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DEPT. OF REAL ESTATE

By

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10 BEFORE THE DEPARTMENT OF REAL ESTATE  
11 STATE OF CALIFORNIA

12 \* \* \*

13 In the Matter of the Accusation of

No. H-42445-LA

14 DAVID GENE HALE,

ACCUSATION

15 Respondent.

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 DAVID GENE HALE ("HALE" or "Respondent") alleges as follows:

19 1. The Complainant, Veronica Kilpatrick, acting in her official capacity as a  
20 Supervising Special Investigator, makes this Accusation against Respondents.

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

23 **LICENSE HISTORY**

24 3. Respondent HALE is currently licensed by the Department as a restricted real  
25 estate broker ("RREB"), DRE License ID 00551090. HALE has been licensed as a real estate  
26 broker ("REB") from on or about March 14, 1977, through November 26, 2020, at which time  
27 HALE's REB license was revoked and he was granted the right to a RREB license. According to  
28 Department records to date, HALE: is employed as a broker associate for real estate corporation

1 ("REC") Full Realty Services Inc., DRE License ID 01849354; maintains no licensed fictitious  
2 business names with the Department; employs no real estate salespersons; and maintains no  
3 branch offices. Previously, HALE employed one (1) real estate salesperson ("RES"), Jessica  
4 Lorane Randolph, DRE License ID 01461592, from May 28, 2021 to March 13, 2022. Prior to  
5 obtaining his REB license, HALE was licensed as a real estate salesperson ("RES"), from on or  
6 about March 15, 1976, to on or about March 13, 1977.

7 **PRIOR DISCIPLINE: DRE CASE NO. H-41518 LA**

8 4. On or about October 27, 2020, in DRE Case No. H-41518 LA, the DRE filed a  
9 Decision of the Real Estate Commissioner ("Commissioner") adopting the Proposed Decision of  
10 the Administrative Law Judge ("ALJ") of the Office of Administrative Hearings ("OAH") dated  
11 September 8, 2020 ("Proposed Decision"), OAH Case Number 2019110327, revoking all licenses  
12 and licensing rights of HALE under the Real Estate Law; provided, however, that a RREB license  
13 would be issued to HALE subject to HALE applying for a RREB license and paying the  
14 appropriate fee for a RREB, and subject to limitations, conditions, and restrictions. The effective  
15 date of the Commissioner's Decision revoking HALE's licenses and licensing rights and granting  
16 him a RREB license was November 26, 2020.

17 5. In adopting the Proposed Decision, the Commissioner adopted the findings of the  
18 ALJ that Respondent violated the Real Estate Law as follows:

19 a. Code section 10145 and Regulation 2832.1: Respondent reduced the total  
20 aggregate funds in the bank account ending in 9601 ("B/A 1") to an amount that was at  
21 least \$47,329.45 less than the aggregate trust fund liability without the owners' prior  
22 written permission.

23 b. Code section 10145 and Regulation 2831.1: Respondent failed to maintain  
24 accurate and complete control records, a columnar record in chronological order of all trust  
25 funds received, deposited into, and disbursed from B/A 1.

26 c. Code section 10145 and Regulation 2831.1: Respondent failed to maintain  
27 an accurate and complete separate record for each beneficiary or transaction, thereby  
28 failing to account for all trust funds received in, deposited in, or disbursed from B/A 1.

1 d. Code section 10145 and Regulation 2832: Respondent failed to designate  
2 B/A 1 a trust fund in respondent's name as trustee.

3 e. Code section 10145 and Regulation 2834: Respondent permitted unlicensed  
4 and unbonded persons, Ronald Doty, Jr. and respondent's wife, Tamyra Doty, to be  
5 authorized signatories for and make withdrawals from B/A 1 trust funds.

6 f. Code section 10159.5 and Regulation 2731: Respondent used a DBA,  
7 "Hemet San Jacinto Valley Property Managers," which DRE did not license.

8 g. Code section 10163: Respondent performed property management activities  
9 at 2290 East Florida Street, Hemet, California, without first registering the location with  
10 DRE as a main or branch office.

11 h. Code sections 10159.2, 10177(h), and Regulation 2725: Respondent failed  
12 to exercise reasonable control and supervision over the real estate activities of his  
13 employees as necessary to comply with the Real Estate Law, including establishing  
14 policies, rules, procedures, and systems to review, oversee, and inspect the handling of  
15 trust funds.

