

FILED

JUL 25 2024

DEPT. OF REAL ESTATE

By. 

1 JUDITH A. BURANDAY, Counsel (SBN 278115)
 2 Department of Real Estate
 3 320 West 4th Street, Suite 350
 4 Los Angeles, California 90013-1105
 5 Tel: (213) 576-6982
 6 Direct: (213) 576-6904
 7 E-mail: Judith.Buranday@dre.ca.gov
 8 *Attorney for Complainant*

9 BEFORE THE DEPARTMENT OF REAL ESTATE
 10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation Against) No. H-05814 SD
 13 MICHAEL ANTHONY BRUNNHÖELZL,) ACCUSATION
 14 doing business as Michael Anthony Properties,)
 15 Respondent.)
 16 _____)

17 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
 18 State of California, for cause of Accusation against MICHAEL ANTHONY BRUNNHÖELZL,
 19 doing business as Michael Anthony Properties, (sometimes referred to as “Respondent”)
 20 alleges as follows:

21 1.

22 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
 23 State of California, makes this Accusation in her official capacity.

24 2.

25 All references to the “Code” are to the California Business and Professions Code
 26 and all references to “Regulations” are to Title 10, Chapter 6, of the California Code of
 27 Regulations.

1 LICENSE HISTORY

2 3.

3 a. Respondent is presently licensed under the Code as a restricted real estate
4 broker, Department of Real Estate (“Department”) license ID 01007091.

5 b. The Department originally issued Respondent a real estate salesperson license
6 on or about November 5, 1988. The Department issued Respondent a broker license on or
7 about May 6, 1993. Respondent’s restricted license is scheduled to expire on June 28, 2028,
8 unless renewed.

9 c. From on or about December 19, 1995, through the present, Respondent has
10 maintained the fictitious business name “Michael Anthony Properties.”

11 d. On or about September 4, 2019, in Case No. H-05093 SD, the Complainant
12 Veronica Kilpatrick, in her official capacity as a Supervising Special Investigator of the State
13 of California, issued an Accusation against Respondent. The Accusation alleged violations of
14 the Code and Regulations relating to Respondents’ property management activities (Audit No.
15 SD170045). On or about May 26, 2020, the Real Estate Commissioner issued a Decision,
16 effective June 29, 2020, ordering the revocation of Respondent’s real estate licenses, provided
17 however, Respondent be issued a restricted license under certain terms and conditions,
18 including in part, submitting an application and payment of the fee for a restricted license.
19 Respondent continues to hold a restricted broker license.

20 CAUSE FOR ACCUSATION

21 4.

22 At all times relevant herein Respondent was engaged in the business of a real
23 estate broker within the meaning of Code section 10131(b) by leasing or renting or offering to
24 lease or rent, or placing for rent, or soliciting listings of places for rent, or soliciting for
25 prospective tenants, or negotiating the sale, purchase or exchanges of leases on real property, or
26 on a business opportunity, or collecting rents from real property, or improvements thereon, or
27 from business opportunities (“property management”).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

5.

On or about October 27, 2023, the Department completed an audit examination of the books and records of Respondent, doing business as Michael Anthony Properties, pertaining to the real estate activities described in Paragraph 4 above. The audit examination covered the period of time from January 1, 2021, through February 28, 2023 (“audit period”). The purpose of the examination was to determine Respondent’s compliance with the Real Estate Law and to determine whether Respondent corrected the violations found in the previous audit, Audit No. SD170045, in Case No. H-05093 SD. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit No. SD220019 and the exhibits and work papers attached to said audit report.

6.

The Department auditor interviewed Respondent on March 13, 2023. According to Respondent and the documents examined, Respondent managed approximately 193 one-to-four unit residences and 4 apartment complexes with 37 units for 207 owners. Respondent charges a management fee and almost all property-related expenses are paid to “MJ Maintenance,” a business name Respondent utilizes to facilitate the collection from owner funds and payments to independent contractors.

7.

