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DEPT. OF REAL ESTATE

By _____

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8 BEFORE THE DEPARTMENT OF REAL ESTATE
 9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-42299-LA
 12 TWO PARTNERS INC., JILLENE)
 13 MARIE WASSON, individually and as) ACCUSATION
 14 designated officer of Two Partners,)
 Inc., and KEVIN JAMES O'NEILL.)
 15 Respondents.)

16 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the
 17 Department of Real Estate ("Department" or "DRE") of the State of California, for cause of
 18 Accusation against TWO PARTNERS INC. ("TPI"), JILLENE MARIE WASSON ("WASSON"),
 19 individually and as designated officer of TPI, and KEVIN JAMES O'NEILL ("O'NEILL")
 20 (collectively "Respondents"), alleges as follows:

- 21 1. The Complainant, Veronica Kilpatrick, acting in her official capacity as a
- 22 Supervising Special Investigator, makes this Accusation against Respondents.
- 23 2. All references to the "Code" are to the California Business and Professions Code
- 24 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

25 **LICENSE HISTORY**

26 3. Respondent TPI has been licensed by the Department as a real estate corporation
 27 ("REC"), License ID 01792182, from on or about February 15, 2007, through the present, with
 28 TPI's license scheduled to expire on June 19, 2024, unless renewed. TPI has been licensed through

1 WASSON's real estate broker ("REB") license, ID 01432341, and WASSON is the designated
2 officer ("D.O."). TPI maintains the licensed fictitious business name "Re/max Partners Real
3 Estate," active as of June 20, 2012, and maintains one branch office in Tustin, California. As of
4 January 23, 2022, TPI employed 41 salespersons and five broker associates.

5 4. Respondent WASSON has been licensed by the Department as a REB from on or
6 about May 16, 2008, through the present, with WASSON's license scheduled to expire on May 15,
7 2024, unless renewed. Previously, WASSON was licensed by the DRE as a real estate salesperson
8 ("RES"), from on or about May 8, 2004, until on or about May 15, 2008.

9 5. Respondent O'NEILL has been licensed by the Department as a RES, License ID
10 00815583, from on or about May 11, 1981, until the present, with O'NEILL's license scheduled to
11 expire on May 15, 2025, unless renewed. O'NEILL was licensed under TPI's brokerage from on
12 or about April 14, 2014, to on or about May 10, 2017, and from on or about May 23, 2017, to on or
13 about July 20, 2021. O'NEILL has been employed by REC Sego Holdings Inc. from on or about
14 July 21, 2021, through the present.

15 **BROKERAGE: TPI**

16 6. At all times mentioned, in the Counties of Riverside and Orange, TPI acted as a real
17 estate broker, conducting licensed activities within the meaning of Code sections 10131(a) and
18 10131(b): selling or offering to sell, buying or offering to buy, real property for others; and leasing
19 or renting, offering to lease or rent, or collecting rents from real property for others. In addition,
20 TPI conducted broker-controlled escrows under the exemption set forth in California Financial
21 Code section 17006(a)(4) for real estate brokers performing escrows incidental to a real estate
22 transaction where the broker is a party and where the broker is performing acts for which a real
23 estate license is required. At all times relevant herein, TPI was acting by and through WASSON as
24 its D.O. pursuant to Code Section 10159.2, and WASSON was responsible for ensuring compliance
25 with the Real Estate Law.

26 **FACTS DISCOVERED BY DRE**

27 7. On or about April 14, 2014, O'NEILL began working under TPI's brokerage
28 license. Prior to that time, TPI had engaged in no property management activities. O'NEILL

1 brought all of his property management clients with him when he began working for TPI. Based
2 on a copy of a Provident Bank signature card provided to the DRE by TPI, and according to
3 WASSON and O'NEILL, on or about April 24, 2014, O'NEILL accompanied the owners of TPI to
4 Provident Bank and opened a trust account ending in 3625 ("TA3625") for the purpose of handling
5 trust fund receipts and disbursements related to property management activities. O'NEILL was
6 listed as an authorized signer on the account. All property owner funds went into the trust account,
7 TA3625, and no other trust funds were maintained in the account.

