

Filed

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By: John Aguilar

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

11 In the Matter of the Accusation of) No. H-41900 LA
 12 BELMONT BROKERAGE AND)
 13 MANAGEMENT INC., and WALTER) ACCUSATION
 14 KURT WOOD, individually and as)
 designated officer of Belmont)
 15 Brokerage and Management Inc.,)
 Respondents.)

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 17 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the
 18 Department of Real Estate ("Department" or "DRE") of the State of California, for cause of
 19 Accusation against BELMONT BROKERAGE AND MANAGEMENT INC. ("BBMI"), and
 20 WALTER KURT WOOD ("WOOD") ("Respondents"), alleges as follows:

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

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

LICENSE HISTORY

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 26 3. Respondent BBMI^{1/} has been licensed by the Department as a real estate
 27 corporation, License ID 01011683, from on or about January 9, 1989, through the present, with

28 ^{1/} BBMI previously used the name "Belmont Property Management Inc." from on or about January 9, 1989 to October 6, 1997. BBMI changed its name to its current form on or about October 7, 1997. BBMI and Belmont Property Management Inc. are hereinafter referred to in this Accusation as BBMI.

1 BBMI's license scheduled to expire on June 8, 2021, unless renewed. BBMI is licensed through
2 WOOD's real estate broker ("REB") license, ID 00452182, and WOOD is the designated officer
3 ("D.O."). According to Department records as of March 5, 2020, BBMI employs four real estate
4 salespersons ("RES") and did not maintain any branch offices. Also, according to Department
5 records as of March 5, 2020, and currently, the fictitious business name "Belmont Property
6 Management" ("BPM") is licensed to BBMI.

7 4. Respondent WOOD has been licensed by the Department as a REB, from on or
8 about April 20, 1989 through the present, with WOOD's license scheduled to expire on April 19,
9 2021, unless renewed. WOOD was previously licensed as a RES from on or about June 25, 1986
10 through on or about April 19, 1989. WOOD has no fictitious business names licensed with the
11 Department.

12 **BROKERAGE: BBMI**

13 5. At all times mentioned, in the County of Los Angeles, BBMI acted as a real estate
14 broker, conducting licensed activities within the meaning of Code sections 10131(a) and 10131(b):
15 selling or offering to sell, buying or offering to buy, real property for others; and leasing or renting,
16 offering to lease or rent, or collecting rents from real property for others.^{2/} At all times mentioned,
17 BBMC was acting by and through WOOD as its D.O. pursuant to Code Section 10159.2 who was
18 responsible for ensuring compliance with the Real Estate Law.

19 **DRE CASE NO. H-23719 LA**

20 6. On or about June 16, 1989, in Case No. H-23719 LA, the Department filed an Order
21 to Desist and Refrain against BBMI. The Department held that from September 1, 1987 to and
22 including August 31, 1988, BBMI operated a real estate property management business, conducting
23 activities requiring a real estate broker license under Code Section 10131(b), however, BBMI was
24 in violation of Code Section 10130 for performing such activities at a time when it was not licensed
25 by the Department. The Department ordered BBMI to desist and refrain from performing acts
26 requiring a real estate license without holding a license issued by the Department at the time such
27 acts were performed.

28 ^{2/} The Department's audit of BBMI, as described below, is limited to BBMI's property management activities.

1 **DRE CASE NO. H-23736 LA**

2 7. On or about January 10, 1990, in Case No. H-23736 LA, the Department filed a
3 Decision against WOOD suspending his license and license rights under the Real Estate Law for 30
4 days; provided, however, that the suspension would be fully stayed on condition that no further
5 case for disciplinary action against WOOD shall occur within one year from the effective date of
6 the Decision. The Department found that from September 1, 1987 to and including August 31,
7 1988, WOOD had performed activity requiring a real estate license and received compensation for
8 performing such activity on behalf of BBMI, a property management company that at the time of
9 WOOD's activities was not licensed by the Department to perform such activities, and that WOOD
10 received compensation in violation of Code Section 10137.

11 **AUDIT OF BBMI: AUDIT NO. LA180071**

12 8. On August 30, 2019, the Department completed an audit examination of the books
13 and records of BBMI's real estate activities that require a real estate broker license under Code
14 Section 10131. The audit examination, LA180071, covered the time period from February 1, 2018
15 to January 31, 2019 ("audit period") and was limited to BBMI's property management activities.

