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**FILED**  
APR 04 2008  
DEPARTMENT OF REAL ESTATE  
By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	
	)	NO. H-9954 SF
SUN YUEN LIU,	)	
GLORIA KWANG-YU YUAN and	)	OAH NO. 2007060089
UNITED AMERICAN INVESTMENT INC.	)	
	)	
Respondents.	)	
	)	

DECISION AFTER REJECTION

The matter came for hearing before Steven C. Owyang, Administrative Law Judge of the Office of Administrative Hearings, on August 27, 2007, at Oakland, California.

David B. Seals, Counsel, represented the Complainant.

Respondents SUN YUEN LIU, GLORIA KWANG-YU YUAN appeared and along with UNITED AMERICAN INVESTMENTS, INC. were represented by Thomas Breen Kidwell.

The record was closed and the matter submitted on October 1, 2007.

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1           On October 31, 2007, the Administrative Law Judge  
2 (hereinafter "ALJ") submitted a Proposed Decision that I  
3 declined to adopt as my Decision herein. Pursuant to Section  
4 11517(c) of the Government Code of the State of California,  
5 Respondents were served with notice of my determination not to  
6 adopt the Proposed Decision of the ALJ along with a copy of said  
7 Proposed Decision. Respondents were notified that the case  
8 would be decided by me upon the record, the transcript of  
9 proceedings held on August 27, 2007, and upon any written  
10 argument offered by Respondent and Complainant.

11           I have given careful consideration to the record in  
12 this case including the transcript of proceedings held on  
13 August 27, 2007, and the written arguments of both Respondents  
14 and Complainant.

15           The following shall constitute the Decision of the  
16 Real Estate Commissioner in this proceeding:

17                           FACTUAL FINDINGS

18           1. Complainant E.J. Haberer II filed the Accusation  
19 in his official capacity as a Deputy Real Estate Commissioner  
20 for the Department of Real Estate, State of California.

21           2. Respondent SUN YUEN LIU is a licensed real estate  
22 broker doing business as United Investments Co. and United  
23 Mortgage Co. and as the designated officer of United American  
24 Investments, Inc.

25           3. Respondent UNITED AMERICAN INVESTMENTS, INC. (UAI),  
26 is a licensed corporate real estate broker doing business as  
27 Lyon Properties and United Properties.



VIII

1  
2 Respondent YUAN was compensated by Respondent UIA for  
3 performing the acts for which a real estate license is required  
4 and discussed in Paragraphs V and VI in violation of Sections  
5 10130 and 10137 of the Code."

6 5. Respondent YUAN was questioned on cross-examination  
7 regarding commissions she received on the Pang transaction, as  
8 follows:

9 "Q. Do you remember the amount of commission  
10 you got on the Pang transaction?

11 A. It should be around -- more than 12,000.

12 Q. And that was your portion of the  
13 commission.

14 A. That's -- I don't remember. Maybe that's  
15 three percent of the sales price.

16 Q. Do you know what your percentage is?

17 A. Yes, I do.

18 Q. What is -- what was that at the time?

19 A. At that time?

20 Q. Yes.

21 A. Ninety.

22 JUDGE OWYANG: Is that 90 percent of the  
23 3 percent?

24 THE WITNESS: Yes." (Transcript pg 47, line 15  
25 through pg 48, line 5).

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1           6. Exhibit 7 in evidence at the hearing was copies of  
2 receipts of commissions earned by Respondent YUAN while  
3 unlicensed and in the employ of Respondent LIU. Those receipts  
4 totaled in excess of \$30,000.

5           7. Respondent YUAN further testified that she didn't  
6 realize she was not licensed when she was involved in the Pang  
7 transaction. However, she had been licensed by the Department  
8 since 1987 and had never forgotten to renew her license before.  
9 (Transcript pgs. 42 and 43)

10           8. Both Respondents YUAN and LIU indicated that they  
11 were aware of the Pang transaction when it was going on but that  
12 neither was aware that Respondent YUAN was not licensed at the  
13 time. In fact, Respondent LIU testified that he did not find out  
14 that Respondent YUAN was not licensed until she told him she had  
15 to renew in early 2006. (Transcript pgs. 54 and 55). On cross-  
16 examination when asked about any policy he had in effect to find  
17 out if one of his licensees' has an expired Respondent LIU  
18 testified, as follows:

19           "Q. Now, you indicated you didn't have any  
20 policy in place to find out whether somebody's  
21 license was expired, correct?

22           A. Correct.

23           Q. Why didn't you do that?

24           A. Okay, as I know real estate practice  
25 before your license -- three months before your  
26 license expire they send you a letter asking you  
27 to continue education. Like myself, I always

1 receive a letter three months before. So I  
2 renewed my license. No problem.

3 Q. Right. But you have responsibility for  
4 all your sales people too.

5 A. The salesperson, the license as far as --  
6 they are supposed to keep it up, not me. I carry  
7 mine. Like Ms. Yuan testified, you have to take  
8 the real estate courses to improve your  
9 knowledge. But in license expiration, no."

10 (Transcript pg. 68)

11 9. Robert Anderson, a former Deputy Real Estate  
12 Commissioner, testified on behalf of the Department regarding  
13 the findings contained in both a Mortgage Loan Broker Office  
14 Survey (hereinafter MLBOS) (Exhibit 6) and a Broker Office  
15 Survey (hereinafter BOS) (Exhibit 5) which he conducted on June  
16 13, 2006 on Respondent UIA and LIU, respectively. (Transcript  
17 pgs. 11 through 37)

18 10. The MLBOS indicated that Respondent UIA failed to  
19 have a prescribed Mortgage Loan Disclosure Statement or Good  
20 Faith Estimate in his loan files and that salesperson Jennifer  
21 Mou Ang's license certificate and broker-salesperson agreements  
22 were not at the main office address. The BOS indicated that  
23 Respondent LIU failed to (1) have policies and procedures to  
24 assist him in determining if a salesperson's license had  
25 expired; (2) notify the Department of terminated employees; and  
26 (3) have employment agreements with all salespersons.

27 ///

1           11. Former Deputy Anderson failed to ask Respondent  
2 LIU if he keep broker-salesperson agreements in any place other  
3 than his main office.

4           12. It is found, based on the testimony of Respondent  
5 LIU, that he had notified the Department of all terminated  
6 employees and that he had employment agreements for all of his  
7 employees but the agreements were in storage and therefore the  
8 deputy did not see them.

9           13. Respondent LIU testified that he did not use the  
10 Mortgage Loan Disclosure Statement specified by the Department.  
11 He testified that he used his own "good faith estimate".  
12 Respondent LIU was asked on direct examination about this issue,  
13 as follows:

14                   "Q. He also said you were not using the form  
15 required by the Department of Real Estate; is  
16 that correct?

17                   A. The Department of Real Estate form is two  
18 pages; mine is one page. It's shortened form.  
19 Most everything in the real estate file we got in  
20 there. The only exception is no telephone number  
21 for the Department of Real Estate in my own form.

