

FILED

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BUREAU OF REAL ESTATE

By 

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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation against)	CalBRE No. H-40051 LA
PALM PACIFIC REALTY, INC.,)	<u>FIRST AMENDED</u>
SHING HSUN WU, individually and as)	<u>ACCUSATION</u>
designated officer of Palm Pacific Realty, Inc.,)	
KING FUN HUI, and BENJAMIN L. UENG,)	
Respondents.)	

This First Amended Accusation amends the Accusation filed on December 3, 2015. The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the Bureau of Real Estate ("Bureau") of the State of California, for cause of Accusation against PALM PACIFIC REALTY, INC., SHING HSUN WU, individually and as designated officer of Palm Pacific Realty, Inc., KING FUN HUI, and BENJAMIN L. UENG (collectively "Respondents"), alleges as follows:

1.

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

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2.

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

3.

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.

4.

From September 16, 2009, through the present, Respondent PALM PACIFIC REALTY, INC. ("PPRI") has been licensed by the Bureau as a real estate corporation, License ID 01526481.

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From July 7, 1992, through the present, SHING HSUN WU ("WU") has been licensed by the Bureau as a real estate broker, License ID 00814725.

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From October 17, 1988, through the present, BENJAMIN L. UENG ("UENG") has been licensed by the Bureau as a real estate broker, License ID 00940265.

7.

From on or about September 16, 2009, through the present, PPRI has been authorized to act by and through Respondent WU as its broker designated pursuant to Code Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law. WU is the Secretary for PPRI.

8.

From April 10, 2007, through the present, Respondent KING FUN HUI ("HUI") has been licensed by the Bureau as a real estate salesperson, License ID 01794149. At all times relevant herein, Respondent HUI was licensed under the employment of PPRI.

1 9.

2 Audit LA 140052

3 On or about February 27, 2015, the Bureau completed an audit examination of the books
4 and records of Respondent PPRI's real estate activities that require a real estate license pursuant
5 to Code section 10131. The audit examination covered a period of time from
6 January 1, 2013 through October 31, 2014. The audit examination revealed violations of the
7 Code and the Regulations as set forth in the following paragraphs, and more fully discussed in
8 Audit Report LA 140052 and the exhibits and work papers attached to said audit report.

9 10.

10 An entrance conference was held on November 5, 2014 with Respondents WU and
11 UENG, PPRI's manager. Respondents WU and UENG provided PPRI's records to the auditor
12 for examination. During the audit period, Respondent PPRI listed its main office address at
13 812 W. Las Tunas Drive, San Gabriel, California. PPRI maintained one branch office located at
14 3636 S. Nogales St., West Covina, California. During the audit period, PPRI was engaged in
15 real estate sales and listing for short term (one year) leasing. According to UENG, PPRI did not
16 conduct property management, mortgage loan brokerage, or escrow activities during the audit
17 period. Respondents claimed that PPRI did not maintain a trust account during the audit period.

18 Violations

19 11.

20 In the course of PPRI's real estate activities during the audit examination period
21 described above in Paragraph 9, Respondents acted in violation of the Code and the Regulations
22 as follows:
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1 a. ISSUE THREE¹ (3). Code Section 10164(c)– Branch or Division Manager
2 Appointment

3 WU, PPRI’s designated officer, appointed UENG as a division manager of PPRI’s real
4 estate activities and delegated to UENG the responsibility to oversee PPRI’s day-to-day
5 operations and supervise PPRI’s salespersons and clerical staff without a written contract or
6 notification to the Bureau, in violation of Code Section 10164(c).

7 b. ISSUE FOUR (4). Code Sections 10159.2, 10164(b), 10165, 10177(h), and
8 Regulation 2725– Responsibility of Corporate Officer in Charge/Broker Supervision

9 Respondents WU and UENG failed to adequately supervise and control the real estate
10 activities conducted by PPRI’s salespersons and employees and failed to establish policies, rules,
11 procedures and/or systems to review, oversee, inspect, and manage transactions requiring a real
12 estate license or the handling of trust funds, in violation of Code Sections 10159.2, 10164(b),
13 10165, 10177(h), and Regulation 2725.

14 c. ISSUE FIVE (5). Code Section 10145(c) and Regulation 2832 – Handling of Trust
15 Funds

16 During the audit period, Respondent HUI, while acting on behalf of PPRI, accepted trust
17 funds approximately in the amount of \$71,500 in the form of rent payments (\$59,000) and
18 security deposit (\$12,500) from tenant Private Wealth Capital, LLC for the lease of real property
19 located at 2412 Jupiter Drive, in Los Angeles, California (“Jupiter property”). HUI failed to
20 deliver said trust funds to PPRI or if so directed by PPRI, into the custody of PPRI’s principal, a
21 neutral escrow depository, or into any PPRI trust account, in violation of Code Section 10145(c)
22 and Regulation 2832.

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¹ Issues One and Two deliberately skipped.

1 d. ISSUE SIX (6). Code Sections 10145, 10176(e), and Regulation 2832 – Handling of
2 Trust Funds/Commingling

3 During the audit period, HUI deposited trust funds for the lease of the Jupiter property
4 into HUI's personal account maintained with Bank of America, Account No. XXXXXX0483.
5 HUI commingled said trust funds with HUI's personal funds, in violation of Code sections
6 10145, 10176(e), and Regulation 2832.

7 e. ISSUE SEVEN (7). Code Section 10145 and Regulation 2831 – Handling of Trust
8 Funds/Trust Fund Records to Be Maintained

9 Respondents failed to maintain records of all trust funds received and disbursed in
10 connection the property management activity of the Jupiter property, in violation of Code section
11 10145 and Regulation 2831.

12 f. ISSUE EIGHT (8). Code Sections 10145(a), 10176(i) or 10177(j) – Handling of
13 Trust Funds/Unauthorized Disbursements


14 Based on an examination of records and discussions between the Bureau's auditor and
15 Respondents WU, HUI, and UENG, Respondent HUI collected advance rent payments (\$71,500)
16 for five months (\$71,500) from tenant Private Wealth Capital, LLC for the lease of the Jupiter
17 property. There was no written listing agreement for the lease of the Jupiter property. HUI
18 distributed some of the trust funds (\$2,145 to ASG Realty, Inc. and \$2,088 to HUI) without
19 written instructions from the owner of the Jupiter property or person(s) entitled to said trust
20 funds, in violation of Code Sections 10145(a), 10176(i) or 10177(j).

21 12.

22 The violations noted above in Paragraph 11 constitute cause for the suspension or
23 revocation of the real estate licenses and license rights of Respondents under the provisions of
24 Code Sections 10165, 10177(d), 10176(e), 10176(i), 10177(j), and/or 10177(g).

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this
2 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
3 against all licenses and/or license rights of Respondents PALM PACIFIC REALTY, INC.,
4 SHING HSUN WU, individually and as designated officer of Palm Pacific Realty, Inc., KING
5 FUN HUI, and BENJAMIN L. UENG under the Real Estate Law (Part 1 of Division 4 of the
6 Business and Professions Code), for the cost of investigation and enforcement as permitted by
7 law, and for such other and further relief as may be proper under other provisions of law.

8 Dated at San Diego, California this 19 day of January, 2016.

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11 VERONICA KILPATRICK
Supervising Special Investigator

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20 cc: Palm Pacific Realty, Inc.
21 Shing Hsun Wu
22 King Fun Hui
23 Benjamin L. Ueng
24 Veronica Kilpatrick
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Audits/Anna Hartoonian