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DEPT. OF REAL ESTATE

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8 BEFORE THE DEPARTMENT OF REAL ESTATE
 9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-41937 LA
 12 SERGIO LOUIS LOPEZ OLVERA,)
 13 ACTIVE REALTY INC., and JUSTIN) FIRST AMENDED ACCUSATION
 14 R. TYE, individually and as designated)
 officer of Active Realty Inc.,)
 15 Respondents.)

16 **This First Amended Accusation amends the Accusation filed on April 26, 2021.** The
 17 Accusation filed on April 26, 2021 is amended to revise the caption to correct a typographical
 18 error that incorrectly listed the Case Number as H-41930 LA, so that it is now correctly listed as
 19 H-41937 LA. No other parts of the Accusation filed on April 26, 2021 are affected.

20 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the
 21 Department of Real Estate ("Department" or "DRE") of the State of California, for cause of
 22 Accusation against SERGIO LOUIS LOPEZ OLVERA ("OLVERA), ACTIVE REALTY INC.
 23 ("ARI"), and JUSTIN R. TYE ("TYE"), collectively, "Respondents," is informed and alleges in
 24 her official capacity as follows:

- 25 1. The Complainant, Veronica Kilpatrick, acting in her official capacity as a
 26 Supervising Special Investigator, makes this Accusation against Respondents.
- 27 2. All references to the "Code" are to the California Business and Professions Code
 28 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

1 LICENSE HISTORY

2 3. Respondent OLVERA presently has license rights under the Real Estate Law, Part
3 1 of Division 4 of the Code as a real estate salesperson ("RES"), License ID 01784239.

4 a. OLVERA was first licensed by the DRE as a RES on or about August 20,
5 2015.

6 b. On or about May 23, 2019, the DRE suspended OLVERA's license for non-
7 compliance with Family Code section 17520, for not being in compliance with a child
8 support order. On August 18, 2019, OLVERA's license expired. On or about April 9,
9 2020, OLVERA's suspension was released, and on April 13, 2020 his license was renewed
10 and reinstated. OLVERA's license is currently scheduled to expire on April 12, 2024
11 unless renewed.

12 c. According to the DRE's records, OLVERA's employing broker of record
13 has been as follows:

14 (1) Jayco Financial Services, Inc. ("Jayco") (DRE License ID 01933474)
15 from August 20, 2015 to May 22, 2019; and

16 (2) ARI (DRE License ID 01868831) from April 13, 2020 to present.

17 4. Respondent ARI has been licensed by the Department as a real estate corporation
18 ("REC"), License ID 01868831, from on or about August 12, 2009 through the present, with
19 ARI's license scheduled to expire on August 11, 2021 unless renewed. ARI is licensed through
20 Respondent TYE's real estate broker ("REB") license, ID 01728694, and TYE is the designated
21 officer ("D.O."). ARI currently has no active fictitious business names licensed with the DRE.
22 As of April 2021, ARI has one branch office, and employs seven broker associates and 145
23 salespersons.

24 5. Respondent TYE has been licensed by the Department as a REB, from on or about
25 June 4, 2009 through the present, with TYE's license originally scheduled to expire on June 3,
26 2021, however, pursuant the Governor's Executive Order No. N-83-20, TYE's REB license
27 expiration date has been extended until June 30, 2021, unless renewed. Prior to becoming a REB,
28 TYE was licensed as a RES, from February 21, 2006 through June 3, 2009. TYE currently has no

1 active fictitious business names licensed with the Department. As of April 2021, TYE employs
2 one broker associate and two salespersons.

3 **BROKERAGE: ARI**

4 6. At all times mentioned, in the Counties of Riverside and San Bernardino:

5 a. ARI and TYE engaged in the performance of activities requiring a real
6 estate license pursuant to Code section 10130, and acted and ordered, caused, authorized or
7 participated in licensed activities within the meaning Code section 10131.

8 b. ARI acted as a real estate broker, conducting licensed activities within the
9 meaning of Code section 10131(a): selling and buying real property for others.

10 c. ARI was acting by and through TYE as its D.O. pursuant to Code section
11 10159.2, and TYE was thus responsible for ensuring compliance with the Real Estate Law.

12 **FACTS DISCOVERED BY DRE**

13 **OLVERA'S RES LICENSE SUSPENSION**

14 7. From on or about August 20, 2015 to May 22, 2019, OLVERA was employed by
15 Jayco.

16 8. On or about April 22, 2019, the DRE mailed OLVERA a 30-Day Notice of
17 Intention to Suspend OLVERA's real estate license, informing him that he needed submit a
18 Support Obligor Fee Notice, form RE 288, with the required fee of \$95.00.

19 9. On or about May 23, 2019, the DRE suspended OLVERA's license for non-
20 compliance with Family Code section 17520, for not being in compliance with a child support
21 order.

