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FILED

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DEPT. OF REAL ESTATE
By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	No. H-41518 LA
)	
DAVID GENE HALE,)	
)	<u>ACCUSATION</u>
Respondent.)	
)	

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, acting in her official capacity, for cause of Accusation against Respondent DAVID GENE HALE ("HALE"), is informed and alleges as follows:

1.

The Complainant, Veronica Kilpatrick, acting in her official capacity as Supervising Special Investigator of the State of California, makes this Accusation.

2.

All references to the "Code" are to the California Business and Professions Code, and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations unless otherwise specified.

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1 3.

2 Respondent HALE is presently licensed and/or has license rights issued by the
3 Department of Real Estate as a real estate broker (license no. 00551090). HALE was originally
4 licensed as a real estate broker on or about March 14, 1985, and has been so licensed since then.
5 From on or about January 2, 2009 to February 18, 2017, HALE had the fictitious business
6 name, "Homestar Real Estate Services," registered with the Department of Real Estate. HALE
7 has not had any other fictitious business names registered with the Department of Real Estate.

8 4.

9 At all times mentioned, in Riverside County, HALE engaged in the business of a
10 real estate broker conducting licensed activities within the meaning of Code section 10131(b).
11 HALE engaged in operating a real property management company by leasing, renting, and/or
12 offering to rent places for rent, soliciting for prospective tenants, and/or collecting rents from
13 real property.

14
15 (Trust Fund Audit)

16 5.

17 On or about October 27, 2017, the Department of Real Estate completed an audit
18 examination of the books and records of HALE to determine whether HALE handled and
19 accounted for trust funds and conducted his real estate activities in accordance with the Real
20 Estate Law and Regulations. The audit examination covered a period of time beginning on
21 March 1, 2015 and ended on July 31, 2017. The audit examination revealed violations of the
22 Code and the Regulations set forth in the following paragraphs, and more fully discussed in
23 Audit Report SD160056 and the exhibits and work papers attached to said audit report.

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1 Bank Account/Trust Account

2 6.

3 At all times mentioned, in connection with the activities described in Paragraph
4 5, above, HALE accepted or received funds including funds in trust ("trust funds") from or on
5 behalf of actual or prospective parties, such as owners of real property, involved in property
6 management services, and thereafter made deposits and/or disbursements of such funds. From
7 time to time herein mentioned, during the audit period, said trust funds were deposited and/or
8 maintained by HALE in the bank account as follows:

9 "Hemet San Jacinto Valley Property Managers"
10 *****9601

11 The Bank of Hemet
12 P.O. Box 12002
13 Hemet, CA 92546-8002

(B/A 1)

14 7.

15 In the course of activities described in Paragraph 4 above, and during the audit
16 examination period in Paragraph 5, above, Respondent HALE acted in violation of the Code
and the Regulations as set forth below:

17 (a) Permitted, allowed, or caused the disbursement of trust funds from the
18 trust account B/A 1 where the disbursement of funds reduced the total of aggregate funds in
19 B/A 1, to an amount which, on July 31, 2017, was at least \$47,329.40 less than the existing
20 aggregate trust fund liability to every principal who was an owner of said funds, without first
21 obtaining the prior written consent of the owners of said funds, in violation of Code section
22 10145 and Regulations section 2832.1.

23 (b) Failed to maintain accurate and complete control records in the form of a
24 columnar record in chronological order of all trust funds received, deposited, and disbursed
25 from B/A 1, in violation of Code section 10145 and Regulations section 2831.
26
27

1 (c) Failed to maintain an accurate and complete separate record for each
2 beneficiary or transaction, thereby failing to account for all trust funds received, deposited, and
3 disbursed from B/A 1, in violation of Code section 10145 and Regulations section 2831.1.

4 (d) Failed to designated B/A 1 as a trust account in the name of HALE as
5 trustee, in violation of Code section 10145 and Regulations section 2832.

6 (e) Permitted unlicensed and unbonded persons, Ronald Doty, Jr. (owner of
7 the property management business) and Tamyra Doty (HALE's spouse), to be authorized
8 signatories for and make withdrawals from B/A 1, into which were deposited trust funds, in
9 violation of Code section 10145 and Regulations section 2834.

10 (f) Used to fictitious business name, "Hemet San Jacinto Valley Property
11 Managers," to conduct property management activities without first obtaining a license from
12 the Department of Real Estate bearing such fictitious business name, in violation of Code
13 section 10159.5 and Regulations section 2731. This fictitious business name was used on, but
14 not limited to, B/A 1's bank signature card, property management agreements, and cancelled
15 checks.

16 (g) Performed property management activities at 2290 E. Florida St., Hemet,
17 CA without first registering the location as a main office or branch office, in violation of Code
18 section 10163.

19 (h) Failed to exercise reasonable control and supervision over the real estate
20 activities of his employees as necessary to secure full compliance with the Real Estate Laws,
21 including, but not limited to, establishing policies, rules, procedures, and systems to review,
22 oversee, and inspect the handling of trust funds, in violation of Code sections 10159.2 and
23 10177(h) and Regulations section 2725.

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8.

The conduct of Respondent HALE described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
7(a)	Code section 10145 and Regulations section 2832.1
7(b)	Code section 10145 and Regulations section 2831
7(c)	Code section 10145 and Regulations section 2831.1
7(d)	Code section 10145 and Regulations section 2832
7(e)	Code section 10145 and Regulations section 2834
7(f)	Code section 10159.5 and Regulations section 2731
7(g)	Code section 10163
7(h)	Code sections 10159.2 and 10177(h) and Regulations section 2725

The foregoing violations constitute cause for discipline of the real estate license and license rights of HALE under the provisions of Code sections 10177(d), 10177(g), and/or 10177(j) and Regulations section 2725.

COSTS

9.

Code section 10106 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 investigation and enforcement of the case.

Code section 10148(b) provides, in pertinent part, the Commissioner shall charge a real estate broker for the cost of any audit, if the Commissioner has found in a final

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

3 WHEREFORE, Complainant prays that a hearing be conducted on the
4 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
5 disciplinary action against all licenses and/or license rights under the Real Estate Law (Part 1 of
6 Division 4 of the California Business and Professions Code) of Respondent DAVID GENE
7 HALE, for the cost of investigation and enforcement as permitted by law, audit costs as
8 permitted by law, and for such other and further relief as may be proper under applicable
9 provisions of law.

10 Dated at San Diego, California: September 13, 2019.

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12 
13 Veronica Kilpatrick
14 Supervising Special Investigator
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23 cc: David Gene Hale
24 Veronica Kilpatrick
25 Sacto
26 Enforcement
27 Audits – Godswill Keraoru