22                   Q. That's the only thing that differs from the  
23 two forms.

24                   A. Yes." (Transcript pg. 62)

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1           On cross-examination more clarification was obtained,  
2 as follows:

3           "Q. Now, you indicated you don't use the  
4 Department's Mortgage Loan Disclosure Statements  
5 because it's too long.

6           A. It was two pages, legal size.

7           Q. And you said everything that's on the  
8 Department's statement is on yours too.

9           A. Mine is, say, short form; mine.

10          Q. Excuse me?

11          A. Mine is a short form, legal size -- I'm  
12 sorry, letter size.

13          Q. And did you have that form approved by the  
14 Department?

15          A. No. It was approved by lender." (Transcript  
16 pg. 65)

17                           LEGAL CONCLUSIONS

18           1. Business and Professions Code Section 10130 states:

19            "It is unlawful for any person to engage in the  
20 business, act in the capacity of, advertise or assume to act as  
21 a real estate broker or a real estate salesman within this state  
22 without first obtaining a real estate license from the  
23 department."

24           2. Section 10131(a) of the Code provides as follows:

25            "A real estate broker within the meaning of this part  
26 is a person who, for a compensation or in expectation of a  
27 compensation, regardless of the form or time of payment, does or



1 negotiates to do one or more of the following acts for another  
2 or others:

3 (a) Sells or offers to sell, buys or offers to buy,  
4 solicits prospective sellers or purchasers of, solicits or  
5 obtains listings of, or negotiates the purchase, sale or  
6 exchange of real property or a business opportunity."

7 3. Section 10132 of the Code provides as follows:

8 "A real estate salesman within the meaning of this  
9 part is a natural person who, for a compensation or in  
10 expectation of a compensation, is employed by a licensed real  
11 estate broker to do one or more of the acts set forth in  
12 Sections 10131, 10131.1, 10131.2, 10131.3, 10131.4, and  
13 10131.6."

14 4. Section 10177(d) of the Code provides:

15 "The commissioner may suspend or revoke the license of  
16 a real estate licensee, or may deny the issuance of a license to  
17 an applicant, who has done any of the following, or may suspend  
18 or revoke the license of a corporation, or deny the issuance of  
19 a license to a corporation, if an officer, director, or person  
20 owning or controlling 10 percent or more of the corporation's  
21 stock has done any of the following:

22 ...

23 "(d) Willfully disregarded or violated the Real Estate  
24 Law (Part 1 (commencing with Section 10000)) or Chapter 1  
25 (commencing with Section 11000) of Part 2 or the rules and  
26 regulations of the commissioner for the administration and

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1 enforcement of the Real Estate Law and Chapter 1 (commencing  
2 with Section 11000) of Part 2."

3           5. Section 10137 of the Code provides, in pertinent  
4 part, as follows:

5           "It is unlawful for any licensed real estate broker to  
6 employ or compensate, directly or indirectly, any person for  
7 performing any of the acts within the scope of this chapter who  
8 is not a licensed real estate broker, or a real estate salesman  
9 licensed under the broker employing or compensating him ..."

10           Taken together these above quoted sections of the Real  
11 Estate Law, in conjunction with Respondents' stipulation  
12 contained in Factual Finding 5 above establishes cause for  
13 disciplinary action against all Respondents in that Respondent  
14 YUAN was willfully paid a commission for performing acts for  
15 which a license when she was not licensed.

16           6. Section 2753 of the Regulations provides, in  
17 pertinent part, as follows:

18           "The license certificate of a real estate salesperson  
19 licensee shall be retained at the main business office of the  
20 real estate broker to whom the salesperson is licensed."

21           Cause for disciplinary action against the licenses and  
22 license rights of Respondent UIA existed pursuant to Factual  
23 Finding 10 in conjunction with Section 10177(d) of the Code and  
24 Section 2753 of the Regulations because salesperson Jennifer Mou  
25 Ang's license certificate was not retained at the main office of  
26 Respondent UIA.

27 ///

1           7. Section 10240 provides, in part, as follows:

2           "(a) Every real estate broker, upon acting within the  
3 meaning of subdivision (d) of Section 10131, who negotiates a  
4 loan to be secured directly or collaterally by a lien on real  
5 property shall, within three business days after receipt of a  
6 completed written loan application or before the borrower  
7 becomes obligated on the note, whichever is earlier, cause to be  
8 delivered to the borrower a statement in writing, containing all  
9 the information required by Section 10241. It shall be  
10 personally signed by the borrower and by the real estate broker  
11 negotiating the loan or by a real estate licensee acting for the  
12 broker in negotiating the loan. When so executed, an exact copy  
13 thereof shall be delivered to the borrower at the time of its  
14 execution. The real estate broker negotiating the loan shall  
15 retain on file for a period of three years a true and correct  
16 copy of the statement as signed by the borrower.  
17 No real estate licensee shall permit the statement to be signed  
18 by a borrower if any information required by Section 10241 is  
19 omitted."

20           8. Section 10241 of the Code provides, in pertinent  
21 part:

22           The statement required by Section 10240, the form of  
23 which shall be approved by the commissioner, shall set forth  
24 separately the following items:"

25           Factual Finding 13 taken together with Sections 10240  
26 and 10241 of the Code and Respondent UIA'S willful failure to  
27 have their "Good Faith Estimate" approved by the Commissioner

1 constitute violations of the Real Estate Law and are therefore  
2 cause for disciplinary action.

3 9. Section 10177(h) of the Code provides, in part, as  
4 follows:

5 "The commissioner may suspend or revoke the license of  
6 a real estate licensee, or may deny the issuance of a license to  
7 an applicant, who has done any of the following, or may suspend  
8 or revoke the license of a corporation, or deny the issuance of  
9 a license to a corporation, if an officer, director, or person  
10 owning or controlling 10 percent or more of the corporation's  
11 stock has done any of the following:

12 ...

13 (h) As a broker licensee, failed to exercise  
14 reasonable supervision over the activities of his or her  
15 salespersons, or, as the officer designated by a corporate  
16 broker licensee, failed to exercise reasonable supervision and  
17 control of the activities of the corporation for which a real  
18 estate license is required."

19 10. Section 2725 of the Regulations provides:

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

24 (a) Transactions requiring a real estate license.

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

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

(d) The handling of trust funds.

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

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

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

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

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

Factual Findings 4, 8, and 13 in conjunction with Section 2725 of the Regulations and Section 10177(h) of the Code establish cause for discipline against the licenses and license rights of Respondent LIU.

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ORDER

I

All licenses and licensing rights of Respondent GLORIA KWANG-YU YUAN under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Order; provided, however, that:

1. Thirty (30) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

A. Respondent GLORIA KWANG-YU YUAN shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and

B. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years from the effective date of this Order. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

2. The remaining thirty (30) days of said 60-day suspension shall be stayed upon the condition that Respondent GLORIA KWANG-YU YUAN petition pursuant to Section 10175.2 of the Business and Professions Code and pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at a rate of \$100 for each day of the suspension for a total monetary penalty of \$3,000:

1           A. Said payment shall be in the form of a cashier's  
2 check or certified check made payable to the Recovery Account of  
3 the Real Estate Fund. Said check must be delivered to the  
4 Department prior to the effective date of the Order in this  
5 matter.

