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BUREAU OF REAL ESTATE

By ll [Signature]

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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

| | | |
|-------------------------------------|---|-------------------|
| In the Matter of the Accusation of: |) | |
| |) | NO. H-12129 SF |
| JCHEN PROPERTIES INC. |) | |
| and JENNIFER H. CHEN, |) | <u>ACCUSATION</u> |
| Respondents. |) | |

The Complainant, ROBIN S. TANNER, in her official capacity as a Supervising Special Investigator of the State of California, for cause of Accusation against JCHEN PROPERTIES INC. ("JCHEN PROPERTIES"), and JENNIFER H. CHEN ("CHEN"), (collectively referred to as "Respondents"), is informed and alleges as follows:

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Respondent JCHEN PROPERTIES is presently licensed by the California Bureau of Real Estate ("the Bureau") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("the Code"), as a corporate real estate broker. On January 19, 2017, JCHEN PROPERTIES obtained its corporate real estate broker license.

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CHEN is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code ("the Real Estate Law") as an individual real estate broker and, at all relevant times, was the designated broker officer of JCHEN PROPERTIES.

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2 Whenever reference is made in an allegation in this Accusation to an act or omission
3 of JCHEN PROPERTIES, such allegation shall be deemed to mean that the employees, agents, real
4 estate licensees, and others employed by or associated with JCHEN PROPERTIES committed such
5 act or omission while engaged in furtherance of the business or operations of JCHEN
6 PROPERTIES and while acting within the course and scope of their authority and employment.

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8 At all times herein mentioned, Respondents engaged in the business of, acted in the
9 capacity of, advertised, or assumed to act as a corporate real estate broker within the State of
10 California on behalf of others, for compensation or in expectation of compensation within the
11 meaning of Section 10131(b) of the Code, including the operation and conduct of a property
12 management business with the public wherein, on behalf of others, for compensation, leased or
13 rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or
14 solicited for prospective tenants, or negotiated for sale, purchase or exchanges of leases on real
15 property, or on a business opportunity, or collected rent from real property, or improvements
16 thereon, or from business opportunities.

17 **COUNT ONE**
18 **AUDIT VIOLATIONS**

18 (As to Respondents JCHEN PROPERTIES and ~~JCHEN~~)

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20 Each and every allegation in paragraphs 1 through 4, inclusive, above, is
21 incorporated by this reference as if fully set forth herein.

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23 On November 16, 2016, and November 17, 2016, the Bureau conducted an audit of
24 the books and records related to the real estate activities of Respondents at the following locations:
25 JCHEN PROPERTIES main office located at 2808 Ponce Ave., Belmont, CA 94002. The auditor
26 examined records for the period of January 1, 2015, to December 31, 2016 ("audit period").

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2 While acting as real estate brokers as described above in paragraph 4, and within the
3 audit period, Respondents accepted or received funds in trust ("trust funds") and deposited or
4 caused the trust funds to be deposited into bank accounts maintained by Respondents, and
5 thereafter, from time-to-time, Respondents made disbursements of said trust funds, identified as
6 follows:

7 Bank Account #1

8 Bank Name: Chase
9 Account No.: Last 4 Digits: xxxxx9769
10 Account Name: JChen Properties Inc.
11 Signatories: Jennifer H. Chen (REB)
12 Purpose: Used to hold rents and to disburse owners' proceeds,
13 management fees, and expenses for properties managed by
14 JPI.

15 Bank Account #2

16 Bank Name: Chase
17 Account No.: Last 4 Digits: xxxxx7726
18 Account Name: JChen Properties Inc.
19 Signatories: Jennifer H. Chen (REB)
20 Purpose: Used to hold security deposits for properties managed by JPI.

21 In the course of the real estate broker activities described above in paragraph 4, and
22 during the audit period, Respondents:

23 (a) caused, suffered, or permitted the balance of funds in Bank Account #2 to
24 be reduced to an amount which, as of March 31, 2016, was approximately \$23,458.81 less than the
25 aggregate liability of Bank Account #2 to all owners of such funds, without the prior written
26 consent of each and every owner of such funds, in violation of Section 10145 of the Code, and
27 Section 2832.1 of Chapter 6, Title 10, California Code of Regulations ("the Regulations");

(b) failed to maintain complete and accurate records of all trust funds received
and disbursed (control record) for Bank Account #1, in violation of Section 10145 of the Code, and
Section 2831 of the Regulations;

1 (c) performed real estate activities including negotiated property management
2 agreements, and collected rents from tenants, prior to JCHEN PROPERTIES obtaining a real estate
3 license from the Bureau on January 19, 2017, in violation of Section 10130 of the Code;

4 (d) transferred \$23,460.74 in trust funds from Bank Account #2 into JCHEN
5 PROPERTIES operating account, in violation of Sections 10176(i) of the Code;

6 (e) caused or permitted funds of others which were received and held in Bank
7 Account #2 to be commingled with Respondents' own money, in violation of section 10176(e) of
8 the Code;

9 (f) failed to maintain and/or keep accurate and complete separate records for
10 each beneficiary or property of trust funds accepted or received in Bank Account #1, in violation of
11 Section 10145(g) of the Code, and Section 2831.1 of the Regulations;

12 (g) failed to reconcile at least once per month, the balance of all separate
13 beneficiary or transaction records to the balance of the control records for Bank Account #1 and
14 Bank Account #2, in violation of Section 10145 of the Code, and Section 2831.2 of the Regulations;