8 8. Complainant is informed and believes and on such information and belief alleges
9 that, between February 19, 2019 and May 7, 2021, O'NEILL engaged in a long-term fraudulent
10 course of conduct of collecting credit report fees of \$40 each from prospective tenants, depositing
11 the funds into TA3625, failing to order or obtain credit reports from the credit report company for
12 these prospective tenants, and then disbursing the credit report fees to himself by writing checks
13 payable to himself from TA3625.

14 9. According to WASSON:

15 a. WASSON delegated all property management duties to O'NEILL, and
16 required O'NEILL to turn in reconciliations of the trust account every month.

17 b. O'NEILL had possession of the checkbook for TA3625. While WASSON
18 and O'NEILL were both signatories on TA3625, O'NEILL wrote most of the checks and
19 controlled the checkbook. O'NEILL also used AppFolio computer software to do trust
20 accounting for the property management activities. WASSON did not have access to
21 AppFolio.

22 c. In or about July 2021, WASSON decided to let O'NEILL go and TPI
23 terminated its relationship with O'NEILL effective July 20, 2021. WASSON and O'NEILL
24 agreed that O'NEILL would transfer the property management funds from TA3625 to his
25 new broker, and O'NEILL took the property management business with him when he left
26 TPI. O'NEILL still has business with the same property owners.

27 d. During August of 2021, WASSON was aware of and agreed to O'NEILL
28 withdrawing all but \$500.00 from TA3625.

1 e. As of February 3, 2022, O'NEILL had access to TA3625 and still had the
2 checkbook for TA3625.

3 10. According to O'NEILL:

4 a. O'NEILL signed the leases and property management agreements.
5 WASSON would review the property management agreements.

6 b. O'NEILL kept the checkbook for TA3625 locked in a file cabinet, in a
7 locked office.

8 c. O'NEILL controlled TA3625 and performed the monthly reconciliations.
9 O'NEILL and his assistant balanced the account on their own, and O'NEILL's friend did
10 reconciliations. At some point, O'NEILL hired someone else to do the accounting, and it
11 was also done by O'NEILL's assistant for a while.

12 d. As of 2015, O'NEILL paid for AppFolio software and the software would
13 make statements for TPI. O'NEILL's AppFolio generated statements were given to TPI's
14 unlicensed majority owner, Sharon Rotondo ("Rotondo"), for review. Rotondo also kept the
15 reconciliations and O'NEILL never received them back with initials. Rotondo had access to
16 AppFolio. As the majority owner of TPI, the software had to be registered in her name,
17 although O'NEILL paid for all of the fees associated with AppFolio.

18 e. O'NEILL did not provide monthly statements for all property owners.
19 O'NEILL mostly provided year-end statements for his clients, but also provided quarterly
20 or monthly statements for those property owners that wanted them.

21 f. O'NEILL paid rental receipts to the property owners and wrote checks for
22 property management commissions to TPI. TPI would take the commissions, deduct its
23 portions (2.5% of the commissions) and then write a check to O'NEILL.

24 g. O'NEILL would draw amounts for commissions two to three times a month
25 to pay to TPI.

26 h. O'NEILL did not report to anyone regarding property management activities
27 unless an owner had a complaint, and then O'NEILL would refer them to Rotondo.

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1 i. O'NEILL took the checkbook for TA3625 when he left TPI, and he
2 transferred the trust funds for TA3625 to a new broker. O'NEILL transferred the funds
3 when TPI told him to transfer them.

4 11. According to the DRE's auditor in Audit No. SD210007, as described in further
5 detail below, based on an examination of the bank statement for TA3625 dated August 31, 2021,
6 there were three (3) withdrawals with the description "K O Neill" on: August 6, 2021 for
7 \$29,290.00, on August 9, 2021 for \$85,995.03, and on August 30, 2021 for \$10,635.00, with an
8 aggregate total of \$125,920.03 in withdrawals, and leaving a balance of \$500.00 in TA3625 as of
9 August 31, 2021.

