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FILED

APR 16 2024

DEPT. OF REAL ESTATE

By- [REDACTED]

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H-42549 LA
13)
14 FORWARD BEVERLY HILLS, INC.,) ACCUSATION
15 and MICHAEL JAY ROZALES,)
16 individually and as designated officer)
17 for Forward Beverly Hills, Inc.,)
18 Respondents.)
19 _____)

20 The Complainant, Jason Parson, a Supervising Special Investigator for the
21 Department of Real Estate (“Department”) of the State of California, for cause of Accusation
22 against FORWARD BEVERLY HILLS, INC. and MICHAEL JAY ROZALES, individually
23 and as a designated officer for Forward Beverly Hills, Inc. (collectively “Respondents”) alleges
24 as follows:

25 1.

26 The Complainant, Jason Parson, a Supervising Special Investigator of the State
27 of California, makes this Accusation in his official capacity.

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All references to the “Code” are to the California Business and Professions Code, all references to the “Real Estate Law” are to Part 1 of Division 4 of the Code, and all references to “Regulations” are to the Regulations of the Real Estate Commissioner, Title 10, Chapter 6, California Code of Regulations.

3.

Respondents are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Code). Respondents have renewal rights pursuant to Code section 10201. The Department retains jurisdiction pursuant to Code section 10103.

LICENSE HISTORY

4.

a. On April 20, 2004, the Department issued a real estate corporation license (DRE license ID no. 01428775) to Respondent FORWARD BEVERLY HILLS, INC. (FBHI”), which is set to expire on April 19, 2028, unless renewed.

b. According to Department records to date, FBHI maintains sixteen (16) licensed fictitious business names, which include the following:

- (1) “American Partner,” active as of April 18, 2022;
- (2) “Canon Hills Closings,” active as of October 21, 2008;
- (3) “Encore Estates,” active as of March 2, 2017;
- (4) “HouzWell,” active as of August 17, 2017;
- (5) “Keller Williams,” active as of February 5, 2020;
- (6) “Keller Williams Beverly Hills,” active as of February 5, 2020;
- (7) “Keller Williams Realty,” active as of February 5, 2020;
- (8) “Keller Williams Realty - Beverly Hills,” active as of April 20, 2004;
- (9) “KW Beverly Hills,” active as of February 5, 2020;
- (10) “KW Commercial,” active as of August 7, 2017;

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- (11) "L.A. Artist Property Group," active as of June 30, 2022;
- (12) "LA Land Man," active as of February 3, 2017;
- (13) "L.A. Luxe Group," active as of February 13, 2012;
- (14) "LA Native," active as of April 11, 2022;
- (15) "Lane 4 Real Estate," active as of February 13, 2012;
- (16) "Red String Real Estate," active as of January 23, 2017.

c. According to Department records to date, FBHI maintains its main office at 439 N. Canon Dr., Suite 300 in Beverly Hills, California 90210.

d. According to Department records to date, FBHI maintains two (2) branch offices located at 439 N. Canon Dr., Penthouse, in Beverly Hills and at 439 N. Canon Dr., #300, in Beverly Hills.

e. According to Department records to date, FBHI is the employing broker to thirty-three (33) broker associates and to four hundred eighty-nine (489) salespersons.

f. As of July 8, 2021, the corporate structure of FBHI was as follows:

<u>Name</u>	<u>Corporate Title</u>	<u>License Status</u>	<u>Shareholder %</u>
Michael Jay Rozales	N/A; Designated Officer	REB ID 01425795	0%
David John Bailey	CEO, Secretary, CFO	REB ID 01018078	50%
Paul Morris	Director	Non-Licensee	50%

5.

a. On April 12, 2004, the Department issued a real estate broker license (DRE license ID no. 01425795) to Respondent MICHAEL JAY ROZALES ("ROZALES"), which is set to expire on April 17, 2028, unless renewed.

b. According to Department records to date and discussions with the Department auditor, ROZALES has no ownership in FBHI.

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2 c. According to Department records to date, ROZALES is the designated officer
3 (“D.O.”) of the following:

4 (1) Forward Beverly Hills, Inc., effective July 11, 2019 and expiring on
5 April 19, 2028, pursuant to Code section 10211. As FBHI’s D.O., ROZALES was, at all times
6 mentioned herein, responsible for the supervision of the activities of the officers, agent, real
7 estate licensees, and employees of FBHI for which a license is required, pursuant to Code
8 section 10159.2; and

9 (2) Realty Consultant Group (DRE license ID no. 01517720), expiring
10 on September 13, 2025.

11 BROKER ACTIVITIES

12 6.