6           B. No further cause for disciplinary action against  
7 the Real Estate licenses of said Respondent GLORIA KWANG-YU YUAN  
8 occurs within two (2) years from the effective date of the  
9 decision in this matter.

10           C. If Respondent GLORIA KWANG-YU YUAN fails to pay  
11 the monetary penalty as provided above prior to the effective  
12 date of this Order, the stay of the suspension shall be vacated  
13 as to Respondent GLORIA KWANG-YU YUAN and the order of  
14 suspension shall be immediately executed, under this Paragraph I  
15 of this Order, in which event Respondent GLORIA KWANG-YU YUAN  
16 shall not be entitled to any repayment nor credit, prorated or  
17 otherwise, for the money paid to the Department under the terms  
18 of this Order.

19           D. If Respondent GLORIA KWANG-YU YUAN pays the  
20 monetary penalty and any other moneys due under this Stipulation  
21 and Agreement and if no further cause for disciplinary action  
22 against the real estate licenses of Respondent GLORIA KWANG-YU  
23 YUAN occurs within two (2) years from the effective date of this  
24 Order, the entire stay hereby granted under Paragraph I of this  
25 Order, as to Respondent GLORIA KWANG-YU YUAN only, shall become  
26 permanent.

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1 II

2 All licenses and licensing rights of Respondent SUN  
3 YUEN LIU under the Real Estate Law are suspended for a period of  
4 sixty (60) days from the effective date of this Order; provided,  
5 however, that:

6 1. Thirty (30) days of said suspension shall be stayed  
7 for two (2) years upon the following terms and conditions:

8 A. Respondent SUN YUEN LIU shall obey all laws, rules  
9 and regulations governing the rights, duties and  
10 responsibilities of a real estate licensee in the State of  
11 California; and

12 B. That no final subsequent determination be made,  
13 after hearing or upon stipulation, that cause for disciplinary  
14 action occurred within two (2) years from the effective date of  
15 this Order. Should such a determination be made, the  
16 Commissioner may, in his discretion, vacate and set aside the  
17 stay order and reimpose all or a portion of the stayed  
18 suspension. Should no such determination be made, the stay  
19 imposed herein shall become permanent.

20 2. The remaining thirty (30) days of said 60-day  
21 suspension shall be stayed upon the condition that Respondent  
22 SUN YUEN LIU petition pursuant to Section 10175.2 of the  
23 Business and Professions Code and pays a monetary penalty  
24 pursuant to Section 10175.2 of the Business and Professions Code  
25 at a rate of \$100 for each day of the suspension for a total  
26 monetary penalty of \$3,000:

27 ///



1           A. Said payment shall be in the form of a cashier's  
2 check or certified check made payable to the Recovery Account of  
3 the Real Estate Fund. Said check must be delivered to the  
4 Department prior to the effective date of the Order in this  
5 matter.

6           B. No further cause for disciplinary action against  
7 the Real Estate licenses of said Respondent SUN YUEN LIU occurs  
8 within two (2) years from the effective date of the decision in  
9 this matter.

10           C. If Respondent SUN YUEN LIU fails to pay the  
11 monetary penalty as provided above prior to the effective date  
12 of this Order, the stay of the suspension shall be vacated as to  
13 Respondent SUN YUEN LIU and the order of suspension shall be  
14 immediately executed, under this Paragraph II of this Order, in  
15 which event Respondent SUN YUEN LIU shall not be entitled to any  
16 repayment nor credit, prorated or otherwise, for the money paid  
17 to the Department under the terms of this Order.

18           D. If Respondent SUN YUEN LIU pays the monetary  
19 penalty and any other moneys due under this Stipulation and  
20 Agreement and if no further cause for disciplinary action  
21 against the real estate licenses of Respondent SUN YUEN LIU  
22 occurs within two (2) years from the effective date of this  
23 Order, the entire stay hereby granted under Paragraph II of this  
24 Order, as to Respondent SUN YUEN LIU only, shall become  
25 permanent.

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1           2. The remaining thirty (30) days of said 60-day  
2 suspension shall be stayed upon the condition that Respondent  
3 UNITED AMERICAN INVESTMENTS, INC. petition pursuant to Section  
4 10175.2 of the Business and Professions Code and pays a monetary  
5 penalty pursuant to Section 10175.2 of the Business and  
6 Professions Code at a rate of \$100 for each day of the  
7 suspension for a total monetary penalty of \$3,000:

8           A. Said payment shall be in the form of a cashier's  
9 check or certified check made payable to the Recovery Account of  
10 the Real Estate Fund. Said check must be delivered to the  
11 Department prior to the effective date of the Order in this  
12 matter.

13           B. No further cause for disciplinary action against  
14 the Real Estate licenses of said Respondent UNITED AMERICAN  
15 INVESTMENTS, INC. occurs within two (2) years from the effective  
16 date of the decision in this matter.

17           C. If Respondent UNITED AMERICAN INVESTMENTS, INC.  
18 fails to pay the monetary penalty as provided above prior to the  
19 effective date of this Order, the stay of the suspension shall  
20 be vacated as to Respondent UNITED AMERICAN INVESTMENTS, INC.  
21 and the order of suspension shall be immediately executed, under  
22 this Paragraph III of this Order, in which event Respondent  
23 UNITED AMERICAN INVESTMENTS, INC. shall not be entitled to any  
24 repayment nor credit, prorated or otherwise, for the money paid  
25 to the Department under the terms of this Order.

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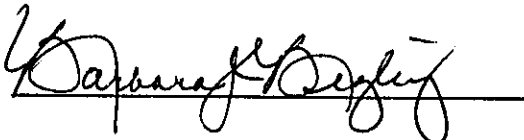
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D. If Respondent UNITED AMERICAN INVESTMENTS, INC.  
pays the monetary penalty and any other moneys due under this  
Stipulation and Agreement and if no further cause for  
disciplinary action against the real estate licenses of  
Respondent UNITED AMERICAN INVESTMENTS, INC. occurs within two  
(2) years from the effective date of this Order, the entire stay  
hereby granted under Paragraph III of this Order, as to  
Respondent UNITED AMERICAN INVESTMENTS, INC. only, shall become  
permanent.

This Decision shall become effective at 12 o'clock  
noon on APR 25 2008.

IT IS SO ORDERED 4-3-08.

JEFF DAVI  
Real Estate Commissioner

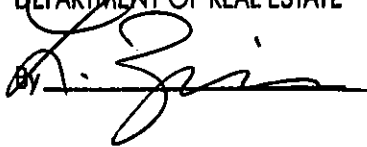


BY: Barbara J. Bigby  
Chief Deputy Commissioner

FILED

DEC - 5 2007

DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	No. H-9954 SF
	)	
SUN YUEN LIU, GLORIA KWANG-YU,	)	N-2007060089
and UNITED AMERICAN INVESTMENTS,	)	
INC.,	)	
	)	
Respondents.	)	

NOTICE

TO: SUN YHUEN LIU, GLORIA KWANG-YU and UNITED AMERICAN INVESTMENTS, INC., Respondents, and THOMAS BREEN KIDWELL, their Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated October 31, 2007, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated October 31, 2007, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein

1 including the transcript of the proceedings held on August 27,  
2 2007, and any written argument hereafter submitted on behalf of  
3 Respondents and Complainant.