16 9. The purpose of the audit examination was to determine whether BBMI conducted its
17 property management activities and handled and accounted for trust funds in accordance with the
18 Real Estate Law and the Regulations.

19 10. Based on discussions between the Department's auditor and WOOD, and review of
20 documents, BBMI's corporate structure of BBMI's as of March 19, 2019 was as follows:

<u>Name</u>	<u>Title</u>	<u>License</u>	<u>Shareholder %</u>
WOOD	President	00452182 (REB)	100%

23 11. Based on a review of records, BBMI manages 272 properties for 162 owners as of
24 April 9, 2019, and BBMI collected approximately \$21,326,379.01 from February 1, 2018 to
25 January 31, 2019. According to WOOD, BBMI charged a management fee of 3.5% to 6%, or a
26 minimum of \$125 to \$175 per month.

27 12. BBMI maintained the following bank accounts for handling trust funds during the
28 audit period:

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a. Trust Account 1 ("TA1")

Bank: Pacific Premier Bank
Account Name: Belmont Brokerage & Management, Inc., as Trustee – Client Trust D
Walter Kurt Wood, Broker of Record as Trustee
Account #: XXXXXXXX8916
Signatories: Holly S. Armstrong (RES, ID 02028575)
Michelle Harth (RES, ID 01954168)
WOOD
Signatures required: One (1) signature
Description: TA1 was opened on May 16, 2017 as an Analyzed Business Checking account and was maintained for handling trust funds.

b. Trust Account 2 ("TA2")

Bank: Pacific Premier Bank
Account Name: Belmont Brokerage & Management, Inc., as Trustee – Client Trust Acct. – Holding Deposits – W. Kurt Wood, Broker of Record as Trustee
Account #: XXXXXXXX5606
Signatories: Holly S. Armstrong
Michelle Harth
WOOD
Signatures required: One (1) signature
Description: TA2 was opened on May 16, 2017 as an Analyzed Business Checking account and was maintained for handling trust funds.

c. Trust Account 3 ("TA3")

Bank: Pacific Premier Bank
Account Name: Belmont Brokerage & Management, Inc., as Trustee – Client Trust Howood
Walter Kurt Wood, Broker of Record as Trustee
Account #: XXXXXXXX5142
Signatories: Holly S. Armstrong
Michelle Harth
WOOD
Signatures required: One (1) signature
Description: TA3 was opened on May 16, 2017 as an Analyzed Business Checking account and was maintained for handling trust funds.

Audit Violations in Audit No. LA180071

13. The Complainant realleges and incorporates by reference all of the allegations contained in paragraphs 1 through 12 above, with the same force and effect as though fully set forth herein.

1 14. The audit examination revealed violations of the Code and the Regulations, as set
2 forth in the following paragraphs, and more fully discussed in Audit No. LA180071 and the
3 exhibits and work papers attached to the audit report:

4 **Issue One (1). Code Section 10145(a): Trust Fund Handling**

5 15. As of January 31, 2019, TA3 had a discrepancy of \$1,815.94. According to BBMI's
6 accounting supervisor, Lam Pham (non-licensee), the discrepancy was caused by BBMI issuing
7 check number 9999 in the amount of \$1,900.00 on November 27, 2018. Check number 9999 was
8 later voided on March 28, 2019.

9 16. BBMI's reduction of the balance of funds in TA3 to an amount less than the existing
10 aggregate trust fund liability was in violation of Code section 10145(a).

11 **Issue Two (2). Code Section 10145 and Regulation 2832: Trust Fund Handling; Timely**

12 **Deposits**

13 17. BBMI collected trust funds in the form of rent receipts and owner deposits and
14 failed to place these funds in TA1 and TA3 within three (3) business days following their receipt by
15 BBMI or its salespersons or unlicensed employees during the audit period. The Department's
16 auditor provided the following examples:

