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FILED

MAR 13 2019

DEPT. OF REAL ESTATE

By *John C. Guit*

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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

* * *

10 In the Matter of the Accusation against

DRE No. H-05053 SD

11 HKT CAL, INC.;

ACCUSATION

12 JAMES BRAD BUTNER, individually, and as
13 former designated officer for HKT Cal, Inc.; and

14 JAMES DENNIS REIFEISS, individually and as
15 former designated officer for HKT Cal, Inc.,

16 Respondents.

17 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the
18 Department of Real Estate ("Department") of the State of California, for cause of Accusation
19 against HKT CAL, INC.; JAMES BRAD BUTNER, individually and as former designated
20 officer of HKT Cal, Inc.; and JAMES DENNIS REIFEISS, individually and as former
21 designated officer of HKT Cal, Inc. (collectively "Respondents"), alleges as follows:

22 1.

23 The Complainant, Veronica Kilpatrick, acting in her official capacity as a Supervising
24 Special Investigator, makes this Accusation against Respondents.

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2.

All references to the "Code" are to the California Business and Professions Code, all references to the "Real Estate Law" are to Part 1 of Division 4 of the Code, and all references to "Regulations" are to the Regulations of the Real Estate Commissioner, Title 10, Chapter 6, California Code of Regulations.

3.

Respondents are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Code).

Licenses

4.

From June 16, 2006 through the present, Respondent HKT CAL, INC. ("HKTCI") has been licensed by the Department as a real estate corporation, License ID 01524589.

5.

From May 10, 2005, through the present, Respondent JAMES BRAD BUTNER ("BUTNER") has been licensed by the Department as a real estate broker, License ID 01071683. Respondent BUTNER was formerly licensed as a real estate salesperson from approximately April 11, 1990 through May 9, 2005.

6.

From October 7, 2016, through the present, Respondent JAMES DENNIS REIFEISS ("REIFEISS"), aka Jim Reifeiss, has been licensed by the Department as a real estate broker, License ID 00975520. Respondent REIFEISS was formerly licensed as a real estate salesperson from December 11, 1987 through October 6, 2016.

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1 7.

2 From on or about February 10, 2014, through April 23, 2017, HKTCI acted as a
3 corporate real estate broker by and through Respondent BUTNER, as a designated officer and
4 broker responsible, pursuant to Code section 10159.2 for supervising the activities requiring a
5 real estate license conducted on behalf HKTCI by its officers, salespersons, agents, and
6 employees. BUTNER's designation as broker-officer for HKTCI was cancelled, effective
7 April 24, 2017.

8 8.

9 From on or about April 24, 2017 through May 15, 2018, HKTCI acted as a corporate real
10 estate broker by and through Respondent REIFEISS, as a designated officer and broker
11 responsible, pursuant to Code section 10159.2 for supervising the activities requiring a real estate
12 license conducted on behalf HKTCI by its officers, salespersons, agents, and employees.
13 REIFEISS' designation as broker-officer for HKTCI was cancelled, effective May 16, 2018.

14 9.

15 From May 16, 2018, through the present, HKTCI has acted as a corporate real estate
16 broker by and through broker Marc Anthony Prestera (License ID 00862074), as the designated
17 officer and broker responsible, pursuant to Code section 10159.2 for supervising the activities
18 requiring a real estate license conducted on behalf HKTCI by its officers, salespersons, agents,
19 and employees.

20 10.

21 HKTCI is licensed to do business under approximately 31 different fictitious business
22 names including, among others, "Carmel Valley Coast Escrow, a non-independent broker
23 escrow," "Keller Williams Realty," and "Covarent." HKTCI has approximately 371
24 salespersons affiliated with its brokerage/corporation. HKTCI's main office address is located at

1 12780 High Bluff Drive, Suite 130, San Diego, California 92130.

2 Corporate Structure

3 11.

4 HKTCI is a California corporation. According to filings submitted to the Secretary of
5 State for the State of California, Respondent REIFEISS, Jeremiah Emerson Taylor, Christopher
6 Joseph Heller aka Chris Heller, and David Tennant are officers and/or directors of HKTCI.

7 12.

8 Jeremiah Emerson Taylor ("Taylor") has been licensed as a broker since August 29, 2014
9 (License ID 01921459). Taylor was licensed as an officer for HKTCI from May 18, 2017
10 through May 15, 2018. Taylor's designation as an officer for HKTCI was cancelled, effective
11 May 16, 2018.

