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FILED

APR 27 2022

DEPT. OF REAL ESTATE

By *Zri - Jn*

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation against

No. H-42284 LA

13 GARY EVAN BOLTON

ACCUSATION

14 Respondent.

15 The Complainant, Maria Suarez, acting in her official capacity as a Supervising
16 Special Investigator of the State of California, for cause of Accusation against GARY EVAN
17 BOLTON ("BOLTON") f.k.a. Gary E. Bolton ("Respondent"), is informed and alleges as
18 follows:

19 1.

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

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27 H-42284 LA: DRE Accusation against Gary Evan Bolton

1 DEPARTMENT OF REAL ESTATE LICENSE HISTORY

2 GARY EVAN BOLTON

3 2.

4 Respondent GARY EVAN BOLTON (“BOLTON”) is presently licensed and/or
5 has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a real estate
6 broker (“REB”), Department of Real Estate (“Department” or “DRE”) license ID 00425611.

7 3.

8 According to DRE records to date, BOLTON was originally licensed by the
9 DRE on or about November 30, 1977. According to DRE records to date: BOLTON’s main
10 address of record is 480 Termino Ave., Long Beach, CA 90814-1764 (“Termino address”), and
11 his mailing address of record is 4423 E. 2nd St., Long Beach, CA 90803 (“2nd St. address”);
12 BOLTON currently has no DBAs or branch offices; and BOLTON is not the designated officer
13 (“D.O.”) of record for any real estate corporations.

14 4.

15 According to DRE records to date, BOLTON’s DRE license will expire on
16 December 27, 2025.

17 Anthony Allen Lovett

18 5.

19
20 Anthony Allen Lovett (“Lovett”) is presently licensed and/or has license rights
21 under the Real Estate Law (Part 1 of Division 4 of the Code) as a real estate salesperson
22 (“RES”), DRE license ID 01969551.

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6.

According to DRE records to date, Lovett was originally licensed by the DRE as a RES on or about December 12, 2014. According to DRE records to date, Lovett's mailing address of record is 5319 E. Mezzanine Way, Long Beach, CA 90808.

7.

According to DRE records to date, Lovett's DRE license was affiliated with REB BOLTON from December 12, 2014 until December 11, 2018.

8.

According to DRE records to date, Lovett was not licensed by the DRE from December 12, 2018 until June 29, 2021.

9.

According to DRE records to date, Lovett filed a DRE RES license renewal application on or about June 30, 2021 and was granted a license renewal on the same date.

10.

According to DRE records to date, Lovett's DRE license will expire on June 29, 2025.

Non-Licensees of the Department of Real Estate

11.

JTM Property Management is not, and has never been, licensed by the DRE in any capacity. JTM Mgt is not, and has never been, licensed by the DRE in any capacity.

12.

S E P M Inc. is not, and has never been, licensed by the DRE in any capacity. S E P M is not, and has never been, licensed by the DRE in any capacity.

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13.

International City is not, and has never been, licensed by the DRE in any capacity.

14.

Between December 12, 2018 and June 29, 2021, Lovett was not licensed by the DRE in any capacity.

BOLTON's REAL ESTATE ACTIVITIES

15.

At all times mentioned, in the State of California, BOLTON conducted licensed activities within the meaning of Code Section 10131¹ and conducted property management activities, which require a real estate license, including, but not limited to activities performed by BOLTON's RES, employees and agents. According to DRE records to date, BOLTON employed RES Lovett under his DRE license effective July 2, 2021. (Previously, BOLTON employed RES Lovett from December 12, 2014 to December 11, 2018.)

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¹ Pursuant to Code Section 10131 Broker Defined, "A real estate broker within this meaning of this part is a person who, for a compensation or in expectation of a compensation, regardless of the form or time of payment, does or negotiates to do one or more of the following acts for another or others: (a) Sells or offers to sell, buys or offers to buy, solicits prospective sellers or purchasers of, solicits or obtains listings of, or negotiates the purchase, sale or exchange of real property or a business opportunity. (b) Leases or rents or offers to lease or rent, or places for rent, or solicits listings of places for rent, or solicits for prospective tenants, or negotiates the sale, purchase or exchanges of leases on real property, or on a business opportunity, or collects rents from real property, or improvements thereon, or from business opportunities. (c) Assists or offers to assist in filing an application for the purchase or lease of, or in locating or entering upon, lands owned by the state or federal government. (d) Solicits borrowers or lenders for or negotiates loans or collects payments or performs services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity. (e) Sells or offers to sell, buys or offers to buy, or exchanges or offers to exchange a real property sales contract, or a promissory note secured directly or collaterally by a lien on real property or on a business opportunity, and performs services for the holders thereof."

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a deductible, the employing broker shall have evidence of financial responsibility that is sufficient to protect members of the public against a loss subject to the deductible amount.

