

FILED

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BUREAU OF REAL ESTATE

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8
9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 FOGCITI REAL ESTATE, INC,) No. H-12061 SF
14 VICTOR KHOMIN and) ACCUSATION
15 SAMUEL MOHANRAO PILLI,)
16 Respondents.)

17 The Complainant, ROBIN S. TANNER, a Supervising Special Investigator of the
18 State of California, for Accusation against FOGCITI REAL ESTATE, INC. (FRE), VICTOR
19 KHOMIN (KHOMIN) and SAMUEL MOHANRAO PILLI (PILLI), collectively
20 RESPONDENTS, is informed and alleges as follows:

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22 The Complainant makes this Accusation against RESPONDENTS in her official
23 capacity.

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25 FRE is presently licensed and/or has license rights by the Bureau of Real Estate
26 (Bureau), under the California Business and Professions Code (Code), as a corporate real estate
27 broker.

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KHOMIN is presently licensed by the Bureau as a real estate broker, and from and since August 7, 2014, has been the designated officer of FRE.

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PILLI is presently licensed by the Bureau as a real estate broker and was the designated officer of FRE until August 7, 2014.

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Citiscap Property Management Group, LLC (Citiscap) is an unlicensed business owned by Kevin Wiley, Edward Dale and Robert Simms. None of the aforementioned individuals have real estate licenses.

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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 real estate brokers within the State of California within the meaning of Section 10131(b) of the Code, including the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, RESPONDENTS leased or rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent or solicited for prospective tenants, or negotiated the sale, purchase or exchange of leases on real property, or on a business opportunity, or collected rents from tenants.

FIRST CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 6, above, and incorporates them herein by reference.

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On or about January 1, 2005, FRE assigned its property management business to Citiscap.

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From and since then, Citiscape has conducted property management activities, by and through Wiley, Dale and Simms.

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Beginning on April 27, 2015, and continuing intermittently August 10, 2015, an audit was conducted at Citiscape's main office located on 3450-3d Street, Suite 1A, San Francisco, California, wherein the auditor examined records for the period of January 1, 2014, through March 31, 2015 (the audit period).

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The audit revealed that Citiscape conducted property management activities, including collecting rent for properties, all located in San Francisco, commonly known as 1000 Green Street, Meyer and Meyer Warehouses, and 1530 Custer Avenue and collecting property management fees for properties, all located in San Francisco, commonly known as Crest Royal Warehouses, 1000 Green Street, Meyer and Meyer Warehouses and 1330 Jones Street, without being licensed, in violation of Section 10130 of the Code.

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The acts and/or omissions of Citiscape, Wiley, Dale and Simms, set forth in Paragraphs 7 through 11, above, constitute violations of Section 10130 of the Code (unlicensed activities).

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The acts and/or omissions of FRE as set forth in Paragraphs 7 through 11, above, constitute violations of Section 10137 of the Code (hiring unlicensed individual and entity) and are grounds for the suspension or revocation of FRE's license under Section 10137, 10177(d) (intentional violation of Real Estate Law) and 10177(g) (negligence or incompetence) of the Code.

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1 SECOND CAUSE OF ACTION

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3 Complainant refers to Paragraphs 1 through 13, above, and incorporates the
4 same, herein, by reference.

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6 Beginning on April 27, 2015, and continuing intermittently through August 10,
7 2015, an audit was conducted at FRE’s main office located on 3450 3rd Street, #1A, San
8 Francisco, California, where the auditor examined records for the period of January 1, 2014,
9 through March 31, 2015, (the audit period).

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11 While acting as a real estate broker as described in Paragraph 6, above, and
12 within the audit period, FRE accepted or received funds in trust (trust funds) from or on behalf
13 of property owners, including owners of fifteen (15) condominium units in San Francisco,
14 California, lessees and others in connection with property management activities, deposited or
15 caused to be deposited those funds into bank accounts maintained by RESPONDENTS at
16 Heritage Bank of Commerce, 101 Ygnacio Valley Road, Suite 100, Walnut Creek, CA 94596,
17 as described below:

TRUST ACCOUNT #1	
Account No.:	XXXXXX7705
Entitled:	FogCiti Real Estate Inc

22 and thereafter from time to time made disbursement of said trust funds.

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In the course of the activities described in Paragraph 6, in connection with the collection and disbursement of trust funds, it was determined that:

- (a) FRE failed to designate Bank Account #1 as a trust account in violation of Section 2832 of the Regulations and Section 10145 of the Code and;
- (b) FRE employed and compensated an unlicensed entity, Citiscape, and unlicensed individuals, Wiley, Dale and Simms, to conduct property management activities in violation of Section 10137 of the Code.

The acts and/or omissions of FRE, set forth in Paragraphs 14 through 17, above, constitute violations of Section 10137 of the Code (compensating unlicensed entity) and are grounds for the suspension or revocation of FRE's license under Sections 10137, 110177(d) and 10177(g) of the Code

THIRD CAUSE OF ACTION

Complainant refers to Paragraphs 1 through 18, above, and incorporates the same herein.

From and since August 7, 2014, KHOMIN was responsible, as the supervising designated broker/officer for FRE, for the supervision and control of the activities conducted on behalf of FRE's business by its employees to ensure its compliance with the Real Estate Law and Regulations. KHOMIN failed to exercise reasonable supervision and control over the property management activities of FRE. In particular, KHOMIN permitted, ratified and/or caused the conduct described above to occur, and failed to take reasonable steps, including but not limited to, the 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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2 Until August 7, 2014, PILLI was responsible, as the supervising
3 designated broker/officer for FRE, for the supervision and control of the activities conducted on
4 behalf of FRE's business by its employees to ensure its compliance with the Real Estate Law and
5 Regulations. PILLI failed to exercise reasonable supervision and control over the property
6 management activities of FRE. In particular, PILLI permitted, ratified and/or caused the conduct
7 described above to occur, and failed to take reasonable steps, including but not limited to, the
8 handling of trust funds, supervision of employees, and the implementation of policies, rules, and
9 systems to ensure the compliance of the business with the Real Estate Law and the Regulations.

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11 The above acts and/or omissions of KHOMIN and PILLI violate Section 2725
12 (broker supervision) of the Regulations and Section 10159.2 (responsibility/designated officer) of
13 the Code and constitute grounds for disciplinary action under the provisions of Sections
14 10177(d), 10177(g) and 10177(h) (broker supervision) of the Code.

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16 PRIOR DISCIPLINE

17 Effective April 6, 2004, in Case No. H-8703 SF, the Real Estate Commissioner
18 issued a Desist and Refrain Order against Wiley, Dale, Simms and Citiscap Property
19 Management Group.

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21 Audit Costs

22 The acts and/or omissions of RESPONDENTS as alleged above, entitle the
23 Bureau to reimbursement of the costs of its audits pursuant to Section 10148(b) (audit costs for
24 trust fund handling violations) of the Code.

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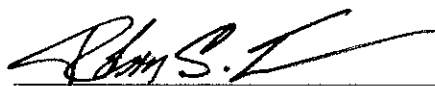
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Costs of Investigation and Enforcement

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 Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), 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 24th day of October, 2016.