12 13.

13 Christopher Joseph Heller ("Heller") has been licensed as a salesperson since
14 approximately August 5, 1983 (License ID 00851991). Heller's employing broker is HKTCI.

15 14.

16 Karri Bandong has never been licensed in any capacity by the Department.

17 FIRST CAUSE OF ACCUSATION – Audit SD 170015 (Broker escrow activities)

18 Brokerage

19 15.

20 At all times mentioned herein, in the State of California, HKTCI acted as a corporate real
21 estate broker and conducted licensed activities within the meaning of Code sections 10131(a)
22 (residential resales) and 10131(b) (property management). In addition, HKTCI conducted
23 broker-controlled escrows through its escrow division, under the exemption set forth in
24 California Financial Code section 17006(a)(4) for real estate brokers performing escrows

1 incidental to a real estate transaction where the broker was a party and where the broker was
2 performing acts for which a real estate license is required.

3 16.

4 On August 30, 2018, the Department completed an audit examination of the books and
5 records of Respondent HKTCI's broker escrow activities related to HKTCI's residential sale and
6 broker escrow activities which require a real estate broker license under Code section 10131.
7 The audit examination covered a period of time from November 1, 2016 through January 31,
8 2018 ("audit period"). The audit examination revealed violations of the Code and the
9 Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report
10 SD 170015 and the exhibits and work papers attached to said audit report.

11 17.

12 An entrance conference was held on February 12, 2018 with Respondent REIFEISS and
13 HKTCI's private consultant. A subpoena for records related to HKTCI's real estate activities
14 was served on HKTCI and Prestera on May 14, 2018.

15 18.

16 According to Respondent REIFEISS and the audit work papers examined, the following
17 was HKTCI's corporate structure as of February 12, 2018:

<u>Title</u>	<u>Name</u>	<u>Shareholder</u>
President	Heller	51%
Treasurer	David Tennant	39%
Vice-President	Lisa Becker	10%
Secretary	Taylor	0%

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19.

According to Respondent REIFEISS and an examination of records, HKTCI maintained the following bank account for HKTCI's broker escrow activities during the audit period:

Bank Account #1 (BA1)

Bank: Bank of the West

Account Name: HKT Cal, Inc dba Carmel Valley Coast Escrow

Account #: xxxxx534

Signatories: REIFEISS, Michelle Elizabeth Leavitt (real estate salesperson License ID 01800983), L. Bacon (non-licensee), and K. Kent (non-licensee)

Signature(s) needed: One

Description: BA1 was used for handling the receipts and disbursements of trust funds received in connection with HKTCI's broker escrow activities during the audit period. an examination of BA1's signature card showed that BA1 was not designated as a trust account in the name of HKTCI, as trustee.

Violations

20.

In the course of its broker escrow activities during the audit examination period described above in Paragraphs 15 and 16, Respondent HKTCI acted in violation of the Code and the Regulations as follows:

20(a). Code section 10145 and Regulations 2832.1, 2950(g), 2951. Trust fund accountability and balances.

Bank reconciliations were prepared for HKTCI's BA1 with cut-off dates of April 23, 2017, and January 31, 2018. The adjusted bank balances were compared to the aggregate balance of the separate beneficiary records (accountability). Shortages were discovered for each of the cut-off dates. Respondent HKTCI failed to provide any evidence that the owners of the trust funds had given their written consent to allow HKTCI to reduce the balance of the funds in

1 BA1 to an amount less than the existing aggregate trust fund liabilities, in violation of Code
2 section 10145 and Regulations 2950(g), 2951, and 2832.1.

3 20(a)(1). Cut-off date of April 23, 2017 (Under designated broker-officer
4 BUTNER).

5 As of April 23, 2017, BA1 had a minimum shortage of <\$43,923.24>.

6 Based on an examination of records and HKTCI's Bank Reconciliation Report, the minimum
7 negative escrow balances of <\$6,625.00> was caused by trust fund receipts received, but not
8 deposited into BA1 or lack of matching credit in BA1. Disbursements were made for escrows
9 when there were insufficient funds to do so. The following sample escrows, among others, had
10 negative balances: 2930-KB, 2933-KB, 2873-KB, 3000-KB, and 3190-KB. The remaining
11 <\$37,307.24> minimum shortage could not be identified.

