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DEPT. OF REAL ESTATE

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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-41817 LA

13 **ADRIAN MICHAEL RASKULINECZ,**

ACCUSATION

14 **Respondent.**

15 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the
16 Department of Real Estate¹ ("Department") of the State of California, for cause of Accusation
17 against ADRIAN MICHAEL RASKULINECZ ("Respondent"), alleges as follows:

18 1. The Complainant, Veronica Kilpatrick, acting in her official capacity as a
19 Supervising Special Investigator, makes this Accusation against Respondent.

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

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23
24 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. Respondent was licensed and/or has license rights under the Real Estate Law (Part
4 1 of Division 4 of the Code).

5 4. On June 23, 2006, the Department issued a real estate broker license to
6 Respondent, License ID 01192436. Respondent's license expired on September 23, 2018.
7 Respondent has renewal rights. The Department retains jurisdiction pursuant to Code section
8 10103. On May 1, 2020, Respondent's real estate license was suspended indefinitely pursuant to
9 Department Case No. R-5783.

10 Broker Activities

11 5. At all times mentioned herein, in the State of California, Respondent acted as a
12 real estate broker and conducted licensed activities within the meaning of Code section 10131(b)
13 (solicit or offer to negotiate the sale, purchase or exchange of leases, or collects rents from real
14 property or on a business opportunity). Respondent used the unlicensed fictitious business
15 names, "Infinity Consulting" and "Infinity Consulting, Inc.", for said property management
16 activities.

17 FIRST CAUSE OF ACCUSATION

18 Audit LA180009

19 6. The Department attempted to complete an audit examination of the books and
20 records of Respondent's property management activities, which require a real estate license
21 under Code section 10131, subdivision (b).

22 7. The audit covered the period of time from September 1, 2015 through August 31,
23 2018 ("audit period"). Respondent failed to provide the complete records requested for the audit
24 examination.

1 Code section 10145 and Regulation 2832.1. Trust fund handling / Trust fund handling for
2 multiple beneficiaries.

3 13. A bank reconciliation was prepared for BA 1 with a cutoff date of August 31,
4 2018. The minimum adjusted bank balance was compared to the minimum accountability
5 determined by the Department's auditor. As of August 31, 2018, BA 1 had a minimum shortage
6 of <\$170,324.26>. The shortage was caused by minimum negative property balances of
7 <20,809.49>, minimum bank service charge of <\$1,036.01>, minimum unauthorized
8 disbursements / conversion of funds of <\$21,412.85>, minimum rent income collected but not
9 deposited into BA 1 of <\$72, 307.00>, minimum security deposits collected but noted deposited
10 into BA 1 of <\$46,700.50>, and a minimum unidentified shortage of <\$8,058.41>.

11 14. The negative property balances include, but are not limited to, the following
12 properties: 14623 Poner St., 1756 N. Glenview Ave., 1428 Vista Grande, 575 Eaton St., 1300
13 Mariposa Dr., and 926 N. Raymond Ave. The unauthorized disbursements/conversion include,
14 but are not limited to, Respondent's credit card payments and payments for utilities and personal
15 expenses. The rent receipts collected but not deposited into BA 1 include trust funds received
16 for the following properties, without limitation: 14623 Poner St., 27762 Antonio Parkway, 12021
17 Weeping Willow Ln., and 27762 Antonio Parkway. The security deposits collected but not
18 deposited into BA 1 include trust funds received for the following properties, without limitation:
19 3702 Santiago Creek Way, 24816 Leto Circle, 1300 Mariposa Dr., and 1428 Vista Grande.

20 15. Respondent failed to provide any evidence that the owners of the trust funds had
21 given their written consent to allow Respondent to reduce the balance of the funds in BA 1 to an
22 amount less than the existing aggregate trust fund liabilities, in violation of Code section 10145
23 and Regulation 2832.1.

1 Code section 10145 and Regulation 2831. Trust fund records to be maintained.

2 16. Respondent failed to maintain accurate and complete records of trust funds
3 received and disbursed (control records) for BA 1, in violation of Code section 10145 and
4 Regulation 2381. The control records listed transactions that were not traceable to the bank
5 statements. Respondent failed to maintain and provide a record of all funds received and
6 disbursed with sufficient information to identify the funds related to the receipts and
7 disbursements of rent and security deposits collected in connection with Respondent's property
8 management activities.

