

1 Julie L. To (SBN 219482)
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105
5 (213) 576-6982 (office)
6 (213) 576-6916 (direct)
7 julie.to@dre.ca.gov
8 Counsel for Complainant

FILED

JUL 13 2021

DEPT. OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of
12 SOUTHERN CALIFORNIA REAL ESTATE
13 MANAGEMENT INC;
14 STEFFANIE DANIELLE STELNICK,
15 as designated officer of Southern California
16 Real Estate Management Inc; and
17 KENNETH CLARK DETERMAN,
18 as former designated officer of Southern
19 California Real Estate Management Inc,
20 Respondents.

No. H-42063 LA
ACCUSATION

21 The Complainant, Veronica Kilpatrick, acting in her official capacity as a
22 Supervising Special Investigator of the State of California, for cause of Accusation against
23 SOUTHERN CALIFORNIA REAL ESTATE MANAGEMENT INC, KENNETH CLARK
24 DETERMAN, and STEFFANIE DANIELLE STELNICK (collectively, "Respondents"), is
25 informed and alleges as follows:

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1. 1

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

4 DEPARTMENT OF REAL ESTATE LICENSE HISTORY

2.

6 SOUTHERN CALIFORNIA REAL ESTATE MANAGEMENT INC ("SCREMI")

7 According to Department of Real Estate ("DRE" or "Department") records to
8 date:

9 A. SOUTHERN CALIFORNIA REAL ESTATE MANAGEMENT INC
10 ("SCREMI") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of
11 Division 4 of the Code) as a real estate corporation (broker) ("REC") DRE license ID 00969557.

12 B. SCREMI was originally licensed by the DRE on or about September 21, 1987,
13 and it has one current DBA for "SCREM," active as of March 15, 2021 and no branch offices.

14 C. SCREMI's main and mailing address of record on file with the DRE are the
15 same: 28001 Smyth Drive, Suite 107, Valencia, CA 91355 ("Valencia address").

16 D. STEFFANIE DANIELLE STELNICK is SCREMI's designated officer
17 ("D.O.") of record, beginning on or about November 21, 2019 until her officer expiration date of
18 September 20, 2023. KENNETH CLARK DETERMAN was SCREMI's D.O. from January 1,
19 2019 until his officer affiliation was cancelled on November 1, 2019

20 E. SCREMI has two (2) real estate broker ("REB") associates and six (6) real
21 estate salespersons ("RES") affiliated with its DRE license.

22 F. SCREMI's license will expire on September 20, 2023.

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3.

STEFFANIE DANIELLE STELNICK (“STELNICK”)

According to DRE records to date:

A. STEFFANIE DANIELLE STELNICK (“STELNICK”) is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a REB, DRE license ID 02097575.

B. STELNICK was originally licensed by the DRE on or about August 21, 2019, and has no DBAs or branch offices affiliated with her license.

C. STELNICK’s main address of record on file with the DRE is 28001 Smyth Drive, Unit 101, Valencia, CA 91355, and her mailing address of record is 23890 Copperhill Drive, Suite 405, Valencia, CA 91354.

D. STELNICK is SCREM’s D.O., beginning on or about November 21, 2019 until her officer expiration date of September 20, 2023. STELNICK is also the D.O. for JSL Realty, Inc. (DRE license ID 01527780), until her officer expiration of October 1, 2023, and for It Realty, Inc. (DRE license ID 02133501), until her officer expiration of January 28, 2025.

E. STELNICK’s license will expire on August 20, 2023.

4.

KENNETH CLARK DETERMAN (“DETERMAN”)

According to DRE records to date:

A. KENNETH CLARK DETERMAN (“DETERMAN”) is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a REB, DRE license ID 00840199.

B. DETERMAN was originally licensed by the DRE as a RES on or about October 12, 1986, and as a REB on or about July 23, 1987, and has no DBAs or branch offices affiliated with his license.

1 C. DETERMAN's main and mailing address of record on file with the DRE are
2 the same: 32504 Calle Vista, Agua Dulce, CA 91390-2757.

3 D. DETERMAN was SCREM's D.O., beginning on or about January 1, 2019
4 until his officer affiliation was cancelled on or about November 21, 2019.

5 E. DETERMAN's license will expire on July 22, 2023.

6 **APPLICABLE SECTIONS OF THE REAL ESTATE LAW**

7 **Trust Fund Handling**

8 **(Code Section 10145 and Regulations 2831; 2831.1; 2831.2; 2832.1; 2834; and 2835)**

9 5.

10 Pursuant to Code Section 10145 *Handling of Trust Funds* (selected portions):

11 "(a)(1): A real estate broker who accepts funds belonging to others in connection
12 with a transaction subject to this part shall deposit all those funds that are not immediately placed
13 into a neutral escrow depository or into the hands of the broker's principal, into a trust fund
14 account maintained by the broker in a bank or recognized depository in this state. All funds
15 deposited by the broker in a trust account shall be maintained there until disbursed by the broker
16 in accordance with instructions from the person entitled to the funds.

