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**FILED**

**MAR 30 2021**

**DEPT. OF REAL ESTATE**

By Zoi - J

7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) No. H-41952 LA  
12 AMANDA J. PHILP, )  
13 Respondent. ) ACCUSATION

14  
15 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the  
16 State of California, for cause of Accusation against AMANDA J. PHILP, a.k.a. Amanda J.  
17 Daniels a.k.a. Amanda Jane Philp ("Respondent") alleges as follows:

18 1.

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

21 2.

22 A. Respondent is presently licensed and/or has license rights under the Real  
23 Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code") as a  
24 real estate salesperson ("RES") Department of Real Estate ("Department" or "DRE") license  
25 ID 01861806.

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1 B. Respondent was first issued a RES license by the DRE on or about April 13,  
2 2009.

3 C. According to DRE records to date, Respondent's RES license will expire on  
4 July 10, 2021.

5 FACTS DISCOVERED BY THE DEPARTMENT

6 (CRIMINAL CONVICTION)

7 3.

8 December 6, 2019 – Riverside County Case Number SWM1905744

9 (Penal Code Section 243(e)(1))

10 On or about November 25, 2019, in the State of California, in Riverside County  
11 Case Number SWM1905744, The People of the State of California vs. Amanda Jane Philp, a  
12 Misdemeanor Complaint was filed against Respondent for violation of Count One: Penal Code  
13 ("PC") Section 243(e)(1) (battery upon a cohabitant, parent of defendant's child,  
14 non-cohabitating former spouse, fiancé/fiancée, person with whom defendant has or had a  
15 dating relationship).

16 4.

17 On or about December 6, 2019, Respondent pled guilty to, and was convicted  
18 for, violation of PC Section 243(e)(1) (Count 1). On the same day, Respondent was sentenced  
19 to 36 months summary probation and committed to the custody of the Riverside County Sheriff  
20 for twenty (20) days, eighteen (18) days of which to be served in a Work Release Program.  
21 Additionally, Respondent was ordered by the court to: perform twenty (20) hours of  
22 community service; complete a 52-week Domestic Violence Program pursuant to PC Section  
23 1203.097; attend twelve (12) Alcoholics Anonymous ("AA") meetings; pay court fines and  
24 fees; pay victim restitution; and stay away from the victim.

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27 DRE ACCUSATION: AMANDA J. PHILP

1 5.

2 December 6, 2019 – Riverside County Case Number SWM086939

3 (Vehicle Code Section 14601.2(a))

4 On or about July 6, 2009, in the State of California, in Riverside County Case  
5 Number SWM086939, The People of the State of California vs. Amanda Jane Daniels, a  
6 Misdemeanor Complaint was filed against Respondent for violation of Count One: Vehicle  
7 Code (“VC”) Section 14601.2(a) (drive a motor vehicle upon a highway at a time when his/her  
8 driving privilege was suspended and revoked for a reason other than the influence of an  
9 alcoholic beverage and a drug and under their combined influence, having knowledge of such  
10 suspension and revocation; [revocation not related to driving]). (On June 18, 2009, the  
11 Temecula Police Department had issued a Notice to Appear to Respondent for her appearance  
12 at the Riverside Superior Court - Southwest Justice Center on August 10, 2009.)

13 6.

14 On the date of the arraignment, August 10, 2009, Respondent did not appear, a  
15 bench warrant was issued for her failure to appear, and bail was set at \$5,000.00.

16 7.

17 On December 5, 2019, the court issued a bench warrant for Respondent’s failure  
18 to appear and set bail at \$15,000.00.

19 8.

20 On or about December 6, 2019, Respondent pled guilty to, and was convicted  
21 for, violation of VC Section 14601.2(a) (Count 1). On the same day, Respondent ordered to  
22 pay court fines and fees.

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9.

(AGGRAVATION)

May 29, 2009 – Riverside County Case Number SWM084986

(Vehicle Code Section 14601.1(a))

On or about April 23, 2009, in the State of California, in Riverside County Case Number SWM084986, The People of the State of California vs. Amanda Jane Daniels, a Misdemeanor Complaint was filed against Respondent for violation of Count One: VC Section 14601.2(a) (drive a motor vehicle upon a highway at a time when his/her driving privilege was suspended and revoked for a reason other than the influence of an alcoholic beverage and a drug and under their combined influence, having knowledge of such suspension and revocation; [revocation not related to driving]). (On March 18, 2009, the Temecula Police Department had issued a Notice to Appear to Respondent for her appearance at the Riverside Superior Court - Southwest Justice Center on May 29, 2009.)

