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DEPT. OF REAL ESTATE
By Zou Ja

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H-41703 LA
13)
14 WRIGHT REALTY GROUP INC,) ACCUSATION
15 GIUSEPPI CUSUMANO, individually)
16 and as former designated officer of Wright)
17 Realty Group Inc,)
18 Respondents.)

18 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
19 State of California, for cause of Accusation against WRIGHT REALTY GROUP INC and
20 GIUSEPPI CUSUMANO (collectively "Respondents") alleges as follows:

21 1.

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

24 2.

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

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1 LICENSE HISTORY

2 (WRIGHT REALTY GROUP INC)

3 3.

4 (a) Respondent WRIGHT REALTY GROUP INC ("WRGI") is presently
5 licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the
6 California Business and Professions Code, as a real estate corporation, Department of Real
7 Estate¹ ("Department") license ID 01843565.

8 (b) The Department originally issued WRGI's corporate license on June 28,
9 2008. WRGI's license is scheduled to expire on October 3, 2022, unless renewed.

10 (c) According to the Department's records to date, WRGI's office address is
11 5015 Canyon Crest, #108, Riverside, CA 92507.

12 (d) According to the Department's records to date, WRGI employs no
13 salespersons under its real estate license.

14 (GIUSEPPI CUSUMANO)

15 4.

16 (a) Respondent GIUSEPPI CUSUMANO ("CUSUMANO") is presently
17 licensed under the Code, as a real estate broker, Department license ID 01107933.

18 (b) The Department originally issued CUSUMANO's broker license on or about
19 May 22, 1999. CUSUMANO's license is scheduled to expire on May 21, 2023, unless renewed.

20 (c) CUSUMANO was the designated officer for WRGI from about October 4,
21 2018 through May 5, 2019. As designated officer, CUSUMANO was responsible for the
22 supervision of the activities conducted on behalf of WRGI by its officers, agents, real estate
23 licensees, and employees pursuant to Section 10159.2 of the Code.

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27 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.

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5.

At all times relevant herein Respondents were engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate corporation, within the meaning of Section 10131(b) of the Code. Respondents' activities included the leasing or renting of real property and the collection of rents and security deposits for real property on behalf of others for compensation or in expectation of compensation.

(AUDIT SD180023)

6.

On or about March 29, 2019, the Department completed an audit examination of the books and records of WRGI pertaining to the real estate activities described in Paragraph 5 above. The audit examination covered the period of time from January 1, 2018, through December 31, 2018 ("audit period"). The primary purpose of the examination was to determine whether Respondents conducted real estate activities in accordance with the Real Estate Law. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit No. SD180023, and the exhibits and work papers attached to said audit report.

7.

An entrance conference for the audit was held on February 5, 2019 with CUSUMANO as well as Kathryn Wright ("Wright"), a non-licensee, who was WRGI's owner and office manager.

8.

According to CUSUMANO as well as the documents examined, WRGI was primarily engaged in property management and managed approximately 42 properties for 36 property owners. WRGI collected rent receipts and security deposits in the amount of approximately \$1.1 million during the audit period. WRGI charged 6-10% of monthly or a flat fee of \$60 to \$150 for management fees.

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9.

From January 1, 2018 to October 3, 2018, there was no designated officer for WRGI. However, WRGI conducted real estate activities described in Paragraph 5 above. On December 31, 2018, WRGI's corporate structure was as follows: CUSUMANO, Chief Financial Officer, owned 0% of WRGI and Wright, Chief Executive Officer and Secretary, owned 100% of WRGI.

10.

According to CUSUMANO and to the best of his knowledge, prior to his designation as designated officer of WRGI, Elizabeth Inez Wiebe ("Wiebe"), Department license ID 00946742), was the broker helping Wright with real estate activities, i.e., negotiating and signing rental agreement for WRGI tenants. Wiebe operates under and is the designated officer of Ashele Corp ("Ashele"). According to the Department's records to date, Ashele maintains authorized a fictitious business name of "Wiebe & Associates" as of July 12, 2010. During the month of July 2018, Wiebe and/or Ashele received/collected and disbursed funds in trust ("trust funds") for WRGI property owners. However, Wiebe and/or Ashele did not receive any compensation for WRGI's property management activities.