17 (2) Withdrawals may be made from a trust fund account of an individual broker
18 only upon the signature of that broker, or in the case of a corporate broker, only upon the
19 signature of an officer through whom the corporation is licensed pursuant to Section 10158 or
20 10211, or one, or more, of the following persons if specifically authorized in writing by the
21 individual broker or officer:

22 (A) A real estate salesperson licensed to the broker.

23 (B) Another broker acting pursuant to a written agreement with the
24 individual broker that conforms to the requirements of this part and any
25 regulations promulgated pursuant to this part.

1 (C) An unlicensed employee of the individual broker, if the broker has
2 fidelity bond coverage equal to at least the maximum amount of the trust
3 funds to which the unlicensed employee has access at any time. For
4 purposes of this section, bonds providing coverage may be written with a
5 deductible of up to 5 percent of the coverage amount. For bonds with a
6 deductible, the employing broker shall have evidence of financial
7 responsibility that is sufficient to protect members of the public against a
8 loss subject to the deductible amount.

9 Evidence of financial responsibility shall include one or more of the
10 following:

11 (i) Separate fidelity bond coverage adequate to cover the amount
12 of the fidelity bond deductible.

13 (ii) A cash deposit held in a separate account, apart from other
14 funds of the broker, the broker's employees, or the broker's
15 principals, in a bank or recognized depository in this state adequate
16 to cover the amount of the fidelity bond deductible and held
17 exclusively and solely for the purpose of paying the fidelity bond
18 deductible amount.

19 (iii) Any other evidence of financial responsibility approved by the
20 commissioner.

21 (3) An arrangement under which a person enumerated in subparagraph (A),(B),
22 or (C) of paragraph (2) is authorized to make withdrawals from a trust fund account of a broker
23 shall not relieve an individual broker, nor the broker-officer of a corporate broker licensee, from
24 responsibility or liability as provided by law in handling trust funds in the broker's custody.

25 ...

1 (4)(b) A real estate broker acting as a principal pursuant to Section 10131.1¹
2 shall place all funds received from others for the purchase of real property sales contracts or
3 promissory notes secured directly or collaterally by liens on real property in a neutral escrow
4 depository unless delivery of the contract or notes is made simultaneously with the receipt of the
5 purchase funds.

6 ...
7 (4)(g) The broker shall maintain a separate record of the receipt and disposition of
8 all funds described in subdivisions (a) and (b), including any interest earned on the funds..."

9 6.

10 Pursuant to Regulation 2831 *Trust Fund Records To Be Maintained*:

11 "(a) Every broker shall keep a record of all trust funds received, including
12 uncashed checks held pursuant to instructions of his or her principal. This record, including
13 records maintained under an automated data processing system, shall set forth in chronological
14 sequence the following information in columnar form:

- 15 (1) Date trust funds received.
16 (2) From whom trust funds received.
17 (3) Amount received.
18 (4) With respect to funds deposited in an account, date of said deposit.
19 (5) With respect to trust funds previously deposited to an account, check
20 number and date of related disbursement.
21 (6) With respect to trust funds not deposited in an account, identity of other
22 depository and date funds were forwarded.
23 (7) Daily balance of said account.

24
25 ²Code Section 10131.1 states, "(a) A real state broker within the meaning of this part is also a person who engages as
26 a principal in the business of making loans or buying from, selling to, or exchanging with the public, real property
27 sales contracts or promissory notes secured directly or collaterally by liens on real property..."

1 (b) For each bank account which contains trust funds, a record of all trust funds
2 received and disbursed shall be maintained in accordance with subdivision (a) or (c).

3 (c) Maintenance of journals of account cash receipts and disbursements, or similar
4 records, or automated data processing systems, including computer systems and electronic
5 storage and manipulation of information and documents, in accordance with generally accepted
6 accounting principles, shall constitute compliance with subdivision (a) provided that such
7 journals, records, or systems contain the elements required by subdivision (a) and that such
8 elements are maintained in a format that will readily enable tracing and reconciliation in
9 accordance with Section 2831.2.

10 (d) Nothing in this section shall be construed to permit a violation of Section
11 10145 of the Code.

12 (e) A broker is not required to keep records pursuant to this section of checks
13 which are written by a principal, given to the broker and made payable to third parties for the
14 provision of services, including but not limited to escrow, credit and appraisal services, when
15 the total amount of such checks for any transaction from that principal does not exceed \$1,000.
16 Upon request of the Department or the maker of such checks, a broker shall account for the
17 receipt and distribution of such checks. A broker shall retain for three years copies of receipts
18 issued or obtained in connection with the receipt and distribution of such checks.”

19 7.

