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FILED

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BUREAU OF REAL ESTATE

By 

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H-39728 LA
)	
12 SITSEEFly, INC.; JEFFREY)	<u>ACCUSATION</u>
13 CARL AULT, individually and as)	
designated officer of Sitseefly Inc.,)	
14 and MICHAEL LEONIS, JR.,)	
)	
15 Respondents.)	
)	

17 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the
18 State of California, acting in her official capacity, for cause of Accusation against SITSEEFly,
19 INC. ("SITSEEFly") dba Real Property Management Residential, JEFFREY CARL AULT
20 ("AULT"), individually and as designated officer of Sitseefly, Inc., and MICHAEL LEONIS,
21 JR. ("LEONIS"), is informed and alleges as follows:

22 1.

23 The Complainant, Maria Suarez, acting in her official capacity as Deputy Real
24 Estate Commissioner of the State of California, makes this Accusation.

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1 2.

2 All references to the "Code" are to the California Business and Professions
3 Code, and all references to "Regulations" are to Title 10, Chapter 6, California Code of
4 Regulations unless otherwise specified.

5 3.

6 A. SITSEEFly, INC.: Respondent SITSEEFly is presently licensed
7 and/or issued by the Bureau of Real Estate as a real estate corporate broker (license no.
8 01910239). On May 31, 2012, SITSEEFly was originally licensed as a corporate real estate
9 broker by and through AULT.

10 B. JEFFREY CARL AULT: Respondent AULT is presently licensed
11 and/or issued by the Bureau of Real Estate as a real estate broker (license no. 01386369). On
12 December 10, 2005, AULT was originally licensed as a real estate broker. From May 28, 2003
13 to December 9, 2005, AULT was licensed or had license rights issued by the Bureau of Real
14 Estate as a real estate salesperson.

15 C. MICHAEL LEONIS, JR.: Respondent LEONIS is the sole owner of
16 SITSEEFly. LEONIS is presently licensed and/or issued by the Bureau of Real Estate as a
17 real estate broker (license no. 01452712). On May 27, 2014, LEONIS was originally licensed
18 as a real estate broker. From September 13, 2004 to May 26, 2014, LEONIS had a real estate
19 salesperson license.

20 4.

21 Whenever reference is made in an allegation in this Accusation to an act or
22 omission of "Respondents," such allegation shall be deemed to mean that the officers, directors,
23 employees, agents, and real estate licensees employed by or associated with Respondents
24 committed such act or omission while engaged in the furtherance of the business or operations
25 of Respondents and while acting within the course and scope of their corporate authority and
26 employment, including AULT and LEONIS.

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5.

At all times mentioned, in the City of Chino, County of San Bernardino, SITSEEFly and AULT engaged in the business of real estate brokers conducting licensed activities within the meaning of Code section 10131(b). SITSEEFly and AULT engaged in operating a real property management company by leasing, renting, and/or offering to rent places for rent, soliciting for prospective tenants, and/or collecting rents from real property.

FIRST CAUSE OF ACCUSATION

(Trust Fund Audit)

6.

On or about June 25, 2013, the Bureau of Real Estate completed a property management audit examination of the books and records of SITSEEFly limited to determine whether SITSEEFly handled and accounted for trust funds and conducted its real estate activities in accordance with the Real Estate Law and Regulations. The audit examination covered a period of time beginning on May 31, 2012 and ended on January 31, 2013. The audit examination revealed violations of the Code and the Regulations set forth in the following paragraphs, and more fully discussed in Audit Report LA120208 and the exhibits and work papers attached to said audit report.

Bank Account and Trust Accounts

7.

At all times mentioned, in connection with the activities described in Paragraph 4, above, SITSEEFly accepted or received funds including funds in trust ("trust funds") from or on behalf of actual or prospective parties, such as owners of real property, involved in property management services, and thereafter made deposits and/or disbursements of such funds. From time to time herein mentioned, during the audit period, said trust funds were

1 deposited and/or maintained by SITSEEFly in the bank account as follows:

2 "Sitseefly, Inc.
3 DBA Real Property Management Residential"
4 *****5428
5 Wells Fargo Bank
6 P.O. Box 6995
7 Portland, OR 97228-6995 (T/A #1)

8 "Sitseefly, Inc.
9 DBA Real Property Management Residential"
10 *****8962
11 Wells Fargo Bank
12 P.O. Box 6995
13 Portland, OR 97228-6995 (T/A #2)

14 "Sitseefly, Inc.
15 DBA Real Property Management Residential"
16 *****5766
17 Wells Fargo Bank
18 P.O. Box 6995
19 Portland, OR 97228-6995 (G/A #1)

20 8.