12 20(a)(2). Cut-off date of January 31, 2018 - (Designated broker-officer
13 REIFEISS)

14 Another bank reconciliation of BA1 was prepared with a cut-off date of
15 January 31, 2018. As of January 31, 2018, BA1 had a minimum shortage of <\$170,459.52>.

16 The minimum shortage was caused by the following:

- 17 • Minimum unauthorized disbursements/alleged embezzlement by
18 former escrow officer, K.B., as of 1/31/2018: <\$67,888.31>
- 19 • Minimum unidentified cause: <\$43,636.14>
- 20 • Minimum negative escrow balances: <\$58,935.07>

21 The escrows with negative balances include the following, without
22 limitation: Escrow nos. 3218-KB, 3236-KB, 3241-KB, 3252-KB, 3428-KB, 2873-KB, 1787-KK,
23 and 3354-KK, 3377-KB.

1 Recorded trust fund receipts that were not deposited into BA1 but had
2 disbursed funds include the following escrows, without limitation: Escrow nos. 2922-KB, 2920-
3 KB, 2930-KB, 2933-KB, 3000-KB, 3190-KB, 3391-KB, 3400-KB, 3427-KB.

4 20(b). Code section 10145 and Regulations 2831, 2951, and 2950(d). Trust fund records
5 to be maintained/Broker handled escrow.

6 During the audit period, HKTCI failed to maintain an accurate record of trust funds
7 received and disbursed (control record) for BA1, in violation of Code section 10145 and
8 Regulations 2831, 2951, and 2950, subdivision (d). HKTCI's record did not have the date of
9 receipt for trust funds. The Department's auditor was only provided the "Daily Control Balance"
10 and "Monthly Receipt Activity and Adjustments." Examples of records that were not included
11 in the control record include the following, without limitation:

<u>Escrow No.</u>	<u>Amount</u>	<u>Received From</u>	<u>Date Received</u>	<u>Date of Deposit</u>
12 2657-KK	\$2,574.74	Lawyers Title Co.	NONE	1/23/2018
13 3419-KK	\$5,910.63	First American Title	NONE	1/24/2018
14 3433-KK	\$264,463.22	Corder Construction	NONE	1/25/2018
15 3433-KB	\$1,631,504.03	S.P.O. ¹	NONE	1/26/2018
16 3444-KB	\$290,067.41	S.D.	NONE	1/10/2018
17 3444-KB	\$241,097.39	First American Title	NONE	1/16/2018
18 3449-KB	\$150,000.00	D.B.	NONE	1/25/2018
19 3454-KB	\$12,600.00	T.H.	NONE	1/11/2018
20 3459-KB	\$30,000.00	M.L. & S.D.	NONE	1/29/2018
21				
22				

23 ¹ Initials are used in place of individuals' full names to protect their privacy. Documents containing individuals' full
24 names will be provided during the discovery phase of this case to Respondent(s) and/or their attorneys, after service
of a timely and proper request for discovery on Complainant's counsel.

1 In addition, some trust funds recorded as "received" but there were no matching deposits
 2 or the funds were not, in fact, deposited into BA1. There were also instances where checks were
 3 recorded as "issued and cancelled" but the check disbursements of trust funds were cleared by
 4 the bank. Examples of the inaccurate records include the following, without limitation:

5 Disbursements "issued and cancelled checks" but cleared by the bank:

6	<u>Date</u>	<u>Escrow No.</u>	<u>Check No.</u>	<u>Amount</u>
7	5/25/2016	2873-KB	19538	(1,000.00)
8	5/8/2017	3241-KB	23530	(1,500.00)
9	5/19/2017	3236-KB	23651	(325.00)
10	6/9/2017	3252-KB	23835	(3,578.19)
11	9/19/2017	3354-KK	25028	\$11,450.00
12	<u>Date</u>	<u>Escrow No.</u>	<u>Check No.</u>	<u>Amount</u>
13	9/27/17	1787-KK	9692	(443.41)
14	11/16/2017	No Escrow # noted	N/A	(4,500.00)
15	12/20/2017	3419-KK	25919	(0.01)
16	1/31/2018	3377-KK	26005	(200.00)

17 Recorded trust fund receipts but not deposited into BA1:

18	<u>Date</u>	<u>Escrow No.</u>	<u>Receipt No.</u>	<u>Amount</u>
19	5/25/2016	2933-KB	1049/1050	(1,500.00)
20	9/13/2016	3000-KB	1102	(125.00)
21	3/2/2017	3190-KB	1153	(4,000.00)
22	9/19/2017	3391-KB	1214	(9,000.00)
23	9/26/2017	3400-KB	1216	(4,000.00)

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1 12/5/2017 3427-KB 4998 (16,000)

2 20(c). Code section 10145 and Regulations 2831.1, 2951, and 2950(d). Separate records
3 for each beneficiary or transaction/Broker handled escrows.