9 17. The control records only had one date column which failed to indicate whether
10 the date reflected the date of receipt or date of deposit. Examples of the inaccurate entries
11 include, without limitation, the following:

<u>Date</u>	<u>Property</u>	<u>Amount</u>
13 8/30/2018	14623 Poner St.	\$1,850.00
14 8/31/2018	27762 Antonio Parkway	\$22,000.00

15 Code section 10145 and Regulation 2831.1. Separate records for each beneficiary or transaction

16 18. Respondent failed to maintain accurate separate records for BA 1 of all trust funds
17 received and disbursed related to Respondent's property management activities, in violation of
18 Code section 10145(g) and Regulation 2831.1. Separate records, records of receipts and
19 deposits, records of monthly reconciliation, records of all trust funds received and disbursed,
20 with information sufficient to identify all receipts and disbursements of BA 1 were not made
21 available for the audit. The Department's auditor reconstructed three months' of records to
22 determine the minimum accountability as of August 31, 2018 for BA 1, based on limited records
23 (control records/ledgers) and bank statements.

24

1 Code section 10145 and Regulation 2831.2. Bank account reconciliation

2 19. During the audit period, Respondent failed to perform and maintain monthly
3 reconciliations comparing the balance of all separate beneficiary or transaction records (separate
4 records) to the balance of all trust funds received and disbursed (control record) for BA 1, in
5 violation of Code section 10145 and Regulation 2831.2.

6 Code section 10145 and Regulation 2832. Handling of trust funds

7 20. Based on the audit work papers examined, Respondent used BA 1 to handle trust
8 funds in connection with Respondent's property management activity. Respondent collected
9 trust funds in the form of rent receipts and failed to deposit the funds into BA 1 within three (3)
10 business days following the receipt of funds. Moreover, BA 1 was not set-up as a trust account,
11 in violation of Code section 10145 and Regulation 2832. Examples of the late deposit of rent
12 receipts include, but are not limited to, the following:

13	<u>Check Date</u>	<u>Property</u>	<u>Date Deposit</u>	<u>Amount</u>
14	04/27/2018	6082 Fullerton Ave.	06/12/2018	\$1,234.50
15	05/01/2018	753 Jaywood	06/12/2018	\$1,900.00
16	05/05/2018	307 Camarillo St.	08/14/2018	\$1,325.00

17 Code sections 10145, 10176(i) or 10177(j). Handling of trust funds/Unauthorized

18 Disbursements/Conversion of Trust funds

19 21. Based on the audit work papers examined, Respondent made unauthorized
20 disbursements from BA 1 that were not traceable to managed properties. During the period from
21 June through August 2018, Respondent made minimum unauthorized disbursements/conversion
22 of funds of <\$21,412.85> from BA 1, to pay Respondent's operating and personal expenses
23 including credit card, mobile phone, cable, entertainment, and ATM withdrawals. Respondent
24 failed to provide any evidence that the owners of the trust funds had given their written consent

1 to allow Respondent to reduce the balance of the funds in BA 1 to an amount less than the
2 existing aggregate trust fund liabilities, in violation of Code sections 10145 and 10176,
3 subdivision (i), or 10177, subdivision (j).

4 22. Examples of the unauthorized disbursements/conversion include, but are not
5 limited to, the following:

<u>Date</u>	<u>Description</u>	<u>Payee</u>	<u>Amount</u>
07/03/2018	Account payment	Appfolio	\$360.50
07/03/2018	Account payment	Orange Theory	\$159.00
07/16/2018	Credit card – mobile payment	Capital One	\$2,839.16
07/16/2018	Account payment	Direct TV	\$181.57
08/01/2018	Overdrawn Transfer	Overdrawn Account	\$597.84
08/27/2018	Account payment	AT&T	\$409.70
08/31/2018	Account payment	T Mobile	\$109.17

14 Code section 10159.5 and Regulation 2731. Use of unlicensed false or fictitious business name

15 23. During the audit period, Respondent was not licensed to do business under any
16 fictitious business names. Respondent used the unlicensed fictitious business names, “Infinity
17 Consulting” and “Infinity Consulting, Inc.” to engage in property management activities
18 requiring a real estate license without first obtaining a license from the Department, in violation
19 of Code section 10159.5 and Regulation 2731. Said unlicensed fictitious business names were
20 used on documents including, but not limited to, property management agreements, bank
21 statements, and cancelled checks.

