

FILED

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BUREAU OF REAL ESTATE

By John Chinik

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8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) CalBRE No. H-40362 LA
12 YOUNG I. KIM and))
DAVID INKI CHUNG,))
13 Respondents.))
14 _____)

15 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of
16 California, for cause of Accusation against YOUNG I. KIM and DAVID INKI CHUNG,
17 (collectively "Respondents"), is informed and alleges as follows:

18 1.

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

21 2.

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

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1 3.

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

4 4.

5 From February 21, 2001, through the present, Respondent YOUNG I. KIM has been
6 licensed by the Bureau of Real Estate ("Bureau") as a real estate salesperson, License ID
7 01302327. Respondent YOUNG I. KIM's license expires on February 20, 2017, unless renewed.
8 The Bureau retains jurisdiction pursuant to Code section 10103.

9 5.

10 From April 13, 1990, through the present, Respondent DAVID INKI CHUNG
11 ("CHUNG") has been licensed by the Bureau as a real estate broker, License ID 00676924.
12 CHUNG was previously licensed as a salesperson from November 29, 1982 through April 12,
13 1990. At all times relevant, CHUNG was licensed to do business as California Realty &
14 Investment.

15 6.

16 At all times relevant Respondent YOUNG I. KIM was licensed under the employment of
17 Respondent DAVID INKI CHUNG.

18 7.

19 From on or about October 27, 1994 through August 5, 1998, Mi Young Kim was licensed
20 by the Bureau as a real estate salesperson, License ID 01189443. On April 1, 1998, the Bureau¹
21 filed an Accusation against Mi Young Kim in Bureau Case No. H-27624 LA. The Accusation
22 alleged cause to discipline Mi Young Kim's salesperson license pursuant to Code sections 490
23

24 ¹ Effective July 1, 2013, the Department of Real Estate became the Bureau of Real Estate ("Bureau"). All references to the agency are to the successor Bureau.

1 and 10177(b) based on a 1997 conviction for violating Penal Code section 487 (grand theft-
2 property). An administrative hearing was held on May 19, 1998 for Case No. H-27624 LA. On
3 July 9, 1998, the Bureau's Commissioner issued a Decision which revoked Mi Young Kim's real
4 estate salesperson license. The Commissioner's Decision became effective on August 6, 1998.
5 Mi Young Kim and Respondent YOUNG I. KIM are possibly married.

6 CAUSE OF ACCUSATION

7 (Substantial Misrepresentation/Fraud/Dishonest Dealing in
8 Short Sale and Resale of Same Property)

9 8.

10 On or about October 17, 2013, Mi Young Kim, aka Michelle Kim, Michelle Young, and
11 Young Kim, solicited J.Y.² for the short sale of J.Y.'s real property located at 800 Linda Vista
12 Ave., Pasadena, California ("subject property"). J.Y. entered into an exclusive residential listing
13 agreement with Respondent YOUNG I. KIM. Respondent YOUNG I. KIM purportedly signed
14 the listing agreement as agent for broker, California Realty & Investment. The listing price was
15 \$499,000. The broker commission was to be six percent of the listing price.

16 9.

17 On or about October 9, 2013, Michelle Kim opened escrow for the sale of the subject
18 property with Central Escrow Inc. On or about October 21, 2013, seller J.Y. executed a
19 California Residential Purchase Agreement and Joint Escrow Instructions ("purchase
20 agreement") with buyer C.C., who offered to purchase the subject property for \$650,000. On
21 page 1 of the purchase agreement, Respondent YOUNG I. KIM is listed as the agent who
22 purportedly prepared the purchase agreement. On page 8 of the purchase agreement, Respondent

23 ² 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 Respondents and/or their attorneys, after service of
a timely and proper request for discovery on Complainant's counsel.

1 YOUNG I. KIM purportedly signed the purchase agreement as the listing agent. On page 8 of
2 the purchase agreement, Respondent CHUNG purportedly signed as the selling agent. California
3 Realty & Investment acted as the dual broker for the buyer and the seller in the short sale
4 transaction.

5 10.

6 On March 24, 2014, buyer C.C. signed an Addendum No. 2 which raised the purchase
7 price for the subject property to \$655,000. Seller J.Y. accepted buyer C.C.'s offer to purchase
8 the subject property.

9 11.

10 On May 5, 2014, the seller's lender, Wells Fargo Bank ("WFB"), provided a notice to
11 seller J.Y. that WFB approved the short sale of the subject property for a sale price of \$655,000.
12 WFB required certain conditions for approval of the short sale to C.C. including, among others,
13 that:

- 14 1) Any party may not receive any sale proceeds or any funds as a result of
15 the transaction;
- 16 2) The short sale must be an arm's length transaction;
- 17 3) The purchase contract may not be amended without WFB's prior
18 approval;
- 19 4) Any relationship between a participating broker/real estate agent has been
20 disclosed prior to issuing the Notice of Short Sale Approval; and
- 21 5) The transaction may not close if it involves any third party who received a
22 deed from the borrower/seller at, before, or after settlement, and the
23 purchase contract may not be assigned.

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1 12.

2 On May 6, 2014, Respondents YOUNG I. KIM and CHUNG signed WFB's Short Sale
3 Affidavit. The Short Sale Affidavit certified and affirmed under penalty of perjury that there
4 were no agreements, understandings, or contracts related to the sale of the subject property that
5 had not been disclosed to WFB and that none of the signatories had knowledge of any offer to
6 purchase the subject property for a higher purchase price than the purchase price contained in the
7 purchase agreement dated October 21, 2013.

