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FILED

JUL 21 2020

DEPT. OF REAL ESTATE

By *Zui-Ja*

7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of) No. H-41736 LA
12)
13 EVEREST REALTY GROUP)
14 CALIFORNIA, LTD.;) **ACCUSATION**
15)
16 CHARLENE M. SIEMON,)
17 as designated officer of Everest Realty)
18 Group California, Ltd.; and)
19)
20 LAURA LEE BAYER, as former)
designated officer of Everest Realty)
Group California, Ltd.,)
Respondents.)

21 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
22 State of California, for cause of Accusation against EVEREST REALTY GROUP
23 CALIFORNIA, LTD., CHARLENE M. SIEMON, and LAURA LEE BAYER (collectively,
24 "Respondents"), alleges as follows:

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27 DRE Accusation: Everest Realty Group California, Ltd. et al.

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1.

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

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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.

DEPARTMENT OF REAL ESTATE LICENSE HISTORY

3.

EVEREST REALTY GROUP CALIFORNIA, LTD.

A. Respondent EVEREST REALTY GROUP CALIFORNIA, LTD. ("ERGC") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a real estate broker (corporation) ("REC"), DRE license ID 01994886.

B. ERGC was originally licensed by the DRE on or about February 5, 2016.

C. According to DRE records to date, ERGC's current designated officer ("D.O.") is real estate broker ("REB") CHARLENE M. SIEMON until her officer expiration date of February 4, 2024. Prior to SIEMON, ERGC's D.O. was LAURA LEE BAYER, from April 22, 2016 until May 16, 2018.

D. According to the DRE records to date, ERGC presently has under its REC license: two (2) DBAs, for Century 21 Everest, active as of August 10, 2018, and for Century 21 Troop Real Estate, active as of March 7, 2016; nine (9) branch offices; 36 broker associates; and 420 real estate salespersons.

E. ERGC's DRE license will expire on February 4, 2024.

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CHARLENE M. SIEMON

A. Respondent CHARLENE M. SIEMON ("SIEMON") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a REB, DRE license ID 01036481.

B. SIEMON was originally licensed by the DRE as a RES on or about July 12, 1989, and as a REB on or about June 1, 2015.

C. According to DRE records to date, SIEMON is the D.O. of ERGC until her officer affiliation expiration date of February 4, 2024. SIEMON first became the D.O. of ERGC on May 17, 2018.

D. SIEMON's DRE license will expire on May 31, 2023.

6.

LAURA LEE BAYER

A. Respondent LAURA LEE BAYER ("BAYER") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a REB, DRE license ID 00547060.

B. BAYER was originally licensed by the DRE as a REB on or about December 10, 1981.

C. According to DRE records to date, BAYER was the D.O. of ERGC from April 22, 2016 until May 16, 2018.

D. BAYER's DRE license will expire on December 9, 2021.

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

3 **Trust Fund Handling –**

4 **Code Section 10145 and Regulations 2831.2, 2832, 2832.1, and 2834**

5 7.

6 Pursuant to Code Section 10145 *Handling of Trust Funds* (selected portions):

7 “(a)(1): A real estate broker who accepts funds belonging to others in connection
8 with a transaction subject to this part shall deposit all those funds that are not immediately placed
9 into a neutral escrow depository or into the hands of the broker’s principal, into a trust fund
10 account maintained by the broker in a bank or recognized depository in this state. All funds
11 deposited by the broker in a trust account shall be maintained there until disbursed by the broker
12 in accordance with instructions from the person entitled to the funds.

13 (2) Withdrawals may be made from a trust fund account of an individual broker
14 only upon the signature of that broker, or in the case of a corporate broker, only upon the
15 signature of an officer through whom the corporation is licensed pursuant to Section 10158 or
16 10211, or one, or more, of the following persons if specifically authorized in writing by the
17 individual broker or officer:

18 (A) A real estate salesperson licensed to the broker.