22 Code section 10162. Place of Business

23 24. Based on the Department’s licensing records, as of September 13, 2018,
24 Respondent maintained his main office at: 5161 California Ave., Suite 250, Irvine, California

1 92617. According to Respondent's discussion with the Department's auditor on October 4,
2 2018, the address noted above was Respondent's prior main office address. Respondent claimed
3 to use the following address as his main office address: 27762 Antonio Parkway, Suite L1-103,
4 Ladera Ranch, California 92694. The Department's investigator discovered that the Ladera
5 Ranch address is a rented, private mailbox as a UPS store. During the audit period, Respondent
6 failed to maintain a definite place of business in California that serves as his office to transact
7 business, in violation of Code section 10162.

8 Code section 10148. Retention of Records

9 25. The Department requested that Respondent provide records related to
10 Respondent's real estate activities for the Department's audit. Respondent only provided limited
11 and incomplete records to the Department. Respondent failed to maintain or provide complete
12 records related to Respondent's property management activities during the audit period, in
13 violation of Code section 10148. Examples of records that Respondent failed to retain or make
14 available for the audit examination include, but are not limited to, the following: separate records
15 for BA 1, a bank signature card for BA 1, some cancelled checks, deposit tickets, property
16 management agreements, monthly bank reconciliation reports, monthly owner statements, and
17 property log of managed properties.

18 26. The conduct of Respondent as described above in Paragraphs 13 through 25,
19 violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
20 13-15	Code section 10145 and Regulations 2832.1
21 16 & 17	Code section 10145 and Regulations 2831
22 18	Code section 10145 and Regulation 2831.1
23 19	Code section 10145 and Regulation 2831.2

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PARAGRAPH

PROVISIONS VIOLATED

20 Code section 10145 and Regulation 2832

21 & 22 Code sections 10145, 10176(i) or 10177(j)

23 Code section 10159.5 and Regulation 2731

24 Code section 10162

25 Code section 10148

26. The foregoing violations constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondent under the provisions of Code sections 10177(d), 10176(i) or 10177(j), and/or 10177(g).

27. The conduct, acts, omissions, and violation of 10162, as described above in Paragraph 24, constitute cause for the suspension or revocation of the real estate license and license rights of Respondent under the provisions of Code sections 10165 and 10177, subdivisions (d) and/or (g), for violation of Code section 10162 and Regulations 2710, subdivision (c), and 2715.

Audit Costs

28. Code section 10148, subdivision (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.

SECOND CAUSE OF ACCUSATION

29. There is hereby incorporated in this Second, separate, Cause of Accusation, all of the allegations contained in Paragraphs 1 through 28 above, with the same force and effect as if herein fully set forth.

1 D.W. and W.W. complaint

2 30. The Department received a complaint against Respondent from D.W.¹ and W.W.
3 (“property owners”).

4 31. Respondent entered into a property management agreement with the property
5 owners. For compensation, Respondent managed the property owners’ two rental properties
6 located at: 11721 Nutwood Ct., Fontana, California (“Nutwood property”) and 10474 La Tour
7 Lane, Mira Loma, California (“La Tour property”). Respondent negotiated the rental of the
8 rental properties to tenants and collected security deposits and rents for the property owners.

9 32. Respondent allegedly failed to timely forward rent payments collected from the
10 tenants for the Nutwood and La Tour properties to the property owners. The property owners
11 cancelled their property management agreement with Respondent and demanded that
12 Respondent return owed trust funds including security deposits, reserves, and rents. Respondent
13 failed to return the trust funds belonging to the property owners despite repeated demands. On
14 or about April 22, 2019, a civil judgment for \$8,011.45 in damages was awarded in favor of the
15 property owners and against Respondent.

16 W.C.C. complaint

17 33. The Department received a complaint against Respondent from W.C.C.
18 (“property owner”).