4 During the audit period, HKTCI failed to maintain accurate separate records for each
5 beneficiary or transaction (separate records) for BA1, in violation of Code section 10145 and
6 Regulations 2831.1, 2951, and 2950, subdivision (d). Some of HKTCI's separate records were
7 not provided to the Department's auditor for the audit examination. HKTCI's separate records
8 that were provided did not reflect accurate receipts and disbursements. Thus, the balances after
9 posting transaction on any date were inaccurate. Some trust funds were recorded as "received"
10 but there were no matching deposits or were not deposited into BA1. There were instances
11 where checks were recorded as "issued and cancelled" but the check disbursement of trust funds
12 were cleared by the bank. Examples of the inaccuracies include the following, without
13 limitation:

<u>Escrow No.</u>	<u>Date</u>	<u>Properties</u>	<u>Amount</u>	<u>Description</u>
14 3122-KB	2/1/2017	101-103 S. Home St.	\$684,838.71	
15 3248-KB	5/15/2017	17161 Alva Rd.#1327	4,885.00	
16 3364-KB	11/15/2017	5453 Shannon Ridge	14,400.00	Wire out, 17 recorded to 18 books as 19 \$319.09/credited 20 to bank as \$319.08
21 3381-KB	10/25/2017	3419 Corte Sonrisa	0.01	Wire out
22 3001-KB	9/16/2016	3755 N. Vista	20,203.04	

23 Further examples are noted above in Paragraph 20(b) and "Issue Three" of the Audit
24 Report No. SD 170015.

1 20(d). Code section 10145 and Regulations 2831.2, 2951, and 2950(d). Trust account
2 reconciliation/Broker handled escrows.

3 During the audit period, Respondent HKTCI failed to perform or maintain accurate
4 monthly reconciliations comparing the balance of all separate beneficiary or transaction records
5 (separate records) to the balance of all trust funds received and disbursed (control record) for
6 BA1, in violation of Code section 10145 and Regulations 2831.2, 2951, and 2950, subdivision
7 (d).

8 20(e). Code section 10145 and Regulations 2832 and 2951. Trust fund handling/Trust
9 account designation/Broker handled escrow

10 During the audit period, HKTCI used BA1 for receipt and disbursement of trust funds.
11 Based on an examination of the bank signature card for BA1, dated January 21, 2014, BA1 was
12 not designated as a trust account in the name of "HKT Cal, Inc." or its licensed fictitious
13 business name, as trustee, in violation of Code section 10145 and Regulations 2832 and 2951.

14 20(f). Code section 10145 and Regulations 2834 and 2951. Trust account
15 withdrawals/Broker handled escrow.

16 Respondent BUTNER, HKTCI's former designated officer during the audit period of
17 November 1, 2016 through April 23, 2017, was not authorized as a signatory for BA1, in
18 violation of Code section 10145 and Regulations 2834 and 2951.

19 20(g). Code sections 10145, 10176(i), 10177(j), and Regulation 2950(g). Unauthorized
20 disbursements/alleged embezzlement of funds by former employee/Broker handled escrows.

21 According to REIFEISS, HKTCI's former escrow officer embezzled funds from HKTCI
22 during the audit period. Based on a review of BA1's bank statements, separate records, copies of
23 cancelled checks, and reconciliation provided by HKTCI, the Department's auditor was able to
24 identify the alleged unauthorized checks totaling \$67,888.13, written by HKTCI's former escrow

1 officer and deposited in the escrow officer's personal bank account. Examples of the escrow
2 with alleged embezzled funds include, without limitation: Escrow Nos. 2790-KK, 2788-KK,
3 2880-KK, 2933-KK, 2968-KB, 3013-KB, 3053-KB, 3079-KB, 3088-KB, 3113-KB, 3118-KB,
4 3163-KB, 3186-KB, 3189-KB, 3192-KB, 3270-KB, 3331-KB, 3395-KB, 3416-KB, and 3416-
5 KB. With respect to Escrow No. 2790-KK, HKTCI's records indicated that \$40,000 was wired
6 on February 24, 2016; however, no matching deposit was made into BA1. On March 1, 2016,
7 the records indicate that the \$40,000 deposit was cancelled. There were nine (9) checks totaling
8 \$40,000 issued and deposited into HKTCI's former escrow officer's personal bank account
9 between November 4, 2017 and December 27, 2017. The checks were cleared in November
10 2017 and December 2017.