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

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

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

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

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

...

(4)(b) A real estate broker acting as a principal pursuant to Section 10131.1² shall place all funds received from others for the purchase of real property sales contracts or

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

1 promissory notes secured directly or collaterally by liens on real property in a neutral escrow
2 depository unless delivery of the contract or notes is made simultaneously with the receipt of
3 the purchase funds.

4 . . .

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

7 17.

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

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

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

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

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

6 (d) Nothing in this section shall be construed to permit a violation of Section
7 10145 of the Code.

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

15 18.

16 Pursuant to Regulation 2831.1 *Separate Record for Each Beneficiary or*
17 *Transaction:*

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

- 23 (1) Date of deposit.
24 (2) Amount of deposit.
25 (3) Date of each related disbursement.
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- (4) Check number of each related disbursement.
- (5) Amount of each related disbursement.
- (6) If applicable, dates and amounts of interest earned and credited to the account.
- (7) Balance after posting transactions on any date.

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

19.

Pursuant to Regulation 2831.2 Trust Account Reconciliation:

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

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Pursuant to Regulation 2832 *Trust Fund Handling*:

“(a) Compliance with Section 10145 of the Code requires that the broker place funds accepted on behalf of another into the hands of the owner of the funds, into a neutral escrow depository or into a trust fund account in the name of the broker, or in a fictitious name if the broker is the holder of a license bearing such fictitious name, as trustee at a bank or other financial institution not later than three business days following receipt of the funds by the broker or by the broker’s salesperson.

(b) Except as expressly provided by subdivision (d) of Section 10145 of the Code or by a regulation in this article, the account into which the trust funds are deposited shall not be an interest-bearing account for which prior written notice can by law or regulation be required by the financial institution as a condition to the withdrawal of funds.

(c) A check received from the offeror may be held uncashed by the broker until acceptance of the offer if

(1) the check by its terms is not negotiable by the broker or if the offeror has given written instructions that the check shall not be deposited nor cashed until acceptance of the offer and

(2) the offeree is informed that the check is being so held before or at the time the offer is presented for acceptance.

(d) In these circumstances if the offeror’s check was held by the broker in accordance with subdivision (c) until acceptance of the offer, the check shall be placed into a neutral escrow depository or the trust fund account, or into the hands of the offeree if offeror and offeree expressly so provide in writing, not later than three business days following acceptance of the offer unless the broker receives written authorization from the offeree to continue to hold the check.

1 (e) Notwithstanding the provisions of subdivisions (a) and (d), a real estate
2 broker who is not licensed under the Escrow Law (Section 17000, et seq., of the Financial
3 Code) when acting in the capacity of an escrow holder in a real estate purchase and sale,
4 exchange or loan transaction in which the broker is performing acts for which a real estate
5 license is required shall place all funds accepted on behalf of another into the hands of the
6 owner of the funds, into a neutral escrow depository or into a trust fund account in the name of
7 the broker, or in a fictitious name if the broker is the holder of a license bearing such fictitious
8 name, as trustee at a bank or other financial institution not later than the next business day
9 following receipt of the funds by the broker or by the broker's salesperson."

10 21.

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

12 "The written consent of every principal who is an owner of the funds in the
13 account shall be obtained by a real estate broker prior to each disbursement if such a
14 disbursement will reduce the balance of funds in the account to an amount less than the
15 existing aggregate trust fund liability of the broker to all owners of the funds."

16 22.

17 Pursuant to Regulation 2834 *Trust Account Withdrawals:*

18 "(a) Withdrawals may be made from a trust fund account of an individual
19 broker only upon the signature of the broker or one or more of the following persons if
20 specifically authorized in writing by the broker:

21 (1) a salesperson licensed to the broker.

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

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

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

- (1) an officer through whom the corporation is licensed pursuant to Section 10158 or 10211 of the Code or
- (2) one of the persons enumerated in paragraph (1), (2) or (3) of subdivision (a) above, provided that specific authorization in writing is given by the officer through whom the corporation is licensed and that the officer is an authorized signatory of the trust fund account.

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

Disclosure of Licensed Status in Advertising
(Code Section 10140.6 and Regulation 2773)

23.

Pursuant to Code Section 10140.6 *Disclosure of Licensed Status in Advertising*:

“(a) A real estate licensee shall not publish, circulate, distribute, or cause to be published, circulated, or distributed in any newspaper or periodical, or by mail, any matter pertaining to any activity for which a real estate license is required that does not contain a designation disclosing that he or she is performing acts for which a real estate license is required.