8 13.

9 Mi Young Kim provided an undated letter written in Korean to seller J.Y. The letter
10 states, when translated, "I will personally be responsible to give you, [J.Y.], \$10,000 on the day
11 you move out of 800 Linda Vista."

12 14.

13 On May 8, 2014, a purchase agreement was executed for the sale of the subject property
14 from seller C.C. to buyer H.B. Respondents YOUNG I. KIM and CHUNG represented seller
15 C.C. in the transaction. The purchase price for the subject property was \$835,000. The purchase
16 agreement did not list the agency relationship and was not signed by the selling or listing agents
17 or brokers. Several forms including the purchase agreement, buyer's inspection advisory, and at
18 least one counter offer were ostensibly prepared by Respondent YOUNG I. KIM on standard
19 California Association of Realtors (C.A.R.) forms.

20 15.

21 On May 21, 2014, Mi Young Kim, aka Michelle Young, sent an email to J.T. of Alfa
22 Escrow, Inc. requesting that escrow be opened for the sale of the subject property from C.C. to
23 H.B. A copy of the purchase agreement dated May 8, 2014 was attached to Michelle Young's
24

1 email.

2 16.

3 On May 21, 2014, a Grant Deed was executed transferring title of the subject property
4 from J.Y. to C.C. A Short Form Deed of Trust and Assignment of Rents was dated May 20,
5 2014 and notarized on May 21, 2014. The Short Form Deed transferred title of the subject
6 property from C.C. to H. B.

7 17.

8 On May 23, 2014, Alpha Escrow, Inc.'s Supplemental Escrow Instructions stated that the
9 sale of the subject property from C.C. to H.B. was a For Sale By Owner transaction where the
10 seller is representing him/herself without any broker involved on the seller's side.

11 18.

12 On May 24, 2014, the seller C.C. accepted H.B.'s Counter Offer No. 4.

13 19.

14 On May 27, 2014, escrow closed on the short sale of the subject property from seller J. Y.
15 to C.C. Respondent CHUNG instructed Central Escrow to pay Respondent YOUNG I. KIM
16 \$32,395 of the \$39,300 commission owed to California Realty and Investment. Mi Young Kim
17 failed to pay the \$10,000 fee as promised to J.Y. The resale of the subject property from C.C. to
18 H.B. and related agreements, deeds, and proceeds, were not disclosed to WFB or J.Y. by
19 Respondents.

20 20.

21 On May 28, 2014, a Grant Deed was executed transferring title of the subject property
22 from C.C. to H.B. and J.B., husband and wife.

23 ///

24

1 21.

2 On June 2, 2014, escrow closed on the sale of the subject property from seller C.C. to
3 H.B. The purchase price was \$740,000. On June 2, 2014, C.C. signed instructions to pay a
4 referral fee of \$10,000 to Respondent YOUNG I. KIM. The fee was then paid to Kun N. Kim,
5 an unlicensed person.

6 22.

7 On April 27, 2015, the Bureau received a consumer complaint against Respondent
8 YOUNG I. KIM from seller J.Y. On May 13, 2015, the Bureau requested the transaction files
9 for the short sale and resale of the subject property from Respondent CHUNG. On
10 December 28, 2015, the Bureau served a subpoena duces tecum on Respondent CHUNG for
11 copies of any and all offers on the subject property between September 10, 2013 and December
12 31, 2014. Respondent CHUNG, through his attorney, provided some documents to the Bureau
13 that were intended to be responsive to the Bureau's request for documents. The documents
14 provided by Respondent CHUNG did not include several documents that had been provided by
15 the escrow companies and WFB to the Bureau in response to subpoenas for their transaction files
16 for the short sale and resale of the subject property.

17 23.

18 The conduct, acts and/or omissions of Respondents YOUNG I. KIM and CHUNG, as
19 described in Paragraphs 8 through 22 above, and constitutes cause to suspend or revoke the real
20 estate license and license rights of Respondents under Code Sections 10176(a)(substantial
21 misrepresentation), 10176(b)(making false promises of a character likely to influence, persuade,
22 or induce), 10177(d)(violation of the Real Estate Law), and 10177(j)(any other conduct that
23 constitutes fraud or dishonest dealing).

1 24.

2 The conduct, acts and/or omissions of Respondent CHUNG in failing to retain copies of
3 documents in connection with the aforementioned transactions is a violation of Code section
4 10148 and constitutes cause to suspend or revoke the real estate license and license rights of
5 Respondent CHUNG under Code Sections 10177(d) and/or 10177(g).

6 25.

7 The conduct, acts and/or omissions of Respondent CHUNG, as alleged above in
8 Paragraphs 8 through 22, constitutes a failure by Respondent CHUNG to exercise the
9 supervision and control over the activities of his salespersons as required by Regulation 2725 and
10 is cause to suspend or revoke the real estate license and license rights of Respondent CHUNG
11 under Code Sections 10177(h), 10177(d), and/or 10177(g).

12 COST RECOVERY

13 Investigation and Enforcement Costs

14 26.

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

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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 YOUNG I. KIM and DAVID INKI
4 CHUNG under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code),
5 for the cost of investigation and enforcement as permitted by law, and for such other and further
6 relief as may be proper under other provisions of law.

7 Dated at San Diego, California, this 15 day of August, 2016. .

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10 VERONICA KILPATRICK
11 Supervising Special Investigator
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20 cc: Young I. Kim
21 David Inki Chung
22 Veronica Kilpatrick
23 Sacto.
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