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**FILED**

**OCT 31 2024**

**DEPT. OF REAL ESTATE**

By 

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation against ) No. H-42948 LA  
12 )  
13 HWE CALIFORNIA, INC. ) **ACCUSATION**  
14 )  
15 and )  
16 )  
17 ANTHONY MALK, )  
18 )  
19 Respondents. )  
20 )  
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27 )

28 The Complainant, Jason Parson, a Supervising Special Investigator of the State of  
29 California, makes this Accusation in his official capacity, and for cause of Accusation against  
30 Respondents HWE CALIFORNIA, INC. (HWEI) and ANTHONY MALK (MALK)  
31 (collectively, "Respondents"), is informed and alleges as follows:

32 1.

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

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36 DRE Accusation against HWE California, Inc. and Anthony Malk, H-42948 LA  
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**DRE LICENSE HISTORY**  
**RESPONDENT HWE CALIFORNIA, INC.**

(HWECI)

2.

According to Department of Real Estate (DRE) records to date and publicly accessible online ([https://www2.dre.ca.gov/PublicASP/ppinfo.asp?License\\_id=02075408](https://www2.dre.ca.gov/PublicASP/ppinfo.asp?License_id=02075408)), HWE CALIFORNIA, INC. (HWECI) is presently licensed and/or has license rights under the Real Estate Law as a real estate corporation (broker) (REC), DRE license ID 02075408, expiring on September 12, 2026.

3.

According to DRE records to date and publicly accessible online at the aforementioned webpage: HWECI was originally licensed by the DRE on or about September 13, 2018; its mailing address of record on file with the DRE is 3344 Peachtree Rd NE 25<sup>th</sup> Fl, Atlanta, GA 30326; its main address of record is 2049 Century Park East Ste 980, Los Angeles, CA 90067; and its license is presently associated with one (1) real estate salesperson (RES), Thomas Francis V. McHugh, DRE license ID 02214551.

4.

According to DRE records to date and publicly accessible online at the aforementioned webpage, HWECI has no DBAs or branch offices.

5.

According to DRE records to date and publicly accessible online at the aforementioned webpage, the responsible broker/designated officer of record (D.O.) for HWECI is real estate broker (REB) Denis M. Hann (Hann) (DRE license ID 01329549), until his officer affiliation expiration date of September 12, 2026. According to DRE records, Hann has been the D.O. for HWECI since May 13, 2022.

DRE Accusation against HWE California, Inc. and Anthony Malk, H-42948 LA

6.

According to DRE records to date and publicly accessible online at the aforementioned webpage, HWECI's immediate past D.O. prior to Hann was James Louis Patrick (DRE license ID 01915570) (Patrick) until he passed away on December 24, 2021.

7.

**According to DRE records, HWECI had no D.O. between December 25, 2021 and May 12, 2022.**

8.

According to DRE records to date and publicly accessible online at the aforementioned webpage, HWECI's DRE license has no prior history of disciplinary action and is scheduled to expire on September 12, 2026, unless renewed. Upon license expiration and pursuant to Code Section 10201, HWECI will retain renewal rights, and pursuant to Code Section 10103, the DRE will retain jurisdiction.

**RESPONDENT ANTHONY MALK**

**(MALK)**

9.

According to DRE records to date and publicly accessible online ([https://www2.dre.ca.gov/PublicASP/ppinfo.asp?License\\_id=01810668](https://www2.dre.ca.gov/PublicASP/ppinfo.asp?License_id=01810668)), ANTHONY MALK (MALK) is presently licensed and/or has license rights as a RES, DRE license ID 01810668, expiring on January 4, 2025.

10.

According to DRE records to date and publicly accessible online at the aforementioned webpage: MALK was originally licensed by the DRE on or about June 6, 2007; his mailing address of record on file with the DRE is 1875 Century Park East Ste 1380, Los

DRE Accusation against HWE California, Inc. and Anthony Malk, H-42948 LA

1 Angeles, CA 90067; and his license is presently associated with responsible REC Newmark of  
2 Southern California Inc. (DRE license ID 01355491).

3 11.

4 According to DRE records to date and publicly accessible online at the  
5 aforementioned webpage, MALK's DRE license was previously associated with REB Hann from  
6 July 14, 2022 to May 4, 2023, and with HWECI from January 5, 2021 to December 23, 2021.

7 12.

8 **According to DRE records, MALK was not associated with any responsible**  
9 **REB between December 24, 2021 and July 13, 2022 (licensed-NBA).**

10 13.