1 (b)(1) A real estate licensee shall disclose his or her name, license identification
2 number and unique identifier assigned to that licensee by the Nationwide
3 Mortgage Licensing System and Registry, if that licensee is a mortgage loan
4 originator, and responsible broker's identity, as defined in Section 10015.4, on
5 all solicitation materials intended to be the first point of contact with consumers
6 and on real property purchase agreements when acting in a manner that requires
7 a real estate license or mortgage loan originator license endorsement in those
8 transactions. The commissioner may adopt regulations identifying the materials
9 in which a licensee must disclose a license identification number and unique
10 identifier assigned to that licensee by the Nationwide Mortgage Licensing
11 System and Registry, and responsible broker's identity.

12 (2) For purposes of this section, "solicitation materials" include business
13 cards, stationery, advertising flyers, advertisements on television, in print, or
14 electronic media, "for sale," rent, lease, "open house," and directional signs, and
15 other materials designed to solicit the creation of a professional relationship
16 between the licensee and a consumer.

17 (3) Nothing in this section shall be construed to limit or change the
18 requirement described in Section 10236.4 as applicable to real estate brokers.

19 (c) This section shall not apply to "for sale," rent, lease, "open house," and
20 directional signs that do either of the following:

21 (1) Display the responsible broker's identity, as defined in Section 10015.4,
22 without reference to an associate broker or licensee.

23 (2) Display no license identification information.

24 (d) "Mortgage loan originator," "unique identifier," and "Nationwide Mortgage
25 Licensing System and Registry" have the meanings set forth in Section 10166.01.

1 (e) This section shall become operative on January 1, 2018.”

2 24.

3 Pursuant to Regulation 2773 *Disclosure of License Identification Number on*
4 *Solicitation Materials – First Point of Contact with Consumers:*

5 “(a) A real estate broker or salesperson, when engaging in acts for which a
6 license is required, shall disclose its, his or her eight (8) digit real estate license identification
7 number on all solicitation materials intended to be the first point of contact with consumers. If
8 the name of more than one licensee appears in the solicitation, the license identification
9 number of each licensee shall be disclosed. The license numbers of employing brokers or
10 corporate brokers whose names or logos or trademarks appear on solicitation materials along
11 with the names and license numbers of licensed employees or broker associates do not need to
12 appear on those materials. Solicitation materials intended to be the first point of contact with
13 consumers, and in which a licensee must disclose a license identification number, include the
14 following:

- 15 (1) Business cards;
- 16 (2) Stationery;
- 17 (3) Websites owned, controlled, and/or maintained by the soliciting real
18 estate licensee;
- 19 (4) Promotional and advertising fliers, brochures, email and regular
20 mail, leaflets, and any marketing or promotional materials designed
21 to solicit the creation of a professional relationship between the
22 licensee and a consumer, or which is intended to incentivize, induce
23 or entice a consumer to contact the licensee about any service for
24 which a license is required;
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1 broker's license or deny renewal of the broker's license. The suspension or denial shall remain
2 in effect until the cost is paid or until the broker's right to renew a license has expired.

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

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

14 **Broker Supervision**

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

16 26.

17 Pursuant to Code Section 10159.2 *Responsibility of Corporate Officer in*

18 *Charge:*

19 “(a) The officer designated by a corporate broker licensee pursuant to Section
20 10211 shall be responsible for the supervision and control of the activities conducted on behalf
21 of the corporation by its officers and employees as necessary to secure full compliance with the
22 provisions of this division, including the supervision of salespersons licensed to the
23 corporation in the performance of acts for which a real estate license is required.

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

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

7 27.

8 Pursuant to Regulation 2725 *Broker Supervision*:

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

12 (a) Transactions requiring a real estate license.

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

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

16 (d) The handling of trust funds.

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

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

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

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

3 28.

4 **False or Fictitious Business Name**

5 **(Code Section 10159.5 and Regulation 2731(a) in conjunction with Code Section 10130)**

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

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

11 29.

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

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

16 30.

17 Pursuant to Code Section 10130 *License Required*:

18 “It is unlawful for any person to engage in the business of, act in the capacity of,
19 advertise as, or assume to act as a real estate broker or a real estate salesperson within this state
20 without first obtaining a real estate license from the department, or to engage in the business
21 of, act in the capacity of, advertise as, or assume to act as a mortgage loan originator within
22 this state without having obtained a license endorsement. The commissioner may prefer a
23 complaint for violation of this section before any court of competent jurisdiction, and the
24 commissioner and his or her counsel, deputies, or assistants, may assist in presenting the law or
25 facts at the trial. Prosecution of Violations: It is the duty of the district attorney of each
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1 county in this state to prosecute all violations of this section in their respective counties in
2 which the violations occur.”

3 **Grounds for Revocation or Suspension**

4 **(Code Section 10176, selected portions)**

5 31.

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

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

13 . . .

- 14 (i) Any other conduct, whether of the same or of a different character than
15 specified in this section, which constitutes fraud or dishonest dealing...”

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1 **Further Grounds for Disciplinary Action**

2 **(Code Section 10177)**

3 32.