13 At all times relevant herein, Respondent FBHI engaged in the business of,
14 acted in the capacity of, advertised or assumed to act as a real estate broker, within the
15 meaning of section 10131(a) of the Code. Respondent FBHI’s activities included, for a
16 compensation or in expectation of a compensation, selling or offering to sell, buying or
17 offering to buy, soliciting or obtaining listings of, or negotiating the purchase and sale of real
18 property as the agent of others, and the conducting of broker-controlled escrow activities
19 under FBHI’s real estate broker licenses pursuant to Financial Code section 17006(a)(4).

20 CAUSE FOR ACCUSATION

21 (AUDIT LA210109)

22 7.

23 From March 15, 2022 to December 29, 2022, the Department conducted an
24 audit examination of the books and records of Respondent FBHI pertaining to its broker
25 escrow real estate activities, as described in Paragraph 6 above. The audit examination was
26 limited to FBHI’s broker escrow activity only and covered the period of time from January 1,
27 2020 through January 31, 2022. The primary purpose of the examination was to determine

1 whether FBHI conducted its real estate activities in accordance with the Real Estate Law and
2 the Commissioner's Regulations. The audit examination revealed numerous violations of the
3 Code and the Regulations as set forth in the following paragraphs, and more fully discussed in
4 Audit Report No. LA 210109 and the exhibits and work papers attached to said audit report.

5 8.

6 According to the discussions and documents produced for the April 6, 2022
7 entrance conference, during the audit period, FBHI performed residential real estate sales
8 activity, closing two hundred nineteen (219) sales transactions with an aggregate sales amount
9 of \$254,101,686.13 from July 1, 2019 to June 30, 2022. During the audit period, FBHI also
10 conducted broker escrow activity, closing forty-six (46) broker escrow transactions and
11 collecting \$157,150,553.75 for the twelve (12) month period ending on January 31, 2022.

12 9.

13 Based on the examination of records provided for the audit examination and
14 discussions with Respondents, the following two (2) bank accounts were used for the handling
15 trust funds in connection with FBHI's broker escrow activities during the audit period. Said
16 trust funds were deposited and/or maintained in the following bank accounts:

17 Trust Account ("TA 1")

18 Bank: First Republic Bank

19 Account Name: Forward Beverly Hills, Inc. DBA Canon Hills Closings, A Non-
20 Independent Broker (Escrow Trust Account)

21 Account Number: xxxxxxxx5738

22 Signatories: David J. Bailey¹

23 Purpose: During the audit period, TA 1 was maintained for handling receipts and
24 disbursements of trust funds received in connection with FBHI's broker
25 escrow activity.

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27 ¹ Based on signature card for TA 1 dated September 19, 2019. A signature card dated March 22, 2022, which is *after* the audit period, shows two signatories for TA 1: David J. Bailey and D.O. Michael Rozales.

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2 Bank Account ("BA 1")

3 Bank: Citizens Business Bank
4 Account Name: Forward Beverly Hills, Inc. DBA Canon Hills Closings Escrow Trust
5 Account
6 Account Number: xxxxx6209
7 Signatory: Paul Morris and David J. Bailey²
8 Purpose: During the audit period, BA 1 was maintained for handling receipts and
9 disbursements of trust funds received in connection with FBHI's broker
10 escrow activity.

11 Violations of the Real Estate Law

12 10.

13 The audit examination revealed violations of the Code and the Regulations, as
14 set forth in the following paragraphs, and more fully discussed in Audit Report No. LA200112
15 and the exhibits and work papers attached to the audit report.

16 **(a) Handling of Trust Funds / Trust Fund Handling for Multiple Beneficiaries/**

17 **When Broker Handles Escrow**

18 **(Code section 10145(a) and Regulations 2832.1, 2950(g), and 2951).**

19 As of the cutoff date of January 31, 2022, there was a combined minimum
20 shortage of <\$2,760.80> in TA 1 and BA 1. The minimum combined shortage of <\$2,760.80>
21 was caused by minimum negative escrow balance of <\$2,710.80> and minimum unidentified
22 shortage of <\$50.00> as of January 31, 2022.

23 Based on pertinent documents provided for the audit examination, the minimum
24 negative escrow account balance of <\$2,710.80> was caused by disbursements related to
25 escrow accounts when there were no sufficient funds to do so. Some of the negative account

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27 ² Based on signature card for BA 1 dated March 25, 2013. An authorized signer form dated March 22, 2022, which is *after*
the audit period, shows updated signatories for BA 1: David J. Bailey and Michael Rozales.