10.

On the date of the arraignment, May 29, 2009, Respondent did not appear; a bench warrant was issued for her failure to appear; bail was set at \$2,500.00; and the court ordered that an Additional Complaint be filed to add a violation of VC 40508(a) as Count 2. On or about June 3, 2009, an additional charge was added to Complaint SWM08496 as Count 2: violation of VC 40508(a) (failure to appear in accordance with written promise to appear on issued citation).

11.

On the continued date of the arraignment, August 18 2009, Respondent did not appear; a bench warrant was issued for her failure to appear; bail was set at \$5,000.00; and the court ordered that an Additional Complaint be filed to add a violation of VC 40508(a) as Count 3. On or about August 31, 2009, an additional charge was added to Complaint SWM08496 as

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1 Count 3: violation of VC 40508(a) (failure to appear in accordance with written promise to  
2 appear on issued citation).

3 12.

4 On or about December 6, 2019, Respondent pled guilty to, and was convicted  
5 for, violation of VC Section 14601.1(a) (Count 1). On the same day, Respondent was ordered  
6 to pay court fines and fees.

7 13.

8 (AGGRAVATION)

9 May 2, 2008 – Riverside County Case Number SWM074498

10 (Vehicle Code Section 23152(a))

11 On or about April 4, 2008, in the State of California, in Riverside County Case  
12 Number SWM074498, The People of the State of California vs. Amanda Jane Daniels, a  
13 Misdemeanor Complaint was filed against Respondent for violation of: VC Section 23152(a)  
14 (willfully and unlawfully drive a vehicle while under the influence of an alcoholic beverage and  
15 a drug and under their combined influence) (Count 1) and VC 23152(b) (willfully and  
16 unlawfully drive a vehicle while having 0.08 percent and more, by weight, of alcohol in her  
17 blood and 0.08 grams and more of alcohol per 210 liters of her breath (Count 2). (On March  
18 15, 2008, the Murrieta Police Department had issued a Notice to Appear to Respondent for her  
19 appearance at the Riverside Superior Court - Southwest Justice Center on May 2, 2008.)

20 14.

21 On or about May 2, 2008, Respondent pled guilty to, and was convicted for,  
22 violation of VC Section 23152(a) (Count 1) and VC 23152(b) (Count 2). On the same day,  
23 Respondent was sentenced to 36 months summary probation and committed to the custody of  
24 the Riverside County Sheriff for one day. Additionally, Respondent was ordered by the court  
25 to: perform 48 hours of community service; complete a First Offender Driving Under the  
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1 Influence ("DUI") Program; and pay court fines and fees. Respondent was notified on the May  
2 2, 2008 of the suspension of his Department of Motor Vehicles ("DMV") license pursuant to  
3 VC 13352(a)(1), effective on the same day.

4 15.

5 On or about December 6, 2019, upon Respondent's admission to her violation of  
6 probation, the court reinstated and modified probation; the 48 hours of community service was  
7 reinstated and Respondent was committed to the custody of the Riverside County Sheriff for 60  
8 days (jail time to be served in work release in lieu of county jail). Additionally, Respondent  
9 was ordered to pay court fines and fees.

10 16.

11 (NON-REPORT OF CRIMINAL COMPLAINT TO THE DRE: CASE NO. SWM1905744)

12 Respondent did not report in writing to the Department, the aforementioned  
13 complaints in Case No. SWM1905744, as described above in Paragraph 3, within thirty (30)  
14 days of said Misdemeanor Complaint on November 25, 2019.

15 17.

16 (NON-REPORT OF CRIMINAL CONVICTION TO THE DRE: CASE NO. SWM1905744)

17 Respondent did not report in writing to the Department, the aforementioned  
18 criminal conviction in Case No. SWM1905744, as described above in Paragraph 4, within  
19 thirty (30) days of the conviction on December 6, 2019.

20 18.