20 Pursuant to Regulation 2831.1 *Separate Record for Each Beneficiary or*
21 *Transaction:*

22 “(a) A broker shall keep a separate record for each beneficiary or transaction,
23 accounting for all funds which have been deposited to the broker’s trust bank account and
24 interest, if any, earned on the funds on deposit. The record shall include information sufficient to
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1 identify the transaction and the parties to the transaction. Each record shall set forth in
2 chronological sequence the following information in columnar form:

3 (1) Date of deposit.

4 (2) Amount of deposit.

5 (3) Date of each related disbursement.

6 (4) Check number of each related disbursement.

7 (5) Amount of each related disbursement.

8 (6) If applicable, dates and amounts of interest earned and credited to the
9 account.

10 (7) Balance after posting transactions on any date.

11 (b) Maintenance of trust ledgers of separate beneficiaries or transactions, or
12 similar records, or automated data processing systems, including computer systems and
13 electronic storage and manipulation of information and documents, in accordance with generally
14 accepted accounting principles will constitute compliance with subdivision (a), provided that
15 such ledgers, records, or systems contain the elements required by subdivision (a) and that such
16 elements are maintained in a format that will readily enable tracing and reconciliation in
17 accordance with Section 2831.2.”

18 8.

19 Pursuant to Regulation 2831.2 *Trust Account Reconciliation*:

20 “The balance of all separate beneficiary or transaction records maintained
21 pursuant to the provisions of Section 2831.1 must be reconciled with the record of all trust funds
22 received and disbursed required by Section 2831, at least once a month, except in those months
23 when the bank account did not have any activities. A record of the reconciliation must be
24 maintained, and it must identify the bank account name and number, the date of the
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1 reconciliation, the account number or name of the principals or beneficiaries or transactions, and
2 the trust fund liabilities of the broker to each of the principals, beneficiaries or transactions.”

3 9.

4 Pursuant to Regulation 2832.1 *Trust Fund Handling for Multiple Beneficiaries:*

5 “The written consent of every principal who is an owner of the funds in the
6 account shall be obtained by a real estate broker prior to each disbursement if such a
7 disbursement will reduce the balance of funds in the account to an amount less than the existing
8 aggregate trust fund liability of the broker to all owners of the funds.”

9 10.

10 Pursuant to Regulation 2834 *Trust Account Withdrawals:*

11 “(a) Withdrawals may be made from a trust fund account of an individual broker
12 only upon the signature of the broker or one or more of the following persons if specifically
13 authorized in writing by the broker:

14 (1) a salesperson licensed to the broker.

15 (2) a person licensed as a broker who has entered into a written agreement
16 pursuant to Section 2726 with the broker.

17 (3) an unlicensed employee of the broker with fidelity bond coverage at
18 least equal to the maximum amount of the trust funds to which the
19 employee has access at any time.

20 (b) Withdrawals may be made from the trust fund account of a corporate broker
21 only upon the signature of:

22 (1) an officer through whom the corporation is licensed pursuant to
23 Section 10158 or 10211 of the Code or

24 (2) one of the persons enumerated in paragraph (1), (2) or (3) of
25 subdivision (a) above, provided that specific authorization in writing is
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1 given by the officer through whom the corporation is licensed and that the
2 officer is an authorized signatory of the trust fund account.

3 (c) An arrangement under which a person enumerated in paragraph (1), (2) or (3)
4 of subdivision (a) above is authorized to make withdrawals from a trust fund account of a broker
5 shall not relieve an individual broker, nor the broker-officer of a corporate broker licensee, from
6 responsibility or liability as provided by law in handling trust funds in the broker's custody."

7 11.

8 Pursuant to Regulation 2835 *Commingling*:

9 "Commingling" as used in Section 10176(e) of the Code is prohibited except as
10 specified in this section. For purposes of Section 10176(e), the following shall not constitute
11 "commingling":

12 (a) The deposit into a trust account of reasonably sufficient funds, not to exceed
13 \$200, to pay service charges or fees levied or assessed against the account by the bank or
14 financial institution where the account is maintained.

15 (b) The deposit into a trust account maintained in compliance with subdivision (d)
16 of funds belonging in part to the broker's principal and in part to the broker when it is not
17 reasonably practicable to separate such funds, provided the part of the funds belonging to the
18 broker is disbursed not later than twenty-five days after their deposit and there is no dispute
19 between the broker and the broker's principal as to the broker's portion of the funds. When the
20 right of a broker to receive a portion of trust funds is disputed by the broker's principal, the
21 disputed portion shall not be withdrawn until the dispute is finally settled.

22 (c) The deposit into a trust account of broker owned funds in connection with
23 activities pursuant to either subdivision (d) or (e) of Section 10131 of the Code or when making,
24 collecting payments or servicing a loan which is subject to the provisions of Section 10240 of the
25 Code provided:

- 1 (1) The broker meets the criteria of Section 10232 of the Code.
- 2 (2) All funds in the account which are owned by the broker are identified
- 3 at all times in a separate record which is distinct from any separate record
- 4 maintained for a beneficiary.
- 5 (3) All broker owned funds deposited into the account are disbursed from
- 6 the account not later than 25 days after their deposit.
- 7 (4) The funds are deposited and maintained in compliance with
- 8 subdivision (d).
- 9 (5) For the purpose of this section, a broker shall be deemed to be subject
- 10 to the provisions of Section 10240 of the Code if the broker delivers the
- 11 statement to the borrower required by Section 10240.