19 (B) Another broker acting pursuant to a written agreement with the
20 individual broker that conforms to the requirements of this part and any
21 regulations promulgated pursuant to this part.

22 (C) An unlicensed employee of the individual broker, if the broker has
23 fidelity bond coverage equal to at least the maximum amount of the trust
24 funds to which the unlicensed employee has access at any time. For
25 purposes of this section, bonds providing coverage may be written with a
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1 deductible of up to 5 percent of the coverage amount. For bonds with a
2 deductible, the employing broker shall have evidence of financial
3 responsibility that is sufficient to protect members of the public against a
4 loss subject to the deductible amount.

5 Evidence of financial responsibility shall include one or more of the
6 following:

7 (i) Separate fidelity bond coverage adequate to cover the amount
8 of the fidelity bond deductible.

9 (ii) A cash deposit held in a separate account, apart from other
10 funds of the broker, the broker's employees, or the broker's
11 principals, in a bank or recognized depository in this state adequate
12 to cover the amount of the fidelity bond deductible and held
13 exclusively and solely for the purpose of paying the fidelity bond
14 deductible amount.

15 (iii) Any other evidence of financial responsibility approved by the
16 commissioner.

17 (3) An arrangement under which a person enumerated in subparagraph (A),(B),
18 or (C) of paragraph (2) is authorized to make withdrawals from a trust fund account of a broker
19 shall not relieve an individual broker, nor the broker-officer of a corporate broker licensee, from
20 responsibility or liability as provided by law in handling trust funds in the broker's custody.

21 . . .

22 (4)(b) A real estate broker acting as a principal pursuant to Section 10131.1
23 shall place all funds received from others for the purchase of real property sales contracts or
24 promissory notes secured directly or collaterally by liens on real property in a neutral escrow
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1 depository unless delivery of the contract or notes is made simultaneously with the receipt of the
2 purchase funds.

3 ...
4 (4)(g) The broker shall maintain a separate record of the receipt and disposition
5 of all funds described in subdivisions (a) and (b), including any interest earned on the funds..."

6 8.

7 Pursuant to Regulation 2831.2 *Trust Account Reconciliation*:

8 "The balance of all separate beneficiary or transaction records maintained
9 pursuant to the provisions of Section 2831.1 must be reconciled with the record of all trust funds
10 received and disbursed required by Section 2831, at least once a month, except in those months
11 when the bank account did not have any activities. A record of the reconciliation must be
12 maintained, and it must identify the bank account name and number, the date of the
13 reconciliation, the account number or name of the principals or beneficiaries or transactions, and
14 the trust fund liabilities of the broker to each of the principals, beneficiaries or transactions."

15 9.

16 Pursuant to Regulation 2832 *Trust Fund Handling*:

17 "(a) Compliance with Section 10145 of the Code requires that the broker place
18 funds accepted on behalf of another into the hands of the owner of the funds, into a neutral
19 escrow depository or into a trust fund account in the name of the broker, or in a fictitious name if
20 the broker is the holder of a license bearing such fictitious name, as trustee at a bank or other
21 financial institution not later than three business days following receipt of the funds by the broker
22 or by the broker's salesperson.

23 (b) Except as expressly provided by subdivision (d) of Section 10145 of the Code
24 or by a regulation in this article, the account into which the trust funds are deposited shall not be
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1 an interest bearing account for which prior written notice can by law or regulation be required by
2 the financial institution as a condition to the withdrawal of funds.

3 (c) A check received from the offeror may be held uncashed by the broker until
4 acceptance of the offer if

5 (1) the check by its terms is not negotiable by the broker or if the offeror
6 has given written instructions that the check shall not be deposited nor cashed until acceptance of
7 the offer and

8 (2) the offeree is informed that the check is being so held before or at the
9 time the offer is presented for acceptance.

