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FILED

MAY 31 2011

DEPARTMENT OF REAL ESTATE

By *L. Just*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of) NO. H-11147 SF
12)
13 EDWARD PY-JEN YUAN and) ACCUSATION
14 IMPERIAL DEVELOPMENT, INC., a)
15 California corporation,)
16 Respondents.)

17 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner
18 of the State of California, for Accusation against Respondent EDWARD PY-JEN YUAN, and
19 Respondent IMPERIAL DEVELOPMENT, INC., a California Corporation, doing business
20 under the fictitious names of IMPERIAL MORTGAGE, IMPERIAL INVESTMENTS, and A &
21 A PROPERTIES, and formerly doing business under the fictitious name of REALTY
22 WORLD/A & A PROPERTIES is informed and alleges as follows:

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24 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner
25 of the State of California, makes this Accusation against Respondents in her official capacity.

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2 Respondents EDWARD PY-JEN YUAN, and IMPERIAL DEVELOPMENT,
3 INC., are presently licensed and/or have license rights under the Real Estate Law, Part 1 of
4 Division 4 of the California Business and Professions Code (hereafter "the Code").

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6 At all times herein mentioned, Respondent IMPERIAL DEVELOPMENT, INC.,
7 (hereafter "Respondent IDI") was and is licensed by the Department of Real Estate (hereinafter
8 "the Department") as a corporate real estate broker.

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10 At all times herein mentioned, Respondent EDWARD PY-JEN YUAN
11 (hereinafter "Respondent YUAN") was and is licensed by the Department as an individual real
12 estate broker.

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14 At all times herein mentioned, Respondent YUAN was and is licensed by the
15 Department as the designated broker/officer of Respondent IDI. As said designated
16 broker/officer, Respondent YUAN was at all times mentioned herein responsible pursuant to
17 Section 10159.2 and Section 10177(h) of the Code and Section 2725 of Chapter 6, Title 10,
18 California Code of Regulations (hereinafter "the Regulations") for the supervision and control
19 of the activities of the officers, agents, real estate licensees, and employees of Respondent IDI
20 and of the activities of the corporation for which a real estate license is required, to maintain
21 their compliance with the Real Estate Law (Sections 10000 et seq. and Sections 11000 et seq. of
22 the Code and Chapter 6, Title 10, California Code of Regulations).

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24 Whenever reference is made in an allegation in this Accusation to an act or
25 omission of Respondent IDI, such allegation shall be deemed to mean that the officers,
26 directors, employees, agents and real estate licensees employed by or associated with
27 Respondent IDI committed such act or omission while engaged in the furtherance of the

1 business or operations of Respondent IDI and while acting within the course and scope of their
2 corporate authority and employment.

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4 At all times herein mentioned, Respondent YUAN is and was an officer of, and a
5 principal stockholder of Respondent IDI, and, therefore, Respondent IDI was and is the alter ego
6 of Respondent YUAN and whenever a reference is made to an act or omission or representation
7 of Respondent IDI, such allegation shall be deemed to mean that Respondent YUAN was so
8 acting, or failing to act, and/or speaking.

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10 At all times herein mentioned, Respondent IDI and Respondent YUAN engaged
11 in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker
12 within the State of California within the meaning of:

- 13 (a) Section 10131(a) of the Code, the operation and conduct of a real estate
14 resale brokerage with the public wherein, on behalf of others, for
15 compensation or in expectation of compensation, Respondents sold or
16 offered to sell, bought or offered to buy, solicited prospective sellers or
17 purchases of, solicited or obtained listings of, and/or negotiated the purchase
18 or sale of real property; and/or,
- 19 (b) Section 10131(d) of the Code, including on behalf of others, for
20 compensation or in expectation of compensation, Respondents solicited
21 borrowers or lenders for or negotiated loans or collected payments or
22 performed services for borrowers or lenders or note owners in connection
23 with loans secured directly or collaterally by liens on real property or on a
24 business opportunity.

25 FIRST CAUSE OF ACTION

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27 There is hereby incorporated in this First, separate and distinct, Cause of Action,

1 all of the allegations contained in Paragraphs 1 through 8, inclusive, of the Accusation with the
2 same force and effect as if herein fully set forth.

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4 Within the three-year period prior to the filing of this Accusation and at all times
5 herein mentioned, in the course and scope of the activities described in Paragraph 8(b), above,
6 in order to induce Lusen Li and Ming Zhu Chen, to lend sums totaling \$1,300,000.00 to
7 Respondent IDI as borrower, pursuant to promissory notes, Respondent YUAN represented to
8 Lusen Li and Ming Zhu Chen-that said loan would be and/or was secured by a first deed of trust
9 recorded as a lien against real property identified as Lots 1 through 7, Tract 7924, in Fremont,
10 Alameda County, California, commonly known as 1581, 1591, 1592, 1602, 1612, and 1622
11 Mento Terrace, and 1435 Olive Avenue in Fremont, California (hereinafter, "the Fremont
12 Property.").

