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DEPT. OF REAL ESTATE

By

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9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H-41934 LA
13 ROBERT LA BIANCA,) ACCUSATION
14 Respondent.)

15 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the
16 Department of Real Estate ("Department" or "DRE") of the State of California, for cause of
17 Accusation against ROBERT LA BIANCA ("LA BIANCA") ("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 Respondents.

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

22 LICENSE HISTORY

23 3. Respondent LA BIANCA has been licensed by the Department as a real estate
24 salesperson ("RES"), License ID 01320647, from on or about February 1, 2002 through the
25 present, with LA BIANCA's license scheduled to expire on January 31, 2022, unless renewed.
26 According to the DRE's records, LA BIANCA's employing real estate broker ("REB") of record
27 from October 23, 2012 through the present has been HSCA, Inc. ("HSCA"), a real estate
28 corporation ("REC"), License ID 01912687. HSCA, Inc. is licensed through the REB license of

1 Richard Kent La Rue ("La Rue"), License ID 01793617, and La Rue is the designated officer
2 ("D.O.") of HSCA.

3 **FACTS DISCOVERED BY DRE**

4 4. On or about November 8, 2019, the DRE received copies of a Disciplinary
5 Complaint, Full Response, and Professional Standards Findings from the California Desert
6 Association of Realtors ("CDAR") regarding LA BIANCA.

7 5. Based on the documents provided by CDAR, on or about July 19, 2019 CDAR
8 received a complaint from R.G.,^{1/} E.G., L.S., and E.S. alleging that in May and June 2019, LA
9 BIANCA violated the Code of Ethics regarding his fiduciary duty to his clients, and keeping a trust
10 account for clients' funds. In support of the complaint, R.G. and E.G. provided a letter dated July
11 10, 2019, with attachments, alleging that R.G. and E.G. hired LA BIANCA as a property manager
12 for their unit at Rancho Mirage Country Club. In early January 2019, R.G. and E.G. asked LA
13 BIANCA about not receiving the rent for January/February 2019, and LA BIANCA mentioned the
14 loss of a family member. R.G. and E.G. did not receive the rent until February 6, 2019. The tenants
15 told R.G. and E.G. that at LA BIANCA's request, they sent the rent to him for January/February
16 2019 in September 2018. In February 2019, the tenants moved out and asked LA BIANCA for
17 their security deposit and cleaning fee, which as of July 10, 2019, the tenants had not received.

18 6. On or about November 8, 2019, a hearing panel of CDAR issued a Decision and
19 Findings of Fact Disciplinary Action against LA BIANCA, finding that LA BIANCA violated the
20 public trust, and recommended to the Board of Directors of CDAR that a Letter of Reprimand be
21 placed in LA BIANCA's member/participant/subscriber file and that he be required to attend a
22 Live Code of Ethics Class, and a Trust Class.

23 7. Based on the investigation of the DRE's special investigator, DRE discovered that in
24 December 2018, LA BIANCA received a \$1,000 cash rental deposit from the tenants of R.G. and
25 E.G.'s property in Rancho Mirage. LA BIANCA stated that he did not have a written agreement
26 with the homeowners to manage the property and that the rental agreement was between the tenants
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28 ^{1/} Initials are used in place of an individual's full name to protect their privacy. Documents containing the individuals' full names 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 and homeowner. LA BIANCA stated he did not collect rents and does not usually perform property
2 management activities but that he was helping out the homeowner. LA BIANCA stated he kept the
3 \$1,000 deposit in case the owner needed to have repairs performed. LA BIANCA collected 20%
4 commission on the rental price. Based on the audit examination, discussed below, the DRE's
5 auditor noted that HSCA does not handle trust funds and La Rue was unaware of this transaction.

6 8. On or about May 15, 2019, LA BIANCA wrote a check for \$1,000 with a note
7 indicating the check was the return of the deposit to the tenants, and was made payable to L.S.

8 9. On or about June 1, 2019, LA BIANCA emailed R.G. and E.G. stating he did not
9 wish to rent out their property any longer, cancelled the listing in MLS, and would remove his
10 signs. LA RUE stated that he was not aware of LA BIANCA's activities regarding this property.
11 HSCA's policies and procedures manual prohibit property management activities by salespersons
12 such as LA BIANCA, and La Rue, the REB and D.O. of HSCA, stated that he was not aware of
13 LA BIANCA conducting property management activities and La Rue did not authorize LA
14 BIANCA to conduct property management activities.

15 10. On or about August 12, 2019, LA BIANCA wrote a new check to L.S. for the return
16 of the deposit, since the tenant or homeowner never received the check signed in May 2019.