4           Written argument of Respondents to be considered by me  
5 must be submitted within 15 days after receipt of the transcript  
6 of the proceedings of August 27, 2007, at the Sacramento office  
7 of the Department of Real Estate unless an extension of the time  
8 is granted for good cause shown.

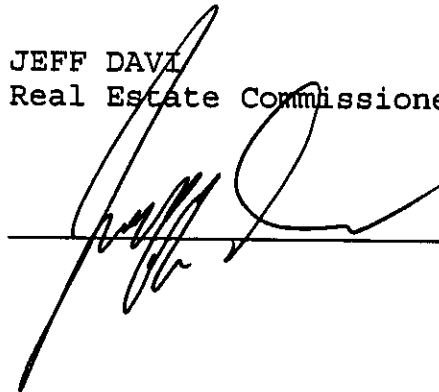
9           Written argument of Complainant to be considered by me  
10 must be submitted within 15 days after receipt of the argument of  
11 Respondents at the Sacramento office of the Department of Real  
12 Estate unless an extension of the time is granted for good cause  
13 shown.

14           DATED: \_\_\_\_\_

12-4-07

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16           JEFF DAVIS  
17           Real Estate Commissioner

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A handwritten signature in black ink, appearing to read 'Jeff Davis', is written over a horizontal line. The signature is stylized and cursive.

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of:

SUN YUEN LIU, GLORIA KWANG-YU  
YUAN, and UNITED AMERICAN  
INVESTMENTS, INC.,

Respondents.

Case No. H-9954 SF

OAH No. 2007060089

**PROPOSED DECISION**

Administrative Law Judge Steven C. Owyang, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on August 27, 2007.

David B. Seals, Counsel, represented complainant E.J. Haberer II, Deputy Real Estate Commissioner, State of California.

Attorney Thomas Breen Kidwell represented respondents Sun Yuen Liu, Gloria Kwang-Yu Yuan, and United American Investments, Inc. Liu and Yuan were present at the hearing.

The record was held open for the submission of briefs and documents, which were received by October 1, 2007. A May 18, 2007 department audit report was entered into evidence as complainant's exhibit 9. The matter was submitted for decision on October 1, 2007.

**FACTUAL FINDINGS**

1. Complainant E.J. Haberer II, Deputy Real Estate Commissioner, issued the accusation in his official capacity.
2. Respondent Sun Yuen Liu is a licensed real estate broker doing business as United Investments Co. and United Mortgage Co. and as the designated officer of United American Investments, Inc.
3. Respondent United American Investments, Inc. (UAI), is a licensed corporate real estate broker doing business as Lyon Properties and United Properties.
4. Respondent Gloria Kwang-Yu Yuan is a licensed real estate salesperson.

## FIRST CAUSE OF ACCUSATION

5. Respondent Yuan was first licensed in 1987 and is currently licensed. She has not previously been the subject of a disciplinary action by the Department of Real Estate. In 2004, Yuan worked in real estate part-time from her home. Her employing broker was respondent Sun Yuen Liu. Yuan's license expired on November 4, 2004, and she was not licensed from that date until July 10, 2006. She was not aware that her license had expired, and does not recall receiving correspondence from the department about the expiration of her license. She was in the process of moving at the time, however, and concedes she may have missed mail from the department. It was not until spring 2006 that Yuan realized that her license had expired and that she needed to renew it. She immediately took steps to renew her license. The department renewed her license on July 10, 2006.

6. In January 2006, Yuan, on behalf of Hsiu-Lin Pang as buyer, and while in the employ of UAI doing business as United Properties, submitted a real estate purchase contract regarding the real property located at 4661 Albany Circle, #117, San Jose (the Albany Circle property), to Lloyd Binen, a real estate broker in the employ of Century 21 Certified, and representing Justin Rosemore as seller.

Yuan represented Hsiu-Lin Pang and performed acts described in Business and Professions Code section 10131, subdivision (a)<sup>1</sup>, in furtherance of such representation, in the purchase of the Albany Circle property, from January 12, 2006, to February 15, 2006, when the escrow successfully closed.

Yuan's activities in the Albany Circle transaction were acts for which a real estate license is required pursuant to sections 10130 and 10131, subdivision (a). Yuan's real estate license was expired when she performed these acts.

Yuan was compensated by UIA for the Albany Circle transaction. The terms and amount of her compensation were not established. No documents from the transaction are in evidence.

At the time of the Albany Circle transaction, Yuan was not aware that her real estate salesperson license was expired. The evidence did not establish that Yuan willfully disregarded or violated the law in the Albany Circle transaction. The accusation did not allege, and the evidence did not establish, that respondents harmed the buyer, seller, or Binen in that transaction.

7. Respondent Liu has been a licensed real estate broker since 1983. He has not previously been the subject of a disciplinary action by the department.

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<sup>1</sup> All statutory citations are to the Business and Professions Code unless otherwise indicated.



8. Yuan had been a salesperson for Liu for many years. At the time of the Albany Circle transaction, Liu was not aware that Yuan's license had expired. The evidence did not establish that Liu willfully disregarded or violated the law, engaged in fraud or dishonest dealing, or that he was incompetent or negligent.

9. At least as to Yuan, Liu did not have procedures in place to oversee the license status of his salespersons.

10. Complainant did not establish that UAI was guilty of fraud or dishonest dealing.

#### SECOND CAUSE OF ACCUSATION

11. Robert Anderson was a Deputy Real Estate Commissioner during the period February 2005 to October 2006.

12. Anderson met with Liu at one of Liu's offices on June 13, 2006. Anderson inquired about the Albany Circle transaction. Anderson selected at random and reviewed a few of Liu's files. Anderson completed a department broker office survey form (BOS) while at Liu's office. When Liu told Anderson that he did mortgage loans, Anderson also completed a department mortgage loan broker office survey form (MLBOS).

13. Anderson reported on the BOS that Liu "Does not have current licenses for 26 salespersons." The BOS did not identify the 26 salespersons. The accusation did not allege, and the evidence did not establish, the identities of these individuals.

When Anderson went to Liu's office, Liu had five of his salespersons' licenses in his immediate possession. Liu had his other salespersons' licenses at another office. Anderson had not previously asked Liu to have his salespersons' licenses available at their meeting. Liu would have made those licenses available for Anderson's review but Anderson did not ask Liu to retrieve them. Liu's testimony on this issue was credible and not rebutted by complainant.

Subsequently, a May 18, 2007 department audit report concluded, "A review of sampled salespersons' files, including salespersons in the San Francisco branch office, disclosed that Liu maintained Broker-Salesperson Contracts and license certificates for sampled salespersons." The department's audit corroborated Liu's testimony regarding his salespersons' licenses.