10 12. Based on a copy of a Provident Bank signature card provided to the DRE by TPI, on
11 or about February 4, 2022, O'NEILL was removed from TA3625 as a signatory.

12 **AUDIT OF TPI: AUDIT NO. LA200069**

13 13. On March 30, 2021, the Department completed the first of two audit examinations
14 of the books and records of TPI's real estate activities that require a corporate real estate broker
15 license under Code Section 10131. The first audit examination, LA200069, covered the time period
16 from October 1, 2019 to September 30, 2020 ("first audit period") and was limited to TPI's broker
17 escrow activities. The second audit examination, SD210007, covered the time period from January
18 1, 2019 to June 30, 2021 ("second audit period")

19 14. The purpose of the audit examinations was to determine whether TPI conducted its
20 real estate activities and handled and accounted for trust funds in accordance with the Real Estate
21 Law and the Regulations.

22 15. According to WASSON, TPI's corporate structure as of November 6, 2020 was:

<u>Name</u>	<u>Title</u>	<u>License Status</u>	<u>Shareholder</u>
Sharon Rotondo	President	Not Licensed	100%

25 16. According to WASSON, TPI performed residential sales, representing both buyers
26 and sellers. According WASSON and the documents examined, TPI provided escrow services to its
27 own clients. Based on an examination of records, TPI closed approximately two hundred sixteen

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1 (216) broker escrow transactions annually and handled approximately \$49,166,618.85 in total
2 receipts.

3 17. TPI maintained one trust account for TPI's broker escrow activities during the first
4 audit period as follows:

5 a. **Trust Account Ending in 0054 ("TA0054")**

6 Bank: Comerica Bank
7 Account Name: Two Partners, Inc. DBA
ReMax Partners Real Estate
Escrow Trust Account
8 Account #: XXXXXXXX0054
9 Signatories: Sharon Rotondo (Not Licensed)
Jennifer Zuniga
10 Harold T. Wasson
WASSON
11 Signatures required: One (1) signature

12 **Audit Violations in Audit No. LA200069**

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

16 19. The audit examination revealed violations of the Code and the Regulations, as set
17 forth in the following paragraphs, and more fully discussed in Audit No. LA200069 and the
18 exhibits and work papers attached to the audit report:

19 **Issue One (1). Code Section 10145 and Regulations 2832.1, 2950(g), and 2951: Handling of**
20 **Trust Funds; Trust Fund Handling for Multiple Beneficiaries; When Broker Handles Escrow**

21 20. As of September 30, 2020, there was a shortage of <\$304.62> in TA0054, caused by
22 a negative account balance of <\$304.62> (99999-SUSPENSE account). TPI provided no evidence
23 that the owners of the trust funds provided written consent to allow TPI to reduce the balance of
24 funds in TA0054 to an amount less than the existing aggregate trust fund liabilities.

25 21. TPI's reduction of the balance of funds in TA0054 to an amount less than the
26 existing aggregate trust fund liabilities was in violation of **Code Section 10145 and Regulations**
27 **2832.1, 2950(g), and 2951.**

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1 **Issue Two (2). Code Section 10145 and Regulations 2834 and 2951: Handling of Trust**
2 **Funds; Trust Account Withdrawals; When Broker Handles Escrow**

3 22. Based on an examination of "SQN Extract Signature Card" for TA0054, dated
4 October 23, 2017, TPI's unlicensed owner, Sharon L. Rotondo, was authorized to sign and make
5 withdrawals on TA0054 during the audit period.

6 23. TPI's acts and omissions that resulted in an individual that is neither licensed to TPI
7 nor an employee of TPI being authorized as a signer and to make withdrawals on TA0054 were in
8 violation of **Code section 10145 and Regulations 2834 and 2951**.

9 **AUDIT OF TPI: AUDIT NO. SD210007**

10 24. On February 18, 2022, the Department completed a second audit examination of the
11 books and records of TPI's real estate activities that require a corporate real estate broker license
12 under Code Section 10131. The audit examination, SD210007, covered the time period from
13 January 1, 2019 to June 30, 2021 ("second audit period") and was limited to TPI's property
14 management activities.