21 In the course of activities described in Paragraphs 5 and 7, above, and during the
22 audit examination period in Paragraph 6, above, Respondents SITSEEFly, AULT, and
23 LEONIS acted in violation of the Code and the Regulations as set forth below:

24 (a)(1) Permitted, allowed, or caused the disbursement of trust funds from the
25 trust account T/A #1 where the disbursement of funds reduced the total of aggregate funds in
26 T/A #1, to an amount which, on January 31, 2013, was \$17.65 less than the existing aggregate
27 trust fund liability to every principal who was an owner of said funds, without first obtaining
the prior written consent of the owners of said funds, in violation of Code section 10145 and
Regulations section 2832.1. The shortage was due to unidentified and/or unaccounted for
funds.

(a)(2) Permitted, allowed, or caused the disbursement of trust funds from the
general account G/A #1 where the disbursement of funds reduced the total of aggregate funds in

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1 G/A #1, to an amount which, on January 31, 2013, was \$1,490.46 less than the existing
2 aggregate trust fund liability to every principal who was an owner of said funds, without first
3 obtaining the prior written consent of the owners of said funds, in violation of Code sections
4 10145, 10176(i), and 10177(j) and Regulations section 2832.1. The shortage was due to
5 unauthorized disbursements to SITSEEFly totaling \$1,490.46.

6 (b)(1) Deposited property management trust funds into bank account T/A #1,
7 but failed to designate it as a trust account, in violation of Code section 10145 and Regulations
8 section 2832(a).

9 (b)(2) Deposited Eviction Protection Plan fees into bank account G/A #1, but
10 failed to designate it as a trust account, in violation of Code section 10145 and Regulations
11 section 2832(a).

12 (b)(3) Instructed tenants to deposit rents and security deposits into
13 Propertyware, Inc.'s bank account, but failed to designate it as a trust account, in violation of
14 Code section 10145 and Regulations section 2832(a).

15 (c) Failed to maintain a control record in the form of a columnar record in
16 chronological order of all trust funds, including the Eviction Protection Plan fees, that were
17 received, deposited, and disbursed, for the bank account G/A #1 in violation of Code section
18 10145 and Regulations section 2831.

19 (d) Failed to maintain an accurate and complete separate record for each
20 property owner from whom the Eviction Protection Plan fees were collected, thereby failing to
21 account for all trust funds received, deposited, and disbursed, in violation of Code section
22 10145 and Regulations section 2831.1.

23 (e) Commingled trust funds, such as rents and security deposits received
24 from tenants, by depositing them into general bank account G/A #1 in April 2012 and May
25 2012, in violation of Code sections 10145 and 10176(e).

1 (f)(1) Permitted LEONIS, who was not licensed to SITSEEFly and unbonded
 2 at all times during the audit examination period (i.e., May 31, 2012 through January 31, 2013),
 3 to be an authorized signatory on bank account T/A #1, in violation of Code section 10145 and
 4 Regulations section 2834(a).

5 (f)(2) AULT, the designated officer of SITSEEFly, was not a signatory on the
 6 bank account T/A #1, in violation of Code section 10145 and Regulations section 2834(b).

7 (g) Failed to disclose compensation and obtain approval from property
 8 owners for charging them mark-ups on repairs, in violation of Code sections 10145 and
 9 10176(g). These maintenance overcharges include, but are not limited, to the following:

Property address	Payment date	Amount paid	Invoice amount	Mark-ups
6373 Hamilton Ct.	08/30/2012	\$35.28	\$20.28	\$15.00
6373 Hamilton Ct.	11/05/2012	\$145.69	\$75.69	\$70.00
6302 Narcissus Ln.	08/30/2012	\$61.67	\$41.67	<u>\$20.00</u>
				\$105.00

9.

