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DEPARTMENT OF REAL ESTATE
By J. Taggart

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9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of:)
13 JCHEN PROPERTIES INC. and)
14 JENNIFER H. CHEN,)
15 Respondents.)
16
17 No. H-12515 SF
18 FIRST AMENDED
19 ACCUSATION

20 The Complainant, STEPHANIE YEE, acting in her official capacity as a
21 Supervising Special Investigator of the State of California, for cause of First Amended
22 Accusation against JCHEN PROPERTIES, INC. ("JCHEN PROPERTIES") and JENNIFER H.
23 CHEN ("JCHEN"), (collectively referred to herein as "Respondents"), is informed and alleges as
24 follows:

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26 At all times herein mentioned, JCHEN PROPERTIES was and is licensed by the
27 State of California Department of Real Estate ("Department") as a restricted real estate broker
corporation.

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JCHEN is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) ("Code") as a restricted real estate broker, and as the designated broker officer of JCHEN PROPERTIES. As said designated officer-broker, JCHEN was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of JCHEN PROPERTIES for which a license is required.

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

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At all times mentioned herein, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate licensees, in the State of California, within the meaning of Section 10131(b) of the Code in the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondent leased or rented and offered to lease or rent, and placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

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In or about June 2016, JCHEN, acting on behalf of JCHEN PROPERTIES, signed a property management agreement with the owner of a residence located at 1520 Arkell Rd., Walnut Creek, CA 94598 ("Subject Property"). The property management agreement states that rent shall be at market rate unless the owner authorizes a lower amount. Nowhere in the property management agreement did it state that the higher rent will be charged for tenants that are not all from the same family.

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In or about October 2019, Respondents advertised the Subject Property for rent. The advertisement showed the monthly rent was \$3,700 and the security deposit was \$5,000. Nowhere did the advertisement state that the monthly rate would increase if applicant was part of a "group" versus a "family."

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In or about October 2019, Jeremie N. and Valerie N. completed and submitted an application to lease the Subject Property from Respondents, and paid the \$35 application fee. Jeremie N. and Valerie N. intended to have a friend named Shawn P. live with them at the Subject Property

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On or about October 27, 2019, Shawn P. met JCHEN at the Subject Property. When Shawn P. informed JCHEN that Shawn P. would be living at the Subject Property with Jeremie N. and Valerie N., JCHEN said the rent would be \$4,000 per month because Shawn P. was not part of the same family as Jeremie N. and Valerie N.

FIRST CAUSE OF ACTION
FALSE ADVERTISING
(As to JCHEN PROPERTIES and JCHEN)

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

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Pursuant to Sections 10140 of the Code, it is unlawful to knowingly authorize, direct or aid in the publication, advertisement, distribution or circulation of any false statements or representations concerning land that is offered for sale or lease.

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The acts and/or omissions of Respondents, as alleged above in Paragraphs 5 through 8, are grounds for the revocation or suspension of the real estate licenses and license rights of Respondents under Sections 10177(d) and 10140 of the Code.

SECOND CAUSE OF ACTION
NEGLIGENCE
(As to JCHEN PROPERTIES and JCHEN)

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Each and every allegation set forth above in Paragraphs 1 through 11, inclusive, is incorporated by this reference as if fully set forth herein.

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Pursuant to Section 10177(g) of the Code, the Real Estate Commissioner may suspend or revoke the license of a real estate licensee who demonstrates negligence or incompetence in performing an act for which the officer, director, or person is required to hold a license.

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In failing to notify consumers that there was a different rent price depending on whether the renters were all part of the same family or not, as alleged above in Paragraphs 5 through 8, Respondents acted negligently and/or incompetently.

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The acts and/or omissions of Respondents, as alleged above in Paragraphs 12 through 14, are grounds for the revocation or suspension of the real estate licenses and license rights of Respondents under Sections 10177(d) and 10140 of the Code.

THIRD CAUSE OF ACTION
FAILURE TO SUPERVISE
(As to JCHEN only)

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Each and every allegation in Paragraphs 1 through 15, inclusive, above, is incorporated by this reference as if fully set forth herein.

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JCHEN, as the supervising broker of JCHEN PROPERTIES, was required to exercise reasonable supervision and control over the real estate activities of JCHEN PROPERTIES.

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JCHEN failed to exercise reasonable supervision over the acts and/or omissions of JCHEN PROPERTIES in such a manner as to allow the acts and/or omissions, as described above in the First and Second Causes of Action to occur, which constitutes cause for the suspension or revocation of the license(s) and license rights of JCHEN under Sections 10177(d) and/or 10177(g), 10177(h) and 10159.2 of the Code, in conjunction with Section 2725 of the Regulations.

MATTERS IN AGGRAVATIONS
PRIOR DISCIPLINARY ACTIONS
(As to JCHEN PROPERTIES and JCHEN)

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Each and every allegation in Paragraphs 1 through 18, inclusive, above, is incorporated by this reference as if fully set forth herein

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Effective January 8, 2019, in Department of Real Estate Case No. H-12129 SF, the Commissioner issued an Order, pursuant to a Stipulation and Agreement, revoking the real estate broker license of JCHEN and granting JCHEN the right to apply for a restricted real estate broker license, among other terms and conditions, for violating Sections 10130, 10140.6(b), 10145, 10145(d), 10145(g), 10159.2, 10159.5, 10176(e), 10176(i), 10177(d), 10177(g), 10177(h)

1 of the Code and Sections 2725, 2731, 2773, 2831, 2831.1, 2831.2, 2832, and 2832.1 of Title 10,
2 California Code of Regulations ("the Regulations").

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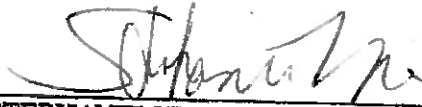
5 Effective January 8, 2019, in Department of Real Estate Case No. H-12129 SF,
6 the Commissioner issued an Order, pursuant to a Stipulation and Agreement, revoking the real
7 estate broker license of JCHEN PROPERTIES and granting JCHEN PROPERTIES the right to
8 apply for a restricted corporate real estate broker license, among other terms and conditions, for
9 violating Sections 10130, 10140.6(b), 10145, 10145(d), 10145(g), 10159.5, 10176(e), 10176(i),
10 10177(d), 10177(g), of the Code and Sections 2725, 2731, 2771, 2831, 2831.1, 2831.2, 2832, and
11 2832.1 of the Regulations

12 COST RECOVERY

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

18 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
19 of this First Amended Accusation and that upon proof thereof, a decision be rendered revoking
20 all licenses, license rights, endorsements and endorsement rights of Respondents under the Real
21 Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of
22 investigation and enforcement as permitted by law, and for such other and further relief as may
23 be proper under other provisions of law.

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25 STEPHANIE YEE
26 Supervising Special Investigator

27 Dated at Oakland, California,
this 15th day of October, 2021.

DISCOVERY DEMAND

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

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