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FILED

OCT 06 2025

DEPT. OF REAL ESTATE

By. 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	No. H-05895 SD
	)	
KITTY HAWK REALTY INC. and TERRY	)	<u>ACCUSATION</u>
LEE KAZMAIER, individually and as designated	)	
officer of Kitty Hawk Realty Inc.,	)	
	)	
Respondent(s).	)	

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against KITTY HAWK REALTY INC. and TERRY LEE KAZMAIER (collectively "Respondents") alleges as follows:

1.

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

2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

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ACCUSATION

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1 5.

2 (PRIOR DISCIPLINE)

3 On or about May 17, 2023, in case no. H-05688 SD, a Stipulation and
4 Agreement was entered into between the Department and Respondents, effective July 12, 2023,
5 issuing: (1) for KHRI, suspensions of 30 days (30 days stayed for 1 years on terms and
6 conditions) for violation of Code sections 10130, 10145, 10159.2, 101661.8, 10176(e),
7 10177(d), and 10177(g), and Regulations sections 2731, 2752, 2832.1, and 2835; and (2) for
8 KAZMAIER, suspensions of 30 days (30 days stayed for 1 years on terms and conditions) for
9 violation of Code sections 10159.2, 10177(d), 10177(g), and 10177(h), and Regulations
10 sections 2725.

11 LICENSED ACTIVITIES

12 6.

13 At all times relevant herein Respondents were engaged in the business of, acted
14 in the capacity of, advertised or assumed to act as a real estate corporation, within the meaning
15 of Section 10131 (b) of the Code. Respondents' activities included the leasing or renting of real
16 property and the collection of rents and security deposits for real property on behalf of others
17 for compensation or in expectation of compensation.

18 7.

19 (AUDIT SD240040)

20 On or about June 30, 2025, the Department completed an audit examination of
21 the books and records of Respondents pertaining to the property management activities
22 described in Paragraph 6 above. The audit examination covered the period of time from August
23 7, 2023 to February 28, 2025 ("audit period"). The primary purposes of the examination was to
24 determine whether Respondents conducted real estate activities that complied with the Real
25 Estate Law, especially with regard to the terms and conditions of the stipulation described in
26 Paragraph 5. The audit examination revealed violations of the Code and the Regulations as set
27

1 forth in the following paragraphs, and more fully discussed in Audit No. SD240040, and the
2 exhibits and work papers attached to said audit report.

3 8.

4 At all times mentioned herein, and in connection with the property management
5 activities described in Paragraph 6, above, Respondents accepted or received funds, including
6 funds in trust ("trust funds") from or on behalf of actual or prospective parties to transactions
7 handled by Respondents and thereafter made deposits and/or disbursements of such funds.
8 According to the documents provided, Respondents maintained one (1) bank account for
9 handling of the receipts and disbursements of funds during the audit period in connection with
10 the property management activities as well as a general account for business purposes. The
11 bank account is as follows:

12
13 Trust Account 1 ("TA 1")

14 Bank: California Credit Union
15 Account Name: Kitty Hawk Realty Inc Client Trust
16 Account Number: xxxxxxxx9904
17 Signatories: Terry L. Kazmaier and Marc M. Ethington
18 Signatures Required: One
19 Purpose: TA 1 was maintained to handle trust funds in the property management
20 activities for multiple beneficiaries, including, but not limited to, rents.

21 Violations of the Real Estate Law

22 9.

23 The audit examination revealed violations of the Code and the Regulations, as
24 set forth in the following paragraphs, and more fully discussed in Audit Report No. SD240040,
25 and the exhibits and work papers attached to the audit report:

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1 (a) **Trust Fund Handling For Multiple Beneficiaries (Code section 10145**
2 **and Regulations sections 2832.1)**. Based on an examination of TA 1's records, there was a
3 combined minimum trust fund shortage of \$6,958.34 as of February 28, 2025 in violation of
4 Code section 10145 and Regulations sections 2832.1. There is no evidence that Respondents
5 were given written consent from the owners of the trust funds to allow Respondents to reduce
6 the balance of the funds in TA 1 to an amount less than the aggregate trust fund liabilities to all
7 owners of the trust funds.