11 An examination of separate records provided for the audit examination, revealed that for
12 thirteen (13) escrows funds totaling \$22,829.54 were deposited/refunded from various title
13 companies after the close of escrow. Said funds were never disbursed to the borrowers/buyers
14 during the audit period. Instead, several checks totaling \$22,829.54 were issued and deposited
15 into HKTCI's former escrow officer's personal bank account.

16 During the audit period there were unauthorized disbursements and misappropriation of
17 trust funds from HKTCI's BA1 account to HKTCI's former escrow officer, without the written
18 consent of the parties paying the funds into escrow, in violation of Code section 10145, 10176(i)
19 or 10177(j), and Regulation 2950, subdivision (g).

20 20(h). Code sections 10159.2, 10177(h) and Regulation 2725. Broker supervision.

21 Respondents BUTNER and REIFEISS failed to adequately supervise the activities of
22 HKTCI's salespersons, employees, or agents and failed to establish policies, rules, procedures,
23 and systems to review, oversee, inspect, and manage transactions requiring a real estate license
24 and the handling of trust funds, in violation of Code sections 10159.2, 10177(h) and Regulation

1 2725.

2 21.

3 The conduct of Respondent HKTCI as described above in Paragraphs 20(a) through
4 20(g), violated the Code and the Regulations as set forth below:

5 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
6 20(a)	Code section 10145 and Regulations 2832.1, 2950(g), and 2951
7 20(b)	Code section 10145 and Regulations 2831, 2950(d), and 2951
8 20(c)	Code section 10145 and Regulations 2831.1, 2950(d), and 2951
9 20(d)	Code section 10145 and Regulations 2831.2, 2950(d), and 2951
10 20(e)	Code section 10145 and Regulations 2832 and 2951
11 20(f)	Code section 10145 and Regulations 2834 and 2951
12 20(g)	Code sections 10145, 10176(i) or 10177(j), and Regulation 2950(g)

13 The foregoing violations constitute cause for the suspension or revocation of the real
14 estate licenses and license rights of Respondent HKTCI under the provisions of Code sections
15 10177(d) and/or 10177(g).

16 Respondent BUTNER - Broker Supervision

17 22.

18 The conduct, acts and/or omissions of Respondent BUTNER, as designated officer for
19 HKTCI for the audit period of November 1, 2016 through April 23, 2017, and as alleged above
20 in Paragraph 20(h), constitutes a failure to exercise the supervision and control over the activities
21 of HKTCI to ensure compliance with the Real Estate Law and Regulations, as is required by
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23
24

1 Code section 10159.2 and Regulation 2725. Said conduct, acts, or omissions constitute cause to
2 suspend or revoke the real estate license and license rights of Respondent BUTNER pursuant to
3 Code sections 10177(h), 10177(d) and/or 10177(g).

4 Respondent REIFEISS - Broker Supervision

5 23.

6 The conduct, acts and/or omissions of Respondent REIFEISS, as designated officer for
7 HKTCI during the audit period of April 24, 2017 through January 31, 2018, and as alleged above
8 in Paragraph 20(h), constitutes a failure to exercise the supervision and control over the activities
9 of HKTCI to ensure compliance with the Real Estate Law and Regulations, as is required by
10 Code section 10159.2 and Regulation 2725. Said conduct, acts, or omissions constitute cause to
11 suspend or revoke the real estate license and license rights of Respondent REIFEISS pursuant to
12 Code sections 10177(h), 10177(d) and/or 10177(g).

13 SECOND CAUSE OF ACCUSATION

14 Audit SD 170037 (Property management activities)

15 24.

16 There is hereby incorporated in this Second, separate, Cause of Accusation, all of the
17 allegations contained in paragraphs 1 through 23 above, with the same force and effect as if
18 herein fully set forth.