14. Anderson wrote on the BOS that Liu had "13 salespersons listed as employed who no longer are employed." The BOS did not identify the 13 salespersons. The accusation did not allege, and the evidence did not establish, the identities of these individuals. The evidence did not establish that Liu terminated these individuals.

15. Anderson wrote on the BOS, "Don't have employment agreements for all salesperson [sic]." The BOS did not identify the salespersons in question. The accusation did not allege, and the evidence did not establish, the identity of these individuals.

At the time of Anderson's visit, Liu did not have in his immediate possession written broker-salesperson agreements for all of his salespeople and brokers; he had the agreements at another office. Liu's testimony on this issue was credible and not rebutted by complainant.

Anderson noted on the MLBOS that UAI salesperson Jennifer Mou Ang's identification number was 01229201, with an expiration date of October 28, 2009. At the time of Anderson's visit, Liu, UAI's designated officer, did not have Jennifer Mou Ang's broker-salesperson agreement in his immediate possession; he had it at another office. Anderson did not ask Liu to retrieve Ang's broker-salesperson agreement. Liu's testimony on this issue was credible and not rebutted by complainant.

The department's subsequent audit concluded "Liu maintained Broker-Salesperson Contracts and license certificates for sampled salespersons." The audit corroborated Liu's testimony regarding the broker-salesperson agreements.

16. The evidence did not establish that Liu "failed to maintain in the file of all borrowers a copy of the Mortgage Loan Disclosure Statement/Good Faith Estimate." (Accusation, ¶ XVII.) The accusation did not identify any particular transactions or borrowers in connection with this allegation.

Liu put mortgage loan disclosure statements in his files. He had the mortgage loan disclosure statement/good faith estimate documents, but Anderson did not ask for them. Liu had created his own "Good Faith Estimate" form that had the information required by the department, except that he had not listed the department's telephone number. Liu did not ask the department to approve his form, but lenders accepted it. Liu now uses the department's mortgage loan disclosure statement form. Liu's testimony on this issue was credible and not rebutted by complainant.

17. The evidence did not establish that Liu "failed to disclose in the Mortgage Loan Disclosure Statement/Good Faith Estimate all compensation to be received by the broker." (Accusation, ¶ XVIII.) Complainant's accusation did not identify any particular transactions in connection with this allegation. Nor did the evidence, with the exception of the Lingfeng Yuan/Chuying Melody Yuan and the Kue-Wei Chang/Wan-Lin Chang transactions discussed below,

One of Liu's good faith estimate forms, regarding Lingfeng Yuan and Chuying Melody Yuan, is in evidence. The accusation did not mention or allege any violations of the real estate law in the Yuan transaction. Anderson completed a department loan transaction worksheet regarding this transaction. The worksheet includes a number of questions. Question 21 asked, "Was lender given a completed disclosure statement, not less than 24

hours before the acceptance of the funds, or the execution of any instrument obligating the investor to make the loan? [§10231.2(b)]" (brackets in original). Anderson checked "Yes."

Anderson also completed a department loan transaction worksheet regarding Kue-Wei Chang and Wan-Lin Chang. The accusation did not mention or allege any violations of the real estate law in the Chang transaction. The document or documents that Anderson presumably reviewed in completing the worksheet are not in evidence. Question 11 on the worksheet asked, "Was Mortgage Loan Disclosure Statement provided to borrower? (§10240, §10241[.])" Anderson checked "Yes" with the notations "But not approved MLDS or GFE. See attached" and "YSP not disclosed." No attachment is in evidence.

18. The evidence did not establish that Liu "failed to exercise reasonable supervision over the activities of his salespersons and permitted, ratified and/or caused the conduct described herein" or that Liu "failed to reasonably or adequately review, oversee, inspect and manage the salespersons under his employ, and/or to establish reasonable policies, rules, procedures and systems for such review, oversight, inspection and management." (Accusation, ¶ XIX.) The accusation did not identify any particular salespersons, conduct, acts or omissions in regard to this allegation. The evidence was insufficient to establish Liu's acts or omissions regarding the supervision and review of his salespersons.

Anderson did not make a subsequent visit to Liu's office. Anderson did not visit Liu's other offices or interview Liu's salespeople. Liu had an office policy manual, but Anderson did not ask for it; Liu showed the manual to the department's auditors in the subsequent audit. Liu's testimony on this issue was credible and not rebutted by complainant.

19. The evidence did not establish that Liu willfully disregarded or violated the law, engaged in fraud or dishonest dealing, or that he was incompetent or negligent.

20. In November 2006, department auditor "Raymond" began an audit of Liu's real estate business for the period April 1, 2006, to March 31, 2007. Department auditor Penny Xue later took over the audit. On April 23 and 24, 2007, Xue conducted an audit of Liu "to determine whether Liu handled and accounted for trust funds in accordance with the Real Estate Law and the Commissioner's Regulations." Xue's May 18, 2007 audit report was reviewed and approved by supervising auditor Daniel J. Sandri.

The audit reported that Liu provided his own good faith estimates to the following borrowers: Yao-Wu Cheng and Kuei-Kuan Chen; Hung Pham Le and Minh-Tam Nguyen; Sheau Pyng Oh; and, Hung Bui. The audit noted that Liu's good faith estimate failed to include the department's licensing telephone number. The audit further reported that Liu failed to provide mortgage loan disclosure statements to these borrowers. The accusation did not mention or allege any violations of the real estate law regarding these transactions or borrowers. No documents from the Cheng/Chen, Le/Nguyen, Oh or Bui transactions are in evidence.

As mentioned previously, the audit also concluded, "A review of sampled salespersons' files, including salespersons in the San Francisco branch office, disclosed that Liu maintained Broker-Salesperson Contracts and license certificates for sampled salespersons" and that, "Liu maintained Broker-Salesperson Contracts and license certificates for sampled salespersons."

## LEGAL CONCLUSIONS

1. Complainant has the burden of establishing cause to discipline respondents' licenses. The standard of proof is clear and convincing evidence to a reasonable certainty.

2. Government Code section 11503 requires that an accusation "set forth in ordinary and concise language the acts or omissions with which the respondent is charged." The accusation alleged some 30 violations of the real estate laws. As noted in the Factual Findings, however, the accusation in numerous instances did not identify the particular individuals, transactions, acts or omissions involved in the alleged violations.

Robert Anderson was the only witness to testify on behalf of complainant. (Complainant's post-hearing brief referred to Lloyd Benin's testimony, but Benin was not a witness at hearing.) Anderson's testimony was relatively brief. Complainant's documentary evidence, moreover, did not identify particular individuals, transactions, acts or omissions.

Gloria Kwang-Yu Yuan and Sun Yuen Liu testified on behalf of respondents. Both were credible witnesses. Liu contradicted Anderson's characterizations and conclusions on a number of issues. Liu's testimony was not undermined on cross-examination. Nor did complainant call Anderson or any other individual as a rebuttal witness to refute Liu's testimony.