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

5 “The commissioner may suspend or revoke the license of a real estate licensee,
6 delay the renewal of a license of a real estate licensee, or deny the issuance of a license to an
7 applicant, who has done any of the following, or may suspend or revoke the license of a
8 corporation, delay the renewal of a license of a corporation, or deny the issuance of a license to
9 a corporation, if an officer, director, or person owning or controlling 10 percent or more of the
10 corporation’s stock has done any of the following:

11 (a) Procured, or attempted to procure, a real estate license or license
12 renewal, for themselves or a salesperson, by fraud, misrepresentation, or
13 deceit, or by making a material misstatement of fact in an application for
14 a real estate license, license renewal, or reinstatement.

15 (b) (1) Entered a plea of guilty or no contest to, or been found guilty of,
16 or been convicted of, a felony, or a crime substantially related to the
17 qualifications, functions, or duties of a real estate licensee, and the time
18 for appeal has elapsed or the judgment of conviction has been affirmed
19 on appeal, irrespective of an order granting probation following that
20 conviction, suspending the imposition of sentence, or of a subsequent
21 order under Section 1203.4 of the Penal Code allowing that licensee to
22 withdraw that licensee’s plea of guilty and to enter a plea of not guilty,
23 or dismissing the accusation or information.

24 (2) Notwithstanding paragraph (1), and with the recognition that
25 sentencing may not occur for months or years following the entry of a
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1 guilty plea, the commissioner may suspend the license of a real estate
2 licensee upon the entry by the licensee of a guilty plea to any of the
3 crimes described in paragraph (1). If the guilty plea is withdrawn, the
4 suspension shall be rescinded and the license reinstated to its status prior
5 to the suspension. The department shall notify a person whose license is
6 subject to suspension pursuant to this paragraph of that person's right to
7 have the issue of the suspension heard in accordance with Section
8 10100.

9 (c) Knowingly authorized, directed, connived at, or aided in the
10 publication, advertisement, distribution, or circulation of a material false
11 statement or representation concerning their designation or certification
12 of special education, credential, trade organization membership, or
13 business, or concerning a business opportunity or a land or subdivision,
14 as defined in Chapter 1 (commencing with Section 11000) of Part 2,
15 offered for sale.

16 (d) Willfully disregarded or violated the Real Estate Law (Part 1
17 (commencing with Section 10000)) or Chapter 1 (commencing with
18 Section 11000) of Part 2 or the rules and regulations of the
19 commissioner for the administration and enforcement of the Real Estate
20 Law and Chapter 1 (commencing with Section 11000) of Part 2.

21 (e) Willfully used the term "realtor" or a trade name or insignia of
22 membership in a real estate organization of which the licensee is not a
23 member.

24 (f) Acted or conducted themselves in a manner that would have warranted
25 the denial of their application for a real estate license, or either had a
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1 license denied or had a license issued by another agency of this state,
2 another state, or the federal government revoked, surrendered, or
3 suspended for acts that, if done by a real estate licensee, would be
4 grounds for the suspension or revocation of a California real estate
5 license, if the action of denial, revocation, surrender, or suspension by
6 the other agency or entity was taken only after giving the licensee or
7 applicant fair notice of the charges, an opportunity for a hearing, and
8 other due process protections comparable to the Administrative
9 Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter
10 4 (commencing with Section 11370), and Chapter 5 (commencing with
11 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
12 Code), and only upon an express finding of a violation of law by the
13 agency or entity.

14 (g) Demonstrated negligence or incompetence in performing an act for
15 which the officer, director, or person is required to hold a license.

16 (h) As a broker licensee, failed to exercise reasonable supervision over
17 the activities of that licensee's salespersons, or, as the officer designated
18 by a corporate broker licensee, failed to exercise reasonable supervision
19 and control of the activities of the corporation for which a real estate
20 license is required.

21 (i) Used their employment by a governmental agency in a capacity
22 giving access to records, other than public records, in a manner that
23 violates the confidential nature of the records.

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(j) Engaged in any other conduct, whether of the same or of a different character than specified in this section, that constitutes fraud or dishonest dealing.

(k) Violated any of the terms, conditions, restrictions, and limitations contained in an order granting a restricted license.

(l) (1) Solicited or induced the sale, lease, or listing for sale or lease of residential property on the grounds, wholly or in part, of loss of value, increase in crime, or decline of the quality of the schools due to the present or prospective entry into the neighborhood of a person or persons having a characteristic listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those characteristics are defined in Sections 12926 and 12926.1 of, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 of, and Section 12955.2 of, the Government Code.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 4760 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

(m) Violated the Franchise Investment Law (Division 5 (commencing with Section 31000) of Title 4 of the Corporations Code) or regulations of the Commissioner of Business Oversight pertaining thereto.