21 (NON-REPORT OF CRIMINAL CONVICTION TO THE DRE: CASE NO. SWM086939)

22 Respondent did not report in writing to the Department, the aforementioned  
23 criminal conviction in Case No. SWM086939, as described above in Paragraph 8, within thirty  
24 (30) days of the conviction on December 6, 2019.

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1 this section establishes an independent basis for a board to impose discipline upon a licensee,  
2 and that the amendments to this section made by Chapter 33 of the Statutes of 2008 do not  
3 constitute a change to, but rather are declaratory of, existing law.”

4  
5 20.

6 Regulation 2910

7 Pursuant to Regulation 2910 *Criteria of Substantial Relationship:*

8 Pursuant to Regulation 2910 *Criteria of Substantial Relationship:*

9 “(a) When considering whether a license should be denied, suspended or  
10 revoked on the basis of the conviction of a crime, or on the basis of an act described in Section  
11 480(a)(2) or 480(a)(3) of the Code, the crime or act shall be deemed to be substantially related  
12 to the qualifications, functions or duties of a licensee of the Bureau within the meaning of  
13 Sections 480 and 490 of the Code if it involves:

- 14 (1) The fraudulent taking, obtaining, appropriating or retaining of funds  
15 or property belonging to another person.
- 16 (2) Counterfeiting, forging or altering of an instrument or the uttering of  
17 a false statement.
- 18 (3) Willfully attempting to derive a personal financial benefit through the  
19 nonpayment or underpayment of taxes, assessments or levies duly  
20 imposed upon the licensee or applicant by federal, state, or local  
21 government.
- 22 (4) The employment of bribery, fraud, deceit, falsehood or  
23 misrepresentation to achieve an end.
- 24 (5) Sexually related conduct affecting a person who is an observer or  
25 non-consenting participant in the conduct or convictions which require  
26 registration pursuant to the provisions of Section 290 of the Penal Code.

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(6) Willfully violating or failing to comply with a provision of Division 4 of the Business and Professions Code of the State of California.

(7) Willfully violating or failing to comply with a statutory requirement that a license, permit or other entitlement be obtained from a duly constituted public authority before engaging in a business or course of conduct.

(8) Doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another.

(9) Contempt of court or willful failure to comply with a court order.

(10) Conduct which demonstrates a pattern of repeated and willful disregard of law.

(11) Two or more convictions involving the consumption or use of alcohol or drugs when at least one of the convictions involve driving and the use or consumption of alcohol or drugs.

(b) The conviction of a crime constituting an attempt, solicitation or conspiracy to commit any of the above enumerated acts or omissions is also deemed to be substantially related to the qualifications, functions or duties of a licensee of the department.

(c) If the crime or act is substantially related to the qualifications, functions or duties of a licensee of the department, the context in which the crime or acts were committed shall go only to the question of the weight to be accorded to the crime or acts in considering the action to be taken with respect to the applicant or licensee.”

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Code Section 10177

(selected portions)

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

“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, or may suspend or revoke the license of a corporation, delay the renewal of a license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation’s stock has done any of the following:

(a) Procured, or attempted to procure, a real estate license or license renewal, for themselves or a salesperson, by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a real estate license, license renewal, or reinstatement.

(b) (1) Entered a plea of guilty or no contest to, or been found guilty of, or been convicted of, a felony, or a crime substantially related to the qualifications, functions, or duties of a real estate licensee, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing that licensee to withdraw that licensee’s plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

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1 (2) Notwithstanding paragraph (1), and with the recognition that  
2 sentencing may not occur for months or years following the entry  
3 of a guilty plea, the commissioner may suspend the license of a  
4 real estate licensee upon the entry by the licensee of a guilty plea  
5 to any of the crimes described in paragraph (1). If the guilty plea  
6 is withdrawn, the suspension shall be rescinded and the license  
7 reinstated to its status prior to the suspension. The department  
8 shall notify a person whose license is subject to suspension  
9 pursuant to this paragraph of that person's right to have the issue  
10 of the suspension heard in accordance with Section 10100..."

11 22.