22 10. On or about June 26, 2019, the DRE mailed OLVERA a Notice of Suspension,
23 informing OLVERA that, effective May 23, 2019, his real estate license had been suspended
24 indefinitely, and as of that date, OLVERA may no longer conduct real estate activities, may not
25 collect commissions or any form of compensation for any real estate activity that requires a real
26 estate license. The notice also informed OLVERA that, in order to renew his license, a release
27 would need to be submitted by the appropriate Department of Child Support Services (DCSS)

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1 11. office, and OLVERA would need to submit a Support Obligor Fee Notice, form RE
2 288, and the \$95 fee, along with required documents and renewal fees.

3 12. On or about June 28, 2019, OLVERA obtained the DCSS Release and submitted it
4 to the DRE.

5 13. On or about July 11, 2019, and again on July 29, 2019, the DRE mailed OLVERA
6 a letter informing him that because the DCSS release did not come directly from DCSS, it was
7 unacceptable. The letter also informed OLVERA that he had failed to pay the \$95 fee required to
8 have the suspension released.

9 14. On or about February 27, 2020, OLVERA again submitted the DCSS Release, and
10 again failed to pay the \$95 fee.

11 15. On or about April 1, 2020, OLVERA paid the fee to have the suspension released.

12 16. On or about April 9, 2020, OLVERA's suspension was released.

13 17. On or about April 13, 2020, OLVERA's RES license was renewed and reinstated.

14 18. As of April 13, 2020, OLVERA became licensed under ARI's REC license.

15 According to TYE, OLVERA had been working for ARI since February 2019. OLVERA signed
16 an Independent Contractor Agreement with ARI on or about July 9, 2019, which provides that all
17 earned commissions are paid directly to ARI, and ARI will disburse a commission check to the
18 salesperson.

19 COMPLAINTS TO THE DRE

20 19. On or about July 30, 2019, the DRE received a complaint from C.E.^{1/} alleging that
21 OLVERA was the co-listing agent, and TYE was the listing agent, for the following properties
22 while OLVERA's RES license was suspended:

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<u>Date of Offer</u>	<u>Property Address</u>	<u>Close Date</u>	<u>Total Commission</u>
07/03/2019	27455 Ventura Dr, Cathedral City, CA	07/23/2019	\$2,599
07/10/2019	1148 Cedar Hollow Rd, Beaumont, CA	08/30/2019	\$3,949
07/12/2019	1310 Rover Ln #F, Beaumont, CA	09/18/2019	\$2,900
07/31/2019	31164 Via Pared, Thousand Palms, CA	09/10/2019	\$2,840

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28 ^{1/} Initials are used in place of an individual's full name to protect their privacy. Documents containing the individual's full name will be provided during the discovery phase of this case to Respondents and/or their attorney(s), after service of a timely and proper request for discovery on Complainant's counsel.

08/11/2019	1557 Mountain View, Beaumont, CA	10/07/2019	\$3,499
08/11/2019	1688 Garland Way, Beaumont, CA	09/19/2019	\$4,050
08/11/2019	11966 Glacier Ct, Yucaipa, CA	09/27/2019	\$3,900
08/28/2019	13072 Bowker Play Ct, Beaumont, CA	10/11/2019	\$3,350

20. TYE provided the Residential Purchase Agreements and closing statements in the above transactions, which confirmed that OLVERA acted as the listing agent, and the commissions received by the listing broker, ARI. Some of the buyer's agents in the above transactions confirmed that OLVERA was the listing agent they had contact with during the transactions.

21. On or about November 12, 2019, the DRE received an anonymous complaint alleging that OLVERA was the co-listing agent or acted in the capacity of an agent for the following properties while OLVERA's RES license was suspended:

MLS	Property Address	List Date	Close Date	Listing Agent
IG19145194	27455 Ventura Dr, Cathedral City, CA	07/01/2019	07/23/2019	OLVERA
IG19148103	1148 Cedar Hollow Rd, Beaumont, CA	06/26/2019	08/30/2019	OLVERA
IG19161399	31164 Via Pared, Thousand Palms, CA	07/28/2019	09/10/2019	OLVERA
IG19145795	1310 Rover Ln #F, Beaumont, CA	06/21/2019	09/18/2019	OLVERA
IG19148353	1688 Garland Way, Beaumont, CA	07/17/2019	09/19/2019	OLVERA
IG19157170	11966 Glacier Ct, Yucaipa, CA	07/22/2019	09/27/2019	OLVERA
IG19145449	1557 Mountain View, Beaumont, CA	06/23/2019	10/07/2019	OLVERA
IG19141791	13072 Bowker Play Ct, Beaumont, CA	06/21/2019	10/15/2019	OLVERA
IG19183927	887 Montclair Dr, Banning, CA	09/10/2019	10/21/2019	OLVERA
IG19168163	34119 Lake Breeze Dr, Yucaipa, CA	08/05/2019	11/01/2019	OLVERA
IG19209376	12828 Miracle Hill Rd, Desert Hot Springs, CA	09/21/2019	11/01/2019	OLVERA
IG19200542	1465 Lyra Way, Beaumont, CA	09/04/2019	11/21/2019	OLVERA
IG19229278	1079 W King St, Banning, CA	10/27/2019	11/27/2019	OLVERA
IG19246685	36579 Bay Hill Dr, Beaumont, CA	11/05/2019	12/16/2019	OLVERA
IG19165112	13057 Bowker Play Ct, Beaumont, CA	08/01/2019	12/17/2019	OLVERA
IG19223057	36066 Calle Tomas, Cathedral City, CA	09/18/2019	02/05/2020	TYE
IG19252263	33461 Rosemond St, Yucaipa, CA	10/30/2019	CANCELLED	TYE
IG19247175	62449 N Starcross Dr, Desert Hot Springs, CA	11/01/2019	02/24/2020	Henry
IG19194624	40165 Baltursol Cir #24-6, Pam Desert, CA	09/02/2019	03/05/2020	Henry
IG19206299	64730 Tamara Rd, Cathedral City, CA	10/05/2019	03/17/2020	Henry
IG19150669	52793 Overlook Dr, Idyllwild, CA	07/26/2019	04/15/2020	Henry
IG19180808	76511 Daffodil Dr, Palm Desert, CA	08/09/2019	06/09/2020	Henry
IG19170522	2388 E Via Escuela, Palm Desert, CA	08/05/2019	06/10/2020	Henry

