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MAY 26 2020

DEPT. OF REAL ESTATE

By: [Signature]

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9 **BEFORE THE DEPARTMENT OF REAL ESTATE**

10 **STATE OF CALIFORNIA**

11 * * *

12 In the Matter of the Accusation against

DRE No. H-41682 LA

13 **PACIFIC WEST HOMES & INVESTMENTS, INC.**
14 **and DEREK GEORGE HAYMOND, individually and**
15 **as designated officer for Pacific West Homes &**
16 **Investments, Inc.,**

ACCUSATION

17 **Respondents.**

18 The Complainant, Maria Suarez, a Supervising Special Investigator for the Department of
19 Real Estate¹ ("Department") of the State of California, for cause of Accusation against PACIFIC
20 WEST HOMES & INVESTMENTS, INC. and DEREK GEORGE HAYMOND, individually
21 and as designated officer for Pacific West Homes & Investments, Inc. (collectively
22 "Respondents"), alleges as follows:

23 1. The Complainant, Maria Suarez, acting in her official capacity as a Supervising
24 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 Between July 1, 2013 and July 1, 2018, the Department of Real Estate operated as the Bureau of Real Estate under the Department of Consumer Affairs.

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). Respondents have renewal rights under Code
5 section 10

6 Statement of Facts

7 4. On May 16, 2016, the Department issued a real estate corporation license to
8 Respondent PACIFIC WEST HOMES & INVESTMENTS, INC. ("PWHII"), License ID
9 02007518. PWHII's license is scheduled to expire on or about May 15, 2020. Respondent has
10 renewal rights under Code section 10201. The Department retains jurisdiction pursuant to Code
11 section 10103.

12 5. On April 6, 2010, the Department issued a real estate broker license to
13 Respondent DEREK GEORGE HAYMOND ("HAYMOND"), License ID 01359608.
14 Respondent HAYMOND's real estate broker license is scheduled to expire on January 15, 2023.

15 6. Respondent HAYMOND was formerly licensed as a real estate salesperson from
16 December 11, 2003 through April 5, 2010.

17 7. At all times relevant herein, PWHII was licensed as a real estate corporation, by
18 and through Respondent HAYMOND as designated officer-broker of Respondent PWHII to
19 qualify said corporation and to act for said corporation as a real estate broker.

20 8. At all times relevant herein, Respondent HAYMOND has been licensed as the
21 designated officer-broker for Respondent PWHII, pursuant to section 10211 of the Code. As
22 said designated officer-broker, Respondent HAYMOND was at all times mentioned herein
23 responsible, pursuant to Code section 10159.2, for the supervision of the activities of the officers,
24 agents, real estate licensees, and employees of Respondent PWHII for which a license is
required.

9. Whenever reference is made in an allegation in this Accusation to an act or
omission of Respondent PWHII, such allegation shall be deemed to mean that the officers,

1 directors, employees, agents and/or real estate licensees employed by or associated with
2 Respondent PWHII committed such act or omission while engaged in the furtherance of the
3 business or operations of such corporate respondent and while acting within the course and scope
4 of their authority and employment.

5 10. On January 21, 2006, the Department issued a real estate salesperson license to
6 Lina Rodriguez ("Rodriguez"), License ID 01995341. Rodriguez was formerly a real estate
7 salesperson associated with PWHII.

8 11. Walter Steven Nevarez ("Nevarez") aka Walter S. Nevarez, W. Steven Nevarez,
9 and Steven Nevarez, has never been licensed in any capacity by the Department.

10 12. Deidad Duran ("Duran") aka Dee Dee Duran has never been licensed in any
11 capacity by the Department.

