice-President, an
24 unlicensed person).

of signatures required: One (1)

Description: T/A 1 was used for multiple beneficiaries and was
maintained for handling the receipts and disbursements of trust funds in
connection with the property management activity. T/A 1 was opened in
April of 2017.

1 B. Trust Account #1 (T/A 2)

Bank: Pacific Premier Bank

2 Account Name: JLA Real Estate Group Lido Trust

Account #: xxxxx036

3 Signatories: Respondent and Marse Caricato

of signatures required: One (1)

4 Description: T/A 2 was maintained for a single beneficiary and used for
5 handling the receipts and disbursements of trust funds in connection with the
6 property management activities for Lido Apartments ("Lido"). T/A 2 was
7 opened in September of 2017.

8 Violations

9 15. In the course of its property management activities during the audit period of
10 July 1, 2017 through July 31, 2018, Respondents acted in violation of the Code and the
11 Regulations as follows:

12 Issue One(a). Code section 10145(a) and Regulation 2832.1. Trust fund handling for multiple
13 beneficiaries.

14 16. A bank reconciliation was prepared for T/A 1 with a cut-off date of July 31, 2018.
15 The adjusted bank balance was compared to the accountability (the total balance of separate
16 beneficiary records).

17 17. As of July 31, 2018, T/A 1 had a shortage of <\$48,753.91>. The causes of the
18 shortage were negative property balances (<\$43,182.46>) and an unidentified shortage of
19 (<\$5,571.45>). The properties with negative balances include, but are not limited to, the
20 following: 25866 Iris Ave. <\$1,092.82>; 2602 La Ventana <\$5,985.14>; 2940 Heller Drive
21 <\$312.20>; 1041 N. Milliken <\$2,126.25>; and 100 Tennessee St. (Lido) <\$33,666.05>.

22 18. As of July 31, 2018, there were commingled funds consisting of JLAREG's
23 general funds totaling \$2,034.00 and fees/commissions totaling \$3,129.41 remained over twenty-
24 five (25) days in T/A 1 after their deposit.

1 19. Respondent JLAREG failed to provide any evidence that the owners of the trust
2 funds in T/A 1 had given their written consent to allow JLAREG to reduce the balance of the
3 funds in T/A 1 to an amount less than the existing aggregate trust fund liabilities, in violation of
4 Code section 10145 and Regulation 2832.1.

5 20. On November 13, 2018, Respondent ANTOYAN made a deposit into T/A 1
6 totaling \$48,753.91 from JLAREG's general operating account (no. 001) to cure the trust fund
7 shortage in T/A 1.

8 21. As of July 31, 2018, there was no shortage in T/A 2. There were
9 unidentified/unaccounted for funds totaling \$2,473.97 in T/A 2 due to inadequate bookkeeping.
10 There were also JLAREG funds totaling \$2,996.30 in T/A 2 as of July 31, 2018.
11 Issue Three¹. Code section 10145 and Regulation 2831. Trust fund records to be maintained.

12 22. During the audit period, Respondent JLAREG failed to maintain accurate or
13 complete records of trust funds received and disbursed (control records) for T/A 1, in violation of
14 Code section 10145 and Regulation 2381.

15 23. Some receipts were recorded on the control record of T/A 1 but were not
16 deposited into T/A 1. Examples include, without limitation, the following:

<u>Date Recorded</u>	<u>Amount</u>
07/01/2017	\$23,380.06
07/10/2017	\$ 1,053.10
07/31/2017	\$53,720.17
12/31/2017	\$44,138.17
02/28/2018	\$17,265.73
10/31/2018	\$34,856.12

17 ///

18 ///

19 ///

20
21
22
23
24

¹ Issue Two skipped intentionally.

1
2 24. In addition, some disbursements were recorded on the T/A 1 control record, but
3 were not disbursed from T/A 1. Examples include, without limitation, the following:

<u>Date Recorded</u>	<u>Amount</u>
07/31/2017	\$24,580.06
10/31/2017	\$49,762.53
12/31/2017	\$ 5,256.50
02/01/2018	\$14,315.74

4
5
6
7 25. The control records maintained for T/A 2 were inaccurate. Some receipts were
8 recorded on the T/A 2 control record, but were not deposited into T/A 2. Examples include,
9 without limitation, the following:

<u>Date Recorded</u>	<u>Amount</u>
12/31/2017	\$13,729.30
01/05/2018	\$ 4,678.47
05/09/2018	\$ 2,480.39
06/01/2018	\$ 1,240.00

10
11
12
13 26. In addition, some disbursements were recorded on the T/A 2 control record, but
14 were not disbursed from T/A 2. Examples include, without limitation, the following:

<u>Date Recorded</u>	<u>Amount</u>
10/31/2017	\$99,525.06
12/31/2017	\$ 6,864.65
01/31/2018	\$ 2,062.81
04/30/2018	\$ 2,962.00

15
16
17
18 27. Respondents reconstructed and updated the control records for T/A 1 and T/A 2
19 during the course of the audit. The reconstructed record for T/A 2 was inaccurate and
20 incomplete. There were unidentified/unaccounted for funds totaling \$2,473.97 held in T/A 2 as
21 of July 31, 2018.

