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9 BEFORE THE BUREAU OF REAL ESTATE  
10 STATE OF CALIFORNIA

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12 In the Matter of the Accusation of )  
13 ELITE REALTY AND INVESTMENT, )  
14 LEON HU and LINDA PEYRUU YOUNG, )  
15 Respondents. )

No. H-11898 SF  
ACCUSATION

16 The Complainant, ROBIN S. TANNER, a Supervising Special Investigator of the  
17 State of California, for cause of Accusation against ELITE REALTY AND INVESTMENT  
18 (ERI), LEON HU (HU) and LINDA PEYRUU YOUNG (YOUNG), collectively referred to as  
19 RESPONDENTS, is informed and alleges as follows:

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21 The Complainant makes this Accusation in her official capacity.

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23 At all times herein mentioned, ELI was and is presently licensed and/or has  
24 license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and  
25 Professions Code (Code) by the Bureau of Real Estate (Bureau) as a corporate real estate broker  
26 doing business as TOP MISSION REALTY AND INVESTMENT.

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At all times herein mentioned, HU was and is presently licensed and/or has license rights as a real estate broker.

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At all times herein mentioned, YOUNG was and is presently licensed and/or has license rights as a real estate salesperson.

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At all times herein mentioned, HU was licensed by the Bureau as the designated broker/officer of ERI. As the designated broker/officer, HU was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of ERI for which a real estate license is required.

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At all times herein mentioned, RESPONDENTS engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(a) of the Code, including the operation and conduct of a residential resale brokerage wherein RESPONDENTS bought, sold, or offered to buy or sell, solicited or obtained listings of, and negotiated the purchase, sale or exchange of real property or business opportunities, all for or in expectation of compensation.

FIRST CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 6, above, and incorporates the same herein.

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On or about January 30, 2014, Ching-Chih H. and Wan Chen H. (Sellers) entered into a Residential Listing Agreement with YOUNG, acting on behalf of Top Mission Realty & Investment/Elite Realty, to sell that certain real property commonly known as 40336 Dolerita Avenue, Fremont, California (Dolerita Property).

The Listing Agreement, Paragraph 4A states, in part:

“Seller agrees to pay Broker as Compensation for services irrespective of agency relationship(s) 4.000 percent of listing price”.

The Listing Agreement, Paragraph 16 states, in part:

“If Listing Agent represents both Buyers and Sellers the total commission will be 3%”.

On or about April 3, 2014, Hsih-Chao L. (Buyer) made an offer to purchase the Dolirita Property which Sellers accepted that day. Buyer and Sellers entered into a Residential Purchase Agreement (RPA).

In the RPA, Paragraph 2C, Top Mission was filed in as the Listing Agent. Below that line, the box was checked in front of “the Seller Exclusively”. In the same paragraph, Elite Realty & Investments was filed in as the Selling Agent. Below that line, the box was checked in front of “the Buyer Exclusively”. In fact both Elite Realty & Investments and Top Mission are fictitious business names used by RESPONDENTS.

On or about April 3, 2014, Buyer and Sellers entered into a single Real Estate Agency Relationship Agreement, CAR Form AD. Form AD states, in part:

“When the listing brokerage company also represents Buyer/Tenant” The Listing Agent shall have one AD form signed by Seller/Landlord and a different AD form signed by Buyer/Tenant”. This in fact did not occur. On this form, ERI was listed as the agent for Buyers, which Ginny Hu signed for ERI. In the box titled “Agency Disclosure Compliance”, Sellers signed.

On or about April 7, 2014, YOUNG instructed the escrow officer to disburse 1.5% commission to listing agent and 2.5% commission to buyers’ agent.

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On or about April 21, 2014, YOUNG changed the commission instructions to the escrow agent to disburse \$15,400.00 (1%) to Elite Realty and \$45,000.00 (3%) as a credit to Sellers.

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Finally, on April 22, 2014, YOUNG again changed the commission instructions to the escrow agent to disburse 1.5% to Listing Agent, 1.5% to Selling Agent and 1% Commission credit to Sellers.

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The acts of RESPONDENTS, described above, constitute violations of Sections 10176(a) (substantial misrepresentation), 10176(d) (failure to disclose dual relationship), 10176(i) (other conduct fraud or dishonest dealing) and are grounds for the suspension or revocation of RESPONDENTS' real estate licenses under Sections 10176(a), 10176(d), 10176(i), 10177(d) (willful/disregard Real Estate Law) and 10177(g) (negligence/incompetence real estate licensee) of the Code.

SECOND CAUSE OF ACTION

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Complainants refer to Paragraphs 1 through 6, above, and incorporate the same herein.

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On or about April 7, 2014, an appraisal was conducted on the Dolerita Property.

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An assistant with ERI, Robbie, represented to the appraiser that there were eleven (11) offers for the Dolerita Property, when she knew that in fact there had been only five (5) offers.

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RESPONDENTS knew of Robbie's representation in Paragraph 20, above, and admitted that the higher number was given to the appraiser to increase the appraised value of the Dolerita Property.

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The acts of RESPONDENTS, described above, constitute violations of Sections 10176(a) and 10176(i) of the Code and are grounds for the suspension or revocation of RESPONDENTS' real estate licenses under Sections 10176(a), 10176(i), 10177(d) and 10177(g) of the Code.

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THIRD CAUSE OF ACTION

Complainant refers Paragraphs 1 through 22, above, and incorporates the same herein.

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At all times herein above mentioned, HU, was responsible as the supervising broker for ERI, for the supervision and control of the activities conducted on behalf of ERI's business by its employees. HU failed to exercise reasonable supervision and control over the property management activities of ERI. In particular, HU permitted, ratified and/or caused the conduct described above, to occur, and failed to take reasonable steps, including but not limited to handling of trust funds, supervision of employees, and the implementation of policies, rules, and systems to ensure the compliance of the business with the Real Estate Law and the Regulations.

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The above acts and/or omissions of HU violate Section 10159.2 (responsibility/directing officer) of the Code and Section 2725 (broker supervision) of the Regulations and constituted grounds for disciplinary action under the provisions of Sections 10177(g) and 10177(h) (broker supervision) of the Code.

Section 10106 of the Code 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 the investigation and enforcement of the case.

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 license rights of Respondents under the Code, for the reasonable costs of investigation and prosecution of this case, including agency attorney's fees and for such other and further relief as may be proper under other provisions of law.



ROBIN S. TANNER  
Supervising Special Investigator

Dated at Oakland, California,  
this 2<sup>nd</sup> day of October, 2015.