12 (d) The trust fund account into which the funds are deposited is maintained in

13 accordance with the provisions of Section 10145 and the regulations of this article.”

14 12.

15 **Retention of Records – Chargeable Audits – Cost Recovery – Penalties for Unlawful**

16 **Destruction of Records**

17 **(Code Section 10148)**

18 Pursuant to Code Section 10148 *Retention of Records – Chargeable Audits – Cost*

19 *Recovery – Penalties for Unlawful Destruction of Records:*

20 “(a) A licensed real estate broker shall retain for three years copies of all listings,

21 deposit receipts, canceled checks, trust records, and other documents executed by him or her or

22 obtained by him or her in connection with any transactions for which a real estate broker license

23 is required. The retention period shall run from the date of the closing of the transaction or from

24 the date of the listing if the transaction is not consummated. After notice, the books, accounts,

25 and records shall be made available for examination, inspection, and copying by the

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1 commissioner or his or her designated representative during regular business hours; and shall,
2 upon the appearance of sufficient cause, be subject to audit without further notice, except that the
3 audit shall not be harassing in nature. This subdivision shall not be construed to require a
4 licensed real estate broker to retain electronic messages of an ephemeral nature, as described in
5 subdivision (d) of Section 1624 of the Civil Code.

6 (b) The commissioner shall charge a real estate broker for the cost of any audit, if
7 the commissioner has found, in a final desist and refrain order issued under Section 10086 or in a
8 final decision following a disciplinary hearing held in accordance with Chapter 5 (commencing
9 with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that the broker
10 has violated Section 10145 or a regulation or rule of the commissioner interpreting Section
11 10145.

12 (c) If a broker fails to pay for the cost of an audit as described in subdivision (b)
13 within 60 days of mailing a notice of billing, the commissioner may suspend or revoke the
14 broker's license or deny renewal of the broker's license. The suspension or denial shall remain in
15 effect until the cost is paid or until the broker's right to renew a license has expired.

16 (d) The commissioner may maintain an action for the recovery of the cost of an
17 audit in any court of competent jurisdiction. In determining the cost incurred by the
18 commissioner for an audit, the commissioner may use the estimated average hourly cost for all
19 persons performing audits of real estate brokers.

20 (e) The bureau may suspend or revoke the license of any real estate broker, real
21 estate salesperson, or corporation licensed as a real estate broker, if the real estate broker, real
22 estate salesperson, or any director, officer, employee, or agent of the corporation licensed as a
23 real estate broker knowingly destroys, alters, conceals, mutilates, or falsifies any of the books,
24 papers, writings, documents, or tangible objects that are required to be maintained by this section
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1 or that have been sought in connection with an investigation, audit, or examination of a real
2 estate licensee by the commissioner.”

3
4 13.

5 **Broker Supervision**

6 **(Code Section 10159.2 and Regulation 2725)**

7 Pursuant to Code Section 10159.2 *Responsibility of Corporate Officer in Charge:*

8 “(a) The officer designated by a corporate broker licensee pursuant to Section
9 10211 shall be responsible for the supervision and control of the activities conducted on behalf
10 of the corporation by its officers and employees as necessary to secure full compliance with the
11 provisions of this division, including the supervision of salespersons licensed to the corporation
12 in the performance of acts for which a real estate license is required.

13 (b) A corporate broker licensee that has procured additional licenses in accordance
14 with Section 10158 through officers other than the officer designated pursuant to Section 10211
15 may, by appropriate resolution of its board of directors, assign supervisory responsibility over
16 salespersons licensed to the corporation to its broker-officers.

17 (c) A certified copy of any resolution of the board of directors assigning
18 supervisory responsibility over real estate salespersons licensed to the corporation shall be filed
19 with the Real Estate Commissioner within five days after the adoption or modification thereof.”

20 14.

21 Pursuant to Regulation 2725 *Broker Supervision:*

22 “A broker shall exercise reasonable supervision over the activities of his or her
23 salespersons. Reasonable supervision includes, as appropriate, the establishment of policies,
24 rules, procedures and systems to review, oversee, inspect and manage:

25 (a) Transactions requiring a real estate license.

1 (b) Documents which may have a material effect upon the rights or obligations of
2 a party to the transaction.

3 (c) Filing, storage and maintenance of such documents.

4 (d) The handling of trust funds.

5 (e) Advertising of any service for which a license is required.

6 (f) Familiarizing salespersons with the requirements of federal and state laws
7 relating to the prohibition of discrimination.

8 (g) Regular and consistent reports of licensed activities of salespersons.