The evidence established a few inadvertent violations by respondents in connection with the Albany Circle transaction. But the record did not provide clear and convincing evidence to a reasonable certainty of the other alleged violations.

### FIRST CAUSE OF ACCUSATION

#### A. RESPONDENT LIU

3. Complainant's accusation alleged cause to discipline respondent Liu's license under sections 10137, 10177, subdivision (h), and 10176, subdivision (i) "and/or" 10177, subdivision (g), and California Code of Regulations, title 10, section 2725 "in conjunction with Section 10177(d) of the Code." (Accusation, ¶ X(1).)

4. Section 10137 provides, "It is unlawful for any licensed real estate broker to employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this chapter who is not a licensed real estate broker." Respondents stipulated that

UAI compensated Yuan for the Albany Circle transaction. (Factual Finding 6.) Liu was the designated officer of UAI. Although neither Liu nor Yuan was aware that Yuan's license had expired, Liu violated section 10137.

5. Section 10177, subdivision (h), provides that a broker's license may be suspended or revoked if the licensee failed to exercise reasonable supervision over the activities of his salespersons, or, as the designated officer of a corporate broker licensee, failed to exercise reasonable supervision over the activities of the corporation. California Code of Regulations, title 10, section 2725, requires a broker to exercise reasonable supervision over the activities of his salespersons; reasonable supervision includes the establishment of policies, rules, procedures and systems to review and oversee transactions requiring a real estate license. Liu did not have procedures in place to oversee Yuan's license status and was thus unaware that her license was expired when she conducted the Albany Circle transaction. (Factual Finding 9.) Liu thus violated section 10177, subdivision (h), and California Code of Regulations, title 10, section 2725.

6. Section 10176, subdivision (i), provides that a license may be suspended or revoked if the licensee has been guilty of fraud or dishonest dealing. Complainant did not prove that Liu was guilty of fraud or dishonest dealing (Factual Finding 8) or that Liu violated section 10176, subdivision (i).

7. Section 10177, subdivision (g), provides that a corporation's license may be suspended or revoked if an officer has demonstrated negligence or incompetence in performing any act for which he is required to hold a license. Complainant did not prove that Liu was negligent or incompetent. (Factual Finding 8.) Complainant did not prove that Liu violated section 10177, subdivision (g).

8. Section 10177, subdivision (d), provides that a license may be suspended or revoked if the licensee "Willfully disregarded or violated the Real Estate Law" or the rules and regulations of the commissioner. Complainant did not prove that Liu willfully disregarded or violated the real estate laws, rules or regulations (Factual Finding 8) or that Liu violated section 10177, subdivision (d).

#### B. RESPONDENT YUAN

9. Complainant's accusation alleged cause to discipline respondent Yuan's license under sections 10137, 10130, and 10131, subdivision (a), "in conjunction with Section 10177(d) of the Code." (Accusation, ¶ X(2).)

10. Section 10137, provides, inter alia, "No real estate salesman shall be employed by or accept compensation from any person other than the broker under whom he is at the time licensed." Yuan's conduct in the Albany Circle transaction violated, albeit inadvertently, this provision of section 10137, in that she was employed by and accepted compensation from a broker under whom she was not at the time licensed. (Factual Finding 6.)

11. Section 10130 provides, inter alia, that it is "unlawful for any person to engage in the business, act in the capacity of, advertise or assume to act as a real estate broker or a real estate salesman within this state without first obtaining a real estate license from the department." Section 10177, subdivision (d), provides that a license may be suspended or revoked if the licensee "Willfully disregarded or violated the Real Estate Law" or the rules and regulations of the commissioner.

Complainant's post-hearing brief argues that Yuan, in the Albany Circle transaction, performed acts for which a license is required. Complainant asserts, "These acts were a violation of Section 10130 of the Code in conjunction with Section 10177(d) of the Code" because she was not licensed at the time.

Respondents' post-hearing brief notes that "Section 10130 prohibits a person from acting as a real estate salesperson without 'first obtaining' a license." It is undisputed that Yuan first obtained a real estate license before engaging in the Albany Circle transaction. (Factual Finding 5.) Complainant, moreover, did not establish that Yuan willfully disregarded or violated real estate laws, rules or regulations. (Factual Finding 6.) Complainant did not prove that Yuan violated section 10130, in conjunction with section 10177, subdivision (d).

12. Section 10131, subdivision (a), provides a definition of the term "real estate broker." It does not define an unlawful practice. Complainant's post-hearing brief did not mention section 10131, subdivision (a), or explain how respondent Yuan may have violated it. Respondent's post-hearing brief notes that this provision is inapplicable to Yuan because complainant did not allege that Yuan was acting as a broker in the Albany Circle transaction. Moreover, as previously discussed, Yuan did not willfully disregard or violate the real estate law. (Factual Finding 6.) Complainant did not prove that Yuan violated section 10131, subdivision (a), separately or in conjunction with section 1077, subdivision (d).

#### C. RESPONDENT UAI

13. Complainant's accusation alleged cause to discipline respondent UAI's license under sections 10137, 10176, subdivision (i), and 10177, subdivision (g). (Accusation, ¶ X(3).)

14. Although Liu, UAI's designated officer, was not aware that Yuan's license had expired, UAI violated section 10137 by compensating her for the Albany Circle transaction. (Factual Finding 6.)

15. Section 10176, subdivision (i), provides that a license may be suspended or revoked if the licensee has been guilty of fraud or dishonest dealing. Complainant did not establish that UAI was guilty of fraud or dishonest dealing. (Factual Finding 10.) Complainant did not prove that UAI violated section 10176, subdivision (i).

16. Section 10177, subdivision (g), provides that a corporation's license may be suspended or revoked if an officer has demonstrated negligence or incompetence in performing any act for which he is required to hold a license. The evidence did not establish that Liu, UAI's designated officer, was incompetent or negligent. (Factual Finding 8.) Complainant did not prove that UAI violated section 10177, subdivision (g).

#### SECOND CAUSE OF ACCUSATION

##### A. RESPONDENT LIU

17. The accusation alleged cause to discipline respondent Liu's license under sections 10177, subdivision (h), 10176, subdivision (i), "and/or" 10177, subdivision (g), 10160, and 10161.8, "in conjunction with" sections 10165, and 10240, 10241, and title 10 California Code of Regulations, sections 2725 and 2726, "in conjunction with" section 10177, subdivision (d). (Accusation, ¶ XX(1).)

18. Section 10177, subdivision (h), provides that a broker's license may be suspended or revoked if the licensee failed to exercise reasonable supervision over the activities of his salespersons, or, as the designated officer of a corporate broker licensee, failed to exercise reasonable supervision over the activities of the corporation. California Code of Regulations, title 10, section 2725, requires a broker to exercise reasonable supervision over the activities of his salespersons; reasonable supervision includes the establishment of policies, rules, procedures and systems to review and oversee transactions requiring a real estate license.