17 11. As of August 19, 2020, LA BIANCA's Zillow and LinkedIn profiles stated he does
18 perform property management even though his employment agreement with HSCA does not allow
19 this. DRE's investigator discovered a recent property that LA BIANCA listed for rent in Cathedral
20 City, California. LA RUE stated that he has no record of this property either.

21 **AUDIT OF HSCA: AUDIT NO. SD190046**

22 12. On July 30, 2020, the Department completed an audit examination of the books and
23 records of HSCA's real estate activities that require a corporate real estate broker license under
24 Code Section 10131. The audit examination, SD190046, covered the time period January 1, 2018
25 to April 30, 2020 ("audit period") and was limited to HSCA's sales activities. The DRE's auditor
26 also examined the property management activity conducted by LA BIANCA related to R.G. and
27 E.G.'s property in Rancho Mirage, California.

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1 13. An entrance conference was held by the DRE's auditor on May 21, 2020 with La
2 Rue and LA BIANCA.

3 14. As of May 21, 2020, HSCA's corporate structure was as follows:

<u>Name</u>	<u>Title</u>	<u>License</u>	<u>Shareholder %</u>
Matthew Widdows	President	Unlicensed	100%
La Rue	Broker of Record	D.O./REB	0%

6 15. According to records provided by La Rue, HSCA closed approximately eight
7 hundred and ninety (890) sales transactions valued at \$334,914,706, seven hundred and fifty-six
8 (756) listing transactions valued at \$264,143,000, and two hundred and eighty-two (282) dual
9 transactions valued at \$79,484,115 during the period March 1, 2019 to February 29, 2020.

10 16. According to La Rue, HSCA did not maintain a trust account or handle any trust
11 funds during the audit period. HSCA's policies and procedures manual prohibits property
12 management by HSCA.

13 **Audit Violations in Audit No. SD190046**

14 17. The Complainant realleges and incorporates by reference all of the allegations
15 contained in paragraphs 1 through 16 above, with the same force and effect as though fully set forth
16 herein.

17 18. The audit examination revealed violations of the Code and the Regulations, as set
18 forth in the following paragraphs, and more fully discussed in Audit No. SD190046 and the
19 exhibits and work papers attached to the audit report:

20 **Issue One (1). Code Section 10130: License Required**

21 19. LA BIANCA performed property management activity and acted as a REB during
22 the audit period without the knowledge of HSCA and La Rue, his employing broker, in violation of
23 **Code section 10130.**

24 20. LA BIANCA's violation of **Code section 10130** constitutes cause for the suspension
25 or revocation of LA BIANCA's real estate license and license rights under the provisions of **Code**
26 **sections 10177(d) and/or (g).**

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1 **Issue Two (2). Code Section 10145(c): Handling of Trust Funds**

2 21. LA BIANCA collected trust funds related to his property management activity and
3 failed to immediately deliver the funds to his employing broker or deposit the funds into the
4 broker's trust fund account, in violation of Code section 10145(c).

5 22. LA BIANCA's violation of Code section 10145(c) constitutes cause for the
6 suspension or revocation of LA BIANCA's real estate license and license rights under the
7 provisions of Code sections 10177(d) and/or (g).

8 **ADDITIONAL CAUSE OF ACCUSATION**

9 **UNLAWFUL COMPENSATION**

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

13 24. Based on documents submitted to the DRE, LA BIANCA managed R.G. and E.G.'s
14 property in Rancho Mirage for approximately a three-year period and acted as a REB without his
15 employing broker's knowledge. Under LA BIANCA's property management arrangement with
16 R.G. and E.G., LA BIANCA received a 20% commission on the rent collected as compensation in
17 violation of Code section 10137.

18 25. LA BIANCA's violation of Code section 10137 constitutes cause for the suspension
19 or revocation of LA BIANCA's real estate license and license rights under the provisions of Code
20 sections 10177(d) and/or (g).

21 **INVESTIGATION AND ENFORCEMENT COSTS**

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

26 **AUDIT COSTS**

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

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

3 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
4 this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
5 against all the licenses and license rights of ROBERT LA BIANCA under the Real Estate Law, for
6 the costs of investigation and enforcement, and audit as permitted by law, and for such other and
7 further relief as may be proper under other applicable provisions of law, and for costs of audit.
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9 Dated at San Diego, California this 10 day of May, 2021.
10

11 *Veronica Kilpatrick*

12
13 Veronica Kilpatrick
Supervising Special Investigator

14 cc: ROBERT LA BIANCA.
15 HSCA, Inc.
Veronica Kilpatrick
Sacto.
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