8 (b) **Trust Fund Records to be Maintained (Code Section 10145 and**
9 **Regulations Sections 2831)**. Based on an examination of TA 1's records, Respondents failed
10 to maintain complete and accurate columnar record for all trust funds received and disbursed
11 (control record) in TA1 which were used for Respondents' property management activities
12 during the audit period in violation of Code Section 10145 and Regulations Sections 2831.

13 (c) **Separate Records for Each Beneficiary or Transaction (Code section**
14 **10145 and Regulations sections 2831.1)**. Respondents failed to maintain complete and
15 accurate separate records for each beneficiary or transaction of all trust fund receipts and
16 disbursements for TA 1 in connection with Respondents' property management activities
17 during the audit period in violation of Code section 10145 and Regulations section 2831.1.

18 (d) **Handling of Trust Fund/Trust Account Reconciliation (Code section**
19 **10145 and Regulations section 2831.2)**. Based on an examination of TA 1's records,
20 Respondents failed to accurately perform monthly reconciliation for TA 1 during the audit
21 period in violation of Code section 10145 and Regulations section 2831.2.

22 (e) **Salesperson and Broker Associate Retention and Termination/Notice of**
23 **Change of Broker (Code section 10161.8 and Regulations section 2752)**. Based on an
24 examination of the records provided, Marc Mowry Ethington (REB 01310488) was the office
25 manager for KHRI, since February 2019, but was not associated with KHRI (instead was
26 associated with KAZMAIER's REB license, during the audit period in violation of Code
27 sections 10161.8 and Regulations section 2831.2.

(f) **Use of False or Unlicensed Fictitious Name (Code section 10159.5 and Regulations section 2731)**. During the audit period, Respondent KHRI used the unlicensed fictitious business name of “Kitty Hawk Realty” and “Kitty Hawk Realty Manage Properties” in connection with its property management activities. During that time, the name “Kitty Hawk Realty” was listed in the Department’s records as licensed fictitious business name registered to Respondent KAZMAIER, individually, in violation of Code section 10159.5 and Regulations section 2731. In addition, during the audit period, the name “Kitty Hawk Realty Manage Properties” was used without first registering it with the Department.

(g) **Responsibility of Corporate Office in Charge/Broker Supervision (Code sections 10159.2 and 10177(h) and Regulations section 2725)**. Based on the violations in Paragraphs 9 (a)-(f) above, Respondent KAZMAIER failed to exercise adequate supervision and control over KHRI's property management activities in violation of Code section 10159.2. Respondent KAZMAIER failed to provide established policies, rules, procedures, and systems to review, oversee, inspect, and manage transactions requiring a real estate license and the handling of trust funds in violation of Regulations section 2725.

Additional Violations of the Real Estate Law

10.

The overall conduct of Respondents violates the Real Estate Law and constitutes cause for the suspension or revocation of its real estate license and license rights under the provisions of **Code Section 10177(g)** for negligence and **Code Section 10177(d)** for willful disregard of the Real Estate Law.

11.

Each of the foregoing violations in Paragraphs 8 (a)-(g) above constitute cause for the suspension or revocation of the real estate license and/or license rights of Respondents under the provisions of Code sections 10177(d), 10177(g), and 10177(h) (as to KAZMAIER).

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COSTS

(AUDIT COSTS)

12.

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

(INVESTIGATION AND ENFORCEMENT COSTS)

13.

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

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10 Dated at San Diego, California this 6th day of O c t o b e r, 2025.

cc: KITTY HAWK REALTY INC.
TERRY LEE KAZMAIER
Sacto.
Audits – Guadalupe Barragan