17 **TA1 – Untimely Deposits**

<u>Tenant</u>	<u>Property ID/Address</u>	<u>Amount Received</u>	<u>Date Received</u>	<u>Date Deposited</u>
A.R. ^{3/}	j615 – 615 Junipero Ave Long Beach	\$ 125.00	08/04/18	08/13/18
A.R.	j615 – 615 Junipero Ave Long Beach	1,000.00	08/04/18	08/13/18
D.S.	f2215 – 2215 Florida St Long Beach	200.00	08/28/18	09/04/18
D.S.	f2215 – 2215 Florida St Long Beach	1,500.00	10/02/18	10/09/18
H.T.	j615 – 615 Junipero Ave Long Beach	1,000.00	10/22/18	10/30/18
H.T.	j615 – 615 Junipero Ave Long Beach	495.00	10/22/18	10/30/18
D.S.	f2215 – 2215 Florida St Long Beach	1,500.00	12/30/18	01/07/19
K.S.	i241 – 241 – 249½ Lime Long Beach	920.00	01/04/19	01/14/19
Total:		<u>\$6,740.00</u>		

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28 ^{3/} Initials of first and last names are used in place of an individual's full name to protect their privacy. Documents containing the individual's full name will be provided during the discovery phase of this case to Respondents and/or their attorney(s), after service of a timely and proper request for discovery on Complainant's counsel.

1 TA3 – Untimely Deposits

2 <u>Tenant</u>	<u>Property ID/Address</u>	<u>Amount Received</u>	<u>Date Received</u>	<u>Date Deposited</u>
3 Y.L.	h16113 – 16113 Woodruff Ave Bellflower	\$ 1,000.00	03/23/18	04/03/18
4 Y.L.	h16113 – 16113 Woodruff Ave Bellflower	195.00	03/23/18	04/03/18
5 E.P.	h16113 – 16113 Woodruff Ave Bellflower	1,170.00	06/28/18	07/04/18
6 I.R.	h16133 – 16133 Woodruff Ave Bellflower	50.00	07/03/18	07/10/18
7 I.R.	h16133 – 16133 Woodruff Ave Bellflower	1,225.00	07/03/18	07/10/18
8 I.R.	h16133 – 16133 Woodruff Ave Bellflower	50.00	07/03/18	07/10/18
9 A.A.	h16133 – 16133 Woodruff Ave Bellflower	1,420.00	10/04/18	10/11/18
10 F.L.	h16133 – 16133 Woodruff Ave Bellflower	110.00	10/05/18	10/12/18
11 P.T.	h737 – 737 W 5 th St Long Beach	700.00	11/30/18	12/12/18
E.P.	h16113 – 16113 Woodruff Ave Bellflower	1,170.00	12/29/18	01/07/19
12 Total:		<u>\$7,090.00</u>		

13 18. BBMI’s failure to place trust funds in TA1 and TA3 within three (3) business days
14 following the receipt of such funds violated **Code Section 10145 and Regulation 2832.**

15 **Issue Three (3). Code Sections 10130 and 10137: License Required; Unlawful Employment or**
16 **Payment of Compensation**

17 19. Mutaaga J. Poto (“Poto,” non-licensee), Ruben Juarez (“Juarez,” non-licensee), Erik
18 Martinez (“Martinez,” non-licensee), Crystal Garcia (“Garcia,” non-licensee), and Viridiana
19 Salcido (“Salcido,” non-licensee), collectively “property managers,” all acted in the capacity of real
20 estate salespersons during the audit period by signing BBMI’s lease agreements with tenants on
21 behalf of BBMI without first obtaining real estate licenses from the Department. All of the
22 aforementioned property managers acted in the capacity of real estate salespersons in expectation
23 of compensation during the audit period as evidenced by copies of the 2018 W2 statements for the
24 property managers provided to the Department.

25 20. The Department’s auditor provided the following examples of instances of lease
26 agreements signed by the unlicensed property managers on BBMI’s behalf:

27 <u>Date</u>	<u>Property Address</u>	<u>Tenants</u>	<u>Unlicensed Agent</u>
28 09/06/18	245½ Lime Ave Long Beach	K.S. and N.M.	Poto