1 (n) Violated the Corporate Securities Law of 1968 (Division 1
2 (commencing with Section 25000) of Title 4 of the Corporations Code)
3 or the regulations of the Commissioner of Business Oversight pertaining
4 thereto.

5 (o) Failed to disclose to the buyer of real property, in a transaction in
6 which the licensee is an agent for the buyer, the nature and extent of a
7 licensee's direct or indirect ownership interest in that real property. The
8 direct or indirect ownership interest in the property by a person related
9 to the licensee by blood or marriage, by an entity in which the licensee
10 has an ownership interest, or by any other person with whom the
11 licensee has a special relationship shall be disclosed to the buyer.

12 (p) Violated Article 6 (commencing with Section 10237).

13 (q) Violated or failed to comply with Chapter 2 (commencing with
14 Section 2920) of Title 14 of Part 4 of Division 3 of the Civil Code,
15 relating to mortgages.

16 If a real estate broker that is a corporation has not done any of the foregoing acts, either
17 directly or through its employees, agents, officers, directors, or persons owning or controlling
18 10 percent or more of the corporation's stock, the commissioner may not deny the issuance or
19 delay the renewal of a real estate license to, or suspend or revoke the real estate license of, the
20 corporation, provided that any offending officer, director, or stockholder, who has done any of
21 the foregoing acts individually and not on behalf of the corporation, has been completely
22 disassociated from any affiliation or ownership in the corporation. A decision by the
23 commissioner to delay the renewal of a real estate license shall toll the expiration of that
24 license until the results of any pending disciplinary actions against that licensee are final, or
25 until the licensee voluntarily surrenders the licensee's license, whichever is earlier.”

1 **CAUSE FOR DISCIPLINE**

2 **COMPLAINT-RELATED DRE AUDIT LA210004:**

3 **GARY EVAN BOLTON**

4 **(Property Management Violations: 1/1/20 to 6/30/21)**

5 33.

6 Beginning on or about December 26, 2020, the DRE received a consumer
7 complaint and supplemental documents from a property owner ("Owner") regarding property
8 management activities by unlicensed "JTM Property Management," BOLTON, and/or Lovett
9 for licensed real estate activities while Lovett was employed by BOLTON, but not in fact
10 licensed by the DRE. Owner's complaint related to JTM Property Management's management
11 of Owner's properties and included documents that alleged BOLTON's participation in
12 property management activities for consumer as JTM Property Management, including but not
13 limited to: BOLTON's deposit of rent checks into his own account; copies of check payments
14 from Owner of management fees payable to JTM Property Management; income and
15 management statements generated by JTM Property Management for Owner with erroneous
16 calculations and entries; and rent statements prepared by JTM Property Management with
17 inaccurate entries.

18 34.

19 On January 28, 2022, the DRE completed its complaint related audit
20 examination of the books and records of Respondent BOLTON pertaining to its property
21 management activities only (Audit LA210004), which require a real estate license. The audit
22 examination covered a period of time beginning on January 1, 2020 and ending on June 30,
23 2021 ("audit examination period" or "audit period"). The field work on the audit examination
24 period records was performed intermittently from July 20, 2021 to January 28, 2022.

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1 35.

2 The final audit report dated January 28, 2022 revealed violations of the Code
3 and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit
4 Report LA210004 (RE 4541 (Rev. 7/03)).

5 36.

6 Background

7 At the time of Audit LA 210004, according to DRE licensing records dated July
8 9, 2021, BOLTON did not maintain any licensed fictitious business names (DBAs) or branch
9 offices and employed one (1) licensed RES, Lovett effective July 2, 2021.

10 37.

11 According to DRE license records, Lovett's original RES license was issued by
12 the DRE on December 12, 2014 and Lovett was licensed to BOLTON from December 12,
13 2014 to December 11, 2018. Lovett did not have a valid RES license during the period from
14 December 12, 2018 to June 29, 2021. Lovett renewed his RES license with DRE on June 30,
15 2021 and was licensed to BOLTON effective July 2, 2021.

16 38.

17 Business Activities

18 According BOLTON, all property management activities were performed under
19 BOLTON's DRE license during the audit period. Based on the separate records, control record
20 and bank statements provided by BOLTON, during the audit period, he managed
21 approximately forty (40) properties for twenty-seven (27) owners and in the last twelve (12)
22 months, collected approximately \$1,983,896 in trust funds.

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Bank Account

According to BOLTON and the records examined, he maintained two (2) bank accounts that handled trust fund receipts and disbursements related to his property management activities:

BA 1

- * Bank: Farmers and Merchants Bank (FMB)
- * Bank Address: 4827 E. Second Street, Long Beach, CA 90803
- * Account Name: S E P M INC JTM Property Management (DBA)
- * Account No. ###7503
- * Signatories: Gary Evan Bolton, Anthony A Lovett, effective 6/30/21
- * Signatures Required: one (1)

BA 1 was used for multiple beneficiaries and was maintained for handling the receipts and disbursements of trust funds in connection with BOLTON's property management activity.