19 Audit SD 170037

20 25.

21 On or about June 26, 2018, the Department completed an audit examination of the books
22 and records of Respondent HKTCI's property management activities, which require a real estate
23 license pursuant to Code section 10131(b). The audit examination covered a period of time from
24 November 1, 2016 through January 31, 2018 ("audit period"). The audit examination revealed

1 violations of the Code and the Regulations as set forth in the following paragraphs, and more
2 fully discussed in Audit Report SD 170037 and the exhibits and work papers attached to said
3 audit report.

4 26.

5 HKTCI maintained four (4) bank accounts for HKTCI's property management activities
6 during the audit period:

7 Bank Account #1 (PM-BA1)

8 Bank: Wells Fargo
9 Account #: xxxxx784
10 Description: HKTCI used PM-BA1 for the collection of security deposits from
tenants. On or about October 18, 2017, HKTCI transferred trust
funds totaling \$60,455.00 from PM-BA1 to PM-BA4. PM-BA1
was then closed on or about October 31, 2017.

11 Bank Account #2 (PM-BA2)

12 Bank: Torrey Pines
13 Account #: xxxxx212
14 Description: HKTCI used PM-BA2 for handling rental receipts and
disbursements related to HKTCI's property management activities.
As of January 31, 2018, HKTCI maintained only PM-BA2 for its
property management activities.

15 Bank Account #3 (PM-BA3)

16 Bank: Wells Fargo
17 Account #: xxxxx704
18 Description: HKTCI used PM-BA3 for handling rental receipts and
disbursements related to HKTCI's property management
19 activities. On or about October 18, 2017, HKTCI transferred trust
funds totaling \$19,865.69 from PM-BA3 to PM-BA2. PM-BA3
was then closed on or about October 31, 2017.

20 Bank Account #4 (PM-BA4)

21 Bank: Torrey Pines
22 Account #: xxxxx196
23 Description: PM-BA4 was used for HKTCI's security deposits collected from
tenants. On or about January 2, 2018, HKTCI transferred trust
24 funds totaling \$66,855 from PM-BA4 to PM-BA2. PM-BA4 was
then closed on or about January 31, 2018.

1 Violations

2 27.

3 In the course of its property management activities during the audit examination period
4 described above in Paragraph 25, Respondent HKTCI acted in violation of the Code and the
5 Regulations as follows:

6 27(a). Code section 10145 and Regulation 2832.1. Trust fund handling for multiple
7 beneficiaries.

8 Bank reconciliations were prepared for HKTCI's bank accounts with cut-off dates of
9 April 23, 2017, September 30, 2017, and January 31, 2018. Shortages were discovered for each
10 of the cut-off dates. Respondent HKTCI failed to provide any evidence that the owners of the
11 trust funds had given their written consent to allow HKTCI to reduce the balance of the funds to
12 an amount less than the existing aggregate trust fund liabilities, in violation of Code section
13 10145 and Regulation 2832.1.

14 27(a)(1). Cut-off date of April 23, 2017 (Under designated broker-officer
15 BUTNER).

16 As of April 23, 2017, there was a combined minimum trust fund shortage of
17 <\$2,229.47> in PM-BA1 and PM-BA3. The minimum shortage of <\$2,229.47> was caused by
18 minimum negative property balances of <\$2,229.47>. There were combined minimum
19 unidentified and unaccounted for funds of \$1,087.86 as of April 23, 2017. The negative property
20 balances included the following:

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<u>Property Address</u>	<u>Amount</u>
Cam Sopadilla	(\$2,129.15)
Mykonos Lane #134	(0.32)
Northerly St.	<u>(100.00)</u>
Total	(\$2,229.47)

On October 18, 2017, HKTCI transferred trust funds of \$19,865.69 from PM-BA3 to PM-BA4. PM-BA3 was closed on or about October 31, 2017.

27(a)(2). Cut-off date of September 30, 2017 - (Designated broker-officer REIFEISS)

Another bank reconciliation of HKTCI's bank accounts was prepared with a cut-off date of September 30, 2017. As of September 30, 2017, there was a minimum trust fund shortage of <\$8,400.00> in PM-BA3. The minimum shortage of <\$8,400.00> was caused by an unidentified cause of <\$8,066.00> and the following negative property balances totaling <\$334.00>:

<u>Property Address</u>	<u>Amount</u>
Via Castilla	(\$299.00)
El Camino Real	<u>(\$35.00)</u>
Total	(\$334.00)

On October 18, 2017, HKTCI transferred trust funds of \$19,865.69 from PM-BA3 to PM-BA2. PM-BA3 was closed on or about October 31, 2017. 20(b).