9 The form and extent of such policies, rules, procedures and systems shall take into consideration
10 the number of salespersons employed and the number and location of branch offices. A broker
11 shall establish a system for monitoring compliance with such policies, rules, procedures and
12 systems. A broker may use the services of brokers and salespersons to assist in administering the
13 provisions of this section so long as the broker does not relinquish overall responsibility for
14 supervision of the acts of salespersons licensed to the broker.”

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15.

False or Fictitious Business Name

(Code Section 10159.5 and Regulation 2731)

Pursuant to Code Section 10159.5(a)(1) *Fictitious Name*:

“Every person applying for a license under this chapter who desires to have the license issued under a fictitious business name shall file with his or her application a certified copy of his or her fictitious business name statement filed with the county clerk pursuant to Chapter 5 (commencing with Section 17900) of Part 3 of Division 7.”

16.

Pursuant to Regulation 2731(a) *Use of False or Fictitious Name*:

“A licensee shall not use a fictitious name in the conduct of any activity for which a license is required under the Real Estate Law unless the licensee is the holder of a license bearing the fictitious business name.”

17.

Grounds for Revocation or Suspension

(Code Section 10176)

Pursuant to Code Section 10176 *Grounds for Revocation or Suspension*:

“The commissioner may, upon his or her own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate licensee within this state, and he or she may temporarily suspend or permanently revoke a real estate license at any time where the licensee, while a real estate licensee, in performing or attempting to perform any of the acts within the scope of this chapter has been guilty of any of the following:

...

1 (e) Commingling with his or her own money or property the money or other
2 property of others which is received and held by him or her...”

3
4 18.

5 **Further Grounds for Disciplinary Action**

6 **(Code Section 10177)**

7 Pursuant to Code Section 10177 *Further Grounds for Disciplinary Action*:

8 “The commissioner may suspend or revoke the license of a real estate licensee,
9 delay the renewal of a license of a real estate licensee, or deny the issuance of a license to an
10 applicant, who has done any of the following:

11 ...

12 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing
13 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and
14 regulations of the commissioner for the administration and enforcement of the Real Estate Law
15 and Chapter 1 (commencing with Section 11000) of Part 2.”

16 ...

17 (g) Demonstrated negligence or incompetence in performing an act for which he
18 or she is required to hold a license...”

19 **DRE AUDIT LA 200027:**

20 **SCREMI’S PROPERTY MANAGEMENT ACTIVITIES**

21 19.

22 On April 27, 2021 the DRE completed its audit examinations of the books and
23 records of Respondent SCREM pertaining to its property management activities for the period of
24 time beginning on January 1, 2019 and ending on July 31, 2020 (“audit examination period” or
25 “audit period”). The final report of April 27, 2021 revealed violations of the Code and the
26 Regulations as set forth in the following paragraphs, and more fully discussed in the Audit

1 Report for LA 200027.

2 20.

3 Document Collection for Audit Examination

4 Telephonic and E-Mail Communications

5 The DRE's audit examination was conducted based on limited records provided
6 by SCREMI. The DRE auditor made multiple attempts to contact SCREMI's former D.O.
7 DETERMAN and current D.O.:

- 8 A. On September 7, 2020, the DRE auditor contacted STELNICK and
9 DETERMAN via telephone numbers obtained from the DRE's licensing
10 records. The DRE auditor left messages for both STELNICK and
11 DETERMAN to return her call.
- 12 B. On September 8, 2020, a DRE audit appointment letter was sent via certified
13 mail to SCREMI's D.O. STELNICK's main and mailing address on file with
14 the DRE for a scheduled September 18, 2020 telephone conference
15 appointment at 10:30 A.M.. The appointment letter also requested
16 SCREMI/STELNICK to produce SCREMI's books and records for the audit as
17 stated in the appointment letter, and pursuant to Code Section 10148.
- 18 C. On October 7, 2020, after several unsuccessful attempts to contact D.O.
19 DETERMAN, the DRE auditor sent DETERMAN an email to notify him of
20 the on-going DRE audit of SCREMI.
- 21 D. On October 8, 2020, upon receiving no response e-mail from DETERMAN,
22 the DRE auditor sent a second e-mail to DETERMAN. According to
23 DETERMAN's e-mail on the same date, he sold SCREMI in January of 2020
24 and did not have access to any of the records requested for the subject audit
25 examination period.

1 21.

2 Subpoena Duces Tecum

3 On February 11, 2021, a *subpoena duces tecum* dated February 9, 2021 was
4 served on D.O. STELNICK at 3:55 P.M. by DRE Special Investigator (“SI”) Tom N. On
5 February 16, 2021, the February 9, 2021 *subpoena duces tecum* was served on former D.O.
6 DETERMAN at 3:55 P.M. also by DRE SI Tom N. The *subpoena duces tecum* was served on
7 STELNICK and DETERMAN to produce all books, records and documents related to
8 SCREMI’s real estate activities during the audit period (January 1, 2019 to November 20, 2019)
9 on March 2, 2021 at 10:00 A.M. at the DRE’s Los Angeles District Office.