22. The anonymous complainant printed out several Multiple Listing Service ("MLS") residential home sale listings in which OLVERA was listed as listing agent. The DRE

1 subpoenaed the MLS listings from California Regional Multiple Listing Service ("CRMLS"),
2 which confirmed that OLVERA was the listing or buyer's agent in the transaction while his
3 license was suspended. ARI was listed as broker or co-listing agent in all the transactions. After
4 the DRE contacted ARI, OLVERA was removed as listing agent and RES Eric Henry, License ID
5 01739295, became the listing agent for the transactions that closed in 2020.

6 **VIOLATIONS OF THE REAL ESTATE LAW – CAUSES FOR DISCIPLINE**

7 23. In the course of the activities described above in Paragraph 6, and based on the
8 facts discovered by the DRE, as described in Paragraphs 7 through 21 above, Respondents acted in
9 violation of the Code and Regulations as follows.

10 **FIRST CAUSE OF ACCUSATION**

11 24. The Complainant realleges and incorporates by reference all of the allegations
12 contained in paragraphs 1 through 22 above with the same force and effect as though fully set
13 forth herein.

14 25. ARI's acts and/or omissions in retaining OLVERA to engage in real estate
15 activities requiring a license, in paying commissions to OLVERA for engaging in real estate
16 activities requiring a license, during the time period when OLVERA's license was suspended,
17 between May 23, 2019 and April 12, 2020, and in failing to notify the DRE within five (5) days
18 that ARI had retained OLVERA as a RES to conduct activities requiring a license are in violation
19 of Code sections 10137, 10161.8(b), 10177(d) and/or 10177(g), and Regulation 2752, and
20 constitute cause to suspend or revoke the real estate licenses and license rights of Respondent ARI
21 pursuant to Code sections 10177(d) and/or 10177(g).

22 **SECOND CAUSE OF ACCUSATION**

23 26. The Complainant realleges and incorporates by reference all of the allegations
24 contained in paragraphs 1 through 24 above with the same force and effect as though fully set
25 forth herein.

26 27. TYE's acts and/or omissions, as alleged above in paragraphs 1 through 24, and in
27 the First Cause of Accusation, are in violation of Code sections 10137, 10159.2, 10161.8(b),
28 10177(h), 10177(d) and/or 10177(g), and Regulations 2725 and 2752, and constitute cause to

1 suspend or revoke the real estate licenses and license rights of Respondent TYE pursuant to Code
2 sections 10177(h), 10177(d) and/or 10177(g).

3 THIRD CAUSE OF ACCUSATION

4 28. The Complainant realleges and incorporates by reference all of the allegations
5 contained in paragraphs 1 through 26 above with the same force and effect as though fully set
6 forth herein.

7 29. OLVERA's acts and/or omissions, as alleged above in paragraphs 1 through 26,
8 are in violation of Code sections 10130, and 10177(d) and/or 10177(g), and constitute cause to
9 suspend or revoke the real estate licenses and license rights of Respondent OLVERA pursuant to
10 Code sections 10177(d) and/or 10177(g).

11 COSTS

12 (INVESTIGATION AND ENFORCEMENT COSTS)

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

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this
2 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
3 against all the licenses and license rights of Respondents SERGIO LOUIS LOPEZ OLVERA,
4 ACTIVE REALTY INC., and JUSTIN R. TYE under the Real Estate Law, for the costs of
5 investigation and enforcement as permitted by law, and for such other and further relief as may be
6 proper under other applicable provisions of law.

7 Dated at San Diego, California this 18 day of June, 2021.

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Veronica Kilpatrick

Veronica Kilpatrick
Supervising Special Investigator

cc: SERGIO LOUIS LOPEZ OLVERA
ACTIVE REALTY INC.
JUSTIN R. TYE
Veronica Kilpatrick
Sacto.