At all times mentioned herein, and in connection with the property management activities described in Paragraph 4, above, Respondent accepted or received funds, including funds in trust (“trust funds”) from or on behalf of the owners of the properties managed by Respondent, and thereafter made deposits and/or disbursements of such funds. According to Respondent and the documents examined, Respondent maintained one (1) bank account, Account No. xxxxxxx6960 (“TA”), for handling of the receipts and disbursements of rents during the audit period in connection with his property management activity. Respondent

1 maintained a business account (“BA1”), Account No. xxxxx0565, and another business account
2 (“BA2”) for MJ Maintenance, Account No. xxxxxx7283.

3 Audit Violations

4 8.

5 The audit examination revealed violations of the Code and the Regulations, as
6 set forth in the following paragraphs, and more fully discussed in Audit No. SD220019 and the
7 exhibits and work papers attached to the audit report:

8 **(a) Trust Fund Handling for Multiple Beneficiaries (Code section 10145 and Regulations**
9 **2832.1).**

10 As of February 28, 2023, there was a shortage of \$54,329.75 in TA caused by
11 \$26,172.79 in negative balances, \$22,527.44 in comingled trust funds deposited in BA1, and
12 \$5,629.52 in unidentified funds. As of August 22, 2023, after the audit period, Respondent
13 transferred a total of \$41,679.15 from BA1 and BA2 to TA to cure the shortage of \$54,329.75.

14 **(b) Handling of Trust Funds; Trust Fund Records to Be Maintained (Code section 10145**
15 **and Regulations 2831).**

16 Respondent failed to maintain an accurate record of trust funds received and
17 disbursed for TA during the audit period. Some receipts were recorded on the control record for
18 TA but were not deposited into TA. Furthermore, the control record for TA did not have an
19 accurate daily balance.

20 **(c) Separate Record for Each Beneficiary or Transaction (Code section 10145(g) and**
21 **Regulations 2831.1).**

22 Respondent failed to maintain complete and accurate separate records for each
23 beneficiary or transaction for TA. The separate records of TA did not have an accurate balance
24 after posting transactions on any date during the audit period. Furthermore, there were four (4)
25 checks that should have been posted to four (4) property owners’ separate records, but were,
26 instead, recorded on the separate record for broker’s funds.

27 ///

1 **(d) Trust Account Reconciliation (Code section 10145 and Regulations 2831.2).**

2 During the audit period, Respondent failed to perform and maintain a monthly
3 reconciliation comparing the balance of all separate records to the balance of the control record
4 for TA.

5 **(e) Trust Fund Handling – Cash Not Deposited into Trust Account (Code section 10145).**

6 According to Respondent and the records examined, Respondent received cash
7 for rents related to properties managed through TA, however the cash received was not
8 deposited into TA. According to Respondent, Respondent kept the cash received from the
9 tenants and transferred funds, in the same amount as Respondent received, from BA2 to TA.
10 Based on the bank records examined, there was at least \$52,092.99 in trust funds received in
11 cash not deposited into TA but were, instead, transferred from BA2 to TA.

12 **(f) Trust Account Designation (Code section 10145 and Regulations 2832).**

13 According to the bank signature card for TA, the bank account was not created
14 in the name of Respondent as trustee. TA is in the name of “Michael Anthony Properties, Inc.”

15 **(g) Trust Fund Handling; Commingling, Conversion of Funds, Unauthorized**
16 **Disbursements (Code sections 10145, 10176(e), 10176(i) and Regulations 2832 and**
17 **2835(a).**

18 As of February 28, 2023, trust funds totaling \$22,527.44 were commingled with
19 broker’s funds in BA1 and not transferred back to TA. Respondent commingled trust funds
20 with his own funds in BA1 during the audit period.

21 Respondent made unauthorized disbursements for personal or business expenses
22 and converted trust funds from the \$22,527.44 that were deposited into BA1 without the written
23 consent of the owners of the funds. Based on an examination of BA1’s bank statements, BA1
24 had a bank balance as low as \$15.45 on September 30, 2021, and \$16, 251.41 as of February
25 28, 2023. On or about August 22, 023, Respondent transferred \$22,527.44 from BA1 to TA to
26 return the trust funds and cure the shortage in TA.