12 Prior Discipline - HAYMOND

13 13. On October 14, 2003, the Department previously filed a Statement of Issues
14 against Respondent HAYMOND in Department Case No. H-30387 LA. The Statement of Issues
15 alleged cause to deny Respondent HAYMOND's application for a real estate salesperson license
16 pursuant to Code section 480, subdivisions (a)(1) and (c), and Code section 10177, subdivisions
17 (a) and (b), based on Respondent HAYMOND's two prior convictions and Respondent's failure
18 to disclose said convictions on his real estate salesperson application.

19 14. On October 27, 2003, the Real Estate Commissioner granted Respondent
20 HAYMOND the right to a restricted real estate salesperson license pursuant to a Stipulation and
21 Waiver in Case No. H-30387 LA. Respondent held a restricted real estate salesperson license
22 from approximately December 11, 2003 through June 6, 2007.

23 15. On December 29, 2005, Respondent HAYMOND petitioned for the removal of
24 restrictions on his restricted real estate salesperson license. On June 6, 2007, the Real Estate
Commissioner granted Respondent HAYMOND's petition and ordered the removal of
restrictions from HAYMOND's real estate salesperson license upon certain terms and
conditions.

1
2 PWHII's corporate structure

3 16. According to records filed with the Secretary of State for the State of California,
4 PWHII is a corporation formed in California on or about March 15, 2016. The directors and
5 officers of PWHII are HAYMOND, Nevarez, and Duran. Nevarez is the President and owner of
6 PWHII.

7 Broker Activities

8 17. At all times mentioned herein, in the State of California, Respondents acted as
9 real estate brokers and conducted licensed activities within the meaning of Code section
10 10131(a) (solicit prospective buyers or sellers of, solicit listings for, or negotiate the sale,
11 purchase, or exchange of real property or a business opportunity).

12 Consumer complaints

13 130th St. property

14 18. On or about September 11, 2017, buyer M.P.¹ attempted to purchase real property
15 located at 2424 E. 130th Street, Los Angeles, California 90222 ("130th St. property"). Rodriguez
16 assisted M.P. with the purchase as a salesperson for broker, PWHII. PWHII acted as a dual agent
17 for both the buyer, M.P., and the seller, J.L.

18 19. On September 11, 2017, Nevarez provided an Addendum No. 1 to buyer M.P.
19 The Addendum No. 1 noted that Nevarez, as owner of PWHII, received \$13,000 from M.P. for
20 the purchase of the 130th St. property. The sale of 130th St. property was not concluded and the
21 transaction was cancelled. Despite M.P.'s repeated demands for a refund, Respondents and
22 Nevarez have failed to timely return the total funds received from M.P. for the purchase of the
23 130th St. property.

24 20. On or about July 13, 2018, the Department received a complaint against
Respondents and Nevarez concerning the 130th St. property from buyer M.P. and Rodriguez. The
Department received an additional complaint against Respondents concerning a second, separate

¹ Initials are used in place of individual's 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.

1 sales transaction for a property located at: 137 S. Pritchard Ave., Fullerton, California
2 (“Pritchard Ave. property”).

3 21. On July 18, 2018, Nevarez issued a check no. 7000 for \$2,000.00 made payable to
4 buyer M.P., from Nevarez’s checking account ending in Account No. 0640. The memo on the
5 check indicated that the remaining balance was \$23,000 as of July 18, 2018.

6 22. On August 18, 2018, Nevarez issued a check no. 7001 for \$2,000.00 made
7 payable to buyer M.P., from Nevarez’s checking account ending in Account No. 0640. The
8 memo on the check indicated that the remaining balance was \$21,000 as of August 18, 2018.

9 23. On September 18, 2018, Nevarez issued a check no. 7000 for \$2,000.00 made
10 payable to buyer M.P., from Nevarez’s checking account ending in Account No. 0640. The
11 memo on the check indicated that the remaining balance was \$19,000 as of August 18, 2018.

Pritchard Ave. property

12 24. On or about August 23, 2016, Respondent HAYMOND executed an exclusive
13 Residential Listing Agreement on behalf of PWHII with S.H.Y., the owner of the Pritchard Ave.
14 property. The listing price was \$299,000 and PWHII was to receive a commission of six percent
15 (6%) of the listing or purchase price.