22 ///

23 ///

24 ///

1 Issue Four. Code section 10145, subdivision (g) and Regulation 2831.1. Separate records for
2 each beneficiary or transaction

3
4 28. During the audit period, Respondent JLAREG failed to maintain accurate separate
5 records for each beneficiary or transaction (separate records) for T/A 1, in violation of Code
6 section 10145(g) and Regulation 2831.1.

7 29. Some receipts were recorded on the separate records for T/A 1, but were not
8 deposited into T/A 1. Examples include, without limitation, the following:

<u>Date Recorded</u>	<u>Amount</u>	<u>Property</u>
07/13/2017	\$ 900.00	100 Tennessee (Lido)
07/27/2017	\$47,325.05	100 Tennessee (Lido)
07/31/2017	\$53,720.17	100 Tennessee (Lido)
07/31/2017	\$ 210.00	340 E. Heather Street
10/31/2017	\$ 4,920.00	2602 La Ventana
12/31/2017	\$ 563.00	340 E. Heather Street
12/31/2017	\$ 136.00	6844 Barcelona
12/31/2017	\$ 276.00	6844 Barcelona

11
12
13
14 30. In addition, some disbursements were recorded on the separate records of T/A 1
15 but were not disbursed from T/A 1. Examples include, without limitation, the following:

<u>Date Recorded</u>	<u>Amount</u>	<u>Property</u>
07/31/2017	\$ 1,784.77	100 Tennessee (Lido)
08/31/2017	\$ 4,977.36	100 Tennessee (Lido)
08/31/2017	\$ 2,950.00	100 Tennessee (Lido)
10/10/2017	\$ 3,900.00	2602 La Ventana
10/10/2017	\$ 1,020.00	2602 La Ventana
12/31/2017	\$ 125.00	2940 Heller Drive
12/31/2017	\$ 700.00	340 E. Heather Street
02/28/2018	\$ 120.00	2940 Heller Drive

16
17
18
19
20 Issue Five. Code section 10145 and Regulation 2831.2. Trust account reconciliation

21 31. During the audit period, JLAREG failed to perform and maintain a monthly and
22 timely reconciliation comparing the balance of all separate beneficiary or transaction records
23
24

1 (separate records) to the balance of all trust funds received and disbursed (control record) for
2 T/A 1, in violation of Code section 10145 and Regulation 2831.2.

3 Issue Six. Code section 10145 and Regulation 2834. Trust account withdrawals.

4 32. During the audit period, JLAREG allowed Marse Caricato ("Caricato"), an
5 unlicensed employee, to be a signatory for T/A 1 and T/A 2, without fidelity bond or insurance
6 coverage, in violation of Code section 10145 and Regulation 2834.

7 33. JLAREG had professional liability insurance; however, said insurance did not
8 provide coverage for employee theft.

9 34. JLAREG removed Caricato as a signatory for T/A 1 and T/A 2 on October 9,
10 2018.

11 Issue Seven. Code sections 10145, 10176(e), and Regulation 2835(a) & (b). Trust fund
12 handling/Commingling/Mishandling of Trust Funds.

13 35. JLAREG's general funds deposited in T/A 1

14 During the audit period, JLAREG commingled its general funds with rent and
15 security deposit trust funds in T/A 1 by transferring and depositing a total of \$47,325.05 on
16 July 27, 2017 from JLAREG's general business account (no. 001, "G/A 1") into T/A 1, which
17 held trust funds. JLAREG transferred \$47,325.05 from T/A 1 to G/A 1 on September 20, 2017.

18 36. JLAREG's general funds in T/A 1

19 JLAREG commingled its general funds with trust funds in T/A 1 by depositing
20 general funds totaling \$2,034.00 into T/A 1 on September 29, 2017 and general funds totaling
21 \$3,300.00 into T/A 1 on October 12, 2017.

22 37. JLAREG's funds held over 25 days in T/A 1

23 As of July 31, 2018, JLAREG kept/commingled \$3,129.41 of its fees/
24 commissions earned over 25 days in T/A 1 after their deposit.

1 38. The afore-mentioned acts described above in Paragraphs 35 through 37, are in
2 violation of Code sections 10145, 10176, subdivision (e), and Regulation 2835, subdivisions (a)
3 and (b).

4 Issue Eight. Code sections 10145, 10176(i) or 10177(j). Conversion of trust funds/Unauthorized
5 disbursements/Mishandling of trust funds.

6 39. JLAREG converted trust funds in T/A 1 and used rent/security deposit trust funds
7 to pay its financial obligations and payroll expenses without written consent of the owners of the
8 trust funds, in violation of Code sections 10145 and 10176, subdivision (i), or Code section
9 10177, subdivision (j). There were unauthorized disbursements of trust funds in the amount of
10 \$22,517.71 in July of 2017 and \$21,447.92 in August of 2017 from T/A 1, for a total of
11 \$43,965.63. Said trust funds were used to pay for JLAREG's company payroll expenses without
12 written consent of the owners of the funds.