27(a)(3). Cut-off date of January 31, 2018 - (Designated broker-officer REIFEISS)

Another bank reconciliation of HKTCI's bank accounts was prepared with a cut-off date of January 31, 2018. As of January 31, 2018, there was a minimum trust fund

1 shortage of <\$2,030.00> in PM-BA2. The minimum shortage of <\$2,030.00> was caused by
2 unidentified cause. The Department's auditor was unable to verify if the shortages were cured.

3 27(b). Code section 10145 and Regulation 2831. Trust fund records to be maintained

4 27(b)(1). D.O. BUTNER -- During the audit period from November 1, 2016 through
5 April 23, 2017, while Respondent BUTNER was designated officer for HKTCI, HKTCI failed to
6 maintain an accurate record of trust funds received and disbursed for PM-BA1 and PM-BA-3, in
7 violation of Code section 10145 and Regulation 2831. HKTCI's record did not have the date of
8 receipt for trust funds. Examples of the records missing the receipt of trust fund date include the
9 following, without limitation:

<u>Bank Account</u>	<u>Tenant</u>	<u>Property</u>	<u>Amount</u>	<u>Date of Deposit</u>
PM-BA1	B.M.	Huggins St.	\$3,300.00	2/1/2017
PM-BA1	M.S.	Lozana Rd.	\$1,920.00	2/23/2017

13 27(b)(2). D.O. REIFEISS - During the audit period from April 27, 2017 through
14 January 31, 2018, while Respondent REIFEISS was designated officer for HKTCI, HKTCI
15 failed to maintain an accurate record of trust funds received and disbursed (control record) for
16 PM-BA1, PM-BA2, PM-BA3, and PM-BA4, in violation of Code section 10145 and Regulation
17 2831. Examples of the inaccurate records include the following, without limitation:

<u>Bank Account</u>	<u>Tenant</u>	<u>Property</u>	<u>Amount</u>	<u>Date of Deposit</u>
PM-BA1	S.	Rock Rose	\$6,500.00	(transfer deposit on 9/5/2017)
PM-BA2	J.E.	Suncrest	\$1,580.00	1/4/2018
PM-BA2	S.R.G.	African Holy Trail	\$3,995.00	1/4/2018
PM-BA3	K.J.H.	Pentuckett	\$4,111.00	12/1/2017
PM-BA3	M.H.	Falcon Hill Ct.	\$730.00	12/1/2017

1	<u>Bank Account</u>	<u>Tenant</u>	<u>Property</u>	<u>Amount</u>	<u>Date of Deposit</u>
2	PM-BA4	D.L.	Dufresne Pl.	\$2,995.00	8/8/2017
3	PM-BA4	J.S.	Sunflower Glen	\$2,195.00	8/25/2017

4 27(c). Code section 10145 and Regulation 2831.1. Separate records for each beneficiary
5 or transaction.

6 27(c)(1). D.O. BUTNER – During the audit period from November 1, 2016 through
7 April 23, 2017, while Respondent BUTNER was designated officer for HKTCI, HKTCI failed to
8 maintain complete and accurate separate records for each beneficiary or transaction (separate
9 records) for PM-BA1 and PM-BA3, in violation of Code section 10145 and Regulation 2831.1.
10 As of April 23, 2017, PM-BA1 and PM-BA3 had combined unidentified/unaccounted for funds
11 totaling \$1,087.86.

12 27(c)(2). D.O. REIFEISS – During the audit period from April 24, 2017 through
13 January 31, 2018, while Respondent REIFEISS was designated officer for HKTCI, HKTCI
14 failed to maintain complete and accurate separate records for each beneficiary or transaction
15 (separate records) for PM-BA2 and PM-BA4, in violation of Code section 10145 and Regulation
16 2831.1. PM-BA2 contained an unidentified shortage of <\$2,030.00>.

17 According to REIFEISS, the negative property balances were due to not
18 reconciling properly every month; therefore, HKTCI did not have the accurate ending balance
19 for each separate record.