1 balances were listed in the "Accounting Exceptions" adjustments regarding trust funds received
2 and disbursed from October 2019 to January 2022, compared to the General Ledger (control
3 records) provided for the audit. Not all separate records were accurately recorded, and some
4 separate records had no daily running balances. The unauthorized disbursements from TA 1
5 and BA 1, which caused the minimum escrow account balance of <\$2,710.80>, are as follows:

<u>Escrow No.</u>	<u>Balance as of 01/31/2022</u>
011481-PK	<\$497.00>
011142-PK	<\$0.01>
011284-PK	<\$35.00>
011319-PK	<\$10.00>
011378-PK	<\$1.00>
011509-PK	<\$1,909.79>
011193-PK	<\$250.00>
<u>011207-PK</u>	<u><\$8.00></u>
TOTAL:	<\$2,710.80>

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16 According to the auditor's discussion with D.O. ROZALES, the minimum
17 unidentified shortage of <\$50.00> was due to "Internet Transfer to DDA #XXXXXXXXX6863
18 on 01/30 at 12.29" from the TA 1 trust account. However, no record was provided to show that
19 the said account ending in 6863 belonged to FBHI.

20 FBHI failed to provide any evidence that the owners of the trust funds had given
21 their written consent to allow FBHI to reduce the balance of the funds in TA 1 and in BA 1 to
22 an amount less than the existing aggregate trust fund liabilities, in violation of Code section
23 10145(a) and Regulation 2832.1.

24 **(b) Handling of Trust Funds / Trust Fund Records to be Maintained / When Broker**
25 **Handles Escrow (Code section 10145 and Regulations 2831, 2950(d), and 2951).**

1 Based on the records provided for the audit examination, FBHI failed to
 2 maintain complete and accurate records of all trust funds received and disbursed (control
 3 record) for TA 1. During the audit period, the control record for TA 1 did not always reflect
 4 accurate receipts and disbursements and did not reflect an accurate daily running balances.

5 In some instances, trust funds wired in and/or deposited into TA 1 did not reflect
 6 an accurate amount or were not recorded in TA 1's control record during the audit period.

7 Some examples of trust funds not being recorded in TA 1's control record are:

Date	From whom trust funds were received	\$ per bank statement	\$ Difference (not recorded in control record)
03/02/2020	Accounting exception 1-3 TA 1 bank statement dated 03/31/2020 showed incoming wire First American Title Company	\$250.00	\$250.00
10/07/2020	Accounting Exception 1-5 TA 1 bank statement dated 10/31/2020 showed Business Mobile Deposit of \$289.00	\$289.00	\$289.00
01/19/2021	Accounting Exception 1-7 TA 1 bank statement dated 01/31/2021 showed incoming wire from North American Title Company CA So of \$381.89. Not recorded in General Ledger (GL).	\$361.89	\$361.89
03/01/2021	Accounting Exception 1-9 TA 1 bank statement dated 03/31/2021 showed incoming wire from Lawyers Title Company of \$377.63. Not recorded in GL.	\$377.63	\$377.63
11/10/2021	Accounting Exception 1-14 TA 1 bank statement dated 11/30/2021 showed incoming wire from Clearmark Title Company. Not recorded in GL.	\$97.00	\$97.00
12/01/2021	Accounting Exception 1-16 TA 1 bank statement dated 12/31/2021 showed incoming wire from Progressive Title. Not recorded in GL. Total not recorded in control records.	\$125.16	\$125.16

23 In some instances, trust funds wired out and/or disbursed from TA 1 did not
 24 reflect an accurate amount recorded in TA 1's control record during the audit period. Some
 25 examples of trust funds not reflecting accurate amount of funds being wired out and/or
 26 disbursed are as follows:

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Date	Escrow No.	From whom trust funds were received/disbursed	Per bank stmt	\$ recorded	\$ Difference
05/05/2021	011319- PK	Gennady & Lynda N. Kolodenker; Accounting Exception 1-10 TA 1 bank statement dated 05/31/2021 showed check # 12334 dated 04/14/2021 of \$150.00, but it was cleared as \$160.00.	\$160.00	\$150.00	\$10.00
10/23/2020	011206- PK	Not provided; Accounting Exception 2-2 TA 1 bank statement does not show debit of \$3,296.80. GL showed the 10/23/2020 outgoing wire #2400.	\$0.00 (Not shown in bank stmt)	\$3,296.80	\$3,296.80
01/07/2022	011494- PK	10472 Sunset LLC; Accounting Exception 2-5 TA 1 bank statement does not show debit of \$5,125,186.48. GL showed the 01/07/2022 outgoing wire #3023.	\$0.00 (Not shown in bank stmt)	(\$5,125,186.48)	(\$5,125,186.48)

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(c) Handling of Trust Funds / Separate Records for Each Beneficiary or Transaction /

When Broker Handles Escrow

(Code section 10145 and Regulations 2831.1, 2950(d), and 2951).