15 25. The purpose of the audit examinations was to determine whether TPI conducted its
16 real estate activities and handled and accounted for trust funds in accordance with the Real Estate
17 Law and the Regulations.

18 26. On August 31, 2021, the DRE's auditor held an entrance conference with WASSON
19 by telephone. O'NEILL was the primary person who provided the records for the audit.

20 27. According to WASSON, TPI's corporate structure as of August 31, 2021 was:

<u>Name</u>	<u>Title</u>	<u>License Status</u>	<u>Shareholder %</u>
Sharon Rotondo	President	Not Licensed	52%
Jennifer Zuniga	Secretary	(RES ID. 01704956)	24%
WASSON	Treasurer	(REB ID. 01432341)	24%

24 28. Based on an examination of records and discussions with WASSON, TPI managed
25 fifty-six (56) residential properties, consisting of one to four units, for thirty-nine (39) owners.
26 Based on a review of TPI's bank statements, TPI collected trust fund receipts of approximately
27 \$1,232,285.50 in the last 12 months ending June 30, 2021. TPI charged a management fee of 8.0%
28 of monthly rent collected plus a leasing fee 30% of monthly rent with a minimum fee of \$300.

1 29. TPI maintained one multiple beneficiary trust account for TPI's property
2 management activities during the second audit period as follows:

3 a. Trust Account Ending in 3625 ("TA3625")

4 Bank: Provident Bank
5 Account Name: Two Partners, Inc. DBA
6 Re/Max Partners Real Estate
7 "Property Management Trust"
8 Account #: XXXXXXXX3625
9 Signatories: Sharon Rotondo (Not Licensed)
10 Jennifer Zuniga
11 WASSON
12 O'NEILL
13 Signatures required: One (1) signature
14 Description TA3625 was opened on or about April 24, 2014, and was
15 maintained for handling trust fund receipts and disbursements
16 related to TPI's property management activities.

17 30. According to WASSON, O'NEILL conducted property management activities.
18 O'NEILL transferred his employment to TPI in April 2014 from RE/Max All Stars, a separate
19 brokerage. O'NEILL informed WASSON that he had conducted property management for over 30
20 years and wanted to transfer to TPI in order to stay with a Re/Max franchise, and O'NEILL brought
21 over all of the properties he managed to TPI. WASSON also stated that she delegated all day to day
22 property management activities and reconciliation to O'NEILL since he has been handling his
23 property management for over 30 years. There was no indication that WASSON appointed
24 O'NEILL as the property management manager. Re/Max Partners' (TPI's DBA licensed by DRE)
25 Independent Contractor Agreement with O'NEILL, dated April 14, 2014, identified O'NEILL as an
26 "Associate-Licensee." Re/Max Partners' Addendum to the C.A.R. Standard Broker-Salesperson
27 Contract (Independent Contractor) ("Addendum") dated April 14, 2014, provided the following
28 compensation to O'NEILL on page 6 of the Addendum:

Commission:	100%
Fixed Fee:	\$695.00
RE/MAX International Monthly Dues:	\$275.00
From gross commission 6.9% off the top of RE/MAX Partners:	6.90%
Each commission there is a E & O Fee taken:	\$95.00
Property Management Fees:	2.50%

1 with Provident Bank. The monthly earnings credits were used to offset combined bank service
2 charges incurred during the audit period. An examination by the DRE's auditor of the Account
3 Analysis Statement revealed that TPI received a total of \$1,101.42 in earnings credit from July
4 2020 to June 2021, and the total bank service charges from July 2020 to June 2021 were \$448.80.

5 39. TPI's acts and/or omissions in failing to disclose to the owners of the trust funds in
6 TA3625 in writing that TPI was engaged in an earnings credit relationship with Provident Bank
7 was in violation of **Code sections 10145 and 10176(g) and Regulation 2830.**

8 **Issue Three (3). Code Section 10145 and Regulation 2834: Handling of Trust Funds; Trust**
9 **Account Withdrawals**

10 40. Based on an examination of the bank signature card for TA3625, Sharon L.
11 Rotondo, an unlicensed co-owner of TPI was allowed to sign and make withdrawals from TA3625
12 during the audit period. Also, examination of cancelled checks for TA3625, showed that Rotondo
13 had signed at least nineteen (19) checks during the audit period.