20 27(d). Code section 10145 and Regulation 2831.2. Trust account reconciliation.

21 27(d)(1). D.O. BUTNER – During the audit period from November 1, 2016 through
22 April 23, 2017, while Respondent BUTNER was designated officer for HKTCI, HKTCI failed to
23 perform and maintain an accurate monthly reconciliation comparing the balance of all separate
24 beneficiary or transaction (separate records) to the balance of the record of all trust funds

1 received and disbursed (control record) for PM-BA1 and PM-BA3, in violation of Code section
2 10145 and Regulation 2831.2.

3 27(d)(2). D.O. REIFEISS – During the audit period from April 24, 2017 through
4 January 31, 2018, while Respondent REIFEISS was designated officer for HKTCI, HKTCI
5 failed to perform and maintain an accurate monthly reconciliation comparing the balance of all
6 separate beneficiary or transaction (separate records) to the balance of the record of all trust
7 funds received and disbursed (control record) for PM-BA1, PM-BA2, PM-BA3, and PM-BA4, in
8 violation of Code section 10145 and Regulation 2831.2.

9 According to REIFEISS, the negative property balances, unidentified
10 cause of shortage, and unidentified/unaccounted for funds were due to not reconciling properly
11 every month; therefore, HKTCI did not have the accurate ending balance for each separate
12 record.

13 27(e). Code section 10145 and Regulation 2832. Trust fund handling.

14 27(e)(1). D.O. BUTNER and REIFEISS - Based on the bank signature cards
15 for PM-BA1 and PM-BA3, which were used for the receipt and disbursement of trust funds
16 related to HKTCI's property management activities, PM-BA1 and PM-BA3 were not designated
17 as trust accounts in the name of HKTCI or "Covarent" as trustees, in violation of Code section
18 10145 and Regulation 2832.

19 27(e)(2). D.O. REIFEISS - Based on the bank signature cards for PM-BA2
20 and PM-BA4, which were used for the receipt and disbursement of trust funds related to
21 HKTCI's property management activities, PM-BA2 and PM-BA4 were not designated as trust
22 accounts in the name of HKTCI or "Covarent" as trustees, in violation of Code section 10145
23 and Regulation 2832.

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1	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
2	27(c)	Code section 10145 and Regulation 2831.1
3	27(d)	Code section 10145 and Regulation 2831.2
4	27(e)	Code section 10145 and Regulation 2832
5	27(f)	Code section 10145 and Regulation 2834

6
7 The foregoing violations constitute cause for the suspension or revocation of the real
8 estate licenses and license rights of Respondent HKTCI under the provisions of Code sections
9 10177(d) and/or 10177(g).

10 Respondent BUTNER - Broker Supervision

11 29.

12 The conduct, acts and/or omissions of Respondent BUTNER, as designated officer for
13 HKTCI for the audit period of November 1, 2016 through April 23, 2017, and as alleged above
14 in Paragraph 27(g), constitutes a failure to exercise the supervision and control over the activities
15 of HKTCI to ensure compliance with the Real Estate Law and Regulations, as is required by
16 Code section 10159.2 and Regulation 2725. Said conduct, acts, or omissions constitute cause to
17 suspend or revoke the real estate license and license rights of Respondent BUTNER pursuant to
18 Code sections 10177(h), 10177(d) and/or 10177(g).

19 Respondent REIFEISS - Broker Supervision

20 30.

21 The conduct, acts and/or omissions of Respondent REIFEISS, as designated officer for
22 HKTCI during the audit period of April 24, 2017 through January 31, 2018, and as alleged above
23 in Paragraph 27(g), constitutes a failure to exercise the supervision and control over the activities
24 of HKTCI to ensure compliance with the Real Estate Law and Regulations, as is required by

1 Code section 10159.2 and Regulation 2725. Said conduct, acts, or omissions constitute cause to
2 suspend or revoke the real estate license and license rights of Respondent REIFEISS pursuant to
3 Code sections 10177(h), 10177(d) and/or 10177(g).

4 Audit Costs

5 31.

6 Code section 10148(b) provides, in pertinent part, that the Commissioner shall charge a
7 real estate broker for the cost of any audit, if the Commissioner has found in a final decision
8 following a disciplinary hearing that the broker has violated Code section 10145 or a regulation
9 or rule of the Commissioner interpreting said section.

10 Investigation/Enforcement Costs

11 32.

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

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