27

1 Furthermore, Respondent maintained funds in TA, ranging from \$164.00 to
2 \$232.00, to cover bank charges during the audit period. Respondent maintained more than
3 \$200.00 in broker's funds in TA. The balance of broker funds was sometimes less than zero,
4 indicating trust funds belonging to property owners were utilized without written consent for
5 Respondent's benefit.

6 Moreover, Respondent deposited rents and security deposits on broker-owned
7 property into TA. As of February 28, 2023, Respondent's balance for his property was
8 \$19,500.00.

9 **(h) Trust Fund Handling; Undisclosed Affiliation and Compensation (Code sections 10145**
10 **and 10176(g)).**

11 Respondent failed to disclose his affiliation with MJ Maintenance or his 15%
12 mark-up fee on some of the property management agreements provided for examination.

13 **(i) Use of False or Fictitious Business Name (Code sections 10159.5 and 10130 and**
14 **Regulations 2731).**

15 Respondent conducted his property management and real estate activities under
16 his individual broker license, Lic. ID 01007091. On several property management documents,
17 however, Respondent used the business name "Michael Anthony Properties Inc" which is not
18 registered with the Department as a fictitious business name under Respondent's individual
19 broker license. On or about October 18, 2021, the Departments issued Michael Anthony
20 Properties Inc a corporate broker license with Lic. ID 02076837. Respondent is the designated
21 officer for Michael Anthony Properties Inc.

22 Moreover, Respondent used the name "MJ Maintenance" or "MJ's
23 Maintenance" on work orders, BA2, and to collect mark-up fees. These names are not
24 registered with the Department as a fictitious business name for Respondent.

25 **(j) Retention of Records; Handling of Trust Funds (Code sections 10145 and 10148).**

26 Respondent failed to produce all of the records requested for the audit
27 examination for the audit period. During the audit, the Department auditor requested

1 Respondent produce the invoices related to disbursements made from TA, including payment
2 for repair and maintenance and "MJ Maintenance." Respondent stated that he did not maintain
3 invoices from vendors and did not generate invoices from MJ Maintenance. Respondent failed
4 to maintain invoices or accounting records to who or how much was paid to the independent
5 contractors for property-related expenses.

6 Most disbursements for repairs and maintenance from TA were payable to MJ
7 Maintenance. The individuals who provided maintenance were independent contractors.
8 Respondent provided Work Orders (completed status) from Michael Anthony Properties Inc to
9 MJ's Maintenance. The work amount and Respondent's mark-up amount were paid out of TA
10 and deposited into BA2.

11 9.

12 Each of the foregoing violations in Paragraphs 8 (a)-(j) above constitute cause
13 for the suspension or revocation of the real estate license and/or license rights of Respondent
14 under the provisions of Sections 10177(d) and/or 10177(g)

15 COSTS

16 (AUDIT COSTS)

17 10.

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

23 (INVESTIGATION AND ENFORCEMENT COSTS)


24 11.

25 Section 10106 of the Code, provides, in pertinent part, that in any order issued in
26 resolution of a disciplinary proceeding before the Department, the Commissioner may request
27 the administrative law judge to direct a licensee found to have committed a violation of this

1 part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the
2 case.

3 WHEREFORE, Complainant prays that a hearing be conducted on the
4 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
5 disciplinary action against all the licenses and/or license rights of Respondents MICHAEL
6 ANTHONY BRUNNHÖELZL, doing business as Michael Anthony Properties, under the Real
7 Estate Law, for the costs of investigation and enforcement as permitted by law, for the cost of
8 the audit, and for such other and further relief as may be proper under other applicable
9 provisions of law.

10
11 Dated at San Diego, California this 19 day of July, 2024.

12
13
14 
15 _____
16 Veronica Kilpatrick
17 Supervising Special Investigator
18
19
20
21
22
23
24

25 cc: MICHAEL ANTHONY BRUNNHÖELZL
26 Veronica Kilpatrick
27 Sacto.
Audits – Jennifer Borromeo