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FILED

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DEPT. OF REAL ESTATE

By *John Aguirre*

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H-41403 LA
13)
14 SITSEEFly, INC and) ACCUSATION
15 MICHAEL LEONIS, JR, individually)
16 and as designated officer of Sitseefly, Inc,)
17 Respondents.)
18)

19 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
20 State of California, for cause of Accusation against SITSEEFly, INC and MICHAEL
21 LEONIS, JR, individually and as designated officer of Sitseefly, Inc, (sometimes referred to as
22 "Respondents") alleges as follows:

23 1.

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

26 2.

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

1 LICENSE HISTORY

2 (SITSEEFly, INC)

3 3.

4 a. Respondent SITSEEFly, INC ("SITSEEFly") is presently licensed and/or
5 has license rights under the Code as a corporate real estate broker, Department of Real Estate
6 ("Department") license ID 01910239.

7 b. The Department originally issued SITSEEFly a real estate license on May
8 31, 2012. Respondent's license is scheduled to expire on May 30, 2020, unless renewed.

9 c. From October 2, 2012, through September 27, 2016, SITSEEFly maintained
10 the authorized fictitious business name "Real Property Management Residential." According to
11 the Department's records to date, SITSEEFly does not currently maintain any fictitious
12 business names with the Department.

13 d. From May 31, 2012, through January 27, 2016, SITSEEFly's designated
14 officer was real estate broker Jeffrey Carl Ault ("Ault"), Department license ID 01386369.

15 e. Since May 31, 2016 through the present, SITSEEFly's designated officer is
16 Respondent MICHAEL LEONIS, JR ("LEONIS").

17 e. c. SITSEEFly is a California corporation, California Corporate number
18 C3425228. LEONIS is the chief executive officer, secretary, chief financial officer, and director
19 of SITSEEFly.

20 (PRIOR LICENSE DISCIPLINE OF SITSEEFly)

21 4.

22 On or about December 1, 2015, in Department Case No. H-39728 LA, the Real
23 Estate Commissioner suspended SITSEEFly's real estate broker license for 90 days, 30 days
24 of which were stayed upon the payment of a monetary penalty and the remaining 60 days were
25 stayed under certain terms and conditions specified in the Commissioner's Decision, effective
26 on December 28, 2015.

27 ///

1 (MICHAEL LEONIS, JR)

2 5.

3 a. Respondent LEONIS presently has license rights under the Code as a real
4 estate broker, Department license ID 01452712.

5 b. The Department originally issued LEONIS a real estate salesperson license on
6 September 13, 2004. On May 27, 2014, the Department issued LEONIS a real estate broker
7 license, which expired on May 26, 2018. The Department retains jurisdiction over the lapsed
8 license pursuant to Code section 10103.

9 c. LEONIS is currently the designated officer of Respondent SITSEEFly. As
10 designated officer, LEONIS is responsible for the supervision of the activities conducted on
11 behalf of SITSEEFly by its officers, agents, real estate licensees, and employees pursuant to
12 Code section 10159.2.

13 d. According to the Department's records to date, LEONIS does not currently
14 maintain any authorized fictitious business with the Department.

15 (PRIOR LICENSE DISCIPLINE OF LEONIS)

16 6.

17 On or about December 1, 2015, in Department Case No. H-39728 LA, the Real
18 Estate Commissioner suspended LEONIS' real estate broker license for 45 days, 15 days of
19 which were stayed upon the payment of a monetary penalty and the remaining 30 days of the
20 suspension were stayed under certain terms and conditions specified in the Commissioner's
21 Decision, effective on December 28, 2015.

22 CAUSE FOR ACCUSATION

23 (AUDIT NO. LA170153)

24 7.

25 At all times relevant herein Respondent SITSEEFly was engaged in the
26 business of a real estate broker within the meaning of Section 10131(b) of the Code.
27 SITSEEFly's activities included the leasing or renting of real property and the collection of

ACCUSATION

1 rents and security deposits for real property on behalf of others for compensation or in
2 expectation of compensation.

3 8.

4 On or about August 30, 2018, the Department completed an audit examination
5 of the limited records of SITSEEFly pertaining to the real estate activities described in
6 Paragraph 7 above. The audit examination covered the period of time from December 29, 2015,
7 through March 31, 2018 ("audit period"). The primary purpose of the examination was to
8 determine Respondent's compliance with the Real Estate Law and pursuant to the Real Estate
9 Commissioner's Decision on December 1, 2015, in Case No. H-39728 LA, effective December
10 28, 2015. The audit examination revealed violations of the Code and the Regulations as set
11 forth in the following paragraphs, and more fully discussed in Audit No. LA170153 and the
12 exhibits and work papers attached to said audit report.

13 (SITSEEFly'S FAILURE TO RETAIN RECORDS)

14 9.