11.

At all times mentioned herein, and in connection with the broker escrow activities described in Paragraph 5, above, WRGI accepted or received funds, including trust funds from or on behalf of actual or prospective parties to transactions handled by Respondents and thereafter made deposits and/or disbursements of such funds. According to CUSUMANO, WRGI maintained five (5) bank accounts for handling of the receipts and disbursements of funds during the audit period in connection with the property management activities. The bank account is as follows:

Bank Account 1 ("BA 1")

Bank: Wells Fargo Bank
Account Name: Wright Realty Group Inc

1 Account Number: xxxxxxxx3792
2 Signatories: Giuseppe Cusumano; Kathryn Wright
3 Signatures Required: One
4 Purpose: BA 1 was maintained to handle trust funds in the property management
5 activity for multiple beneficiaries. BA 1 was opened on November 19, 2018. BA 1 was opened
6 to replace BA 2 and the first trust fund deposit was on November 19, 2018. As of December 31,
7 2018, BA 1 had a minimum adjusted bank balance of \$18,574.46.

8 Bank Account 2 ("BA 2")

9 Bank: Wells Fargo Bank
10 Account Name: Wright Realty Group Inc
11 Account Number: xxxxxxxx0748
12 Signatories: Robert G. Wright (RES ID No. 00887261) ("RGW"); Kathryn Wright
13 Signatures Required: One
14 Purpose: BA 2 was maintained to handle trust funds in the property management
15 activity for multiple beneficiaries. BA 2 was closed on November 19, 2018. As of October 3,
16 2018, BA 2 had a minimum adjusted bank balance of \$63,859.84.

17 Bank Account 3 ("BA 3")

18 Bank: BBVA Compass Bank
19 Account Name: Wright Realty Group Inc
20 Account Number: xxxxxxxx1043
21 Signatories: Giuseppe Cusumano; Kathryn Wright
22 Signatures Required: One
23 Purpose: BA 3 was maintained to handle trust funds in the property management
24 activity for multiple beneficiaries. BA 3 was opened on August 27, 2018 to replace BA 4 and
25 the first trust fund deposit was on October 24, 2018. As of December 31, 2018, BA 3 had a
26 minimum adjusted bank balance of \$75,001.00.

27 Bank Account 4 ("BA 4")

1 Bank: Wells Fargo Bank
2 Account Name: Wright Realty Group Inc
3 Account Number: xxxxxxxx2304
4 Signatories: Robert G. Wright (RES ID No. 00887261); Kathryn Wright
5 Signatures Required: One
6 Purpose: BA 4 was maintained to handle trust funds in the property management
7 activity for multiple beneficiaries. All security deposits trust fund totaling \$15,866.21 was
8 withdrawn from BA 4 and deposited into BA 3 on October 24, 2018. As of October 3, 2018,
9 BA 4 had a minimum adjusted bank balance of \$18,341.21.

10 Bank Account 5 ("BA 5")

11 Bank: US Bank
12 Account Name: Wright Realty Group Inc
13 Account Number: xxxxxxxx5437
14 Signatories: Robert G. Wright (RES ID No. 00887261); Kathryn Wright
15 Signatures Required: One
16 Purpose: BA 5 was maintained to handle trust funds in the property management
17 activity for multiple beneficiaries. BA 5 was opened to replace BA 2, but was only active from
18 October 25, 2018 until it was closed on November 13, 2018.

19 Violations of the Real Estate Law

20 12.