According to the BA 1 bank signature card provided for examination, BA 1 was opened on May 31, 2011 and was not designated as a trust account in the name of BOLTON as a trustee.

According to the DRE's licensing records: Lovett was not licensed to BOLTON during the audit period; Lovett did not have a valid RES license during the period December 12, 2018 to June 29, 2021; and Lovett renewed his RES license with the DRE on June 30, 2021 and was licensed to BOLTON effective July 2, 2021.

BA 2

- * Bank: Farmers and Merchants Bank (FMB)
- * Bank Address: 4827 E. Second Street, Long Beach, CA 90803
- * Account Name: S E P M INC JTM Property Management (DBA)
- * Account No. ###7511
- * Signatories: Gary Evan Bolton, Anthony A Lovett, effective 6/30/21
- * Signatures Required: one (1)

BA 2 was used for multiple beneficiaries and was maintained for handling the receipts and disbursements of trust funds in connection with BOLTON's property management activity.

According to the BA 2 bank signature card provided for examination, BA 2 was opened on May 31, 2011 and was not designated as a trust account in the name of BOLTON as a trustee.

1 According to the DRE's licensing records: Lovett was not licensed to BOLTON during the
2 audit period; Lovett did not have a valid RES license during the period December 12, 2018 to
3 June 29, 2021; and Lovett renewed his RES license with the DRE on June 30, 2021 and was
4 licensed to BOLTON effective July 2, 2021.

5 **CAUSE FOR DISCIPLINE**

6 **AUDIT FINDINGS: VIOLATIONS OF THE REAL ESTATE LAW**

7 40.

8 In the course of the real estate activities (property management) described in
9 paragraph 38 during the subject audit examination period described in Paragraph 34, above, the
10 DRE's auditor ("auditor") made findings that Respondents violated the Code and the
11 Regulations, as described below, and more fully discussed in the DRE's Audit Report and
12 Transmittal for Audit LA210004 (RE 4541 (Rev. 7/03), dated January 28, 2022.

13 41.

14 **Audit LA 210004 - Issue One**

15 **Handling of Trust Funds/Trust Fund Handling for Multiple Beneficiaries**

16 **(Code Section 10145 and Regulation 2832.1)**

17 A. **BA 1**: Based on an examination of the books and records produced for the
18 audit, BA 1 had a trust fund shortage of <\$60,369.54> as of June 30, 2021. Said shortage was
19 caused by: negative property balances of <\$1,409.04>; unauthorized disbursements/conversion
20 of funds of <\$714.36>; and unidentified shortage of <\$58,246.14>. BOLTON provided no
21 evidence in the evidence in the files examined that the owners of the trust funds had given
22 written consent to allow BOLTON to reduce the balance of funds in BA 1 to an amount less
23 than the existing aggregate trust fund liability, in violation of **Code Section 10145 and**
24 **Regulation 2832.1.**

1 B. BA 2: Based on an examination of the books and records produced for the
2 audit, BA 2 had a trust fund shortage of <\$74,327.42> as of June 30, 2021. Said shortage was
3 caused by unauthorized disbursements/conversion of funds of <\$74,327.42>, of which
4 unauthorized disbursements made from BA 2 to RES Lovett or “S E P M” totaling
5 <\$11,100.00>; unauthorized disbursements made from BA 2 to “JTM Property Management”
6 totaling <\$10,575.00>; and unauthorized disbursements made from BA 2 to International City
7 PM totaling <\$40,487.65> and other unauthorized disbursements made from BA 2 totaling
8 <\$12,164.77> as of June 30, 2021 (see Issue Eight). BOLTON provided no evidence in the
9 evidence in the files examined that the owners of the trust funds had given written consent to
10 allow BOLTON to reduce the balance of funds in BA 1 to an amount less than the existing
11 aggregate trust fund liability, in violation of **Code Section 10145 and Regulation 2832.1**.

12 C. BOLTON stated to the auditor via e-mail, “once I was aware of the checks
13 from the account, I immediately made restitution of the amount.” BOLTON made two (2)
14 deposits totaling \$13,207.76 into BA 2 to cure a portion of the unauthorized
15 disbursements/conversion of funds of <\$74,327.42> that caused the trust fund shortage in BA
16 2 as of June 30, 2021: (1) on August 2, 2021, BOLTON deposited \$5,941.38 into BA 2 via a
17 teller at Famers and Merchants Bank and (2) on August 31, 2021, BOLTON deposited check
18 #3781 issued to “JTM Property Mgt” in the amount \$7,266.38 dated August 31, 2021 from
19 account #####6783.