15 The Department auditor made several attempts to contact and meet with
16 LEONIS to conduct an audit of SITSEEFly's real estate activity. LEONIS failed to attend the
17 scheduled appointment with the auditor on March 15, 2018. On April 20, 2018, a Department
18 special investigator served a subpoena duces tecum on LEONIS to produce SITSEEFly's
19 books and records for the audit period. LEONIS failed to produce the requested books and
20 records for the audit examination.

21 10.

22 The Department scheduled an entrance conference with SITSEEFly's former
23 licensed officer Ault. On March 20, 2018, Ault met with the Department auditor. According to
24 Ault, he did not have any records related to SITSEEFly's property management activity. Ault,
25 however, provided a copy of his real estate broker license, SITSEEFly's Statement of
26 Information and Articles of Incorporation from the California Secretary of State, the
27 Independent Contractor Agreement between Ault and LEONIS dated February 23, 2013, emails

1 regarding the dissolution of Ault and LEONIS' business relationship, a copy of Real Property
2 Management's brochure, and Ault's written statement. According to Ault, all records were
3 maintained by LEONIS and since 2014, Ault did not have access to the office to obtain the
4 requested records for the audit. At the entrance conference with Ault, the Department auditor
5 served a subpoena duces tecum on Ault to produce SITSEEFly's books and records for the
6 audit period. SITSEEFly's books and records were not produced for the audit examination.

7 11.

8 As more fully discussed in Audit No. LA170153, SITSEEFly failed to produce
9 the books and records relating to its property management activity for the DRE auditor's
10 examination, inspection, and copying in violation of Code section 10148 and Regulation
11 section 2950(e).

12 (SITSEEFly'S SECRET PROFIT OR UNDISCLOSED COMPENSATION)

13 12.

14 On or about October 2, 2017, the Department received a complaint from T.M.¹
15 who hired "Real Property Management Residential," by and through LEONIS, to manage his
16 condominium located at 1650 S. Campus Avenue, Unit 91, Ontario, California ("Campus
17 property"). Real Property Management Residential was a fictitious business name for
18 SITSEEFly from October 2, 2012, through September 27, 2016. T.M. alleged that
19 SITSEEFly, doing business as Real Property Management Residential, "marked up" items
20 purchased for the Campus property and labor performed beyond the terms of their property
21 management agreement. T.M. provided documents relating to SITSEEFly's management of
22 the Campus property. Based on an examination of the documents provided by T.M. to the
23 auditor, SITSEEFly charged T.M. additional fees of at least \$673.32 during the period from
24 August 1, 2017 through September 1, 2017 for maintenance services at the Campus property in
25

26
27 ¹ Initials are used in place of individuals' full names to protect their privacy. Documents containing
individuals' full names will be provided during the discovery phase of this case to Respondents and/or
their attorney, after service of a timely and proper request for discovery on Complainant's counsel.

1 violation of Code section 10176(g). There was no evidence that T.M. authorized SITSEEFly
2 to charge the additional fees.

3 (USE OF FALSE OR FICTITIOUS BUSINESS NAME)

4 13.

5 SITSEEFly conducted property management services for T.M. using the
6 unlicensed fictitious business name "Real Property Management Residential" when
7 SITSEEFly was no longer a holder of the license bearing the fictitious name in violation of
8 Code section 10159.5 and Regulation section 2731.

9 (RESPONSIBILITY OF CORPORATE OFFICER IN CHARGE)

10 14.

11 Based on the violations set forth in Paragraphs 9 through 13 above, Respondent
12 LEONIS failed to exercise adequate supervision and control over the activities of Respondent
13 SITSEEFly to ensure compliance with the Real Estate Laws and Regulations in violation of
14 Code sections 10177(h) and 10159.2.

15 15.

16 Each of the foregoing violations in Paragraphs 9 through 14 above constitute
17 cause for the suspension or revocation of the real estate license and/or license rights of
18 Respondents SITSEEFly and LEONIS under the provisions of Code sections 10177(d) and/or
19 10177(g).

20 COSTS

21 (INVESTIGATION AND ENFORCEMENT COSTS)

22 16.

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

27 ///

1 WHEREFORE, Complainant prays that a hearing be conducted on the
2 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
3 disciplinary action against all the licenses and/or license rights of Respondents SITSEEFly,
4 INC and MICHAEL LEONIS, JR, individually and as designated officer of Sitseefly, Inc, under
5 the Real Estate Law, for the costs of investigation and enforcement as permitted by law, for the
6 cost of the audit, and for such other and further relief as may be proper under other applicable
7 provisions of law.

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9 Dated at San Diego, California this 10 day of July, 2019.

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13 _____
14 Veronica Kilpatrick
15 Supervising Special Investigator
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24 cc: SITSEEFly, INC
25 MICHAEL LEONIS, JR
26 Veronica Kilpatrick
27 Sacto.
 Audits – Isabel Beltran