21 The audit examination revealed violations of the Code and the Regulations, as
22 set forth in the following paragraphs, and more fully discussed in Audit Report No.
23 SD180023180020, and the exhibits and work papers attached to the audit report:

24 (a) **Trust Fund Handling For Multiple Beneficiaries (Code section 10145**
25 **and Regulations section 2832.1)**. Based on an examination of BA 1's records, there was a
26 minimum trust fund shortage of \$1,345.00 as of December 31, 2018 in violation of Code
27 section 10145 and Regulations section 2832.1. There is no evidence that WRGI and

1 CUSUMANO were given written consent from the owners of the trust funds to allow them to
2 reduce the balance of the funds in BA 1 to an amount less than the aggregate trust fund
3 liabilities of WRGI to all owners of the trust funds.

4 Based on an examination of BA 2's records, there was a minimum trust fund
5 shortage of \$4,454.93 as of October 31, 2018 in violation of Code section 10145 and
6 Regulations section 2832.1. There is no evidence that WRGI was given written consent from
7 the owners of the trust funds to allow them to reduce the balance of the funds in BA 2 to an
8 amount less than the aggregate trust fund liabilities of WRGI to all owners of the trust funds.

9 Based on an examination of BA 4's records, there was a minimum trust fund
10 shortage of \$52,848.79 as of October 3, 2018 in violation of Code section 10145 and
11 Regulations section 2832.1. There is no evidence that WRGI was given written consent from
12 the owners of the trust funds to allow them to reduce the balance of the funds in BA 4 to an
13 amount less than the aggregate trust fund liabilities of WRGI to all owners of the trust funds.

14 **(b) License Required/Broker Officers – No Designated Officer (Code section**
15 **10130 and Regulations section 2740)**. From approximately January 1, 2018 to October 3,
16 2018 (“unlicensed period”), WRGI’s license status was “Licensed NBA” as it did not have a
17 designated officer. WRGI violated Code 10130 and Regulations section 2740 by performing
18 acts requiring a real estate license, as seen in paragraph 5 above, during the unlicensed period.

19 During the unlicensed period, WRGI failed to maintain complete and accurate
20 control and separate records for trust fund receipts and disbursements for BA 2 and BA 4 in
21 connection with WRGI’s property activities in violation of Code section 10145 and Regulations
22 section 2831. The control and separate records for BA 2 and BA 4 had inaccurate balance,
23 unidentified, and/or unaccounted for funds.

24 During the unlicensed period, WRGI did not maintain a complete and accurate
25 monthly reconciliation of the balance of all separate beneficiary or transaction records to the
26 balance of the records of all trust funds received and disbursed for BA 2 and BA 4 in violation
27 of Code section 10145 and Regulations section 2831.2. Further, BA 2 and BA 4 were not

1 properly designated as trust accounts in violation of Code section 10145 and Regulation section
2 2834.

3 During July 2018, Wiebe and/or Ashele collected approximately \$26,255.00 in
4 rents from WRGI's tenants and disbursed approximately \$21,953.91 in trust funds to property
5 owners. In August 2018, Wiebe and/or Ashele submitted two checks totaling \$3,963.03 to
6 WRGI. During July and August 2018, Wiebe and/or Ashele were not employees of or
7 associated with WRGI.

8 Based on an examination of BA 2 and BA 4's records, the accounts were used
9 for handling the receipts and disbursements of trust funds in connection with WRGI's property
10 management activities. WRGI allowed Wright, owner and non-licensed employee of WRGI,
11 and RGW, owner and licensed employee of WRGI, to be signers without fidelity bonds or
12 insurance coverage in violation of Code section 10145 and Regulation section 2834.

13 During the unlicensed period, WRGI further violated real estate law by failing to
14 inform the Department that RGW was a co-owner of WRGI and conducted business for WRGI,
15 and the unlicensed fictitious business names "Re/Max Fine Homes", "Re/Max Results",
16 "Wright Realty Group", and "The Wright Realty Group".