The accusation alleged that "Liu failed to exercise reasonable supervision over the activities of his salespersons and permitted, ratified and/or caused the conduct described herein" and "failed to reasonably or adequately review, oversee, inspect and manage the salespersons under his employ, and/or to establish reasonable policies, rules, procedures and systems for such review, oversight, inspection and management." (Accusation, ¶ XIX.) The accusation identified no particular salespersons, transactions or incidents in regard to this allegation. The evidence did not sustain these allegations. (Factual Finding 18.) Complainant did not prove a violation of section 10177, subdivision (h), or California Code of Regulations, title 10, section 2725.

19. Section 10176, subdivision (i), provides that a license may be suspended or revoked if the licensee has been guilty of fraud or dishonest dealing. Complainant did not establish that Liu was guilty of fraud or dishonest dealing. (Factual Finding 19.) Complainant did not prove Liu violated section 10176, subdivision (i).

20. Section 10160 provides that a real estate salesman's license shall remain in the possession of the licensed real estate broker employer until canceled or until the broker leaves the employ of the broker, and the broker shall make his license and the licenses of his salesman available for inspection by the commissioner or his designated representative. Liu had his salespersons' licenses and would have made them available for Anderson's review.

The department's subsequent audit corroborated Liu's testimony. (Factual Finding 13.) Complainant did not prove that Liu violated section 10160.

21. Section 10161.8 requires a real estate broker to immediately notify the commissioner in writing whenever the employment of a real estate salesman is terminated. The evidence did not establish that Liu terminated the employment of the unidentified salespersons mentioned in the accusation. (Factual Finding 14.) Complainant did not prove Liu violated section 10161.8

22. Sections 10240 and 10241 concern a written disclosure statement that brokers are to deliver to a borrower. The accusation did not identify any particular borrowers or transactions with regard to Liu's alleged violations of sections 10240 and 10241. The evidence did not show that Liu "failed to maintain in the file of all borrowers a copy of the Mortgage Loan Disclosure Statement/Good Faith Estimate" or that he failed to disclose the compensation to be received by the broker. (Factual Findings 16 and 17.) Complainant's post-hearing brief did not mention sections 10240 or 10241. Complainant did not prove Liu violated sections 10240 or 10241.

23. Section 10177, subdivision (d), provides that a license may be suspended or revoked if the licensee "Willfully disregarded or violated the Real Estate Law" or the rules and regulations of the commissioner. California Code of Regulations, title 10, section 2726, requires real estate brokers to have a written agreement with each of his salesmen. Complainant did not prove Liu failed to comply with either of these provisions. (Factual Findings 15 and 19.)

#### B. RESPONDENT UAI

24. Paragraph XX(2) of the accusation alleged that respondent UAI had violated various provisions of the real estate law. In his post-hearing brief, complainant withdrew these allegations. No violations are found with respect to paragraph XX(2) of the accusation.

#### APPROPRIATE DISCIPLINE

25. The parties were asked to address in their post-hearing briefs, inter alia, the appropriate discipline, if any, that should be ordered. Complainant asserts that because respondents Liu and Yuan violated section 10137 in the Albany Circle transaction, they should be required to disgorge "all of the commission illegally obtained from that transaction be split [sic] between those two Respondents."

Respondents acknowledge Yuan received a commission in the Albany Circle transaction, but also observe that there was no evidence respondents knew Yuan's license had expired. Citing *Priest v. Monter Rainbow* (1993) 12 Cal.App.4th, respondents assert that public policy is not advanced by denying commissions to a broker where the broker had shared those commissions with an unlicensed person but the broker did not have knowledge of the person's unlicensed status. Notably, the accusation did not allege, and the evidence



did not show, any harm to the buyer, seller, or agent Benin in the Albany Circle transaction. (Factual Finding 6.) Moreover, respondents were not shown to have willfully disregarded or violated the law, or to have engaged in fraud or dishonest dealing. (Factual Findings 6 and 8.) Respondents' point is well-taken. In addition, the evidence did not establish the commission in the Albany Circle transaction. At hearing, Yuan estimated the commission at around \$12,000 or three percent of the sales price. But no documents from that transaction are in evidence. The sales price and commission arrangements for the transaction were not established. (Factual Finding 6.) Complainant's exhibit 8 (six check stubs, two of which display "Gloria Yuan") was not shown to be connected to the Albany Circle transaction. The record does not support complainant's request for disgorgement.

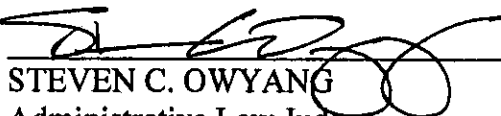
26. Complainant asserts "protection of the public mandates that significant discipline be imposed on the licenses and license rights of Respondent Liu for the violations of the Real Estate Law alleged in both the First and Second Causes of Accusation." Respondents assert that complainant did not prove any violations of the real estate law and that no disciplinary action is warranted. Respondents alternatively assert that even if there are grounds for disciplinary action, license revocation or suspension are not justified because there was no proof of harm to the public and no proof of dishonest or fraudulent activity.

Complainant did not prove the large majority of violations alleged in the accusation. The violations that were established were inadvertent. No dishonest or fraudulent dealing by respondents or harm to the public was shown. The department's own subsequent audit supported respondents' assertions in this case. Respondents have taken actions to ensure compliance with the law, including Yuan renewing her license and Liu using the department's mortgage loan disclosure statement. Under these circumstances, imposition of disciplinary action would not serve a public purpose and would be unnecessarily punitive.

#### ORDER

The proceeding against respondents Sun Yuen Liu, Gloria Kwang-Yu Yuan, and United American Investments, Inc., is terminated without the imposition of discipline.

DATED: October 31, 2007

  
STEVEN C. OWYANG  
Administrative Law Judge  
Office of Administrative Hearings

*not adopted*

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2 Department of Real Estate  
3 P. O. Box 187007  
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789  
6 -or- (916) 227-0792 (Direct)

FILED  
MAR 19 2007

DEPARTMENT OF REAL ESTATE

*[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of	)	No. H-9954 SF
	)	
12 SUN YUEN LIU,	)	<u>ACCUSATION</u>
	)	
13 GLORIA KWANG-YU YUAN, and	)	
	)	
14 UNITED AMERICAN INVESTMENTS, INC.,	)	
	)	
15 Respondents.	)	

16 The Complainant, E. J. Haberer II, a Deputy Real  
17 Estate Commissioner of the State of California for cause of  
18 Accusation against GLORIA KWANG-YU YUAN (hereinafter Respondent  
19 " YUAN "), SUN YUEN LIU (hereinafter Respondent " LIU "), and  
20 UNITED AMERICAN INVESTMENTS, INC. (hereinafter Respondent "UAI")  
21 is informed and alleges as follows:

22 FIRST CAUSE OF ACCUSATION

23 I

24 The Complainant, E. J. Haberer II, a Deputy Real  
25 Estate Commissioner of the State of California, makes this  
26 Accusation against Respondents in his official capacity.