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14 Within the three-year period prior to the filing of this Accusation and at all times
15 herein mentioned, in the course and scope of the activities described in Paragraph 8(b), above,
16 in order to induce Frank Chiou to lend sums totaling \$3,800,000.00 to Respondent IDI as
17 borrower, pursuant to promissory note, Respondent YUAN represented to Frank Chiou that said
18 loan would be and/or was secured by a first deed of trust recorded as a lien against the Fremont
19 Property.

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21 The representations described in Paragraphs 10 and 11, above, were false and
22 misleading and were known by Respondent YUAN to be false and misleading when made or
23 were made by Respondent with no reasonable grounds for believing said representations to be
24 true, and/or said Respondent should have known at the time through the exercise of reasonable
25 diligence that such representations were false and misleading. In truth and in fact, Respondent
26 YUAN:

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- 1.) Would not and did not immediately record deeds of trust to secure the loans from Lusen Li, Ming Zhu Chen, and Frank Chiou to Respondent IDI prior to disbursing the loan funds to borrower;
- 2.) Had already negotiated a loan for \$1,500,000.00 from Jui-Hsun Chen, Lili Xu, Celine Zhang, Clark Li, Jiuping Gu, Hsin Hsin Liu, Yu Sheng Victor Liu, and Lin Dee Liu (hereinafter "Lin Dee Lui Lenders") to Respondent IDI and recorded or directed recordation of a prior deed of trust or knew that a prior deed of trust would be recorded against the Fremont Property in favor of Lin Dee Liu Lenders that was in fact in first place as the senior lien;
- 3.) Recorded or directed recordation of deeds of trust in favor of, respectively, Lusen Li and Ming Zhu Chen, and Frank Chiou, that were junior, respectively, in second and third position, to the deed of trust held by Lin Dee Liu Lenders;
- 4) Waited nearly one month or more after the final funding of the loans and disbursement of said funds to borrower, respectively, from Lusen Li, Ming Zhu Chen, and Frank Chiou before recording any deeds of trust in their favor;
- 5.) Knew that at no time herein mentioned did Respondent IDI hold any title or interest of record to the Fremont Property;
- 6.) Knew that Nancy Shi held title to the Fremont Property; and,
- 7.) Knew that Nancy Shi, as trustor under the deeds of trust, was not an obligor under or a signer of the promissory notes executed, respectively, in favor of Lusen Li, Ming Zhu Chen, and Frank Chiou.

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2 At no time prior to the receipt or disbursement of the final installments of the
3 loan funds, respectively, from Lusen Li, Ming Zhu Chen, and Frank Chiou or prior to the
4 recording of their trust deeds, did Respondent YUAN disclose the true facts to said lenders.

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6 The acts and omissions of Respondent YUAN described in Paragraphs 10, 11, 12
7 and 13, above, constitute misrepresentation, fraud, deceit, and dishonest dealing.

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9 The acts and/or omissions of Respondent YUAN as alleged in Paragraphs 10
10 through 14, inclusive, above, constitute cause for the suspension or revocation of the licenses
11 and license rights of Respondent YUAN under the following provisions:

- 12 (a) As alleged in Paragraphs 10, 11, 12 and 13, under 10176(a) of the Code
13 (making a substantial misrepresentation);
- 14 (b) As alleged in Paragraphs 10, 11, 12 and 13, under Section 10176(b) of the
15 Code (making any false promises of a character likely to influence,
16 persuade or induce);
- 17 (c) As alleged in Paragraphs 10, 11, 12 and 13, under Section 10176(i) of the
18 Code (any other conduct, whether of the same or a different character
19 than specified in this section, which constitutes fraud or dishonest
20 dealing);
- 21 (d) As alleged in Paragraph 12, under Section 10234(a) of the Code (real
22 estate licensee who negotiates loan secured by trust deed shall cause trust
23 deed to be recorded with county recorder prior to time funds disbursed) in
24 conjunction with Section 10177(d) of the Code (suspension or revocation
25 of license for willful disregard or violation of the Real Estate Law, §§
26 10000 et seq. and §§ 11000 et seq. of the Code, or of the Regulations);
27 and/or,

1 (d) As alleged in Paragraphs 10, 11, 12 and 13, under Section 10177(g) of the
2 Code (demonstrated negligence or incompetence in performing an act for
3 which he or she is required to hold a license).