10 (d) In these circumstances if the offeror's check was held by the broker in
11 accordance with subdivision (c) until acceptance of the offer, the check shall be placed into a
12 neutral escrow depository or the trust fund account, or into the hands of the offeree if offeror and
13 offeree expressly so provide in writing, not later than three business days following acceptance of
14 the offer unless the broker receives written authorization from the offeree to continue to hold the
15 check.

16 (e) Notwithstanding the provisions of subdivisions (a) and (d), a real estate broker
17 who is not licensed under the Escrow Law (Section 17000, et seq., of the Financial Code) when
18 acting in the capacity of an escrow holder in a real estate purchase and sale, exchange or loan
19 transaction in which the broker is performing acts for which a real estate license is required shall
20 place all funds accepted on behalf of another into the hands of the owner of the funds, into a
21 neutral escrow depository or into a trust fund account in the name of the broker, or in a fictitious
22 name if the broker is the holder of a license bearing such fictitious name, as trustee at a bank or
23 other financial institution not later than the next business day following receipt of the funds by
24 the broker or by the broker's salesperson."

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10.

Pursuant to Regulation 2832.1 *Trust Fund Handling for Multiple Beneficiaries:*

“The written consent of every principal who is an owner of the funds in the account shall be obtained by a real estate broker prior to each disbursement if such a disbursement will reduce the balance of funds in the account to an amount less than the existing aggregate trust fund liability of the broker to all owners of the funds.”

11.

Pursuant to Regulation 2834 *Trust Account Withdrawals:*

“(a) Withdrawals may be made from a trust fund account of an individual broker only upon the signature of the broker or one or more of the following persons if specifically authorized in writing by the broker:

- (1) a salesperson licensed to the broker.
- (2) a person licensed as a broker who has entered into a written agreement pursuant to Section 2726 with the broker.
- (3) an unlicensed employee of the broker with fidelity bond coverage at least equal to the maximum amount of the trust funds to which the employee has access at any time.

(b) Withdrawals may be made from the trust fund account of a corporate broker only upon the signature of:

- (1) an officer through whom the corporation is licensed pursuant to Section 10158 or 10211 of the Code or
- (2) one of the persons enumerated in paragraph (1), (2) or (3) of subdivision (a) above, provided that specific authorization in writing is given by the officer through whom the corporation is licensed and that the officer is an authorized signatory of the trust fund account.

1 (c) An arrangement under which a person enumerated in paragraph (1), (2) or (3)
2 of subdivision (a) above is authorized to make withdrawals from a trust fund account of a broker
3 shall not relieve an individual broker, nor the broker-officer of a corporate broker licensee, from
4 responsibility or liability as provided by law in handling trust funds in the broker's custody."

5 **Broker Supervision – Code Section 10159.2 and Regulation 2725**

6 12.

7 Pursuant to Code Section 10159.2 *Responsibility of Corporate Officer in Charge:*

8 "(a) The officer designated by a corporate broker licensee pursuant to Section
9 10211 shall be responsible for the supervision and control of the activities conducted on behalf
10 of the corporation by its officers and employees as necessary to secure full compliance with the
11 provisions of this division, including the supervision of salespersons licensed to the corporation
12 in the performance of acts for which a real estate license is required.

13 (b) A corporate broker licensee that has procured additional licenses in accordance
14 with Section 10158 through officers other than the officer designated pursuant to Section 10211
15 may, by appropriate resolution of its board of directors, assign supervisory responsibility over
16 salespersons licensed to the corporation to its broker-officers.

17 (c) A certified copy of any resolution of the board of directors assigning
18 supervisory responsibility over real estate salespersons licensed to the corporation shall be filed
19 with the Real Estate Commissioner within five days after the adoption or modification thereof."

20 13.

21 Pursuant to Regulation 2725 *Broker Supervision:*

22 "A broker shall exercise reasonable supervision over the activities of his or her
23 salespersons. Reasonable supervision includes, as appropriate, the establishment of policies,
24 rules, procedures and systems to review, oversee, inspect and manage:

25 (a) Transactions requiring a real estate license.

1 (b) Documents which may have a material effect upon the rights or obligations of
2 a party to the transaction.