	<u>Date</u>	<u>Property Address</u>	<u>Tenants</u>	<u>Unlicensed Agent</u>
1	11/01/18	615 Junipero Ave #5 Long Beach	H.T. and A.T.	Juarez
2	03/22/18	2215 Florida St #5 Long Beach	D.S.	Poto
3	06/26/18	16113 Woodruff Ave #17 Bellflower	E.P.	Martinez
4	06/26/18	16133 Woodruff Ave #7 Bellflower	I.R.	Martinez
5	06/26/18	16133 Woodruff Ave #16 Bellflower	F.L.	Martinez
6	05/05/18	16113 Woodruff Ave #18 Bellflower	S.B.	Garcia
7	02/16/18	16113 Woodruff Ave #5 Bellflower	B.M. and A.C.	Garcia
8	11/24/18	16113 Woodruff Ave #2 Bellflower	Y.P., A.P., and M.P.	Salcido
9	07/31/18	16113 Woodruff Ave #22 Bellflower	C.O., I.O., and M.R.	Juarez
10	07/02/18	16113 Woodruff Ave #1 Bellflower	J.N.	Martinez

21. At all times mentioned in Paragraphs 19 and 20 above, Poto, Juarez, Martinez, Garcia, and Salcido were not licensed as real estate salespersons by the Department. The real estate activities performed by Poto, Juarez, Martinez, Garcia, and Salcido, as alleged in paragraphs 19 and 20 above, required that each of them be licensed as a real estate salesperson. These property managers conducted the real estate activities alleged above, and collected compensation for such activities while not licensed as real estate salespersons in violation of **Code Sections 10130 and 10137**.

22. BBMI's compensation of Poto, Juarez, Martinez, Garcia, and Salcido for the performance of real estate activities requiring a license during a time period when none of them were licensed as real estate salespersons constitutes a violation of **Code section 10137** and constitutes cause to revoke or suspend the licenses and license rights of BBMI pursuant to **Code sections 10177(d) and/or 10177(g)**.

Issue Four (4). Code Sections 10159.2 and 10177(h) and Regulation 2725: Responsibility of Corporate Officer in Charge; Broker Supervision

23. Complainant realleges and incorporates by reference all of the allegations contained in paragraphs 1 through 22 above, with the same force and effect as though fully set forth herein.

24. As described above in paragraph 7, the Department suspended WOOD's license and license rights for 30 days on January 10, 1990—which suspension was fully stayed on condition

1 that no further case for disciplinary action occur within one year—under the Real Estate Law in
2 Case No. H-23736 LA for performing activity requiring a real estate license and receiving
3 compensation for performing such activity on behalf of BBMI, a property management company
4 that at the time of WOOD’s activities was not licensed by the Department to perform such
5 activities, and for WOOD receiving compensation in violation of Code Section 10137.

6 25. Based on the findings in Issue Three (3) above, as the broker and designated officer
7 of BBMI, WOOD did not exercise adequate supervision and control over the real estate activities
8 conducted on behalf of BBMI by its employees and licensees to ensure compliance with the Real
9 Estate Laws and Regulations. Based on the suspension of his real estate license for similar
10 unlicensed activity in the context of property management in Case No. H-23736 LA, WOOD was
11 on notice that Poto, Juarez, Martinez, Garcia, and Salcido were performing real estate activities
12 requiring a license during a time period when none of them were licensed as real estate
13 salespersons.

14 26. WOOD’s acts and/or omissions were in violation of **Code sections 10159.2 and**
15 **10177(h), and Regulation 2725.**

16 INVESTIGATION AND ENFORCEMENT COSTS

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

21 AUDIT COSTS

22 28. Code Section 10148(b) provides, in pertinent part, the Commissioner shall charge a
23 real estate broker for the cost of any audit, if the Commissioner has found in a final decision
24 following a disciplinary hearing that the broker has violated Code Section 10145 or a regulation or
25 rule of the Commissioner interpreting said section.

26 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
27 this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
28 against all the licenses and license rights of BELMONT BROKERAGE AND MANAGEMENT

1 INC. and WALTER KURT WOOD under the Real Estate Law, for the costs of investigation and
2 enforcement, and audit as permitted by law, and for such other and further relief as may be proper
3 under other applicable provisions of law, and for costs of audit.
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5 Dated at San Diego, California this 17 day of February, 2021.
6

7 *Veronica Kilpatrick*

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Veronica Kilpatrick
9 Supervising Special Investigator

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11 cc: BELMONT BROKERAGE AND MANAGEMENT INC.
12 WALTER KURT WOOD
13 Veronica Kilpatrick
14 Sacto.
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