14 41. TPI maintained fidelity bond coverage at Financial Institution Bond from May 6,
15 2018 to May 6, 2019 in the amount of \$250,000, with a \$15,000 deductible. TPI also maintained
16 fidelity bond coverage at Travelers from May 6, 2019 to May 6, 2022 in the amount of \$250,000,
17 also with a \$15,000 deductible. According to WASSON, TPI has sufficient funds in TPI's general
18 account to cover the deductible but the funds were not maintained separately from other funds of
19 TPI, TPI's employees, or the principals' funds.

20 42. As of February 10, 2022, TPI has not provided the DRE with: evidence of bond
21 and/or insurance coverage to show evidence of financial responsibility to cover the deductible; or a
22 bank statement that shows a balance that is separate from the general fund and set aside to pay for
23 the deductible for fidelity bond coverage or insurance coverage equal to at least the maximum
24 amount of the trust funds to which the unlicensed employee has access at any time during the audit
25 period.

26 43. TPI's acts and omissions that resulted in an individual that is neither licensed to TPI
27 nor an employees of TPI being authorized as a signer and to make withdrawals on TA3625 were in
28 violation of **Code Section 10145 and Regulation 2834.**

1 **Issue Four (4). Code Section 10145 and Regulation 2831: Handling of Trust Funds; Trust**
2 **Fund Records to be Maintained**

3 44. Based on an examination of records, TPI did not maintain complete and accurate
4 control records for trust funds received and disbursed for TA3625. TPI's records did not reflect the
5 date that trust funds were received and the daily running balances during the audit period.

6 45. TPI's failure to maintain complete and accurate control records for trust funds
7 received and disbursed for TA3625 was in violation of **Code Section 10145 and Regulation 2831.**

8 **Issue Five (5). Code Section 10145 and Regulation 2831.1: Handling of Trust Funds; Separate**
9 **Record for Each Beneficiary or Transaction**

10 46. During the audit period, TPI failed to maintain an accurate separate record of the
11 receipts and disbursements of all trust funds deposited into TA3625, resulting in TA3625
12 containing unidentified/unaccounted for funds of at least \$4,759.50 as of June 30, 2021, in
13 violation of **Code Section 10145(g) and Regulation 2831.1.**

14 **Issue Six (6). Code Section 10145 and Regulation 2831.2: Trust Account Reconciliation**

15 47. During the audit period, TPI failed to maintain an accurate monthly reconciliation
16 comparing the balance of all separate beneficiary or transaction records (separate records) to the
17 balance of the record of all trust funds received and disbursed (control record) for TA3625, in
18 violation of **Code Section 10145 and Regulation 2831.2.**

19 **Issue Seven (7). Code Sections 10145, 10176(g), and 10176(i): Trust Fund Handling; Secret or**
20 **Undisclosed Compensation; Fraud and Dishonest Dealing**

21 48. Complainant is informed and believes and on such information and belief alleges
22 that TPI, through O'NEILL, collected a \$40.00 credit report fee from multiple prospective tenants
23 and then disbursed the credit report fees collected to O'NEILL without evidence that credit reports
24 were actually obtained for the prospective tenants during the audit period. TPI, through O'NEILL,
25 deposited the credit report fees collected from prospective tenants into TA3625, then O'NEILL
26 disbursed the credit report fees to himself by writing checks payable to himself from TA3625.
27 Neither invoices from a credit report company, nor evidence of the prospective tenants' actual
28 credit reports were provided to the DRE for the audit examination.

1 49. In one instance, TPI, through O'NEILL, collected two (2) prospective tenants' credit
2 report fees totaling \$80.00 on or about March 29, 2021, related to property located at 741 E. Holt
3 Blvd., Ontario, California, when in fact that property was already occupied by another tenant as of
4 February 2021. The DRE's auditor has provided examples of disbursements made to O'NEILL.