4 SECOND CAUSE OF ACTION

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6 There is hereby incorporated in this Second, separate and distinct, Cause of
7 Action, all of the allegations contained in Paragraphs 1 through 15, inclusive, of the Accusation
8 with the same force and effect as if herein fully set forth.

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10 At all times herein mentioned Respondent IDI and/or Respondent YUAN in
11 order to induce Lusen Li and Ming Zhu Chen, to lend sums totaling \$1,300,000.00 to
12 Respondent IDI and/or Respondent YUAN as borrower, pursuant to promissory notes,
13 Respondent IDI and/or Respondent YUAN represented to Lusen Li and Ming Zhu Chen that
14 said loan would be and/or was secured by a first deed of trust recorded as a lien against real
15 property identified as Lots 1 through 7, Tract 7924, in Fremont, Alameda County, California,
16 commonly known as 1581, 1591, 1592, 1602, 1612, and 1622 Mento Terrace, and 1435 Olive
17 Avenue in Fremont, California (hereinafter, "the Fremont Property.").

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19 Within the three-year period prior to the filing of this Accusation and at all times
20 herein mentioned, in order to induce Frank Chiou to lend sums totaling \$3,800,000.00 to
21 Respondent IDI and/or Respondent YUAN as borrower, pursuant to promissory note,
22 Respondent IDI and/or Respondent YUAN represented to Frank Chiou that said loan would be
23 and/or was secured by a first deed of trust recorded as a lien against the Fremont Property.

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25 The representations described in Paragraphs 17 and 18, above, were false and
26 misleading and were known by Respondent IDI and and/or Respondent YUAN to be false and
27 misleading when made or were made by Respondent IDI and/or Respondent YUAN with no

1 reasonable grounds for believing said representations to be true, and/or said Respondent IDI
2 and/or YUAN should have known at the time through the exercise of reasonable diligence that
3 such representations were false and misleading. In truth and in fact, Respondent IDI and/or
4 Respondent YUAN:

- 5 1.) Would not and did not immediately record or direct the immediate
6 recordation of deeds of trust to secure the loans from Lusen Li, Ming Zhu
7 Chen, and Frank Chiou to Respondent IDI prior to receiving and
8 accepting the loan funds from the lenders;
- 9 2.) Had already borrowed \$1,500,000.00 from the Lin Dee Lui Lenders and
10 recorded or directed recordation of a prior deed of trust or knew that a
11 prior deed of trust would be recorded against the Fremont Property in
12 favor of Lin Dee Liu Lenders that was in fact in first place as the senior
13 lien;
- 14 3.) Recorded or directed that deeds of trust be recorded in favor of,
15 respectively, Lusen Li and Ming Zhu Chen, and Frank Chiou, that were
16 junior, respectively, in second and third position, to the deed of trust held
17 by Lin Dee Liu Lenders;
- 18 4) Did not record or directed recordation of trust deeds in favor of Lusen Li,
19 Ming Zhu Chen, and Frank Chiou until one month or more after the final
20 receipt of the loan funds, respectively, from Lusen Li, Ming Zhu Chen,
21 and Frank Chiou;
- 22 5.) Knew that at no time herein mentioned did Respondent IDI and/or
23 Respondent YUAN hold any title or interest of record to the Fremont
24 Property;
- 25 6.) Knew that the Nancy Shi held title to the Fremont Property; and,
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7.) Knew that Nancy Shi, as trustor under the deeds of trust, was not an obligor under or a signer of the promissory notes executed, respectively, in favor of Lusen Li, Ming Zhu Chen, and Frank Chiou.

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At no time prior to the receipt of the final loan installments by Respondent IDI and/or Respondent YUAN, respectively, from Lusen Li, Ming Zhu Chen, and Frank Chiou or prior to the recording of their trust deeds, did Respondent IDI disclose the true facts to said lenders.

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The acts and omissions of Respondent IDI and/or Respondent YUAN described in Paragraphs 17, 18, and 19, above, constitute misrepresentation, fraud, deceit, and dishonest dealing.

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The acts and/or omissions of Respondent IDI and Respondent YUAN as alleged in Paragraph 7 and Paragraphs 17 through 21, inclusive, above, constitute cause for the suspension or revocation of the licenses and license rights of Respondent IDI and Respondent YUAN under Section 10177(j) of the Code (engaged in any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing).

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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 all licenses and license rights of Respondents under the Real Estate
4 Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further
5 relief as may be proper under other provisions of law.
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TRICIA D. SOMMERS
Deputy Real Estate Commissioner

11 Dated at Sacramento, California,
12 this 31st day of May, 2011.
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