17 **(c) Handling of Trust Funds/Trust Fund Records To Be Maintained (Code**
18 **section 10145 and Regulations section 2831)**. From November 19, 2018 to December 31,
19 2018, WRGI and CUSUMANO failed to maintain complete and accurate control records for
20 trust fund receipts and disbursements for BA 1 in connection with WRGI's property activities
21 in violation of Code section 10145 and Regulations section 2831. Control records for BA 1 had
22 some trust funds received that were not recorded and some recorded trust funds that were not
23 deposited in BA 1. Therefore, BA 1 had inaccurate balance, unidentified, and/or unaccounted
24 for funds.

25 From October 4, 2018 to October 31, 2018, WRGI and CUSUMANO failed to
26 maintain complete and accurate control records for trust fund receipts and disbursements for
27 BA 2 in connection with WRGI's property activities in violation of Code section 10145 and

1 Regulations section 2831. Control records for BA 2 had did not have an accurate daily balance.
2 Further, some recorded trust funds that were not deposited in BA 2, some recorded check were
3 not from BA 2, and a recorded disbursement of funds was not, in fact, disbursed. Therefore, BA
4 2 had inaccurate balance, unidentified, and/or unaccounted for funds.

5 From October 4, 2018 to October 31, 2018, WRGI and CUSUMANO failed to
6 maintain complete and accurate control records for trust fund receipts and disbursements for
7 BA 4 in connection with WRGI's property activities in violation of Code section 10145 and
8 Regulations section 2831. Control records for BA 4 had did not have an accurate daily balance.
9 Further, some recorded trust funds that were not deposited in BA 4 and some recorded
10 disbursement of funds was not, in fact, disbursed. Therefore, BA 4 had inaccurate balance,
11 unidentified, and/or unaccounted for funds.

12 (d) **Handling of Trust Funds/ Separate Records for Each Beneficiary or**
13 **Transaction (Code section 10145 and Regulations section 2831.1).** From November 19,
14 2018 to December 31, 2018, WRGI and CUSUMANO failed to maintain complete and accurate
15 separate records for all trust fund receipts and disbursements for BA 1 in connection with
16 WRGI's property activities in violation of Code section 10145 and Regulations section 2831.
17 Separate records for BA 1 had some trust funds received that were not recorded and some
18 recorded trust funds that were not deposited in BA 1. WRGI and CUSUMANO also failed to
19 maintain a separate record for the unidentified/unaccounted for funds totaling \$1,664.44 held in
20 BA 1 as of December 31, 2018.

21 From October 4, 2018 to October 31, 2018, WRGI and CUSUMANO failed to
22 maintain complete and accurate separate records for all trust fund receipts and disbursements
23 for BA 2 in connection with WRGI's property activities in violation of Code section 10145 and
24 Regulations section 2831. Separate records for BA 2 had did not have an accurate daily balance.
25 Further, some recorded trust funds that were not deposited in BA 2, some recorded check were
26 not from BA 2, and a recorded disbursement of funds was not, in fact, disbursed.

1 From October 4, 2018 to October 31, 2018, WRGI and CUSUMANO failed to
2 maintain complete and accurate separate records for all trust fund receipts and disbursements
3 for BA 4 in connection with WRGI's property activities in violation of Code section 10145 and
4 Regulations section 2831. Separate records for BA 4 had did not have an accurate daily balance.
5 Further, some recorded trust funds that were not deposited in BA 4 and some recorded
6 disbursement of funds was not, in fact, disbursed. Therefore, BA 4 had inaccurate balance,
7 unidentified, and/or unaccounted for funds.

8 (e) **Trust Account Reconciliation (Code section 10145 and Regulations**
9 **section 2831.2).** WRGI and CUSUMANO did not maintain a complete and accurate monthly
10 reconciliation of the balance of all separate beneficiary or transaction records to the balance of
11 the records of all trust funds received and disbursed for BA 1, BA 2, and BA 4 in violation of
12 Code section 10145 and Regulations section 2831.2.

13 (f) **Handling Of Trust Fund /Trust Account Designation (Code section**
14 **10145 and Regulations section 2832).** Based on an examination of BA 1, BA 2, BA 3, BA 4
15 and BA 5's records, the bank accounts were used for handling the receipts and disbursements of
16 trust funds in connection with WRGI's property management activities, but were not designated
17 as trust accounts in violation of Code section 10145 and Regulation section 2834.