3 (c) Filing, storage and maintenance of such documents.

4 (d) The handling of trust funds.

5 (e) Advertising of any service for which a license is required.

6 (f) Familiarizing salespersons with the requirements of federal and state laws
7 relating to the prohibition of discrimination.

8 (g) Regular and consistent reports of licensed activities of salespersons.

9 The form and extent of such policies, rules, procedures and systems shall take into
10 consideration the number of salespersons employed and the number and location of branch
11 offices.

12 A broker shall establish a system for monitoring compliance with such policies,
13 rules, procedures and systems. A broker may use the services of brokers and salespersons to
14 assist in administering the provisions of this section so long as the broker does not relinquish
15 overall responsibility for supervision of the acts of salespersons licensed to the broker.”

16 **False or Fictitious Business Name – Code Section 10159.5 and Regulation 2731**

17 14.

18 Pursuant to Code Section 10159.5(a)(1) *Fictitious Name*:

19 “Every person applying for a license under this chapter who desires to have the
20 license issued under a fictitious business name shall file with his or her application a certified
21 copy of his or her fictitious business name statement filed with the county clerk pursuant to
22 Chapter 5 (commencing with Section 17900) of Part 3 of Division 7.”

23 15.

24 Pursuant to Regulation 2731(a) *Use of False or Fictitious Name*: “A licensee shall
25 not use a fictitious name in the conduct of any activity for which a license is required under the
26

1 Real Estate Law unless the licensee is the holder of a license bearing the fictitious business
2 name.”

3 **Grounds for Revocation or Suspension –**

4 **Code Section 10176 (selected portions)**

5 16.

6 Pursuant to Code Section 10176 *Grounds for Revocation or Suspension:*

7 “The commissioner may, upon his or her own motion, and shall, upon the verified
8 complaint in writing of any person, investigate the actions of any person engaged in the business
9 or acting in the capacity of a real estate licensee within this state, and he or she may temporarily
10 suspend or permanently revoke a real estate licensee at any time where the licensee, while a real
11 estate licensee, in performing or attempting to perform any of the acts within the scope of this
12 chapter has been guilty of any of the following:

13 . . .

14 (e) Commingling with his or her own money or property the money or other
15 property of others which is received and held by him or her.

16 . . .

17 (g) The claiming or taking by a licensee of any secret or undisclosed amount of
18 compensation, commission or profit or the failure of a licensee to reveal to the
19 buyer or seller contracting with the licensee the full amount of the licensee’s
20 compensation, commission, or profit under any agreement authorizing the licensee
21 to do any acts for which a license is required under this chapter for compensation
22 or commission prior to or coincident with the signing of an agreement evidencing
23 the meeting of the minds of the contracting parties, regardless of the form of the
24 agreement, whether evidenced by documents in an escrow or by any other or
25 different procedure.

1 ...
2
3 (i) Any other conduct, whether of the same or a different character than specified
4 in this section, which constitutes fraud or dishonest dealing...

5 **Further Grounds for Disciplinary Action – Code Section 10177**

6 17.

7 Pursuant to Code Section 10177, “The commissioner may suspend or revoke the
8 license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny the
9 issuance of a license to an applicant, who has done any of the following:

10 ...

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

15 ...

16 (g) Demonstrated negligence or incompetence in performing an act for which he
17 or she is required to hold a license...”

18 **DRE AUDIT LA 180091: EVEREST REALTY GROUP CALIFORNIA, LTD.**

19 **PROPERTY MANAGEMENT ACTIVITY**

20 18.

21 On February 28, 2020, the DRE completed its audit examinations of the books
22 and records of Respondent ERGC pertaining to its property management activity (LA 180091),
23 which require a real estate license, pursuant to Code Section 10131(b). The audit examination
24 covered a period of time beginning on April 22, 2016 and ending on May 31, 2019 (“audit
25 examination period” or “audit period”), and was performed between July 1, 2019 and September
26

1 18, 2019. The final report of February 28, 2020 revealed violations of the Code and the
2 Regulations as set forth in the following paragraphs, and more fully discussed in the Audit
3 Report Transmittal and Report for LA 180091.