16 25. On or about February 1, 2019, the Department served a Subpoena Duces Tecum
17 on Respondent HAYMOND on behalf of PWHII for records required to be maintained by
18 brokers pursuant to Code section 10148 including, but not limited to, the complete real estate
19 sales transaction files and records related to the following transactions: 130th St. property and
20 137 S. Pritchard Ave., Fullerton, California.

21 26. Respondent HAYMOND submitted written statements to the Department’s
22 auditor during the Department’s audit of PWHII’s real estate sales activities which is described
23 in further detail in the paragraphs below. Respondents claimed that they had no involvement
24 with the transaction for the 130th St. property. Respondents and Nevarez denied receiving
deposits or other trust funds for the transaction. Respondents claimed that they did not possess

1 the transaction file for the 130th St. property and alleged that their former salesperson, Lina
2 Rodriguez, took the file upon her termination.

3 27. Respondents claimed that “a file was never originated” for the Pritchard Ave.
4 property transaction. Respondents only provided a limited number of documents for the
5 Pritchard Ave. property, including a Listing Agreement, to the Department. Respondents
6 claimed that the “agreement details” for that transaction were in storage due to “water leakage”
7 in PWHII’s office.

8 Audit LA180037

9 28. On or about February 28, 2019, the Department completed an audit examination
10 of the books and records of Respondent PWHII’s real estate sales activities, which require a real
11 estate license pursuant to Code section 10131, subdivision (a).

12 29. The audit covered the period of time from May 1, 2017 through November 30,
13 2018 (“audit period”).

14 30. The audit examination revealed violations of the Code and the Regulations as set
15 forth in the following paragraphs, and more fully discussed in Audit Report LA180037 and the
16 exhibits and work papers attached to said audit report.

17 31. On or about December 14, 2018, the Department’s auditor held an entrance
18 conference with Respondent HAYMOND. Respondent HAYMOND asserted that he is the Chief
19 Financial Officer and fifty percent (50%) owner of PWHII. According to Respondent
20 HAYMOND, Nevarez is the President, Chief Executive Officer, and Secretary, and fifty percent
21 (50%) owner of PWHII.

22 32. PWHII was not licensed to do business under any other fictitious business names
23 at all time relevant herein.

24 33. According to HAYMOND, PWHII did not conduct any property management,
broker escrow, or loan activities during the audit period.

1 34. According to HAYMOND, during the audit period, PWHII performed real estate
2 sales activities including closing approximately eight (8) sales and listing transactions totaling
3 \$2,699,167.00 during the period from December 1, 2017 through November 30, 2018.

4 35. According to HAYMOND, PWHII did not maintain any trust accounts for the
5 handling of trust fund receipts and disbursements related to its real estate sales activities during
6 the audit period.

7 Audit Violations

8 36. In the course of its property management activities during the audit examination
9 period, Respondent acted in violation of the Code and the Regulations as follows:

10 37. Code section 10159.5 and Regulation 2731. Use of unlicensed fictitious business
11 name

12 During the audit period, PWHII conducted real estate sales activities while using the
13 unlicensed fictitious business names, "Pacific West Homes," "Pacific West Homes &
14 Investments," and "Pacific West Homes & Inv.," in violation of Code section 10159.5 and
15 Regulation 2731.

16 38. Examples of transactions in which the unlicensed fictitious business names were
17 used on documents include, but are not limited to, the following:

<u>Date</u>	<u>Document</u>	<u>Property</u>
18 5/8/2018	Listing Agreement	10080 Ontario St.
19 11/27/2017	Listing Agreement	38207 Palms Pl.
20 5/3/2018	Listing Agreement	8170 Borson St.
21 3/23/2018	Listing Agreement	24974 Wiley Canyon Rd.
22 3/21/2018	Listing Agreement	1310 E. Belmont Ave.