10 22.

11 Authorization Letter

12 On February 17, 2021, an authorization letter was received from D.O. STELNICK
13 that authorized compliance consultant Pamela Strickland (DRE license ID 00776886)
14 (“Strickland”) to work and represent SCREMI.

15 23.

16 Records Under New Ownership

17 On February 24, 2021, former D.O. DETERMAN indicated that, “the new
18 owners/broker has all the records.”

19 24.

20 Incomplete Records for Audit Examination

21 As of the audit report date (April 27, 2021), former D.O. DETERMAN and
22 SCREMI failed to provide for the DRE audit examination the following records pertaining to
23 SCREMI’s trust account 3 (“TA 3”): complete bank statements, bank signature card, records of
24 all trust fund receipts and disbursements, separate records, and copies of cancelled checks related
25 to SCREMI’s property management activities.

1 25.

2 Corporate Structure

3 According to D.O. STELNICK, SCREMI's corporate structure as of September
4 18, 2020 was as follows: STELNICK is the Chief Executive Officer, Vice-President and fifty-
5 percent (50%) owner and non-licensee Todd Stelnick is the Secretary, Vice-President and fifty-
6 percent (50%) owner.

7 26.

8 Business Activities

9 According to D.O. STELNICK and the records examined, SCREMI was primarily
10 involved in providing property management services for compensation. SCREMI managed
11 approximately six-hundred (620) properties with six-hundred thirty-eight (638) unites for six-
12 hundred eight (608) property owners. SCREMI charged a management fee ranging five percent
13 (5%) to eleven percent (11%) of collected rents or a flat fee ranging from \$112.50 to \$137.50 for
14 property management services. In its property management activities, SCREMI handled
15 approximately \$17,458,000.00 in trust funds through its trust accounts in the last twelve (12)
16 months ending in July 31, 2020, and used APPFOLIO software to maintain its records.

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Trust Accounts

According to the DRE auditor’s discussions with D.O. STELNICK and SCREMI’s office manager, non-licensee Gayle Friedman (“Friedman”), SCREMI maintained three (3) trust accounts for multiple beneficiaries for the handling of trust fund receipts and disbursements for its property management activities during the subject audit period. During the audit period, SCREMI maintained two (2) trust accounts at Mission Valley Bank and one trust account at Union Bank for handling rents and security deposits collected from tenants:

Trust Account 1 - ###1857 (“TA 1”)

- * Bank: Mission Valley Bank (Santa Clarita, CA)
- * Account Name: Southern California Real Estate Management Inc “Trust 1”
- * Signatories: STELNICK, Todd Stelnick, and Gayle Friedman.
- * Number of Signatures Required: One (1)

TA 1 is a trust account for multiple beneficiaries and was used as a depository for rents collected from tenants. Disbursements from TA 1 were payments for expenses related to the properties managed, owner remittances, and management fees to SCREMI.

Trust Account 2 - ###1860 (“TA 2”)

- * Bank: Mission Valley Bank (Sun Valley, CA)
- * Account Name: Southern California Real Estate Mngmt Trust 2/Security Deposits
- * Signatories: STELNICK, Todd Stelnick, and Gayle Friedman.
- * Number of Signatures Required: One (1)

TA 2 is a trust account for multiple beneficiaries and was used as a depository for security deposits collected from tenants.

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1 32.

2 Trust Fund Records To Be Maintained

3 (Code Section 10145 and Regulation 2831)

4 [Former D.O. DETERMAN, January 1, 2019 to November 20, 2019] [D.O.
5 STELNICK, November 21, 2019 to audit cutoff date, July 31, 2020] The control record
6 maintained for TA 1, TA 2, and TA 3 were inaccurate and incomplete, in violation of Code
7 Section 10145 and Regulation 2831. Said records did not reflect an accurate running daily
8 balance. According to the DRE auditor's discussions with Strickland, SCREMI did not know
9 how to properly eliminate the adjustments and corrections from the APPFOLIO software

10 33.

11 Separate Records for Each Beneficiary or Transaction

12 (Code Section 10145 and Regulation 2831.1)

13 A. [D.O. STELNICK, November 21, 2019 to audit cutoff date, July 31, 2020]
14 The separate records for each beneficiary or transaction (Trust Account Detail) maintained for
15 TA 1 and (Security Deposit Funds Detail) for TA 2 were inaccurate and incomplete, in violation
16 of Code Section 10145 and Regulation 2831.1. SCREMI failed to maintain a separate record of
17 the receipt and disposition of all trust funds deposited into TA 1, and TA 1 contained
18 unidentified/unaccounted for funds of at least \$5,834.00 as of July 31, 2020.