5 50. TPI's acts and/or omissions in collecting credit report fees from prospective tenants
6 and disbursing such fees to O'NEILL without obtaining credit reports, and without disclosing such
7 information to the owners of the trust funds in writing was in violation of **Code sections 10145 and**
8 **10176(g), and 10176(i).**

9 **Issue Eight (8). Code Section 10159.5 and Regulation 2731: Unlicensed Fictitious Business**

10 **Name**

11 51. TPI conducted licensed real estate activities using the unlicensed fictitious business
12 name "Remax Property Management" on residential lease agreements or month-to-month rental
13 agreements without first obtaining a license from the DRE bearing such fictitious business name, in
14 violation of **Code Section 10159.5 and Regulation 2731.**

15 **Issue Nine (9). Code Section 10159.2 and Regulation 2725: Responsibility of Corporate**
16 **Officer in Charge; Broker Supervision**

17 52. The Complainant realleges and incorporates by reference all of the allegations
18 contained in paragraphs 1 through 51 above, with the same force and effect as though fully set forth
19 herein.

20 53. Based on the above audit findings of Audit No. SD210007 in Issues One through
21 Eight above, as alleged in paragraphs 34 through 50 above, as the broker and designated officer of
22 TPI, WASSON did not exercise adequate supervision and control over the real estate activities
23 conducted on behalf of TPI by its employees and licensees to ensure compliance with the Real
24 Estate Laws and Regulations. WASSON failed to establish policies, rules and systems to review,
25 oversee, inspect, and manage transactions requiring a real estate license and the handling of trust
26 funds.

27 54. WASSON'S acts and/or omissions, as D.O. for TPI, as alleged above in paragraphs
28 6 and 34 through 50 were in violation of **Code Section 10159.2 and Regulation 2725 and**

1 constitute cause for the suspension or revocation of WASSON'S real estate license and license
2 rights under the provisions of **Code sections 10177(h), and 10177(d) and/or (g)**.

3 **FIRST CAUSE OF ACCUSATION**

4 **AUDIT VIOLATIONS IN AUDIT NO. LA200069**

5 55. The Complainant realleges and incorporates by reference all of the allegations
6 contained in paragraphs 1 through 54 above, with the same force and effect as though fully set forth
7 herein.

8 56. TPI's conduct as alleged above in paragraphs 20 through 23, violated the Code and
9 the Regulations as set forth below:

<u>Issue No.</u>	<u>Paragraphs</u>	<u>Violations</u>
1	20-21	Code section 10145; Regulations 2832.1, 2950(g), and 2951
2	22-23	Code section 10145; Regulations 2834 and 2951

12
13 57. The violations alleged above in paragraphs 20 through 23 constitute cause for the
14 suspension or revocation of TPI's real estate license and license rights under the provisions of
15 **Code sections 10177(d) and/or (g)**.

16 **SECOND CAUSE OF ACCUSATION: RESPONSIBILITY OF**
17 **CORPORATE OFFICER IN CHARGE / BROKER SUPERVISION**

18 58. The Complainant realleges and incorporates by reference all of the allegations
19 contained in paragraphs 1 through 57 above, with the same force and effect as though fully set forth
20 herein.

21 59. Based on the audit findings in Audit No. LA200069 in Issues 1 and 2 as alleged in
22 paragraphs 20 through 23 above, as the broker and designated officer of TPI, WASSON failed to
23 adequately supervise TPI's real estate activities conducted by TPI's broker associates, salespersons,
24 and employees, and failed to establish policies, rules, procedures, and systems to review, oversee,
25 inspect, and manage transactions requiring a real estate license and the handling of trust funds, in
26 violation of **Code sections 10159.2 and 10177(h), and Regulation 2725**, and constitute cause for
27 the suspension or revocation of WASSON's real estate license and license rights under the
28 provisions of **Code sections 10177(h), 10177(d) and/or (g)**.

1 **THIRD CAUSE OF ACCUSATION**

2 **AUDIT VIOLATIONS IN AUDIT NO. SD210007**

3 60. The Complainant realleges and incorporates by reference all of the allegations
4 contained in paragraphs 1 through 59 above, with the same force and effect as though fully set forth
5 herein.

