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**FILED**

DEC 18 2018

DEPARTMENT OF REAL ESTATE  
By K. Knapp

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of: ) NO. H- 12230 SF  
12 )  
13 MICHELLE PARADERO MAGBOO HUNTER ) ACCUSATION  
14 and BRIAN WILLIAM GARRETT, )  
15 Respondents. )

16 The Complainant, ROBIN S. TANNER, acting in her official capacity as a  
17 Supervising Special Investigator of the State of California, for cause of Accusation against  
18 Respondents MICHELLE PARADERO MAGBOO HUNTER ("HUNTER") and BRIAN  
19 WILLIAM GARRETT ("GARRETT"), (collectively referred to as "Respondents"), is informed  
20 and alleges as follows:

21 1.

22 HUNTER is presently licensed and/or has license rights under the Real Estate  
23 Law, Part 1 of Division 4 of the Code ("the Real Estate Law") as an individual real estate  
24 salesperson, and at all relevant times was licensed under corporate real estate broker Vanguard  
25 Properties, Inc.

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1 2.

2 GARRETT is presently licensed and/or has license rights under the Real Estate  
3 Law as an individual real estate salesperson, and at all relevant times was licensed under  
4 corporate real estate broker Vanguard Properties, Inc.

5 3.

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

13 4.

14 In 2016, Alfonso M. and Monica M. ("Sellers") owned real property located at 45  
15 Shakespeare Street, Daly City, CA 94014 ("Subject Property"). In or about July 2016, HUNTER  
16 entered into a Residential Listing Agreement with Sellers regarding the Subject Property.

17 5.

18 In or about July 2016, HUNTER conducted an open house to show the Subject  
19 Property to prospective purchasers. At the open house, Donna L. ("Buyer") expressed an interest  
20 in purchasing the Subject Property and asked HUNTER to serve as her real estate agent.  
21 HUNTER did not feel comfortable representing both parties in the same transaction. HUNTER  
22 was also inexperienced in real estate and wanted help with the transaction. Therefore, HUNTER  
23 asked GARRETT to represent the Buyers in the transaction and for GARRETT to mentor her  
24 through the transaction. GARRETT agreed to represent Buyer and to mentor HUNTER in  
25 exchange for 75% of the total commission on the sale of the Subject Property.

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27 ///

1 6.

2 On or about July 28, 2016, GARRETT, on behalf of Buyer, made an offer to  
3 purchase the Subject Property for \$1,025,000, backed by a \$30,750 earnest money deposit ("the  
4 Offer"). The Offer was contingent on Buyer obtaining a loan in the amount of \$820,000. Sellers  
5 accepted the Offer on July 28, 2016.

6 7.

7 Buyer contacted loan agent Thomas M. with HomeStreet Bank in order to obtain  
8 financing to purchase the Subject Property. As a condition of financing, HomeStreet Bank  
9 required Buyer to produce a lease agreement and security deposit showing Buyer's departure  
10 residence was being leased to a tenant. Buyer and GARRETT prepared a lease for Buyer's friend  
11 to rent Buyer's departure residence.

12 8.

13 On or about August 15, 2016, GARRETT left for a three week vacation to Africa.  
14 Prior to leaving, GARRETT asked HUNTER to "babysit" the transaction until he returned, and  
15 HUNTER agreed.

16 9.

17 Shortly after GARRETT left for vacation, Seller informed HUNTER that Buyer's  
18 friend no longer intended to lease Buyer's departure residence. HUNTER contacted GARRETT  
19 and the two devised a plan whereby HUNTER would have her mother, Marlyn M., sign a lease to  
20 rent Buyer's departure residence, and provide a security deposit of \$2,500. HUNTER and  
21 GARRETT advised Buyer to provide the lease from Marlyn M. to loan agent Thomas M. in order  
22 for Buyer to secure financing to purchase the Subject Property.

23 10.

24 At all relevant times herein, HUNTER, GARRETT, Buyer, and Marlyn M. knew  
25 that Marlyn M. had no intention of actually moving into Seller's departure residence. Rather,  
26 HUNTER, GARRETT, Buyer, and Marlyn M. knew the purpose of lease agreement between  
27 Marlyn M. and Buyer was for Buyer to obtain financing for the Subject Property, and that Marlyn

1 M.'s deposit would be returned to her once Buyer obtained financing to purchase the subject  
2 property.

3 11.

4 On or about August 18, 2016, Marlyn M. and Buyer entered into a lease  
5 agreement stating Marlyn M. would lease Buyer's departure residence for one year at a rate of  
6 \$5,000 per month, with a \$2,500 security deposit. Shortly thereafter, Buyer provided loan agent  
7 Thomas M. with a copy of the lease agreement executed between Marlyn M. and Buyer.

8 12.

9 On or about October 1, 2016, Buyer informed loan agent Thomas M. that the lease  
10 agreement she provided him, showing Marlyn M. leased Buyer's departure residence for a period  
11 of one year, was fake and that Marlyn M. did not intend to lease Buyer's departure residence.  
12 Shortly thereafter, HomeStreet Bank cancelled Buyer's loan application. On or about October 5,  
13 2016, Buyer and Sellers cancelled their contract for the purchase and sale of the Subject Property.

14 13.

15 On or about December 6, 2016, Seller sold the subject property to Calvin D. for  
16 \$860,000.

17 14.

18 As set out above in Paragraphs 4 through 13, Respondents' representations,  
19 actions and/or omissions were substantially fraudulent, misleading, dishonest and deceitful, and  
20 were known by Respondents to be substantially fraudulent, misleading, dishonest and deceitful  
21 during the transaction of the Subject Property.

22 15.

23 The acts and/or omissions of Respondents, as alleged above in Paragraphs 4  
24 through 14, are grounds for the revocation or suspension of Respondents' real estate licenses or  
25 license rights under Sections 10176(a) (misrepresentation), 10176(i) (fraud or dishonest dealing),  
26 10177(j) (fraud or dishonest dealing) and/or 10177(g) (negligence/incompetence) of the Code.


27

1 COST RECOVERY

2 16.

3 Section 10106 of the Code provides, in pertinent part, that in any order issued in  
4 resolution of a disciplinary proceeding before the Department, the Commissioner may request the  
5 Administrative Law Judge to direct a licensee or licensees found to have committed a violation  
6 of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement  
7 of the case.

8 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
9 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
10 action against all licenses and license rights of Respondents under the Code, for the cost of  
11 investigation and enforcement as permitted by law, for the cost of the audit, and for such other  
12 and further relief as may be proper under other provisions of law.

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15 ROBIN S. TANNER  
16 Supervising Special Investigator

17 Dated at Oakland, California,  
18 this 4<sup>th</sup> day of December, 2018

19  
20  
21 DISCOVERY DEMAND

22 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the  
23 Department hereby makes demand for discovery pursuant to the guidelines set forth in the  
24 *Administrative Procedure Act*. Failure to provide Discovery to the Department may result in the  
25 exclusion of witnesses and documents at the hearing or other sanctions that the Office of  
26 Administrative Hearings deems appropriate.