15 (h) failed to notify the Bureau of the employment of Wendy Liu Franklin with
16 JCHEN PROPERTIES in violation of Section 10161.8(a) of the Code, and Section 2752 of the
17 Regulations;

18 (i) maintained an interest-bearing account (Bank Account #2) that held trust
19 funds for more than a single beneficiary, in violation of Section 10145(d) of the Code;

20 (j) failed to properly designate Bank Account #1 and Bank Account #2 in the
21 name of a licensee as trustee, in that Bank Account #1 and Bank Account #2 were both titled simply
22 "JChen Properties Inc," in violation of Section 10145 of the Code, and Section 2832 of the
23 Regulations;

24 (k) failed to obtain a real estate license bearing the fictitious business names
25 "JChen Property Management," "JChen PM," and "JChen Properties" before conducting in those
26 names activities for which a license was required, in violation of Section 10159.5 of the Code, and
27 Section 2731 of the Regulations; and

1 (l) failed to disclose their license numbers on the corporation's website in
2 violation of Section 10140.6(b) of the Code, and Section 2773 of the Regulations.

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4 The acts and/or omissions of Respondents as alleged above in paragraph 8, constitute
5 grounds for the suspension or revocation of all licenses and license rights of Respondents pursuant
6 to the following provisions of the Code and Regulations:

7 As to Paragraph 8(a), under Section 10177(d) and/or 10177(g) of the Code, in
8 conjunction with Section 10145 of the Code, and Section 2832.1 of the Regulations;

9 As to Paragraph 8(b), under Section 10177(d) and/or 10177(g) of the Code, in
10 conjunction with Section 10145 of the Code, and Section 2831 of the Regulations;

11 As to Paragraph 8(c), under Section 10177(d) and/or 10177(g) of the Code, in
12 conjunction with Section 10130 of the Code;

13 As to Paragraph 8(d), under Section 10177(d) and/or 10177(g) of the Code, in
14 conjunction with Section 10176(i) of the Code;

15 As to Paragraph 8(e), under Section 10177(d) and/or 10177(g) of the Code, in
16 conjunction with Section 10176(e) of the Code;

17 As to Paragraph 8(f), under Section 10177(d) and/or 10177(g) of the Code, in
18 conjunction with Section 10145(g) of the Code, and Section 2831.1 of the Regulations;

19 As to Paragraph 8(h), under Section 10177(d) and/or 10177(g) of the Code, in
20 conjunction with Section 10145 of the Code, and Section 2831.2 of the Regulations;

21 As to Paragraph 8(i), under Section 10177(d) and/or 10177(g) of the Code, in
22 conjunction with Section 10145(d) of the Code;

23 As to Paragraph 8(j), under Section 10177(d) and/or 10177(g) of the Code, in
24 conjunction with Section 10145 of the Code, and Section 2832 of the Regulations;

25 As to Paragraph 8(k), under Section 10177(d) and/or 10177(g) of the Code, in
26 conjunction with Section 10159.5 of the Code, and Section 2731 of the Regulations; and
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1 As to Paragraph 8(l), under Section 10177(d) and/or 10177(g) of the Code, in
2 conjunction with Section 10140.6(b) of the Code, and Section 2773 of the Regulations.

3 **COUNT TWO**
4 **FAILURE TO SUPERVISE**
5 (As to Respondent CHEN)

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7 Each and every allegation in Paragraphs 1 through 9, inclusive, above, is
8 incorporated by this reference as if fully set forth herein.

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10 CHEN, as the designated officer of JCHEN PROPERTIES, was required to exercise
11 reasonable supervision and control over the activities of JCHEN PROPERTIES, its employees, and
12 the real estate activities being conducted by JCHEN PROPERTIES.

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14 CHEN failed to exercise reasonable supervision over the acts and/or omissions of
15 JCHEN PROPERTIES and its employees, in such a manner as to allow the acts and/or omissions as
16 described above in Paragraph 8 of the First Cause of Action to occur, which constitutes cause for
17 the suspension or revocation of the license(s) and license rights of CHEN under Sections 10177(d)
18 and/or 10177(g), 10177(h) and 10159.2 of the Code, in conjunction with Section 2725 of the
19 Regulations.

20 **COST RECOVERY**

21 **Audit Costs**

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23 The acts and/or omissions of Respondents, as alleged above in the First Cause of
24 Action, entitle the Bureau to reimbursement of the costs of its audit pursuant to Section 10148(b) of
25 the Code.

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1 Investigation and Enforcement Costs

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3 Section 10106 of the Code provides, in pertinent part, that in any order issued in
4 resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the
5 Administrative Law Judge to direct a licensee found to have committed a violation of this part to
6 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

7 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
8 this Accusation and that upon proof thereof, a decision be rendered revoking all licenses and license
9 rights of all Respondents named herein under the Real Estate Law, for the cost of investigation and
10 enforcement as permitted by law, for the cost of the audit as permitted by law, and for such other
11 and further relief as may be proper under other provisions of law.

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15 ROBIN S. TANNER
Supervising Special Investigator

16 Dated at Oakland, California,
17 this 11th day of January, 2018.

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19 DISCOVERY DEMAND

20 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Bureau of
21 Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the
22 *Administrative Procedure Act*. Failure to provide Discovery to the Bureau of Real Estate may result
23 in the exclusion of witnesses and documents at the hearing or other sanctions that the Office of
24 Administrative Hearings deems appropriate.
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