6 61. TPI's conduct as alleged above in paragraphs 34 through 51, and WASSON's
7 conduct as alleged above in paragraphs 52 through 54, violated the Code and the Regulations as set
8 forth below:

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<u>Issue No.</u>	<u>Paragraphs</u>	<u>Violations</u>
1	34-37	Code section 10145(a); Regulation 2832.1
2	38-39	Code sections 10145 and 10176(g); Regulation 2830
3	40-43	Code section 10145; Regulation 2834
4	44-45	Code section 10145; Regulation 2831
5	46	Code section 10145; Regulation 2831.1
6	47	Code section 10145; Regulation 2831.2
7	48-50	Code sections 10145, 10176(g), and 10176(i)
8	51	Code section 10159.5; Regulation 2731
9	52-54	Code section 10159.2; Regulation 2725

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17 62. The violations alleged above in paragraphs 34 through 51 constitute cause for the
18 suspension or revocation of TPI's real estate license and license rights under the provisions of
19 **Code sections 10176(g), 10176(i), and 10177(d) and/or (g).**

20 63. The violations alleged above in paragraphs 52 through 54 constitute cause for the
21 suspension or revocation of WASSON'S real estate license and license rights under the provisions
22 of **Code sections 10177(h), and 10177(d) and/or (g).**

23 **FOURTH CAUSE OF ACCUSATION**

24 **FRAUD OR DISHONEST DEALING**

25 64. The Complainant realleges and incorporates by reference all of the allegations
26 contained in paragraphs 8 and 48 through 50 above, with the same force and effect as though fully
27 set forth herein.

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1 prospective tenants, and then disbursing the credit report fees to himself by writing checks payable
2 to himself from TA3625.

3 69. At all relevant times herein, while acting as a real estate salesperson and property
4 manager, O'NEILL owed the residential property owners fiduciary duties, including, but not
5 limited to the following: duty of reasonable care and skill; duty of good faith; duty of loyalty; duty
6 to diligently exercise reasonable care, diligence, and skill in representing the residential property
7 owners and in the performance of the responsibilities agreed to in the PMAs; duty to avoid
8 conflicts of interest; duty of fullest disclosure of all material facts affecting the residential property
9 owners' rights and interests; duty not to use or deal with rents or other charges and expenses due
10 for any other purpose unconnected with the PMAs and property management activities; duty to
11 manage the properties and trust funds solely in the interests of the residential property owners; duty
12 to take and keep control of and preserve the residential property owners' properties and trust funds;
13 duty to fully account in a timely manner for all funds and property received in which the residential
14 property owners have or may have an interest; and duty to exercise the utmost honesty, absolute
15 candor, integrity, and unselfishness toward the residential property owners.

16 70. In the course of the activities described above in paragraphs 8, 48 through 50, and
17 67 through 69, based on the facts discovered by the DRE, and the facts discovered by the DRE's
18 auditor in Audit No. SD210007, O'NEILL's acts and/or omissions constitute fraudulent breaches
19 of his fiduciary duties, and constitute cause for the suspension or revocation of O'NEILL's real
20 estate license and license rights under the provisions of **Code sections 10177(d) and/or 10177(g)**.

21 **INVESTIGATION AND ENFORCEMENT COSTS**

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


26 **AUDIT COSTS**

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

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

3 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
4 this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
5 against all the licenses and license rights of TWO PARTNERS INC., JILLENE MARIE
6 WASSON, and KEVIN JAMES O'NEILL under the Real Estate Law, for the costs of investigation
7 and enforcement, and audit as permitted by law, and for such other and further relief as may be
8 proper under other applicable provisions of law, and for costs of audit.

9
10 Dated at San Diego, California this 15th day of June, 2022.

11
12  for Veronica Kilpatrick
13 Veronica Kilpatrick
14 Supervising Special Investigator

15
16 cc: TWO PARTNERS INC.
17 JILLENE MARIE WASSON
18 KEVIN JAMES O'NEILL
19 Veronica Kilpatrick
20 Sacto.