Based on an examination of records provided, FBHI did not always maintain an accurate separate record for each beneficiary or transaction of all trust funds received and disbursed for TA 1 and BA 1. In some instances, dates of disbursements from the trust funds and dates of deposits into the trust funds were not always recorded accurately. Some records were not always in chronological order. Some examples of the inaccurate recordings are as follows:

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Escrow No.	Date per separate record	Date per bank statement	Description	Disbursement per separate record (-)	Receipts per separate record (+)
011494-PK	01/04/2022	01/07/2022	10472 Sunset LLC (TA 1 outgoing wire 12/07/2022)	(\$4,043.00)	
011494-PK	01/07/2022	Not disbursed	10472 Sunset LLC Accounting Exception 2-5 (TA 1 bank statement does not show debit of \$5,125,186.48)	(\$5,125,186.48)	
			TOTAL:	(\$5,129,229.48)	
011508-PK	03/28/2022	12/01/2021	Progressive Title Company (TA 1 bank statement showed credit 12/01/2021)		\$125.16
011528-PK	11/10/2021	11/09/2021	Zohar Company (TA 1 shows receipt as of 11/09/2021)		\$40,500.00
			TOTAL:		\$40,625.16

During the audit period, FBHI failed to maintain a separate record of the disposition of all trust funds withdrawn from TA 1 and BA 1 and the receipts of all trust funds deposited into TA 1 and BA 1, in violation of Code section 10145(g) and Regulation 2831.1, in that TA 1 and BA 1 bank accounts contained unidentified and/or unaccounted funds of at least \$16,993.84.

(d) Trust Account Reconciliation / When Broker Handles Escrow

(Code section 10145 and Regulations 2831.2 and 2951)

During the audit period, FBHI failed to maintain an accurate monthly reconciliation comparing the balance of all separate beneficiary or transaction records (separate records) to the balance of the record of all trust funds received and disbursed (control record) for TA 1 and BA 1 as required.

1 Based on the documents provided for the audit examination, there were twenty-
2 six (26) "Accounting Exceptions" adjustments regarding trust funds received and disbursed
3 from January 2020 to January 2022. The control record and separate record did not reflect the
4 adjustments on the "Accounting Exception" as of January 31, 2022, in violation of Code
5 section 10145 and Regulations 2831, 2950(d), and 2951.

6 **(e) Handling of Trust Funds / Trust Fund Handling / When Broker Handles Escrow**

7 **(Code section 10145 and Regulations 2832).**

8 Based on an examination of the bank signature card for BA 1, dated March 25,
9 2013, BA 1, which was used for trust funds received and disbursed, was not designated as a
10 trust account and was not in the name of Forward Beverly Hills, Inc. or its dba as a trustee, in
11 violation of Code section 10145 and Regulation 2832.

12 **(f) Handling of Trust Funds / Trust Account Withdrawals / When Broker Handles**

13 **Escrow (Code section 10145 and Regulation 2834)**

14 Based on an examination of the bank signature card for BA 1, dated March 25,
15 2013, there was one (1) unlicensed signatory during the audit period: Paul Morris, a non-
16 licensee and owner of FBHI, who was authorized to sign and make withdrawals from BA 1.
17 When he was the signatory for BA 1 during the audit period, Paul Morris did not have adequate
18 fidelity bond coverage or insurance coverage at least equal to the maximum amount of the trust
19 funds to which he had access at any time during the audit period, in violation of Code section
20 10145 and Regulation 2834.

21 In addition, during the audit period, D.O. ROZALES was not listed as signatory
22 on TA 1 trust account but was added as a signatory in TA 1 as of March 19, 2022, which is
23 after the audit period.

24 **(g) Handling of Trust Funds / Commingling / When Broker Handles Escrow**

25 **(Code sections 10145 and 10176(e) and Regulation 2835).**

26 Based on an examination of documents provided for the audit, FBHI received
27 compensation and/or fees at the close of escrow and transferred said fees collected to a Fee

Account (999999-99) in TA 1. During the audit period, FBHI's earned fees that were transferred to the said Fee Account were commingled with the trust funds in TA 1 for more than twenty-five (25) days following the receipt of the earned fees, in violation of Code sections 10145 and 10176(e) and Regulation 2835. Some examples are:

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<u>Fees earned/collected</u>	<u>Fee Amount</u>	<u>Date disbursed</u>	<u>Amount disbursed</u>
01/03/2022	\$6,840.00	01/31/2022	\$68,832.00
12/01/2021	\$14,768.00 (\$9,060.00 + \$5,708.00)	12/30/2022	\$147,295.20
11/02/2021	\$10,920.00 (\$3,570.00 + \$7,350.00)	11/30/2022	\$82,530.00
09/01/2021 09/02/2021	\$14,582.50 (\$7,800.00 + \$6,782.50)	09/30/2021	\$96,258.50

(h) Fictitious Name / Use of False or Fictitious Name

(Code section 10159.5 and Regulation 2731)

During the audit period, FBHI used the unauthorized, unlicensed fictitious business name, "Canon Hills Closings A Non-Independent Broker Escrow" to conduct real estate broker escrow activities, without first obtaining a license from the Department bearing such fictitious business name, in violation of Code section 10159.5 and Regulation 2731.

Some examples are:

<u>Buyer/Seller Name</u>	<u>Escrow No.</u>	<u>Document Name</u>
Millie Troll Trust	011193-PK	Seller's Final Settlement Statement dated 10/08/20 Supplemental Escrow Instructions dated 09/08/20
Farhad and Floria Hamdam	011286-PK	Buyer's Final Settlement Statement dated 02/26/21 Supplemental Escrow Instructions date 01/19/21
Luzelba Lozano	011494-PK	Seller's Final Settlement Statement dated 01/04/22 Supplemental Escrow Instructions dated 10/02/21
The Banner Company, LLC	011528-PK	Buyer's Final Settlement Statement dated 01/11/22 Supplemental Escrow Instructions dated 11/08/22

(i) Responsibility of Corporate Officer in Charge / Broker Supervision

(Code sections 10159.2, 10177(h), Regulations section 2725)

1 Based on the above findings, D.O. ROZALES failed to exercise reasonable
2 and/or adequate supervision and control over the real estate activities conducted on behalf of
3 FBHI by its licensees and/or employees as necessary to secure full compliance with the real
4 estate laws. ROZALES failed to establish policies, rules, procedures, and systems to review,
5 oversee, inspection, and manage transactions requiring a real estate license and the handling of
6 trust funds, in violation of Code sections 10159.2 and 10177(h) and Regulation 2725.

7 11.

8 The conduct of Respondents described in Paragraph 10 above, violated the Code
9 and Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
10 10(a)	Code Section 10145(a) and Regulations 2832 and 2950(g)
11 10(b)	Code Section 10145 and Regulations 2831 and 2950(d)
12 10(c)	Code section 10145 and Regulations 2831.1 and 2950(d)
13 10(d)	Code section 10145 and Regulation 2831.2
14 10(e)	Code section 10145 and Regulation 2832
15 10(f)	Code section 10145 and Regulation 2834
16 10(g)	Code sections 10145 and 10176(e) and Regulations 2835 and 2951
17 10(h)	Code section 10159.5 and Regulation 2731
18 10(i)	Code section 10159.2 and Regulation 2725

19 Each of the foregoing violations constitute cause for the suspension or
20 revocation of the real estate license and/or license rights of Respondents under the provisions of
21 Code sections 10177(d), 10177(g), 10177(h), and/or 10176(e).

22 COSTS

23 (AUDIT COSTS)

24 12.

25 Code section 10148(b) provides, in pertinent part, that the Real Estate
26 Commissioner shall charge a real estate broker for the costs of any audit if the Commissioner
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1 has found in a final decision, following a disciplinary hearing, that the broker has violated
2 Section 10145 of the Code or a regulation or rule of the Commissioner interpreting said Code
3 section.

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7 (INVESTIGATION AND ENFORCEMENT COSTS)

8 13.

9 Section 10106 of the Code, provides, in pertinent part, that in any order issued in
10 resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the
11 administrative law judge to direct a licensee found to have committed a violation of this part to
12 pay a sum not to exceed the reasonable costs of investigation and enforcement of the case.

13 WHEREFORE, Complainant prays that a hearing be conducted on the
14 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
15 disciplinary action against all the licenses and/or license rights of Respondents under the Real
16 Estate Law, for the costs of investigation and enforcement as permitted by law, for the cost of
17 the audit, and for such other and further relief as may be proper under other applicable
18 provisions of law.

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20 Dated at Los Angeles, California, on April 16 _____, 2024

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24 Jason Parson
25 Supervising Special Investigator
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cc: FORWARD BEVERLY HILLS, INC.
MICHAEL JAY ROZALES
Veronica Kilpatrick
Sacto.
Audits – Kaori Baron and Chona Soriano