16 **BROKERAGE: HALE**

17 6. At all times mentioned, in Riverside County, California, HALE acted as a RREB,  
18 conducting licensed activities within the meaning of Code section 10131(b): leasing or renting,  
19 offering to lease or rent, or collecting rents from real property for others. At all times mentioned,  
20 HALE conducted such licensed activities for compensation or in expectation of compensation.

21 **AUDIT NO. SD210024**

22 7. On June 27, 2022, the Department completed a follow-up audit examination of the  
23 books and records of HALE's real estate activities that require a real estate broker license pursuant  
24 to Code section 10148(b). The audit examination in Audit No. SD210024, covered the time period  
25 November 26, 2020 to February 28, 2022 ("audit period"). The audit was limited to HALE's  
26 property management activities.

27 8. The purpose of the audit was to determine whether HALE had corrected the  
28 following violations of the Real Estate Law that were cited in the Commissioner's Decision in

1 DRE Case No. H-41518 LA: Code sections 10145, 10159.5, 10163, and Regulations 2832.1,  
2 2831, 2831.1, 2831.2, 2832, 2834, 2731, and 2725.

3 9. According to HALE and records examined, HALE manages approximately one  
4 hundred and seventy (170) one-to-four family residences with one hundred and seventy-nine (179)  
5 units for two hundred and ninety (290) owners. HALE collected trust fund of approximately  
6 \$3,750,450.67 during the audit period. HALE charged a flat rate property management fee of  
7 \$90.00 to \$170.00 of collected rents per month

8 10. HALE maintained two (2) multiple beneficiary bank accounts during the audit  
9 period related to his property management activities, as follows:

10 a. **Trust Account 1 ("TA1")**

11 Bank: The Bank of Hemet  
12 Account Name: H-SJVPM INC.  
13 Account #: XXXXXXXX3066  
14 Signatories: HALE  
15 Description: TA1 was maintained for handling security deposits collected from  
tenants.

16 b. **Bank Account 1 ("BA1")**

17 Bank: The Bank of Hemet  
18 Account Name: H-SJVPM INC.  
19 Account #: XXXXXXXX3408  
20 Signatories: HALE  
21 Description: BA1 was maintained for handling rent receipts and  
disbursements.

22 **Audit Violations in Audit No. SD210024**

23 11. The audit examinations revealed violations of the Code and the Regulations, as set  
24 forth in the following paragraphs, and as more fully discussed in Audit No. SD210024 and the  
25 exhibits and work papers attached to the audit report:

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1 **Issue One (1). Code Section 10145 and Regulation 2832.1: Handling of Trust Funds; Trust**  
2 **Fund Handling for Multiple Beneficiaries**

3 12. As of February 28, 2022:

4 a. TA1 had a shortage of <\$5,596.67>. The cause of the shortage could not be  
5 identified.

6 b. BA1 had a shortage of <\$5,186.97> caused by negative properties balances  
7 of <\$5,098.97>. BA1 had unidentified/unaccounted for funds of \$2,419.58.

8 13. HALE provided no evidence that the owners of the trust funds had given their  
9 written consent to allow HALE to reduce the balance of the funds in TA1 and BA1 to an amount  
10 less than the existing aggregate trust fund liabilities, in violation of **Code section 10145 and**  
11 **Regulation 2831.1.**

12 **Issue Two (2). Code Section 10145(a) and Regulation 2831: Handling of Trust Funds; Trust**  
13 **Fund Records to be Maintained**

14 14. HALE did not maintain complete and accurate records of all trust funds received  
15 and disbursed in TA1 and BA1 related to his property management activity. Trust funds collected  
16 did not reflect correct dates of receipt in TA1 and BA1. The records did not reflect an accurate  
17 running daily balance during the audit period.

18 15. HALE's acts and/or omissions in failing to maintain complete and accurate records  
19 of all trust funds received and disbursed in TA1 and BA1 are in violation of **Code section**  
20 **10145(a) and Regulation 2831.**

21 **Issue Three (3). Code Section 10145 and Regulation 2831.1: Handling of Trust Funds;**  
22 **Separate Record for Each Beneficiary or Transaction**

23 16. HALE failed to maintain an accurate and complete separate record for each  
24 beneficiary or transaction for BA1 related to his property management activity. HALE did not  
25 provide the separate record maintained for TA1. During the audit period, HALE failed to  
26 maintain a separate record of the receipt and disposition of all trust funds deposited into BA1 and  
27 BA1 contained unidentified and/or unaccounted for funds of at least \$2,419.58 as of February 28,  
28 2022.