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1 II

2 Respondent LIU is presently licensed and/or has  
3 license rights under the Real Estate Law (Part 1 of Division 4  
4 of the California Business and Professions Code) (hereinafter  
5 "Code") as a real estate broker dba United Investments Co and  
6 United Mortgage Co and as the designated officer of Respondent  
7 UAI and Fil-D Craft International Inc..

8 III

9 Respondent UAI is presently licensed and/or has  
10 license rights under the Code as a corporate real estate broker  
11 dba Lyon Properties and United Properties.

12 IV

13 Respondent YUAN is presently licensed and has license  
14 rights under the Code as a real estate salesperson. However,  
15 from November 4, 2004 to July 10, 2006 Respondent YUAN'S license  
16 was expired.

17 V

18 On or about January 12, 2006, Respondent YUAN, on  
19 behalf of Hsiu-Lin Pang as buyer, and while in the employ of  
20 Respondent UAI dba United Properties, submitted a PRDS Real  
21 Estate Purchase Contract regarding the real property located at  
22 4661 Albany Circle, #117, San Jose (hereinafter the "Property"),  
23 to Lloyd Binen, a real estate broker in the employ of Century 21  
24 Certified, and representing Justin Rosemore as seller.

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VI

Respondent YUAN represented Hsiu-Lin Pang and performed acts described in Section 10131(a) of the Code in furtherance of such representation, in the purchase of the Property, from at least January 12, 2006 to and including February 15, 2006 when the escrow successfully closed.

VII

The activities performed by Respondent YUAN as discussed in Paragraphs V and VI above, are acts for which a real estate license is required pursuant to Section 10130 and 10131(a) of the Code. However, Respondent YUAN'S real estate license was expired when these acts were performed.

VIII

Respondent YUAN was compensated by Respondent UIA for performing the acts for which a real estate license is required and discussed in Paragraphs V and VI in violation of Sections 10130 and 10137 of the Code.

IX

At all times mentioned herein above, Respondent LIU failed to exercise reasonable supervision over the activities of his salesperson, Respondent YUAN, and permitted, ratified and/or caused the conduct described above. Respondent LIU failed to reasonably or adequately review, oversee, inspect and manage the salespersons under his employ, and/or to establish reasonable policies, rules, procedures and systems for such review, oversight, inspection and management.

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1 X

2 The acts and/or omissions of Respondents described  
3 above are grounds for the suspension or revocation of  
4 Respondents' licenses and license rights as follows:

5 (1) As to Respondent LIU, under Sections 10137,  
6 10177(h), and 10176(i) and/or 10177(g) of the  
7 Code and Section 2725 of the Regulations in  
8 conjunction with Section 10177(d) of the Code;  
9 and

10 (2) As to Respondent YUAN, under Section 10137 of  
11 the Code and Sections 10130 and 10131(a) of the  
12 Code in conjunction with Section 10177(d) of the  
13 Code; and

14 (3) As to Respondent UAI, under Sections 10137 and  
15 10176(i) and/or 10177(g) of the Code.

16 SECOND CAUSE OF ACCUSATION

17 XI

18 There is hereby incorporated in this Second, separate  
19 and distinct, Cause of Accusation all of the allegations  
20 contained in Paragraphs I through IX of the First Cause of  
21 Accusation with the same force and effect as if herein fully set  
22 forth.

23 XII

24 On June 13, 2006, a Broker Office Survey (hereinafter  
25 "BOS") and a Mortgage Loan Broker Survey (hereinafter "MLBS")  
26 were conducted by the Department of the real estate brokerage

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1 activities of Respondent LIU to determine if he was operating in  
2 compliance with the Real Estate Law.

3 XIII

4 On the date of the BOS/MLBS, Respondent had 43 real  
5 estate salespersons listed under his individual broker's license  
6 with the Department. However, only five of those salespersons  
7 licenses were in Respondent LIU'S possession in violation of  
8 Section 10160 of the Code.

9 XIV

10 Of the 43 salespersons noted in Paragraph XIII above  
11 Respondent LIU indicated 13 were no longer in his employ but the  
12 Department had not been notified of that fact in violation of  
13 Section 10161.8 of the Code.

14 XV

15 On the date of the BOS/MLBS, Respondent LIU failed to  
16 have a written broker-salesperson agreement with all of the  
17 salespeople or brokers under his individual broker license in  
18 violation of Section 2726, Title 10, California Code of  
19 Regulations (hereinafter the "Regulations").

20 XVI

21 On the date of the BOS/MLBS, Respondent UAI had only  
22 one licensee, Jennifer Mou Ang, listed under its license with  
23 the Department. However, Respondent UAI did not have her license  
24 in its possession nor did it have a written broker-salesperson  
25 agreement in violation of 10160 of the Code and Section 2726 of  
26 the Regulations, respectively.

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XVII

On the date of the BOS/MLBS, Respondent LIU failed to maintain in the file of all borrowers a copy of the Mortgage Loan Disclosure Statement/Good Faith Estimate in violation of Section 10240 of the Code.

XVIII

On the date of the BOS/MLBS, Respondent LIU failed to disclose in the Mortgage Loan Disclosure Statement/Good Faith Estimate all compensation to be received by the broker in violation of Section 10241 of the Code.

XIX

At all times mentioned in this Second Cause of Accusation, Respondent LIU failed to exercise reasonable supervision over the activities of his salespersons and permitted, ratified and/or caused the conduct described herein. Respondent LIU failed to reasonably or adequately review, oversee, inspect and manage the salespersons under his employ, and/or to establish reasonable policies, rules, procedures and systems for such review, oversight, inspection and management.

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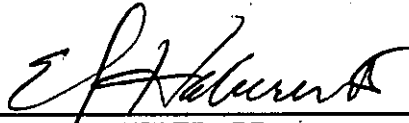
The acts and/or omissions of Respondents described above in the Second Cause of Accusation are grounds for the suspension or revocation of Respondents' licenses and license rights as follows:

- (1) As to Respondent LIU, under Sections 10177(h) and 10176(i) and/or 10177(g) of the Code, Sections 10160 and 10161.8 of the Code in conjunction with

1 Section 10165 of the Code, and Sections 10240 and  
2 10241 of the Code and Sections 2725 and 2726 of  
3 the Regulations in conjunction with Section  
4 10177(d) of the Code; and

5 (2) As to Respondent UAI, under Sections 10176(i)  
6 and/or 10177(g) of the Code, Section 10160 of the  
7 Code in conjunction with Section 10165 of the  
8 Code, and Section 2726 of the Regulations in  
9 conjunction with Section 10177(d) of the Code.

10 WHEREFORE, Complainant prays that a hearing be  
11 conducted on the allegations of this Accusation and that upon  
12 proof thereof a decision be rendered imposing disciplinary  
13 action against all licenses and license rights of Respondents,  
14 under the Real Estate Law (Part 1 of Division 4 of the Business  
15 and Professions Code) and for such other and further relief as  
16 may be proper under other provisions of law.

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18   
19 E. J. HABERER II  
Deputy Real Estate Commissioner

20 Dated at Oakland, California,  
21 this 7<sup>th</sup> day of March, 2007.