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Audit LA 210004 - Issue Three

Handling of Trust Funds/Trust Fund Records To Be Maintained

(Code Section 10145 and Regulation 2831)

A. BA 1: BOLTON did not maintain a complete and accurate control record for BA 1, in violation of **Code Section 10145 and Regulation 2831**. The control record was missing the date trust funds were received. The control records and separate records provided for the audit examination contained duplicate check numbers with different check date and check disbursement amounts. One of the duplicate checks cleared the bank and the other check did not, but according BOLTON’s written statement of November 15, 2021, “...it was a case of the program jumping ahead on the numbers. For instance, we would be printing check #035016 and the computer was on #035021. If we had written numerous checks, numbers would be off for a lot of checks.”

B. BA 2: BOLTON did not maintain a complete and accurate control record for BA 2, in violation of **Code Section 10145 and Regulation 2831**. The control record was missing the date trust funds were received. Not all the payments disbursed from BA 2 were recorded on BA 2’s control records provided by BOLTON for the audit. The control record of BA 2 that BOLTON did provide for the audit did not record disbursements paid from BA 2 to RES Lovett, “S E P M,” “JTM Property Management,” “International City PM” and other payees.

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Audit LA 210004 - Issue Four

Handling of Trust Funds/Separate Record for Each Beneficiary or Transaction

(Code Section 10145 and Regulation 2831.1)

A. BA 1: BOLTON did not maintain accurate separate records of each beneficiary or property for BA 1 during the audit period, in violation of **Code Section 10145 and Regulation 2831.1**. The control record was missing the date trust funds were received. The control records and separate records provided for the audit examination contained duplicate check numbers with different check date and check disbursement amounts. One of the duplicate checks cleared the bank and the other check did not, but according BOLTON’s written statement of November 15, 2021, “...it was a case of the program jumping ahead on the numbers. For instance, we would be printing check #035016 and the computer was on #035021. If we had written numerous checks, numbers would be off for a lot of checks.”

B. BA 2: BOLTON did not maintain accurate separate records of each beneficiary or property for BA 2 during the audit period, in violation of **Code Section 10145 and Regulation 2831.1**. BOLTON did not provide separate records to show the disbursements made from BA 2 to RES Lovett, “S E P M,” “JTM Property Management,” “International City PM” and other payees; said disbursements paid to these payees were not traceable to the individual property separate records provided for the audit.

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1 44.

2 **Audit LA 210004 - Issue Five**

3 **Handling of Trust Funds/Trust Account Reconciliation**

4 **(Code Section 10145 and Regulation 2831.2)**

5 A. BA 1: During the audit period, BOLTON did not maintain an accurate
6 monthly reconciliation comparing the balance of all separate beneficiary or transaction records
7 (separate records) to the balance of the record of all trust funds received and disbursed (control
8 record) for BA 1, as required, in violation of **Code Section 10145 and Regulation 2831.2**.

9 B. BA 2: During the audit period, BOLTON did not maintain an accurate
10 monthly reconciliation comparing the balance of all separate beneficiary or transaction records
11 (separate records) to the balance of the record of all trust funds received and disbursed (control
12 record) for BA 1, as required, in violation of **Code Section 10145 and Regulation 2831.2**.

13 45.

14 **Audit LA 210004 - Issue Six**

15 **Handling of Trust Funds/Trust Fund Handling**

16 **(Code Section 10145 and Regulation 2832)**

17 A. BA 1: Based on an examination of BA 1's bank signature card from Farmers
18 and Merchants Bank provided by BOLTON, BA 1, which was used for handling of trust funds
19 related to BOLTON's real estate activities, was not designated as a trust account in the name of
20 Gary Evan Bolton as trustee, in violation of **Code Section 10145 and Regulation 2832**. BA 1
21 was in the name of "S E P M Inc. JTM Property Management (DBA)."

22 B. BA 2: Based on an examination of BA 2's bank signature card from Farmers
23 and Merchants Bank provided by BOLTON, BA 2, which was used for handling of trust funds
24 related to BOLTON's real estate activities, was not designated as a trust account in the name of
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1 Gary Evan Bolton as trustee, in violation of **Code Section 10145 and Regulation 2832**. BA 2
2 was in the name of “S E P M Inc. JTM Property Management (DBA).”

3 46.

4 **Audit LA 210004 - Issue Seven**

5 **Handling of Trust Funds/Trust Fund Account Withdrawals**

6 **(Code Section 10145 and Regulation 2834)**

7 Based on an examination of the bank signature card from Farmers and
8 Merchants Bank provided for BA 1 and BA 2, BOLTON allowed RES Lovett as an authorized
9 signer to make withdrawals from BA 1 and BA 2 when Lovett’s RES license expired on
10 December 11, 2018 and Lovett did not have a valid RES license during the period from
11 December 12, 2018 to June 29, 2021, in violation of **Code Section 10145 and Regulation**
12 **2834**. BOLTON did not have fidelity bond or insurance coverage for Lovett for BA 1 and BA
13 2 during the audit period. According to the DRE’s licensing records, Lovett renewed his RES
14 license on June 30, 2021 and was licensed to BOLTON effective July 2, 2021.