19 34. Respondent entered into a property management agreement with the property
20 owner. For compensation, Respondent managed the property owner’s rental property located at:
21 1428 Vista Grande, Fullerton, California (“Vista Grande property”). Respondent negotiated the
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24 ¹ 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.

1 rental of the rental property to tenants and collected a security deposit and rents for the property
2 owner.

3 35. Respondent allegedly failed to timely forward rent payments collected from the
4 tenants for the Vista Grande property to the property owner. On or about June 1, 2018, the
5 property owner terminated their property management agreement with Respondent and
6 demanded that Respondent return owed trust funds including the security deposit, reserves, and
7 rents to the property owner. Respondent has failed to return the following funds: \$9,830.00 in
8 rent monies, \$95.75 in HOA late fees, \$885.96 in unaccounted repair expenses, and \$3,300.00 in
9 management fees, to the property owner despite repeated demands.

10 M.M.P. complaint

11 36. The Department received a complaint against Respondent from M.M.P.

12 37. Respondent entered into property management agreements with M.M.P.'s mother,
13 C.B., ("property owner"), a senior citizen. For compensation, Respondent managed the property
14 owner's four rental properties located at: 1) 3840 Antelope Creek Dr., Ontario, California
15 ("Antelope Creek property"); 2) 11837 Rancherias Dr., Fontana, California ("Rancherias
16 property"); 3) 3702 Santiago Creek Rd., Ontario, California ("Santiago property"); and 4) 3107
17 Crystal Lake Road, Ontario, California ("Crystal Lake property"). Respondent negotiated the
18 rental of the rental properties to tenants and collected security deposits and rents for the property
19 owner.

20 38. Respondent allegedly failed to timely forward rent payments collected from the
21 tenants for the rental properties to the property owner. On or about October 24, 2018, the
22 property owner terminated their property management agreement with Respondent and
23 demanded that Respondent return owed trust funds including the security deposits, reserves, and
24 rents to the property owner. Respondent has failed to return trust funds including rent monies,

1 security deposits, and late HOA fees to the property owner despite repeated demands.

2 Respondent also failed to provide requested accountings and copies of lease agreements to the
3 property owner.

4 H.L. complaint

5 39. The Department received a complaint against Respondent from H.L. ("property
6 owner").

7 40. Respondent entered into a property management agreement with the property
8 owner. For compensation, Respondent managed the property owner's rental property located at:
9 13894 Hillcrest Dr., Fontana, California ("Hillcrest property"). Respondent negotiated the rental
10 of the rental property to tenants and collected a security deposit and rents for the property owner.

11 41. Respondent allegedly failed to timely forward rent payments collected from the
12 tenants for the Hillcrest property to the property owner. The property owner discovered that
13 Respondent had double-billed the property owner for some repairs including for flooring.
14 Respondent failed to respond to the property owner's demands for accountings of trust funds for
15 the Hillcrest property. In or around September of 2018, the property owner terminated their
16 property management agreement with Respondent and demanded that Respondent return owed
17 trust funds including the security deposit, reserves, and rents to the property owner. Respondent
18 failed to return trust funds estimated at \$2,673.00 belonging to the property owner despite
19 repeated demands.

20 Cause for Discipline

21 42. Respondent's conduct, acts, and/or omissions, as described above in Paragraphs
22 30 through 41, constitute cause for the suspension or revocation of the real estate license and
23 license rights of Respondent under the provisions of Code section 10176, subdivision (i), or
24 Code section 10177, subdivision (j), and Code section 10177, subdivisions (d) and/or (g).

1 Investigation/Enforcement Costs

2 43. Code section 10106 provides, in pertinent part, that in any order issued in
3 resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner
4 may request the administrative law judge to direct a licensee found to have committed a violation
5 of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement
6 of the case.

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

13 Dated at San Diego, California this 27 day of October, 2020.

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15 
16 VERONICA KILPATRICK
Supervising Special Investigator

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18
19 cc: Adrian Michael Raskulinecz
Homeunion, Inc.
20 Homeunion Lending, Inc.
Veronica Kilpatrick
21 Sacto
Audits/Raymond Chow
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