11 According to DRE records to date and publicly accessible online at the  
12 aforementioned webpage, MALK's DRE license has no prior history of disciplinary action and is  
13 scheduled to expire on January 4, 2025, unless renewed. Upon license expiration and pursuant to  
14 Code Section 10201, MALK will retain renewal rights, and pursuant to Code Section 10103, the  
15 DRE will retain jurisdiction.

16 **FACTS DISCOVERED BY THE DRE**

17 14.

18 **05/13/22 Correspondence from HWE to DRE**

19 On or about May 13, 2022, the DRE received a package from Hodges Ward  
20 Elliott (HWE) that included a cover letter; a Corporation License Application (DRE Form  
21 RE201, rev. 11/21) for HWECI; an HWECI Corporate Resolution letter; a California Secretary  
22 of State Certificate of Status for HWECI; a Corporation Change Application (DRE Form  
23 RE204A, rev. 07/18) for HWECI; and a Georgia Death Certificate for Patrick.

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26 DRE Accusation against HWE California, Inc. and Anthony Malk, H-42948 LA  
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15.

The cover letter dated and signed May 12, 2022 by HWE Chief Executive Officer (CEO) William M. Hodges (Hodges) included the subject line "Re: Transfer Designated Officer Title to another Licensed Officer," informed of the death date of D.O. Patrick on 12/24/21, and instructed the DRE to, "Please also accept this as our signed statement providing the death date of our Designated Broker, James L. Patrick (death certificate attached), as of 12/24/21."

16.

HWECI's Corporation License Application was dated and signed May 11, 2022 by Hann and added: 2029 Century Park East, Suite 980, Los Angeles, CA 90067 as HWECI's main office address and Hann as the its Broker-Officer.

17.

HWECI's Corporate Resolution dated and signed June 13, 2022 by CEO Hodges and Hann (as Secretary) resolved that Hann is appointed as Secretary of HWECI.

18.

HWECI's Secretary of State Certificate of Status certified on May 11, 2022 (Certificate No. 01088622) listed HWECI as being an active stock corporation in California.

19.

HWECI's Corporation Change Application was dated and signed May 11, 2022 and in the field for "Transfer "Designated Officer" Title to Another "Licensed Officer,"" named Hann as its new D.O.

20.

The Georgia Death Certificate (certified on January 13, 2022) listed December 24, 2021 as Patrick's date of death.

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DRE Accusation against HWE California, Inc. and Anthony Malk, H-42948 LA

21.

**HWECI's Transactions**

According to a letter dated and signed on December 22, 2022 by Hodges to the DRE, HWECI conducted three (3) transactions during the time period from December 25, 2021 through May 2022. Attached to Hodges' letter were corresponding transaction files for the transactions described in the letter: The Georgian Santa Monica (closed 2/25/22); La Quinta Portfolio (closed 8/18/22 (Anaheim & LAX); and The Godfrey Hollywood (closed 6/17/22).

22.

**The Godfrey Hollywood Hotel**

According to the HWECI transaction file for the Godfrey Hollywood Hotel (1400 Cahuenga Boulevard, Los Angeles, CA) (Godfrey), HWECI used the unauthorized fictitious business name "Hodges Ward Elliott, LLC" throughout the Exclusive Listing Agreement dated April 26, 2021.

23.

Also included in HWECI's Godfrey transaction file is a Letter of Intent (Offer) dated January 24, 2022, during the time period in which HWECI had no D.O. and a lapsed license (from December 25, 2021 through May 12, 2022).

24.

According to a letter dated and signed on March 18, 2024 by Hodges to the DRE that included as an attachment email confirmations of wires relative to commissions for the three (3) subject transactions that transpired during the time period from December 25, 2021 through May 2022, a commission payment was wired to HWECI on June 16, 2022 in the amount of \$1,136,500. A commission payment was wired from HWECI to MALK in the amount of \$245,122 on July 15, 2022, during the time period in which MALK's license was affiliated with

DRE Accusation against HWE California, Inc. and Anthony Malk, H-42948 LA

1 REB Hann. for a transaction conducted during the time period in which MALK was licensed-  
2 NBA (no broker affiliation) between December 24, 2021 and July 13, 2022.

3 25.

4 **The Georgian Hotel**

5 According to the HWECI transaction file for The Georgian Hotel (1415 Ocean  
6 Avenue, Santa Monica, CA) (Georgian), HWECI used the unauthorized fictitious business name  
7 "Hodges Ward Elliott, LLC" throughout the Exclusive Listing Agreement dated June 1, 2021.

8 26.