18 (g) **Handling Of Trust Fund /Trust Account Withdrawal (Code section**
19 **10145 and Regulations section 2834).** Based on an examination of BA 1, BA 2, BA 3, BA 4,
20 and BA 5's records, the accounts were used for handling the receipts and disbursements of trust
21 funds in connection with WRGI's property management activities. CUSUMANO allowed
22 Wright, owner and non-licensed employee of WRGI, to be a signer without fidelity bonds or
23 insurance coverage in violation of Code section 10145 and Regulation section 2834.

24 (h) **Handling Of Trust Fund /Commingling/Mishandling Trust Fund (Code**
25 **sections 10145 and 10176(e) and Regulations section 2832).** WRGI commingled its
26 company's general funds with trust funds by transferring/depositing trust funds from BA 2 to
27

1 WRGI's general business account (Account No. xxxxxxxx1438) and disbursing trust funds
2 from the general business account.

3 (i) **Use of False or Unlicensed Fictitious Name (Code section 10159.5 and**
4 **Regulations section 2731)**. From October 4, 2018 to December 31, 2018, WRGI used the
5 unlicensed fictitious business name of "Re/Max Fine Homes", "Re/Max Results", "Wright
6 Realty Group", "The Wright Realty Group", and "WRG, Inc" without first obtaining
7 permission from the Department. These names do not show up in the Department's records as
8 licensed fictitious business names associated with WRGI.

9 (j) **Responsibility of Corporate Office in Charge/Broker Supervision (Code**
10 **sections 10159.2 and 10177(h) and Regulations section 2725)**. Based on the violations in
11 Paragraphs 12 (a), (c) – (i) above, CUSUMANO failed to exercise adequate supervision and
12 control over WRGI's property management activities conducted by WRGI's licensees and/or its
13 employees in violation of Code sections 10159.2 and 10177(h). CUSUMANO failed to
14 establish policies, rules, procedures, and systems to review, oversee, inspect, and manage
15 transactions requiring a real estate license and the handling of trust funds in violation of
16 Regulations section 2725. CUSUMANO also failed to maintain accurate control records,
17 separate records, and trust account reconciliation records during the audit period in violation of
18 Regulations section 2725.

19 13.

20 Each of the foregoing violations in Paragraphs 12 (a)-(j) above constitute cause
21 for the suspension or revocation of the real estate license and/or license rights of Respondents
22 under the provisions of Code sections 10177(d), 10177(g), and 10177(h) (as to CUSUMANO).

23 **COSTS**

24 (AUDIT COSTS)

25 14.

26 Section 10148(b) of the Code, provides, in pertinent part, that the Real Estate
27 Commissioner shall charge a real estate broker for the costs of any audit if the Commissioner

1 has found in a final decision, following a disciplinary hearing, that the broker has violated
2 Section 10145 of the Code or a regulation or rule of the Commissioner interpreting said Code
3 section.

4 (INVESTIGATION AND ENFORCEMENT COSTS)

5 15.

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

10 PRAYER

11 WHEREFORE, Complainant prays that a hearing be conducted on the
12 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
13 disciplinary action against all the licenses and/or license rights of Respondents WRIGHT
14 REALTY GROUP INC and GIUSEPPI CUSUMANO under the Real Estate Law, for the costs
15 of investigation and enforcement as permitted by law, for the cost of the audit, and for such
16 other and further relief as may be proper under other applicable provisions of law.

17
18 Dated at San Diego, California this 17 day of June, 2020.

19
20 V. Kilpatrick
21 Veronica Kilpatrick
22 Supervising Special Investigator

23
24 cc: WRIGHT REALTY GROUP INC
25 GIUSEPPI CUSUMANO
26 Veronica Kilpatrick
27 Sacto.
Audits – Zaky Wanis