16 The conduct of Respondents SITSEEFly, AULT, and LEONIS described in
 17 Paragraph 8, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
19 8(a)(1)	Code section 10145 and Regulations section 2832.1
20 8(a)(2)	Code sections 10145, 10176(i), and 10177(j) and Regulations 21 section 2832.1
22 8(b)(1)	Code section 10145 and Regulations section 2832(a)
23 8(b)(2)	Code section 10145 and Regulations section 2832(a)
24 8(b)(3)	Code section 10145 and Regulations section 2832(a)
25 8(c)	Code section 10145 and Regulations section 2831
26 8(d)	Code section 10145 and Regulations section 2831.1

- 1 8(e) Code sections 10145 and 10176(e)
2 8(f)(1) Code section 10145 and Regulations section 2834(a)
3 8(f)(2) Code section 10145 and Regulations section 2834(b)
4 8(g) Code sections 10145 and 10176(g)

5 The foregoing violations constitute cause for discipline of the real estate license and license
6 rights of SITSEEFly, AULT, and LEONIS under the provisions of Code sections 10177(d)
7 and/or 10177(g).

8
9 SECOND CAUSE OF ACCUSATION

10 (Supervision and Compliance)

11 10.

12 The overall conduct of Respondent AULT constitutes a failure on said
13 Respondent's part, as officer designated by a corporate broker licensee, to exercise the
14 reasonable supervision and control over the licensed activities of SITSEEFly and LEONIS as
15 required by Code sections 10159.2, and to keep SITSEEFly in compliance with the Real
16 Estate Law, requiring a real estate license, and is cause for discipline of the real estate license
17 and real estate license rights of Respondent AULT and LEONIS pursuant to Code sections
18 10177(d), 10177(g), and 10177(h) and Regulations section 2725.

19
20 THIRD CAUSE OF ACCUSATION

21 (Unlicensed Activity)

22 11.

23 In April 2012 and May 2012, Respondents SITSEEFly and LEONIS engaged
24 in activities requiring a broker license (ex., providing property management services for the
25 public and collecting rents and security deposits) without first obtaining a broker license from
26 the Bureau of Real Estate, in violation of Code section 10130.

1 FOURTH CAUSE OF ACCUSATION

2 (Negligence)

3 12.

4 Respondents SITSEEFly, AULT, and LEONIS failed to notify the Bureau of
5 Real Estate of the employment of LEONIS, a then-salesperson, in a timely manner, in violation
6 of Code section 10161.8 and Regulations section 2752. According to the Broker Agreement,
7 LEONIS was employed by SITSEEFly on of about November 29, 2011. However, the Bureau
8 of Real Estate was not notified of LEONIS's employment with SITSEEFly until on or about
9 February 25, 2014.

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11 FIFTH CAUSE OF ACCUSATION

12 (Negligence)

13 13.

14 The overall conduct of Respondents SITSEEFly, AULT, and LEONIS
15 constitutes negligence and is cause for discipline of the real estate license and license rights of
16 said Respondents pursuant to the provisions of Code section 10177(g).

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18 SIXTH CAUSE OF ACCUSATION

19 (Fiduciary Duty)

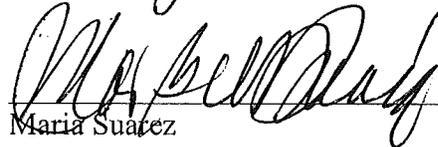
20 14.

21 The conduct, acts, and omissions of Respondents SITSEEFly, AULT, and
22 LEONIS constitute a breach of fiduciary duty owed to SITSEEFly's clients of good faith,
23 trust, confidence, and candor within the scope of their contractual relationship in violation of
24 Code sections 10176(i) and/or 10177(g), and constitutes cause for discipline of the real estate
25 license and license rights of said Respondents.

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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 the license and license rights of SITSEEFly, INC., JEFFREY
4 CARL AULT, individually and as designated officer of Sitseefly, Inc., and MICHAEL
5 LEONIS, JR. under the Real Estate Law (Part 1 of Division 4 of the California Business and
6 Professions Code), for the cost of investigation and enforcement pursuant to Code section
7 10106 and as permitted by law, and for such other and further relief as may be proper under
8 other applicable provisions of law, including costs of audit pursuant to Code section 10148(b)
9 and repayment of \$105.00 in maintenance overcharges as described in Paragraph 8(g), above.

10 Dated at Los Angeles, California: 20 January, 2014

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13 Maria Suarez
14 Deputy Real Estate Commissioner

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20 cc: Sitseefly, Inc. c/o Jeffrey Carl Ault
21 Jeffrey Carl Ault
22 Michael Leonis, Jr.
23 Maria Suarez
24 Sacto
25 Enforcement
26 Audits – Lisa Kwong
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