9 According to a letter dated and signed on March 18, 2024 by Hodges to the DRE  
10 that included as an attachment email confirmations of wires relative to commissions for the three  
11 (3) subject transactions that transpired during the time period from December 25, 2021 through  
12 May 2022, a commission payment was wired to HWECI on February 25, 2022 in the amount  
13 \$43,615, when HWECI had no D.O. and its license was lapsed (from December 25, 2021  
14 through May 12, 2022). A commission payment was wired from HWECI to MALK in the  
15 amount of \$84,765 on April 22, 2022, during the time period in which MALK was licensed-  
16 NBA (no broker affiliation) between December 25, 2021 and July 13, 2022.

17 27.

18 **La Quinta Anaheim & LAX**

19 According to the HWECI transaction file for La Quinta Anaheim & LAX (1725  
20 S. Clementine St., Anaheim, CA and 5249 W. Century Blvd., Los Angeles, CA) (La Quinta),  
21 Letters of Intent/Offer were tendered on March 25, 2022, April 8, 2022, April 21, 2022, April  
22 28, 2022, and a Purchase Agreement dated on May 2, 2022 resulted in an accepted offer, all of  
23 which transpired during the time period in which HWECI had no D.O. and its license was lapsed  
24 (from December 25, 2021 through May 12, 2022).

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26 DRE Accusation against HWE California, Inc. and Anthony Malk, H-42948 LA  
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28.

According to a letter dated and signed on March 18, 2024 by Hodges to the DRE that included as an attachment email confirmations of wires relative to commissions for the three (3) subject transactions that transpired during the time period from December 25, 2021 through May 2022, a commission payment was wired to HWEI on August 12, 2022 in the amount \$225,000. A commission payment was wired from HWEI to MALK in the amount of \$271,338 on October 7, 2022.

29.

**03/18/24 Correspondence from MALK to DRE**

According to an unsigned letter dated March 18, 2024 from MALK to the DRE, he was an employee of HWE and "HWE California" since 2019, and his role was "to assist clients in selling or raising joint venture equity for their hotel transactions." In his letter, MALK indicated that the company's role in the Georgian and Godfrey transactions was to bring new equity, with work beginning in 2021 and concluding in 2022. As to the La Quinta transaction, MALK indicated that the company assisted with the sale and was engaged in the spring of 2022.

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DRE Accusation against HWE California, Inc. and Anthony Malk, H-42948 LA



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

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3                                    **License Required**

4                                    **(Code Sections 10130 and 10131)**

5                                    Pursuant to Code Section 10130 *License Required:*

6                                    “It is unlawful for any person to engage in the business of, act in the capacity of,  
7                                    advertise as, or assume to act as a real estate broker or a real estate salesperson within this state  
8                                    without first obtaining a real estate license from the department, or to engage in the business of,  
9                                    act in the capacity of, advertise as, or assume to act as a mortgage loan originator within this  
10                                   state without having obtained a license endorsement. The commissioner may prefer a complaint  
11                                   for violation of this section before any court of competent jurisdiction, and the commissioner and  
12                                   his or her counsel, deputies, or assistants, may assist in presenting the law or facts at the  
13                                   trial. *Prosecution of Violations:* It is the duty of the district attorney of each county in this state  
14                                   to prosecute all violations of this section in their respective counties in which the violations  
15                                   occur.”

16                                   31.

17                                   Pursuant to Code Section 10131 *Broker Defined:*

18                                   “A real estate broker within this meaning of this part is a person who, for a  
19                                   compensation or in expectation of a compensation, regardless of the form or time of payment,  
20                                   does or negotiates to do one or more of the following acts for another or others:

21                                   (a) Sells or offers to sell, buys or offers to buy, solicits prospective sellers or  
22                                   purchasers of, solicits or obtains listings of, or negotiates the purchase, sale or  
23                                   exchange of real property or a business opportunity.

24                                   (b) Leases or rents or offers to lease or rent, or places for rent, or solicits listings  
25                                   of places for rent, or solicits for prospective tenants, or negotiates the sale,

26                                   DRE Accusation against HWE California, Inc. and Anthony Malk, H-42948 LA  
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1 purchase or exchanges of leases of real property, or on a business opportunity, or  
2 collects rents from real property, or improvements thereon, or from business  
3 opportunities.

4 (c) Assists or offers to assist in filing an application for the purchase or lease of,  
5 or in locating or entering upon, lands owned by the state or federal government.

6 (d) Solicits borrowers or lenders for or negotiates loans or collects payments or  
7 performs services for borrowers or lenders or note owners in connection with  
8 loans secured directly or collaterally by liens on real property or on a business  
9 opportunity.

10 (e) Sells or offers to sell, buys or offers to buy, or exchanges or offers to exchange  
11 a real property sales contract, or a promissory note secured directly or collaterally  
12 by a lien on real property or on a business opportunity, and performs services for  
13 the holders thereof.”

14 32.

