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FILED

NOV 10 2021

DEPT. OF REAL ESTATE
By *[Signature]*

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H-05236 SD
13)
14 SAN DIEGO HOMES AND ESTATES, INC.,) ACCUSATION
15 doing business as California Desert Escrow,)
16 A Non-Independent Broker Escrow, Catherine)
17 Thoreson & Associates, Countywide Escrow,)
18 a Non-Independant Broker Escrow,)
19 The DeChamplain Group, Drutman and)
20 Associates, Gretchen Pagnotta & Associates,)
21 Gretchen Pagnotta and Associates, Karen Pado)
22 and Associates, The Key Team, Kolker Real)
23 Estate Group, Legacy Homes & Estates, Lisa)
24 Herndon & Associates, Michele)
25 Massion & Associates, Palm Valley Country)
26 Club On Site Sales, Palm Valley County)
27 Country Club On-Site Sales, Premier Properties,)
Premier Property, San Diego County Homes,)
SD County Escrow, a Non-Independent Broker)
Escrow, The Time Team, True North Associates,)
Valhalla Team, W Collection, Windermere)
Commercial, Windermere Homes & Estates,)
Windermere Homes and Estates, Windermere)
Real Estate, Windermere Real Estate)
Homes & Estates, Windermere Real Estate)
Homes and Estates,)
NANCY RICHARDS LAYNE,)
individually and as designated officer of)

Accusation of San Diego Homes and Estates, Inc., Nancy Richards Layne, and James Berns

1 San Diego Homes and Estates, Inc., and)
2 JAMES BERNS,)
3 individually and as former designated)
4 officer of San Diego Homes and Estates, Inc.,)
5 Respondents.)

6 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
7 State of California, for cause of Accusation against SAN DIEGO HOMES AND ESTATES,
8 INC., doing business as California Desert Escrow, A Non-Independent Broker Escrow,
9 Catherine Thoreson & Associates, Countywide Escrow, a Non-Independent Broker Escrow,
10 The DeChamplain Group, Drutman and Associates, Gretchen Pagnotta & Associates, Gretchen
11 Pagnotta and Associates, Karen Pado and Associates, The Key Team, Kolker Real Estate
12 Group, Legacy Homes & Estates, Lisa Herndon & Associates, Michele Massion & Associates,
13 Palm Valley Country Club On Site Sales, Palm Valley County Country Club On-Site Sales,
14 Premier Properties, Premier Property, San Diego County Homes, SD County Escrow, a
15 Non-Independent Broker Escrow, The Time Team, True North Associates, Valhalla Team,
16 W Collection, Windermere Commercial, Windermere Homes & Estates, Windermere Homes
17 and Estates, Windermere Real Estate, Windermere Real Estate Homes & Estates, Windermere
18 Real Estate Homes and Estates, NANCY RICHARDS LAYNE, individually and as designated
19 officer of San Diego Homes and Estates, Inc., and JAMES BERNS, individually and as former
20 designated officer of San Diego Homes and Estates, Inc. ("Respondents"), is informed and
21 alleges as follows:

22 1.

23 The Complainant, Veronica Kilpatrick, acting in her official capacity as a
24 Supervising Special Investigator of the State of California, makes this Accusation against
25 Respondents SAN DIEGO HOMES AND ESTATES, INC., NANCY RICHARDS LAYNE,
26 and JAMES BERNS.

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Accusation of San Diego Homes and Estates, Inc., Nancy Richards Layne, and James Berns

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2.

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

LICENSE HISTORY

3.

Respondent SAN DIEGO HOMES AND ESTATES, INC. ("SAN DIEGO HOMES") presently has license rights under the Real Estate Law, Part 1 of Division 4 of the Code as a corporate real estate broker.

4.

Respondent NANCY RICHARDS LAYNE ("LAYNE") presently has license rights as a real estate broker.

5.

Respondent SAN DIEGO HOMES is licensed by the Department of Real Estate ("Department") as a corporate real estate broker by and through Respondent LAYNE, as the designated officer and broker responsible, pursuant to Code section 10159.2, for supervising the activities requiring a real estate license conducted on behalf of SAN DIEGO HOMES, or by SAN DIEGO HOMES'S officers, agents and employees, from about June 9, 2020, to the present.

6.

Respondent JAMES BERNS ("BERNS") presently has license rights as a real estate broker. BERNS also has an individual mortgage loan originator license endorsement.

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1 7.

2 Respondent SAN DIEGO HOMES was licensed by the Department as a
3 corporate real estate broker by and through Respondent BERNS, as the designated officer and
4 broker responsible, pursuant to Code section 10159.2, for supervising the activities requiring a
5 real estate license conducted on behalf of SAN DIEGO HOMES, or by SAN DIEGO
6 HOMES'S officers, agents and employees, from about December 1, 2019, to about
7 June 8, 2020.