19 B. [D.O. STELNICK, November 21, 2019 to audit cutoff date, July 31, 2020]
20 The separate records for each beneficiary or transaction (Trust Account Detail) maintained for
21 TA 2 and (Security Deposit Funds Detail) for TA 2 were inaccurate and incomplete, in violation
22 of Code Section 10145 and Regulation 2831.1. SCREMI failed to maintain a separate record of
23 the receipt and disposition of all trust funds deposited into TA 2, and TA 1 contained
24 unidentified/unaccounted for funds of at least \$880.00 as of July 31, 2020.

1 C. According to the DRE auditor's discussions with Strickland, SCREMI did not
2 know how to properly eliminate the adjustments and corrections from the APPFOLIO software.

3 D. [Former D.O. DETERMAN, January 1, 2019 to November 20, 2019] The
4 separate records for each beneficiary or transaction for TA 3 were inaccurate and incomplete, in
5 violation of **Code Section 10145 and Regulation 2831.1**. SCREMI failed to maintain a separate
6 record of the receipt and disposition of all trust funds deposited into TA 3, and TA 3 contained
7 unidentified/unaccounted for funds of at least \$148,869.44 as of November 19, 2019. Not all
8 separate records maintained for TA 3 were provided for the audit examination.

9 34.

10 **Trust Account Reconciliation**

11 (Code Section 10145 and Regulation 2831.2)

12 A. [D.O. STELNICK, November 21, 2019 to audit cutoff date, July 31, 2020]
13 During the audit period, SCREMI failed to perform and maintain a monthly reconciliation
14 comparing the balance of all separate beneficiary or transaction records (separate records) to the
15 balance of the record of all trust funds received and disbursed (control record) for TA 1 and TA
16 2, in violation of **Code Section 10145 and Regulation 2831.2**.

17 A. [Former D.O. DETERMAN, January 1, 2019 to November 20, 2019] During
18 the audit period, SCREMI failed to perform and maintain a monthly reconciliation comparing the
19 balance of all separate beneficiary or transaction records (separate records) to the balance of the
20 record of all trust funds received and disbursed (control record) for TA 3, in violation of **Code**
21 **Section 10145 and Regulation 2831.2**.

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Trust Fund Handling/Commingling

(Code Sections 10145 and 10176(e) and Regulation 2835)

A. [D.O. STELNICK, November 21, 2019 to audit cutoff date, July 31, 2020]

During the audit period, SCREMI kept more than \$200.00 of its own funds in TA 1, thereby commingling its own funds with trust fund receipts and disbursements in TA 1, a trust account, in violation of **Code Sections 10145 and 10176(e) and Regulation 2835**. Based on an examination of SCREMI's "Trust Account Detail" report (separate records) created on November 25, 2020, SCREMI maintained two (2) accounts that contained a total balance of \$16,812.87 of its own funds in TA 1 as of July 31, 2020.

B. [D.O. STELNICK, November 21, 2019 to audit cutoff date, July 31, 2020] TA

1 was used to collect tenant application fees and a deposit of \$18,282.90 on March 31, 2020; SCREMI used this account to disburse bank fees and marketing fees and to transfer funds to its own general/operating account (Account No. ###1863) during the audit period. Based on an examination of TA 3 bank statements and "Verification of Deposit" from Union Bank dated March 9, 2021, TA 3 was closed on April 3, 2020. No additional documentation was provided for the transfer of funds from Union Bank on March 31, 2020. The DRE auditor was unable to determine whether the \$18,282.90 was SCREMI's own funds. (During the audit period, SCREMI kept its management fees and application fees earned and personal funds of \$18,282.90 in TA 1 and commingled said funds for over twenty-five (25) days after the receipt/transfer from TA 3 to TA 1.

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36.

Trust Account Withdrawals

(Code Section 10145 and Regulation 2834)

A. [D.O. STELNICK, November 21, 2019 to audit cutoff date, July 31, 2020]

Based on an examination of the "Account Agreement" for TA 1 and TA 2, both date July 23, 2020, non-licensee Todd Stelnick (SCREMI's Vice-President, Secretary, and 50% shareholder) and non-licensee Friedman (office manager) were authorized to sign and make withdrawals from TA 1 and TA 2, during which time SCREMI did not have fidelity bond coverage equal to at least the maximum amount of the trust funds to which unlicensed Todd Stelnick and Friedman had access, in violation of **Code Section 10145 and Regulation 2834**.

B. [D.O. STELNICK, November 21, 2019 to audit cutoff date, July 31, 2020]

Based on an examination of the "Verification of Deposit" document dated March 9, 2021 and "Signature Matrix Request" (Case No. ##3884) dated March 10, 2021 from Union Bank, Todd Stelnick and non-licensee Teresa Marque ("Marque") were authorized to sign and make withdrawals from TA 3, during which time SCREMI did not have fidelity bond coverage equal to at least the maximum amount of the trust funds to which unlicensed Todd Stelnick and Marque had access, in violation of **Code Section 10145 and Regulation 2834**.

37.