1           17.     HALE's acts and/or omissions in: failing to maintain an accurate and complete  
2 separate record for each beneficiary or transaction for BA1 related to his property management  
3 activity; failing to provide the separate record maintained for TA1; failing to maintain a separate  
4 record of the receipt and disposition of all trust funds deposited into BA1; and in BA1 containing  
5 unidentified and/or unaccounted for funds of at least \$2,419.58 as of February 28, 2022, are in  
6 violation of **Code section 10145 and Regulation 2831.**

7 **Issue Four (4). Code Section 10145 and Regulation 2831.2: Handling of Trust Funds; Trust**  
8 **Account Reconciliation**

9           18.     During the audit period, HALE did not maintain accurate monthly reconciliation  
10 comparing the balance of all separate record for each beneficiary or transaction (separate records)  
11 with the balance of all trust funds received and disbursed (control record) for TA1 and BA1, in  
12 violation of **Code section 10145 and Regulation 2831.2.**

13 **Issue Five (5). Code Section 10145 and Regulation 2832: Handling of Trust Funds; Trust**  
14 **Fund Handling**

15           19.     Based on an examination of BA1's bank signature card dated March 1, 2020, BA1,  
16 which was used to hold trust funds, was not designated as a trust account in the name of HALE or  
17 his licensed fictitious business name as trustee, in violation of **Code section 10145 and**  
18 **Regulation 2832.**

19 **Issue Six (6). Code Section 10159.5 and Regulation 2731: Use of False or Fictitious Name**

20           20.     According to DRE's licensing records to date, during the audit period, HALE has  
21 not had any fictitious business names licensed with the DRE. In fact, HALE has not had any  
22 fictitious business names licensed with the DRE since February 18, 2017, when his only  
23 previously licensed fictitious business name, "Homestar Real Estate Services" expired.

24           21.     During the audit period, HALE used the unlicensed fictitious business names  
25 "H-SJVPM INC," "Hemet - San Jacinto Valley Property Managers," and "Hemet San Jacinto  
26 Valley Property Managers" to conduct property management activities during times when HALE  
27 was not the holder of licenses bearing such fictitious business names, in violation of **Code section**  
28 **10159.5 and Regulation 2731.**

1 **Issue Seven (7). Regulation 2725: Broker Supervision**

2 22. Complainant realleges and incorporates by reference all of the allegations contained  
3 in paragraphs 1 through 20 above, with the same force and effect as though fully set forth herein.

4 23. Based on the findings in Issues One (1) through Six (6) above, as the responsible  
5 broker, HALE did not exercise adequate supervision and control over the real estate activities  
6 conducted by his employees and licensees to ensure compliance with the Real Estate Laws and  
7 Regulations. HALE failed to establish policies, rules, procedures, and systems to review, oversee,  
8 inspect, and manage transactions requiring a real estate license and the handling of trust funds by  
9 HALE's licensees and employees.

10 24. HALE's acts and/or omissions are in violation of **Regulation 2725**.

11 **CAUSE OF ACCUSATION**

12 **AUDIT VIOLATIONS IN AUDIT NO. SD210024**

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

16 26. HALE's acts and/or omissions as described above in paragraphs 10 through 23  
17 violated the Code and the Regulations as set forth below:

<u>Issue No.</u>	<u>Paragraphs</u>	<u>Violations</u>
1	11-12	Code section 10145; Regulation 2832.1
2	13-14	Code section 10145; Regulation 2831
3	15-16	Code section 10145; Regulation 2831.1
4	17	Code section 10145; Regulation 2831.2
5	18	Code section 10145; Regulation 2832
6	19-20	Code section 10159.5; Regulation 2731
7	21-23	Regulation 2725

25 27. The foregoing violations constitute cause for the suspension or revocation of  
26 HALE's real estate license and license rights under the provisions of **Code sections 10177(h), and**  
27 **10177(d) and/or 10177(g).**

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