12 Code Section 10186.2

13 Pursuant to Code Section 10186.2 *Reporting of Convictions, Indictments and*  
14 *License Disciplinary Actions:*

15 "(a) (1) A licensee shall report any of the following to the department:

16 (A) The bringing of a criminal complaint, information, or indictment  
17 charging a felony against the licensee.

18 (B) The conviction of the licensee, including any verdict of guilty, or  
19 plea of guilty or no contest, of any felony or misdemeanor.

20 (C) Any disciplinary action taken by another licensing entity or authority  
21 of this state or of another state or an agency of the federal government.

22 (2) The report required by this subdivision shall be made in writing within 30  
23 days of the date of the bringing of the indictment or the charging of a  
24 felony, the conviction, or the disciplinary action.

25 (b) Failure to make a report required by this section shall constitute a cause for  
26 discipline."

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Code Section 10106

(Costs)

Pursuant to Code Section 10106 *Cost Recovery of Investigations*:

“(a) Except as otherwise provided by law, 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 the investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the commissioner or the commissioner’s designated representative, shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the commissioner to increase the cost award. The commissioner may reduce or eliminate the cost award, or remand to the administrative law judge where the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) Where an order for recovery of costs is made and timely payment is not made as directed in the commissioner’s decision, the commissioner may enforce the order for

1 repayment in any appropriate court. This right of enforcement shall be in addition to any other  
2 rights the commissioner may have as to any licensee to pay costs.

3 (f) In any action for recovery of costs, proof of the commissioner's decision  
4 shall be conclusive proof of the validity of the order of payment and the terms for payment.

5 (g) (1) Except as provided in paragraph (2), the department shall not renew or  
6 reinstate the license of any licensee who has failed to pay all of the costs ordered under this  
7 section.

8 (2) The department may, in its discretion, conditionally renew or reinstate  
9 for a maximum of one year the license of any licensee who demonstrates  
10 financial hardship and who enters into a formal agreement with the  
11 department to reimburse the department within that one-year period for the  
12 unpaid costs.

13 (h) All costs recovered under this section shall be considered a reimbursement  
14 for costs incurred and shall be deposited in the Real Estate Fund to be available,  
15 notwithstanding Section 10451, upon appropriation by the Legislature.

16 (i) Nothing in this section shall preclude the department from including the  
17 recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

18 FIRST CAUSE FOR DISCIPLINE

19 (SUBSTANTIALLY RELATED CRIMES)

20 24.

21 The crimes of which Respondent was convicted, as described above in  
22 Paragraphs 4 and 8 (Case Nos. SWM1905744 and SWM086939, respectively), by their facts  
23 and circumstances, bear a substantial relationship under Section 2910, Title 10, Chapter 6,  
24 California Code of Regulations to the qualifications, functions or duties of a real estate  
25 licensee.

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25.

The crimes of which Respondent was convicted, as described above in Paragraphs 4 and 8 (Case Nos. SWM1905744 and SWM086939, respectively), constitute cause under **Code Sections 490 and 10177(b)** for the suspension or revocation of Respondent's RES license and license rights under the Real Estate Law.

SECOND CAUSE FOR DISCIPLINE  
(FAILURES TO REPORT)

26.

Respondent's failure to report the November 25, 2019 Misdemeanor Complaint in Case No. SWM1905744 constitutes cause for discipline under **Code Section 10186.2** of the RES license and license rights of Respondent under the Real Estate Law.

27.

Respondent's failure to report the December 6, 2019 criminal conviction in Case No. SWM1905744 constitutes cause for discipline under **Code Section 10186.2** of the RES license and license rights of Respondent under the Real Estate Law.

28.

Respondent's failure to report the December 6, 2019 criminal conviction in Case No. SWM086939 constitutes cause for discipline under **Code Section 10186.2** of the RES license and license rights of Respondent under the Real Estate Law.

COSTS

29.

**Code Section 10106** provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, 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.

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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 licenses and/or license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) of Respondent AMANDA J. PHILP, for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under applicable provisions of law.

Dated at San Diego, California

this 10 day of March, 2021.

  
\_\_\_\_\_  
Veronica Kilpatrick  
Supervising Special Investigator

cc: AMANDA J. PHILP  
Rancho Realty, Inc. (Designated Officer: Donald Edward Gebhard)  
Veronica Kilpatrick  
Sacto.

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