8 **BROKERAGE**

9 **SAN DIEGO HOMES AND ESTATES, INC.**

10 8.

11 At all times mentioned, in the City of San Diego, County of San Diego,
12 Respondent SAN DIEGO HOMES acted as a real estate broker, conducting licensed activities
13 within the meaning of California Financial Code section 17006(a)(4) (broker escrow activities).

14 **AUDIT**

15 **SAN DIEGO HOMES AND ESTATES, INC.**

16 9.

17 On March 23, 2021, the Department completed audit examinations of the books
18 and records of Respondent SAN DIEGO HOMES pertaining to the activities described in
19 Paragraph 8 which require a real estate license. The audit examinations covered a period of
20 time from December 1, 2019, to November 30, 2020. The audit examinations revealed
21 violations of the Code and the Regulations as set forth in the following paragraphs, and as more
22 fully discussed in Audit Report SD200010 and the exhibits and workpapers attached to said
23 audit report.

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AUDIT VIOLATIONS OF THE REAL ESTATE LAW

10.

In the course of activities described in Paragraph 8 above and during the examination period described in Paragraph 9 above, Respondents SAN DIEGO HOMES, LAYNE, and BERNs acted in violation of the Code and the Regulations in that:

10(a) As of November 30, 2020, Respondent SAN DIEGO HOMES had a trust fund shortage in the amount of \$6,000.00. Respondent did not have written consent from the owners of the trust funds to reduce the balance of trust funds to an amount less than the aggregate trust fund liabilities, in violation of Code section 10145 and Regulations sections 2832.1, 2950(g), and 2951. On or about March 16, 2021, Respondent cured the shortage.

10(b) Respondent SAN DIEGO HOMES did not maintain a complete and accurate control record or general ledger of all trust funds received and disbursed, in violation of Code section 10145 and Regulations sections 2831, 2950(d), and 2951.

10(c) Respondent SAN DIEGO HOMES did not maintain a complete and accurate separate record of all trust funds received and disbursed for each beneficiary in connection with Respondent's broker activities, in violation of Code section 10145 and Regulations sections 2831.1, 2950(d), and 2951.

10(d) An unlicensed employee of Respondent SAN DIEGO HOMES made withdrawals from a bank account used by Respondent for trust funds and Respondent failed to maintain a fidelity bond coverage at least equal to the maximum amount of the trust funds to which the employee had access at any time, in violation of Code section 10145 and Regulations sections 2834 and 2951. On or about March 18, 2021, Respondent removed the unlicensed employee's authorization to make withdrawals from the bank account.

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11.

The conduct, acts, or omissions of Respondent SAN DIEGO HOMES, described in Paragraph 10 above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
10(a)	Code section 10145 and Regulations sections 2832.1, 2950(g), and 2951 (SAN DIEGO HOMES)
10(b)	Code section 10145 and Regulations sections 2831, 2950(d), and 2951 (SAN DIEGO HOMES)
10(c)	Code section 10145 and Regulations sections 2831.1, 2950(d), and 2951 (SAN DIEGO HOMES)
10(d)	Code section 10145 and Regulations sections 2834 and 2951 (SAN DIEGO HOMES)
10(e)	Code sections 10145 and 10176(g) (SAN DIEGO HOMES)
10(f)	Code section 10159.2 and Regulations section 2725 (LAYNE and BERNNS)

The foregoing violations constitute cause for the suspension or revocation of all the licenses, license endorsements, and license rights of Respondent SAN DIEGO HOMES under the Real Estate Law pursuant to the provisions of Code sections 10177(d) and 10177(g).

The foregoing violations constitute cause for the suspension or revocation of all the licenses, license endorsements, and license rights of Respondents LAYNE and BERNNS under the Real Estate Law pursuant to the provisions of Code sections 10177(d), 10177(g), and 10177(h).

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12.

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

13.

Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department of Real Estate, 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 the 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 endorsements, and license rights of Respondents SAN DIEGO HOMES AND ESTATES, INC., NANCY RICHARDS LAYNE, and JAMES BERNES under the Real Estate Law, for the cost of audit, investigation, and enforcement as permitted by law, and for such other and further relief as may be proper under other applicable provisions of law.

Dated at San Diego, California

this 28 day of October, 2021



Veronica Kilpatrick
Supervising Special Investigator

cc: SAN DIEGO HOMES AND ESTATES, INC.
NANCY RICHARDS LAYNE
JAMES BERNES

Accusation of San Diego Homes and Estates, Inc., Nancy Richards Layne, and James Bernes

Veronica Kilpatrick
Sacto.
Audits

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