23 First Cause of Accusation – Audit Violations

24 39. The foregoing audit violations of Code section 10159.5 and Regulation 2731
constitute cause for the suspension or revocation of the real estate licenses and license rights of
Respondents under the provisions of Code section 10177, subdivisions (d) and/or (g).

1
2 Second Cause of Accusation – Suspended Corporate Status

3 40. PWHII is a California corporation, Entity Number C3884355. On February 25,
4 2020, the rights and privileges of PWHII were, and still currently are, suspended by the
5 California Secretary of State pursuant to the provisions of the California Revenue and Taxation
6 Code. Said suspension is a violation of Regulation 2742, subdivision (c), which constitutes
7 cause for the suspension or revocation of the real estate license and license rights of Respondent
8 PWHII under the provisions of Code section 10177, subdivisions (d) and/or (g).

9 Third Cause of Accusation – Code section 10148

10 41. The conduct, acts, and/or omissions of Respondents and Nevarez concerning the
11 consumer complaints, as described in Paragraphs 18 through 27, above, involved a failure to
12 retain documents in connection with real estate sales transactions in violation of Code section
13 10148, which constitutes cause for the suspension or revocation of the real estate license and
14 license rights of Respondents under the provisions of Code section 10177, subdivisions (d)
15 and/or (g).

16 Fourth Cause of Accusation – Misrepresentations, Fraud, or Dishonest Dealing

17 42. The conduct, acts, and/or omissions of Respondents and Nevarez concerning the
18 consumer complaints, as described in Paragraphs 18 through 27, above, involved making
19 substantial misrepresentations to the parties in the real estate sales transactions and/or fraud or
20 dishonest dealing, which constitutes cause for the suspension or revocation of the real estate
21 license and license rights of Respondents under the provisions of Code section 10176,
22 subdivision (a), and Code section 10176, subdivision (i), or Code section 10177, subdivision (j).

23 Fifth Cause of Accusation - Broker Supervision - Respondent HAYMOND

24 43. Based on the violations noted above in Paragraphs 18 through 39, Respondent
HAYMOND failed to adequately supervise the activities of PWHII'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 and Regulations, in violation of Regulation 2725,

1 which constitutes cause to suspend or revoke the real estate licenses and license rights of
2 Respondent HAYMOND pursuant to Code section 10159.2, Code section 10177, subdivisions
3 (d) and/or (g), and Regulation 2725.

4 Audit Costs

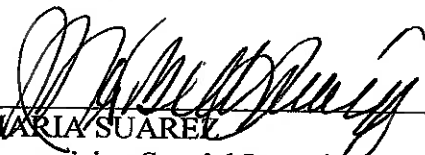
5 44. Code section 10148, subdivision (b) provides, in pertinent part, that the
6 Commissioner shall charge a real estate broker for the cost of any audit, if the Commissioner has
7 found in a final decision following a disciplinary hearing that the broker has violated Code
8 section 10145 or a regulation or rule of the Commissioner interpreting said section.

9 Investigation/Enforcement Costs

10 45. Code section 10106 provides, in pertinent part, that in any order issued in
11 resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner
12 may request the administrative law judge to direct a licensee found to have committed a violation
13 of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement
14 of the case.

15 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this
16 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
17 against all licenses and/or license rights of Respondents under the Real Estate Law (Part 1 of
18 Division 4 of the Business and Professions Code), for the costs of the audit, investigation, and
19 enforcement as permitted by law, and for such other and further relief as may be proper under
20 other provisions of law.

21 Dated at Los Angeles, California this 8th day of May, 2020.

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23 MARIA SUAREZ
24 Supervising Special Investigator

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cc: Pacific West Homes & Investments, Inc.
Derek George Haymond
Maria Suarez
Sacto
Audits/Mandeep Sidhu