15 **Unlawful Employment or Payment of Compensation – Penalty**

16 **(Code Section 10137)**

17 Pursuant to Code Section 10137 *Unlawful Employment or Payment of*  
18 *Compensation – Penalty:*

19 “It is unlawful for any licensed real estate broker to employ or compensate,  
20 directly or indirectly, any person for performing any of the acts within the scope of this chapter  
21 who is not a license real estate broker, or a real estate salesperson licensed under the broker  
22 employing or compensating him or her, or to employ or compensate, directly or indirectly, any  
23 licensee for engaging in any activity for which a mortgage loan originator license endorsement is  
24 required, if that licensee does not hold a mortgage loan originator license endorsement; provided,  
25 however, that a licensed real estate broker may pay a commission to a broker of another state.

26 DRE Accusation against HWE California, Inc. and Anthony Malk, H-42948 LA  
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1 No real estate salesperson shall be employed by or accept compensation for activity requiring a  
2 real estate license from any person other than the broker under whom he or she is at the time  
3 licensed. It is unlawful for any licensed real estate salesperson to pay any compensation for  
4 performing any of the acts within the scope of this chapter to any real estate licensee except  
5 through the broker under whom he or she is at the time licensed. For a violation of any of the  
6 provisions of this section, the commissioner may temporarily suspend or permanently revoke the  
7 license of the real estate licensee, in accordance with the provisions of this part relating to  
8 hearings.”

9 33.

10 **Broker Officers**

11 **(Regulation 2740)**

12 Pursuant to Regulation 2740 *Broker Officers*:

13 “No acts for which a real estate license is required may be performed for, or in  
14 the name of, a corporation when there is no officer of the corporation licensed under Section  
15 10158 or 10211.”

16 34.

17 **Corporation License – Additional Licenses**

18 **(Code Section 10158)**

19 Pursuant to Code Section 10158 *Corporation License – Additional Licensees*:

20 “When a real estate license is issued to a corporation, if it desires any of its  
21 officers other than the officer designated by it pursuant to Section 10211, to act under its license  
22 as a real estate broker, it shall procure an additional license to retain each of those additional  
23 officers. In the event of death or incapacity of a sole designated broker-officer, a corporation  
24 may operate as a licensee without interruption under its existing license if notice of the death or  
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26 DRE Accusation against HWE California, Inc. and Anthony Malk, H-42948 LA  
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1 incapacity and an application for a new designated officer is filed with the department before  
2 midnight of the 10th business day after the event.”

3 35.

4 **False or Fictitious Business Name**

5 **(Code Section 10159.5 and Regulation 2731)**

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 36.

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 which  
14 a license is required under the Real Estate Law unless the licensee is the holder of a license  
15 bearing the fictitious business name.”

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26 DRE Accusation against HWE California, Inc. and Anthony Malk, H-42948 LA

**Further Grounds for Disciplinary Action**

**(Code Section 10177 (selected portions))**

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

(selected portions):

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

...

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

...

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

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

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41.

**THIRD CAUSE FOR DISCIPLINE: HWECI**

**Code Section 10158**

In the course of the activities described above, and based on the facts discovered by the Department, as described above, the acts and/or omissions of Respondent **HWE CALIFORNIA INC.** are in violation of **Code Section 10158** and pursuant to **Code Section 10177(d) and/or 10177(g)** constitutes cause for the suspension or revocation of all licenses, license rights and license endorsement cause for the suspension or revocation of all licenses, license rights and license endorsements of Respondent **HWE CALIFORNIA INC.** under the Real Estate Law.

42.

**FOURTH CAUSE FOR DISCIPLINE: HWECI**

**Code Section 10159.5 and Regulation 2731**

In the course of the activities described above, and based on the facts discovered by the Department, as described above, the acts and/or omissions of Respondent **HWE CALIFORNIA INC.** are in violation of **Code Section 10159.5** and **Regulation 2731** and pursuant to **Code Section 10177(d) and/or 10177(g)** constitutes cause for the suspension or revocation of all licenses, license rights and license endorsement cause for the suspension or revocation of all licenses, license rights and license endorsements of Respondent **HWE CALIFORNIA INC.** under the Real Estate Law.

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DRE Accusation against HWE California, Inc. and Anthony Malk, H-42948 LA

**COSTS**

43.

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

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all the licenses, license rights, and license endorsements of Respondents **HWE CALIFORNIA INC.** and **ANTHONY MALK** under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California: 10/31/24



JASON PARSON  
Supervising Special Investigator

cc: HWE California Inc.  
Anthony Malk  
J. Parson  
Sacto.

DRE Accusation against HWE California, Inc. and Anthony Malk, H-42948 LA