15 47.

16 **Audit LA 210004 - Issue Eight**

17 **Handling of Trust Funds/Unauthorized Disbursements/Conversion of Trust Funds**

18 **(Code Sections 10145 and 10176(i))**

19 A. Based on an examination of BA 1’s bank statement from Farmers and
20 Merchants Bank, separate records and control record provided by BOLTON, BOLTON made
21 unauthorized disbursements from BA 1 that were not traceable to the separate records and the
22 control records of BA 1, in violation of **Code Sections 10145 and 10176(i)**. The
23 unauthorized disbursements of <\$714.36> from BA 1 was caused by disbursements that were
24 not traceable to the individual property separate records and control records of BA 1. As of
25
26

1 June 30, 2021, there were unauthorized disbursements/conversion of funds of <\$714.36>
2 disbursed from BA 1.

3 B. Based on an examination of BA 2's bank statements, separate records and
4 control record provided by BOLTON for the audit, BOLTON made unauthorized
5 disbursements from BA 2, in violation of **Code Sections 10145 and 10176(i)**. The
6 unauthorized disbursements/conversion of funds of <\$74,327.42> from BA 2 was caused by
7 BOLTON disbursing checks and funds to "JTM Property Management" and RES Lovett
8 withdrawing cash to himself, and "S E P M." The control record of BA 2 provided for the audit
9 did not record the disbursements paid to RES Lovett, "S E P M," "JTM Property
10 Management," "International City PM," and other payees; said disbursements were not
11 traceable to the individual property separate records provided for the audit.

12 C. BOLTON issued checks to a new property management company called
13 International City PM, but there was no written authorization between the property owner and
14 BOLTON allowing the disbursements of the funds collected for security deposits in BA 2.
15 According to BOLTON, said authorization was verbal, and did not provide a written statement
16 as requested by the auditor. There were also funds disbursed and not traceable to the
17 individual property separate records and control records of BA 2.

18 D. As of June 30, 2021, there were unauthorized disbursements/conversion of
19 funds of <\$74,327.42> disbursed from BA 2, comprised of unauthorized disbursements made
20 from BA 2 to RES Lovett or "S E P M" totaling <\$11,000.00>; unauthorized disbursements
21 made from BA 2 to "JTM Property Management" totaling <\$10,575.00>; unauthorized
22 disbursements made from BA 2 to International City PM totaling <\$40,487.65> and other
23 unauthorized disbursements made from BA 2 totaling <\$12,164.77> as of June 30, 2021.

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1 48.

2 **Audit LA 210004 - Nine**

3 **Disclosure of Licensed Status in Advertising**

4 **(Code Section 10140.6 and Regulation 2773)**

5 BOLTON did not disclose his DRE license number on his website as a first
6 point of contact with the public, in violation of **Code Section 10140.6 and Regulation 2773.**

7 49.

8 **Audit LA 210004 - Ten**

9 **Use of False or Fictitious Name/When License Required**

10 **(Code Sections 10159.5 and 10130 and Regulation 2731)**

11 According to DRE's licensing records dated July 9, 2021, BOLTON did not
12 maintain any licensed fictitious business names (DBA). Based on an examination of the
13 property management agreements and bank statements for BA 1 and BA 2 provided for the
14 audit, BOLTON conducted his property management activities using unlicensed business
15 names (DBAs), "JTM Property Management" and "S E P M Inc." when BOLTON was not the
16 holder of a license bearing the fictitious name, in violation of **Code Sections 10159.5 and**
17 **10130 and Regulation 2731.**

18 50.

19 **Audit LA 210004 - Eleven**

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

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

22 BOLTON did not exercise adequate supervision and control over the property
23 management activities conducted on behalf of his employees and licensees to ensure full
24 compliance with the Real Estate Laws and Regulations, in **violation of Code Section 10159.2**
25 **and Regulation 2725.** BOLTON failed to establish policies, rules, procedures, and systems to
26

1 review, oversee, inspect and manage the handling of trust funds by BOLTON's licensees and
2 employees.

3 51.

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

5 **(Code Sections 10177(d), (g) and (h))**

6 The overall conduct of Respondents is in violation of the Real Estate Law and
7 constitutes cause for the suspension or revocation of the real estate licenses and license rights
8 of BOLTON under the provisions of **Code Section 10177(d)** (for willful disregard of the Real
9 Estate Law); **Code Section 10177(g)** (for negligence) and **Code Section 10177(h)** (failure to
10 exercise reasonable supervision).

11 **COSTS**

12 52.

13 **Investigation & Enforcement Costs**

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

19 53.

20 **Audit Costs**

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

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