4 19.

5 Corporate Structure of DSREI

6 According to DRE records at the time of the audit examination, ERGC
7 maintained: two (2) DBAs for Century 21 Everest and Century 21 Troop Real Estate. The D.O.
8 at the time of the audit was, and still is, SIEMON, who became ERGC's D.O. effective May 17,
9 2018. Prior to SIEMON, BAYER was the D.O. until May 16, 2018. According to D.O.
10 SIEMON, the corporate structure and ownership for ERGC as of July 1, 2019 was as follows:

Name	Title	License	Shareholder Percentage
George Morris	President	N/A	70%
Sam Bell	Secretary	N/A	0 %
Gretchen Smoot	Treasurer	N/A	0 %
John R. Ciet	Board Member	N/A	30%
			100 %

18
19 20.

20 ERGC's Property Management Activities

21 According to SIEMON, ERGC managed about 406 single family residences and
22 eight (8) apartment complexes totaling 33 units for approximately 398 owners. EGRC collects
23 rents, pays expenses, and screens tenants for compensation in the way of management fees
24 ranging from 6% to 8% of the rents collected, and in the twelve (12) months leading to the audit,
25 ERGC collected a total of approximately \$3,401,000.00.

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27
DRE Accusation: Everest Realty Group California, Ltd. et al.

Trust Accounts

During the audit period, ERGC maintained two (2) trust accounts to hold and collect trust funds for multiple beneficiaries in connection with its property management activity:

Trust Account 1 - Account #####1014 ("TA 1") - opened April 25, 2016

* Bank: City National Bank, 555 S. Flower St., Los Angeles, CA 90071

* Account Name: EVEREST REALTY GROUP CALIFORNIA, LTD DBA Century 21 Troop Real Estate. Trust West Account

* Signatories: Sue Huff (non-licensee); Monica Ferris (RES); BAYER; Deborah McCarthy (RES); George Morris (non-licensee); Ilona Koliass (non-licensee); and Laurie Ann Coello (REB)

* Signatures required: 1

(Dates of Bank Reconciliation: as of May 31, 2019 and May 16, 2018)

During the audit period, ERGC maintained TA 1 for handling the receipts and disbursements of trust funds for multiple beneficiaries in connection with its property management activities. TA 1 was maintained for properties identified as "West." According to SIEMON, properties under TA 1 were handled by REB Laurie Ann Coello (DRE license ID 01472542), who was a broker associate with ERGC from March 28, 2018 until October 4, 2018.

Trust Account 2 - Account #####1006 ("TA 2") - opened April 25, 2016

* Bank: City National Bank, 555 S. Flower St., Los Angeles, CA 90071

* Account Name: EVEREST REALTY GROUP CALIFORNIA, LTD DBA Century 21 Troop Real Estate. Property Trust Account

* Signatories: Sue Huff (non-licensee); Monica Ferris (RES); BAYER; Deborah McCarthy (RES); George Morris (non-licensee); and Ilona Koliass (non-licensee)

* Signatures required: 1

(Dates of Bank Reconciliation: as of May 31, 2019 and May 16, 2018)

During the audit period, ERGC maintained TA 2 for handling the receipts and disbursements of trust funds for multiple beneficiaries in connection with its property management activities. TA 2 was maintained for properties identified as "East." According to SIEMON, properties under TA 2 were handled by RES Sarah Abrams (DRE license ID 01502115), who was licensed with ERGC from April 26, 2016 until August 17, 2018.

1 (2) \$20,000 (transferred on June 4, 2019).