Use of False or Fictitious Business Name

(Code Section 10159.5 and Regulation 2731)

A. [D. O. STELNICK, November 21, 2019 to audit cutoff date, July 31, 2020]

[Former D.O. DETERMAN, January 1, 2019 to November 20, 2019] During the audit period, SCREMI used unlicensed fictitious business name ("FBN") "SCREM Real Estate Management" on its employee handbook/policies manual, all e-mail communications, and property management agreements in connection with SCREMI's property management activities without

1 first obtaining a license from the DRE bearing such FBN, in violation of **Code Section 10159.5**
2 **and Regulation 2731.**

3 B. During the audit period, SCREMI used unlicensed FBN "Southern California
4 Real Estate Mgmt. Inc." on property management agreements in connection with SCREMI's
5 property management activities without first obtaining a license from the DRE bearing such
6 FBN, in violation of **Code Section 10159.5 and Regulation 2731.**

7 38.

8 **Retention of Records**

9 **(Code Section 10148)**

10 A. [Former D.O. DETERMAN: January 1, 2019 to November 20, 2019] An
11 examination of SCREMI's real estate activities was conducted based on the limited records
12 provided due to its failure to provide complete and accurate books and records to the DRE for
13 audit. Although the DRE auditor made multiple attempts on September 7, 2020 and September
14 8, 2020 to contact former D.O. DETERMAN and current D.O. STELNICK via telephone and e-
15 mail to advise of the DRE audit examination of SCREMI, a complete and accurate set of books
16 and records was not provided to the DRE. On September 8, 2020, a DRE appointment letter was
17 sent via certified mail to D.O. STELNICK to inform of a scheduled September 18, 2020
18 telephone conference and to request SCREMI to produce books and records for audit, pursuant to
19 Code Section 10148.

20 B. On October 7, 2020, after several unsuccessful attempts to contact D.O.
21 DETERMAN, the DRE auditor sent DETERMAN an email to notify him of the on-going DRE
22 audit of SCREMI. On October 8, 2020, the DRE auditor sent a second e-mail to DETERMAN.
23 According to DETERMAN's reply e-mail on the same date, he sold SCREMI in January of 2020
24 and did not have access to any of the records requested for the subject audit examination period.

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1 C. On February 11, 2021, a *subpoena duces tecum* dated February 9, 2021 was
2 served on D.O. STELNICK by DRE SI Tom N. On February 16, 2021, the February 9, 2021
3 *subpoena duces tecum* was served on former D.O. DETERMAN at 3:55 P.M. also by DRE SI
4 Tom N. The *subpeoena duces tecum* served by Tom N. ordered SCREMI to produce all books,
5 records and documents related to its real estate activities during the audit period beginning
6 January 1, 2019 and ending November 20, 2019 on March 2, 2021 at 10:00 A.M. at the DRE's
7 Los Angeles District Office.

8 D. As of the audit report date (April 27, 2021), former D.O. DETERMAN and
9 SCREMI failed to provide for the DRE audit examination the following records pertaining to TA
10 3: complete bank statements, bank signature card, records of all trust fund receipts and
11 disbursements, separate records, and copies of cancelled checks related to SCREMI's property
12 management activities.

13 E. SCREMI did not, and has not, to date, produced all records related to its
14 property management activities for the subject audit examination period, in violation of **Code**
15 **Section 10148.**

16 39.

17 **Responsibility of Corporate Officer in Charge/Broker Supervision**

18 **(Code Section 10159.2 and Regulation 2725)**

19 [D.O. STELNICK, November 21, 2019 to audit cutoff date, July 31, 2020]
20 [Former D.O. DETERMAN, January 1, 2019 to November 20, 2019] Based on the findings of
21 the DRE auditor, D.O. STELNICK (affiliation effective November 12, 2019) and former D.O.
22 DETERMAN (affiliation effective January 1, 2019 to November 20, 2019) did not exercise
23 adequate supervision and control over SCREMI's real estate activities conducted by its licensees
24 and employees. STELNICK and DETERMAN failed to establish policies, rules, procedures, and
25 systems to review, oversee, inspect and manage transactions requiring a real estate license and
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1 the handling of trust funds to secure full compliance with the Real Estate Law and the
2 Commissioners Regulations. STELNICK and DETERMAN failed to maintain accurate control
3 records, separate records, and failed to maintain trust account reconciliations for SCREMI's
4 property management services during the subject audit period, in violation of **Code Section**
5 **10159.2 and Regulation 2725.**

6 40.

7 **Additional Violations of the Real Estate Law**

8 **(Code Sections 10177(g) and 10177(d))**

9 The overall conduct of Respondents is in violation of the Real Estate Law and
10 constitutes cause for the suspension or revocation of their respective real estate license and
11 license rights under the provisions of **Code Section 10177(g)** for negligence and **Code Section**
12 **10177(d)** for willful disregard of the Real Estate Law.

13 **COSTS**

14 **Investigation and Enforcement Costs**

15 **(Code Section 10106)**

16 41.

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

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