13 Issue Nine. Code sections 10145(a), 10176(i) or 10177(j). Conversion of trust funds/
14 Unauthorized disbursements/Mishandling of trust funds.

15 40. JLAREG did not disclose its affiliation or ownership interest in the maintenance
16 company, JLA Real Estate Group, in writing to property owners in the property management
17 agreements examined. In addition, JLAREG charged property owners maintenance fees that
18 were marked-up over ten percent (10%) higher than the amounts billed by vendors to JLAREG.
19 Examples of the mark-ups include, without limitation, the following:

<u>Date</u>	<u>Property</u>	<u>Vendor's charge</u>	<u>JLAREG's charge</u>	<u>Mark-up</u>
07/28/17	100 Tennessee (Lido)	\$3,255.00	\$4,185.00	\$930.00
02/16/18	2940 Heller Dr.	\$889.50	\$1,050.00	\$165.50
03/07/18	612 W. 11 th St.	\$2,120.00	\$2,511.00	\$391.00
03/23/18	2920 Prospect Ave.	\$980.00	\$1,260.00	\$280.00
04/18/18	2940 Heller Dr.	\$770.00	\$935.00	\$165.60

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

41. JLAREG also charged a mark-up for "out of scope" vendor charges for 100

Tennessee (Lido). Examples of the mark-ups include, without limitation, the following:

<u>Date</u>	<u>Vendor's charge</u>	<u>JLAREG's charge</u>	<u>Mark-up</u>
09/26/17	\$ 6,600.00	\$ 8,486.00	\$1,886.00
01/11/18	\$10,100.22	\$12,986.10	\$2,885.00
02/16/18	\$ 1,575.00	\$ 2,375.00	\$ 800.00
03/23/18	\$ 1,955.00	\$ 2,385.00	\$ 430.00
05/04/18	\$ 2,285.00	\$ 2,655.00	\$ 370.00

42. The afore-mentioned acts described above in Paragraphs 40 and 41, are in violation of Code sections 10145(a) and 10176(i) or 10177(j).

Issue Ten, Code sections 10159.2, 10177(h), and Regulation 2725. Broker supervision.

43. Respondent ANTOYAN failed to adequately supervise the activities of JLAREG's salespersons, employees, or agents and failed to establish policies, rules, procedures, and systems to review, oversee, inspect, and manage transactions requiring a real estate license and the handling of trust funds to ensure compliance with the Real Estate Law, in violation of Code sections 10159.2, 10177, subdivision (h), and Regulation 2725.

44. The conduct of Respondent JLAREG as described above in Paragraphs 16 through 42, violated the Code and the Regulations as set forth below:

<u>Issue</u>	<u>Paragraph(s)</u>	<u>Violations</u>
1	16-21	Code section 10145 and Regulation 2832.1
3	22-27	Code section 10145 and Regulation 2831
4	28-30	Code section 10145 and Regulation 2831.1
5	31	Code section 10145 and Regulation 2831.2
6	32-24	Code section 10145 and Regulation 2834
7	35-38	Code sections 10145, 10176(e), and Regulations 2835(a) and 2835(b)
8	39	Code sections 10145, and 10176(i) or 10177(j)
9	40-42	Code sections 10145(a) and 10176(i) or 10177(j)

45. The foregoing violations, as described above in Paragraphs 16 through 42,

1 constitute cause for the suspension or revocation of the real estate licenses and license rights of
2 Respondent JLAREG under the provisions of Code section 10176, subdivisions (e), (g), and (i)
3 and Code section 10177, subdivision (d), or (j) and (g).

4 Respondent ANTOYAN – Officer - Broker Supervision

5 46. The conduct, acts and/or omissions of Respondent ANTOYAN, as described
6 above in Paragraph 43, constitutes a failure to exercise the supervision and control over the
7 activities of JLAREG to ensure compliance with the Real Estate Law and Regulations, as is
8 required by Code section 10159.2 and Regulation 2725. Said conduct, acts, or omissions
9 constitute cause to suspend or revoke the real estate licenses and license rights of Respondent
10 ANTOYAN pursuant to Code section 10177, subdivisions (h), (d) and/or (g).

11 Audit Costs

12 47. Code section 10148(b) provides, in pertinent part, that the Commissioner shall
13 charge a real estate broker for the cost of any audit, if the Commissioner has found in a final
14 decision following a disciplinary hearing that the broker has violated Code section 10145 or a
15 regulation or rule of the Commissioner interpreting said section.

16 Investigation/Enforcement Costs

17 48. Code section 10106 provides, in pertinent part, that in any order issued in
18 resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner
19 may request the administrative law judge to direct a licensee found to have committed a violation
20 of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement
21 of the case.

22 ///

23 ///

24 ///