2 E. ERGC provided no evidence that the owners of the trust funds had provided
3 their written consent to allow **ERGC/D.O. SIEMON** to reduce the balance of funds in TA 1 and
4 TA 2 to amounts less than the existing aggregate trust fund liabilities, in violation of **Code**
5 **Section 10145 and Regulation 2832.1.**

6 F. As of May 16, 2018, there was a trust fund shortage of <\$18,195.35> in TA 1,
7 caused by negative property balances totaling <\$18,195.35>. In addition, there were
8 unidentified/unaccounted for funds of \$50,924.14 in TA 1 as of May 16, 2018.

9 G. As of May 16, 2018, there was a trust fund shortage of <\$3,393.25> in TA 2,
10 caused by negative property balances totaling <\$3,393.25>. In addition, there were
11 unidentified/unaccounted for funds of \$37,143.50 in TA 2 as of May 16, 2018.

12
13 H. ERGC provided no evidence that the owners of the trust funds had provided
14 their written consent to allow **ERGC/D.O. BAYER** to reduce the balance of funds in TA 1 and
15 TA 2 to amounts less than the existing aggregate trust fund liabilities, in violation of **Code**
16 **Section 10145 and Regulation 2832.1.**

17 24.

18 **Trust Account Reconciliation**
19 **(Code Section 10145 and Regulation 2831.2)**
20 **(SIEMON)**

21 A. During the audit period, ERGC did not maintain an accurate and complete
22 monthly reconciliation comparing the balance of all the separate records to the record of all trust
23 funds received and disbursed (control record) for TA 1 and TA 2.

1 B. In addition, ERGC did not reconcile the unidentified/unaccounted for funds of
2 \$394.81 in TA 1 as of May 31, 2019, \$50,924.14 in TA 1 as of May 16, 2018, and \$37,143.50 in
3 TA 2 as of May 16, 2018.

4 C. ERGC's failure to properly perform a monthly reconciliation comparing the
5 balance of all separate records to the balance of the control record for TA 1 and TA 2 is in
6 violation of **Code Section 10145 and Regulation 2831.2**.

7 D. ERGC's failure to reconcile the unidentified/unaccounted for funds in TA 1 as
8 of May 31, 2019 and May 16, 2018 is in violation of **Code Section 10145 and Regulation**
9 **2831.2**.

10 E. ERGC's failure to reconcile the unidentified/unaccounted for funds in TA 2 as
11 of May 16, 2018 is in violation of **Code Section 10145 and Regulation 2831.2**.

12 25.

13 **Trust Account Withdrawals**

14 **(Code Section 10145 and Regulation 2834)**

15 **(SIEMON & BAYER)**

16 A. Based on an examination of City National Bank's signature cards provide,
17 ERGC/SIEMON/BAYER allowed unlicensed employees Sue Huff ("Huff") and Ilona Koliias
18 ("Koliias") to be signers on TA 1 and TA 2 when they were not covered by a fidelity bond or
19 insurance during the period from January 1, 2018 to May 31, 2019, in violation of **Code Section**
20 **10145 and Regulation 2834**.

21 B. Koliias was removed as a signer on TA 1 and TA 2 during the audit
22 examination period, on February 27, 2019.

23 C. ERGC/SIEMON/BAYER allowed non-licensee George Morris ("Morris") to
24 be a signer on TA 1 and TA 2.

1 D. ERGC/SIEMON removed Morris as a signer on TA 1 and TA 2 after the audit
2 cutoff date, on June 19, 2019

3 E. ERGC/BAYER allowed non-licensees Huff and Kolias to make withdrawals
4 on TA 1 and TA 2 when they were not covered by a fidelity bond during the period from April
5 22, 2016 to December 31, 2017.

6 F. Kolias was removed as a signer on TA 1 and TA 2 during the audit
7 examination period, on February 27, 2019.

8 26.

9 **Trust Fund Handling/Commingling/Unauthorized Disbursements/Conversion of Funds**

10 **(Code Sections 10145, 10176(e), 10176(i) and Regulation 2832)**

11 **(SIEMON)**

12 A. Based on the bank statements and trust fund records provided, ERGC
13 commingled trust funds with its own funds by transferring at least \$10,000 of trust funds from
14 TA 1 to ERGC's general account#####1359 (GA 1) on March 13, 2019 and commingled trust
15 funds from TA 1 with ERGC's funds in GA 1 during the period from March 13, 2019 to June 14,
16 2019.

17 B. On April 16, 2019, ERGC/SIEMON transferred \$1,000.00 from account
18 #####2745 (GA 2) to TA 1.

19 C. At least \$20,000.00 of trust funds were transferred from TA 2 to GA 1 on
20 March 13, 2019 and commingled trust funds from TA 2 with ERGC's funds in GA 1 during the
21 period from March 13, 2019 to June 4, 2019.

22 D. On June 4, 2019, ERGC/SIEMON transferred \$20,000.00 from GA 1 to TA 2.

23 E. Based on bank statements and control records for TA 1 and TA 2, ERGC
24 transferred trust funds from TA 1 and TA 2 to GA1 without written authorization from the
25 owners of trust funds in TA 1 and TA 2, in violation of **Code Sections 10145, 10176(e),**
26

1 **10176(i) and Regulation 2832.** The trust funds deposited into GA 1 from TA 1 and TA 2 were
2 used for ERGC's general operating expenses. The balance in GA 1 was reduced to an amount
3 that was less than the amount of trust funds deposited.

4 27.

5 **Use of False or Fictitious Business Name**
6 **(Code Section 10159.5 and Regulation 2731)**

7 **(SIEMON & BAYER)**

8 ERGC conducted property management activities using unlicensed fictitious
9 business names "Troop Premier Property Management" and "C-21 Troop Premier Property
10 Management" when ERGC was not the holder of licenses bearing said fictitious names, in
11 violation of **Code Section 10159.5 and Regulation 2731.**

12 28.

13 **Responsibility of Corporate Officer in Charge/Broker Supervision**
14 **(Code Sections 10159.2 and 10177(h) and Regulation 2725)**

15 Based on the findings, as described in Paragraphs 22 through 26, D.O. SIEMON
16 and D.O. BAYER did not exercise reasonable supervision and control over the activities
17 conducted on behalf of ERGC by its employees and/or licensees as necessary to secure full
18 compliance with the real estate laws. SIEMON and BAYER's failure to establish policies, rules,
19 procedures and systems to review, oversee, inspect and manage the handling of trust funds by
20 ERGC's licensees and employees is in violation of **Code Sections 10159.2 and 10177(h) and**
21 **Regulation 2725.**

22 29.

23 **Additional Violations of the Real Estate Law**

24 The overall conduct of Respondents ERGC, SIEMON and BAYER is violative of
25 the Real Estate Law and constitutes cause for the suspension or revocation of their real estate
26

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DRE Accusation: Everest Realty Group California, Ltd. et al.

1 licenses and license rights under the provisions of **Code Section 10177(g)** for negligence and
2 **Code Section 10177(d)** for willful disregard of the Real Estate Law.

3 **COSTS**

4 **Investigation and Enforcement Costs**

5 30.

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

11 **Audit Costs**

12 31.

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

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against the licenses and license rights of Respondents EVEREST REALTY GROUP
4 CALIFORNIA, LTD., CHARLENE M. SIEMON and LAURA LEE BAYER under the Real
5 Estate Law (Part 1 of vision 4 of the Business and Professions Code), for the cost of investigation
6 and enforcement as permitted by law, and for such other and further relief as may be proper
7 under other provisions of law, and for costs of audit.

8 Dated at San Diego, California

9 this 17 day of July, 2020.

10 
11 Veronica Kilpatrick
12 Supervising Special Investigator

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18 cc: EVEREST REALTY GROUP CALIFORNIA, LTD.
19 CHARLENE M. SIEMON
20 LAURA LEE BAYER
21 Enforcement – J. Munoz, V. Kilpatrick
Audits – I. Beltran, J. Lin
Sacto.